

SENATE BILL No. 823

February 25, 2014, Introduced by Senators PROOS, ROBERTSON, WARREN, MOOLENAAR and BRANDENBURG and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending sections 9f and 9m (MCL 211.9f and 211.9m), section 9f
as amended by 2012 PA 399 and section 9m as amended by 2013 PA 154.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9f. (1) The governing body of an eligible local assessing
2 district or, subject to subsection (4), the board of a next
3 Michigan development corporation in which an eligible local
4 assessing district is a constituent member may adopt a resolution
5 to exempt from the collection of taxes under this act all new
6 personal property owned or leased by an eligible business located
7 in 1 or more eligible districts or distressed parcels designated in
8 the resolution or an eligible next Michigan business as provided in

1 this section. The clerk of the eligible local assessing district or
2 the recording officer of a next Michigan development corporation
3 shall notify in writing the assessor of the local tax collecting
4 unit in which the eligible district or distressed parcel is located
5 and the legislative body of each taxing unit that levies ad valorem
6 property taxes in the eligible local assessing district in which
7 the eligible district or distressed parcel is located. Before
8 acting on the resolution, the governing body of the eligible local
9 assessing district or a next Michigan development corporation shall
10 afford the assessor and a representative of the affected taxing
11 units an opportunity for a hearing.

12 (2) The exemption under this section is effective on the
13 December 31 immediately succeeding the adoption of the resolution
14 by the governing body of the eligible local assessing district or a
15 next Michigan development corporation and, except as otherwise
16 provided in subsection (8), shall continue in effect for a period
17 specified in the resolution. However, an exemption shall not be
18 granted under this section after December 31, 2012 for an eligible
19 business located in an eligible district identified in subsection
20 ~~(9) (f) (ix)~~ **(10) (F) (ix)** or in an eligible local assessing district
21 identified in subsection ~~(9) (h) (ii)~~ **(10) (H) (ii)**. A copy of the
22 resolution shall be filed with the state tax commission, the state
23 treasurer, and the president of the Michigan strategic fund. A
24 resolution is not effective unless approved as provided in
25 subsection (3).

26 (3) Not more than 60 days after receipt of a copy of the
27 resolution adopted by the governing body of an eligible local

1 assessing district under subsection (1), the state tax commission
2 shall determine if the new personal property subject to the
3 exemption is owned or leased by an eligible business and if the
4 eligible business is located in 1 or more eligible districts. If
5 the state tax commission determines that the new personal property
6 subject to the exemption is owned or leased by an eligible business
7 and that the eligible business is located in 1 or more eligible
8 districts, the state treasurer, with the written concurrence of the
9 president of the Michigan strategic fund, shall approve the
10 resolution adopted under subsection (1) if the state treasurer and
11 the president of the Michigan strategic fund determine that
12 exempting new personal property of the eligible business is
13 necessary to reduce unemployment, promote economic growth, and
14 increase capital investment in this state. In addition, for an
15 eligible business located in an eligible local assessing district
16 described in subsection ~~(9) (h) (ii)~~, **(10) (H) (ii)**, the resolution
17 adopted under subsection (1) shall be approved if the state
18 treasurer and the president of the Michigan strategic fund
19 determine that granting the exemption is a net benefit to this
20 state, that expansion, retention, or location of an eligible
21 business will not occur in this state without this exemption, and
22 that there is no significant negative effect on employment in other
23 parts of this state as a result of the exemption.

24 (4) A next Michigan development corporation may only adopt a
25 resolution under subsection (1) exempting new personal property
26 from the collection of taxes under this act for new personal
27 property located in a next Michigan development district. A next

1 Michigan development corporation shall not adopt a resolution under
2 subsection (1) exempting new personal property from the collection
3 of taxes under this act without a written agreement entered into
4 with the eligible next Michigan business subject to the exemption,
5 which written agreement contains a remedy provision that includes,
6 but is not limited to, all of the following:

7 (a) A requirement that the exemption under this section is
8 revoked if the eligible next Michigan business is determined to be
9 in violation of the provisions of the written agreement.

10 (b) A requirement that the eligible next Michigan business may
11 be required to repay all or part of the personal property taxes
12 exempted under this section if the eligible next Michigan business
13 is determined to be in violation of the provisions of the written
14 agreement.

15 (5) Subject to subsections (6) and (8), if an existing
16 eligible business sells or leases new personal property exempt
17 under this section to an acquiring eligible business, the exemption
18 granted to the existing eligible business shall continue in effect
19 for the period specified in the resolution adopted under subsection
20 (1) for the new personal property purchased or leased from the
21 existing eligible business by the acquiring eligible business and
22 for any new personal property purchased or leased by the acquiring
23 eligible business.

24 (6) After December 31, 2007, an exemption for an existing
25 eligible business shall continue in effect for an acquiring
26 eligible business under subsection (5) only if the continuation of
27 the exemption is approved in a resolution adopted by the governing

1 body of an eligible local assessing district or the board of a next
2 Michigan development corporation in which the eligible local
3 assessing district is a constituent member.

4 (7) Notwithstanding the amendatory act that added section
5 2(1)(c), all of the following shall apply to an exemption under
6 this section that was approved by the state tax commission on or
7 before April 30, 1999, regardless of the effective date of the
8 exemption:

9 (a) The exemption shall be continued for the term authorized
10 by the resolution adopted by the governing body of the eligible
11 local assessing district and approved by the state tax commission
12 with respect to buildings and improvements constructed on leased
13 real property during the term of the exemption if the value of the
14 real property is not assessed to the owner of the buildings and
15 improvements.

16 (b) The exemption shall not be impaired or restricted with
17 respect to buildings and improvements constructed on leased real
18 property during the term of the exemption if the value of the real
19 property is not assessed to the owner of the buildings and
20 improvements.

21 (8) Notwithstanding any other provision of this section to the
22 contrary and subject to subsection (9), if new personal property
23 exempt under this section on December 31, 2012 is eligible
24 manufacturing personal property, that eligible manufacturing
25 personal property shall remain exempt under this section until the
26 later of the following:

27 (a) The date that eligible manufacturing personal property

1 would otherwise be exempt from the collection of taxes under this
2 act under section 9m, 9n, or 9o.

3 (b) The date that eligible manufacturing personal property is
4 no longer exempt under the resolution adopted under subsection (1).

5 (9) If **NEITHER** House Bill No. 6026 of the 96th Legislature,
6 **2012 PA 408, NOR SENATE BILL NO.822**

7 **OF THE 97TH LEGISLATURE** is ~~not~~ approved by a majority
8 of the qualified electors of this state voting on the question at
9 an election to be held on the August regular election date in 2014,
10 subsection (8) shall not apply after the date of that election.

11 (10) As used in this section:

12 (a) "Acquiring eligible business" means an eligible business
13 that purchases or leases assets of an existing eligible business,
14 including the purchase or lease of new personal property exempt
15 under this section, and that will conduct business operations
16 similar to those of the existing eligible business at the location
17 of the existing eligible business within the eligible district.

18 (b) "Authorized business" means that term as defined in
19 section 3 of the Michigan economic growth authority act, 1995 PA
20 24, MCL 207.803.

21 (c) "Eligible manufacturing personal property" means that term
22 as defined in section 9m.

23 (d) "Distressed parcel" means a parcel of real property
24 located in a city or village that meets all of the following
25 conditions:

26 (i) Is located in a qualified downtown revitalization district.
27 As used in this subparagraph, "qualified downtown revitalization

1 district" means an area located within 1 or more of the following:

2 (A) The boundaries of a downtown district as defined in
3 section 1 of 1975 PA 197, MCL 125.1651.

4 (B) The boundaries of a principal shopping district or a
5 business improvement district as defined in section 1 of 1961 PA
6 120, MCL 125.981.

7 (C) The boundaries of the local governmental unit in an area
8 that is zoned and primarily used for business as determined by the
9 local governmental unit.

10 (ii) Meets 1 of the following conditions:

11 (A) Has a blighted or functionally obsolete building located
12 on the parcel. As used in this sub-subparagraph, "blighted" and
13 "functionally obsolete" mean those terms as defined in section 2 of
14 the brownfield redevelopment financing act, 1996 PA 381, MCL
15 125.2652.

16 (B) Is a vacant parcel that had been previously occupied.

17 (iii) Is zoned to allow for mixed use.

18 (e) "Eligible business" means, effective August 7, 1998, a
19 business engaged primarily in manufacturing, mining, research and
20 development, wholesale trade, office operations, or the operation
21 of a facility for which the business that owns or operates the
22 facility is an eligible taxpayer. For purposes of a next Michigan
23 development corporation, eligible business means only an eligible
24 next Michigan business. Eligible business does not include a
25 casino, retail establishment, professional sports stadium, or that
26 portion of an eligible business used exclusively for retail sales.
27 Professional sports stadium does not include a sports stadium in

1 existence on June 6, 2000 that is not used by a professional sports
2 team on the date of the resolution adopted pursuant to subsection
3 (1). As used in this subdivision, "casino" means a casino regulated
4 by this state pursuant to the Michigan gaming control and revenue
5 act, 1996 IL 1, MCL 432.201 to 432.226, and all property associated
6 or affiliated with the operation of a casino, including, but not
7 limited to, a parking lot, hotel, motel, or retail store.

8 (f) "Eligible district" means 1 or more of the following:

9 (i) An industrial development district as that term is defined
10 in 1974 PA 198, MCL 207.551 to 207.572.

11 (ii) A renaissance zone as that term is defined in the Michigan
12 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

13 (iii) An enterprise zone as that term is defined in the
14 enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

15 (iv) A brownfield redevelopment zone as that term is designated
16 under the brownfield redevelopment financing act, 1996 PA 381, MCL
17 125.2651 to 125.2672.

18 (v) An empowerment zone designated under subchapter U of
19 chapter 1 of the internal revenue code of 1986, 26 USC 1391 to
20 1397F.

21 (vi) An authority district or a development area as those terms
22 are defined in the tax increment finance authority act, 1980 PA
23 450, MCL 125.1801 to 125.1830.

24 (vii) An authority district as that term is defined in the
25 local development financing act, 1986 PA 281, MCL 125.2151 to
26 125.2174.

27 (viii) A downtown district or a development area as those terms

1 are defined in 1975 PA 197, MCL 125.1651 to 125.1681.

2 (ix) An area that contains an eligible taxpayer.

3 (x) A next Michigan development district.

4 (g) "Eligible distressed area" means 1 of the following:

5 (i) That term as defined in section 11 of the state housing
6 development authority act of 1966, 1966 PA 346, MCL 125.1411.

7 (ii) An area that contains an eligible taxpayer.

8 (h) "Eligible local assessing district" means a city, village,
9 or township that contains an eligible distressed area or that is a
10 party to an intergovernmental agreement creating a next Michigan
11 development corporation, or a city, village, or township that meets
12 1 or more of the following conditions and is located in a county
13 all or a portion of which borders another state or Canada:

14 (i) Is currently served by not fewer than 4 of the following
15 existing services:

16 (A) Water.

17 (B) Sewer.

18 (C) Police.

19 (D) Fire.

20 (E) Trash.

21 (F) Recycling.

22 (ii) Is party to an agreement under 1984 PA 425, MCL 124.21 to
23 124.30, with a city, village, or township that provides not fewer
24 than 4 of the following existing services:

25 (A) Water.

26 (B) Sewer.

27 (C) Police.

1 (D) Fire.

2 (E) Trash.

3 (F) Recycling.

4 (i) "Eligible next Michigan business" means that term as
5 defined in section 3 of the Michigan economic growth authority act,
6 1995 PA 24, MCL 207.803.

7 (j) "Eligible taxpayer" means a taxpayer that meets both of
8 the following conditions:

9 (i) Is an authorized business.

10 (ii) Is eligible for tax credits described in section 9 of the
11 Michigan economic growth authority act, 1995 PA 24, MCL 207.809.

12 (k) "Existing eligible business" means an eligible business
13 identified in a resolution adopted under subsection (1) for which
14 an exemption has been granted under this section.

15 (l) "New personal property" means personal property that was
16 not previously subject to tax under this act or was not previously
17 placed in service in this state and that is placed in an eligible
18 district after a resolution under subsection (1) is approved. As
19 used in this subdivision, for exemptions approved by the state
20 treasurer under subsection (3) after April 30, 1999, new personal
21 property does not include buildings described in section 14(6) and
22 personal property described in section 8(h), (i), and (j).

23 (m) "Next Michigan development corporation" and "next Michigan
24 development district" mean those terms as defined under the next
25 Michigan development act, 2010 PA 275, MCL 125.2951 to 125.2959.

26 Sec. 9m. (1) Beginning December 31, 2015 and each year
27 thereafter, qualified new personal property for which an exemption

1 has been properly claimed under subsection (2) is exempt from the
2 collection of taxes under this act.

3 (2) A person shall claim the exemption under this section by
4 filing an affidavit with the local tax collecting unit in which the
5 qualified new personal property is located as provided in
6 subsection (3). The affidavit shall be in a form prescribed by the
7 state tax commission. An affidavit claiming an exemption under this
8 section applies to all existing and subsequently acquired qualified
9 new personal property.

10 (3) If a person claiming an exemption under this section has
11 not filed an affidavit under this section in any prior year with
12 the local tax collecting unit in which the qualified new personal
13 property is located, that person shall file the affidavit described
14 under subsection (2) with that local tax collecting unit not later
15 than February 10 of the first year for which the person is claiming
16 the exemption for qualified new personal property in the local tax
17 collecting unit.

18 (4) Except for a person claiming an exemption under this
19 section for personal property that was subject to section 9f or
20 1974 PA 198, MCL 207.551 to 207.572, in 2015, if an affidavit
21 claiming the exemption under this section is filed as provided in
22 subsection (3) by February 10, 2016, and the person claiming the
23 exemption under this section complied with section 19(9) in 2015,
24 or if the filing requirement under section 19(9) was not applicable
25 because the qualified new personal property was acquired in 2015,
26 the person claiming the exemption under this section is not
27 required to file a statement under section 19 for that qualified

1 new personal property in 2016. Except for a person claiming an
2 exemption under this section for personal property that was subject
3 to section 9f or 1974 PA 198, MCL 207.551 to 207.572, in 2015, if
4 an affidavit claiming the exemption under this section is filed as
5 provided in subsection (3), beginning in 2017, the person claiming
6 the exemption under this section is not required to file a
7 statement under section 19 for qualified new personal property
8 exempt under this section. For a person claiming an exemption under
9 this section for personal property that was subject to section 9f
10 or 1974 PA 198, MCL 207.551 to 207.572, in 2015, if an affidavit
11 claiming the exemption under this section is filed as provided in
12 subsection (3) and the person claiming the exemption under this
13 section complied with section 19(9) in 2015, the person claiming
14 the exemption under this section is not required to file a
15 statement under section 19 for that qualified new personal property
16 in the first year for which that person is claiming an exemption
17 under this section or in any subsequent year. For a person claiming
18 an exemption under this section for personal property that was
19 subject to section 9f or 1974 PA 198, MCL 207.551 to 207.572, in
20 2015, if an affidavit claiming the exemption under this section is
21 filed as provided in subsection (3), but the person claiming the
22 exemption under this section did not comply with section 19(9) in
23 2015, the person claiming the exemption under this section shall
24 file a statement under section 19 for that person's qualified new
25 personal property in the first year for which that person is
26 claiming an exemption under this section for qualified new personal
27 property, but that person is not required to file a statement under

1 section 19 for that qualified new personal property in any
2 subsequent year. If the person claiming the exemption under this
3 section has not filed an affidavit as required under subsection
4 (2), the personal property for which the person is claiming an
5 exemption is subject to the collection of taxes under this act and
6 that person shall file a statement under section 19.

7 (5) If the assessor of the local tax collecting unit believes
8 that personal property for which an affidavit claiming an exemption
9 is filed under subsection (2) is not qualified new personal
10 property, the assessor may deny that claim for exemption by
11 notifying the person that filed the affidavit in writing of the
12 reason for the denial and advising the person that the denial may
13 be appealed to the board of review under section 30 or 53b. The
14 assessor may deny a claim for exemption under this subsection for
15 the current year only. If the assessor denies a claim for
16 exemption, the assessor shall remove the exemption of that personal
17 property and amend the tax roll to reflect the denial and the local
18 treasurer shall within 30 days of the date of the denial issue a
19 corrected tax bill for any additional taxes.

20 (6) A person claiming an exemption for qualified new personal
21 property exempt under this section shall maintain books and records
22 and shall provide access to those books and records as provided in
23 section 22.

24 (7) If a person fraudulently claims an exemption for personal
25 property under this section, that person is subject to the
26 penalties provided for in section 21(2).

27 (8) As used in this section:

1 (a) "Affiliated person" means a sole proprietorship,
2 partnership, limited liability company, corporation, association,
3 flow-through entity, member of a unitary business group, or other
4 entity related to a person claiming an exemption under this
5 section.

6 (b) "Direct integrated support" means any of the following:

7 (i) Research and development related to goods produced in
8 industrial processing and conducted in furtherance of that
9 industrial processing.

10 (ii) Testing and quality control functions related to goods
11 produced in industrial processing and conducted in furtherance of
12 that industrial processing.

13 (iii) Engineering related to goods produced in industrial
14 processing and conducted in furtherance of that industrial
15 processing.

16 (iv) Receiving or storing equipment, materials, supplies,
17 parts, or components for industrial processing, or scrap materials
18 or waste resulting from industrial processing, at the industrial
19 processing site or at another site owned or leased by the owner or
20 lessee of the industrial processing site.

21 (v) Storing of finished goods inventory if the inventory was
22 produced by a business engaged primarily in industrial processing
23 and if the inventory is stored either at the site where it was
24 produced or at another site owned or leased by the business that
25 produced the inventory.

26 (vi) Sorting, distributing, or sequencing functions that
27 optimize transportation and just-in-time inventory management and

1 material handling for inputs to industrial processing.

2 (c) "Eligible manufacturing personal property" means all
3 personal property located on occupied real property if that
4 personal property is predominantly used in industrial processing or
5 direct integrated support. Personal property located on occupied
6 real property is predominantly used in industrial processing or
7 direct integrated support if the result of the following
8 calculation is more than 50%:

9 (i) Multiply the original cost of all personal property located
10 on that occupied real property by its percentage of use in
11 industrial processing or in direct integrated support. Personal
12 property is used in industrial processing if it is not used to
13 generate, **TRANSMIT, OR DISTRIBUTE** electricity for sale, **IF IT IS**
14 **NOT UTILITY PERSONAL PROPERTY AS DESCRIBED IN SECTION 34C(3)(E),**
15 and if its purchase or use by the person claiming the exemption
16 would be eligible for exemption under section 4t of the general
17 sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use
18 tax act, 1937 PA 94, MCL 205.94o. For an item of personal property
19 that is used in industrial processing, its percentage of use in
20 industrial processing shall equal the percentage of the exemption
21 the property would be eligible for under section 4t of the general
22 sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use
23 tax act, 1937 PA 94, MCL 205.94o. **UTILITY PERSONAL PROPERTY AS**
24 **DESCRIBED IN SECTION 34C(3)(E) IS NOT USED IN DIRECT INTEGRATED**
25 **SUPPORT.**

26 (ii) Divide the result of the calculation under subparagraph (i)
27 by the total original cost of all personal property located on that

1 occupied real property.

2 (d) "Industrial processing" means that term as defined in
3 section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t,
4 or section 4o of the use tax act, 1937 PA 94, MCL 205.94o.

5 Industrial processing does not include the generation,
6 **TRANSMISSION, OR DISTRIBUTION** of electricity for sale.

7 (e) "New personal property" means property that was initially
8 placed in service in this state or outside of this state after
9 December 31, 2012.

10 (f) "Occupied real property" means all of the following:

11 (i) A parcel of real property that is entirely owned, leased,
12 or otherwise occupied by a person claiming an exemption under this
13 section.

14 (ii) Contiguous parcels of real property that are entirely
15 owned, leased, or otherwise occupied by a person claiming an
16 exemption under this section and that host a single, integrated
17 business operation engaged primarily in industrial processing,
18 direct integrated support, or both. A business operation is not
19 engaged primarily in industrial processing, direct integrated
20 support, or both if it engages in significant business activities
21 that are not directly related to industrial processing or direct
22 integrated support.

23 (iii) The portion of a parcel of real property that is owned,
24 leased, or otherwise occupied by a person claiming the exemption or
25 by an affiliated person.

26 (G) **"ORIGINAL COST" MEANS THE FAIR MARKET VALUE OF ELIGIBLE**
27 **MANUFACTURING PERSONAL PROPERTY AT THE TIME OF ACQUISITION BY THE**

1 CURRENT OWNER. THERE IS A REBUTTABLE PRESUMPTION THAT THE
2 ACQUISITION PRICE PAID BY THE CURRENT OWNER FOR ELIGIBLE
3 MANUFACTURING PERSONAL PROPERTY REFLECTS THE FAIR MARKET VALUE OF
4 THAT ELIGIBLE MANUFACTURING PERSONAL PROPERTY. THE DEPARTMENT MAY
5 PROVIDE GUIDELINES FOR CIRCUMSTANCES IN WHICH THE ACTUAL
6 ACQUISITION COST OF ELIGIBLE MANUFACTURING PERSONAL PROPERTY IS NOT
7 DETERMINATIVE OF THE FAIR MARKET VALUE OF THAT ELIGIBLE
8 MANUFACTURING PERSONAL PROPERTY AND FOR THE BASIS OF DETERMINING
9 FAIR MARKET VALUE OF ELIGIBLE MANUFACTURING PERSONAL PROPERTY IN
10 THOSE CIRCUMSTANCES.

11 (H) ~~(g)~~—"Qualified new personal property" means property that
12 meets all of the following conditions:

- 13 (i) Is eligible manufacturing personal property.
14 (ii) Is new personal property.