

# HOUSE BILL No. 5525

March 24, 2016, Introduced by Rep. Nesbitt and referred to the Committee on Tax Policy.

A bill to amend 2014 PA 92, entitled

"State essential services assessment act,"

by amending sections 3, 7, 9, and 11 (MCL 211.1053, 211.1057, 211.1059, and 211.1061), sections 3 and 7 as amended by 2015 PA 120.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 3. As used in this act:

2           (a) "Acquisition cost" means the fair market value of personal  
3 property at the time of acquisition by the first owner, including  
4 the cost of freight, sales tax, and installation, and other  
5 capitalized costs, except capitalized interest. There is a  
6 rebuttable presumption that the acquisition price paid by the first  
7 owner for personal property, and any costs of freight, sales tax,  
8 and installation, and other capitalized costs, except capitalized

1 interest, reflect the acquisition cost. For property described in  
2 subdivision (e) (i) that ~~would otherwise be~~ **PRIOR TO THE CURRENT TAX**  
3 **YEAR WAS** exempt under section 7k of the general property tax act,  
4 1893 PA 206, MCL 211.7k, under an industrial facilities exemption  
5 certificate issued under 1974 PA 198, MCL 207.551 to 207.572, and  
6 effective before January 1, 2013, **WHICH HAS BEEN EXTENDED FOR**  
7 **PROPERTY NOT YET EXEMPT UNDER SECTION 9M OR 9N OF THE GENERAL**  
8 **PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N,** and for  
9 property described in subdivision (e) (iii) that is exempt under an  
10 industrial facilities exemption certificate issued under 1974 PA  
11 198, MCL 207.551 to 207.572, and effective before January 1, 2013,  
12 acquisition cost means 1/2 of the fair market value of that  
13 personal property at the time of acquisition by the first owner,  
14 including the cost of freight, sales tax, and installation, and  
15 other capitalized costs, except capitalized interest. The  
16 acquisition cost for personal property exempt under the Michigan  
17 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is  
18 \$0.00 except for the 3 years immediately preceding the expiration  
19 of the exemption of that personal property under the Michigan  
20 renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, during  
21 which period of time the acquisition cost for that personal  
22 property means the fair market value of that personal property at  
23 the time of acquisition by the first owner, including the cost of  
24 freight, sales tax, and installation, and other capitalized costs,  
25 except capitalized interest, multiplied by the percentage reduction  
26 in the exemption as provided in section 9(3) of the Michigan  
27 renaissance zone act, 1996 PA 376, MCL 125.2689. **BEGINNING IN 2017,**

1 THE ACQUISITION COST OF PERSONAL PROPERTY THAT IS CONSTRUCTION IN  
2 PROGRESS MEANS 1/2 OF THE TOTAL COST INCURRED FOR CONSTRUCTION IN  
3 PROGRESS, AS CALCULATED ON AN ACCRUAL BASIS, BASED ON THE EXTENT OF  
4 PHYSICAL PRESENCE OF THE CONSTRUCTION IN PROGRESS IN THE ASSESSMENT  
5 JURISDICTION. CONSTRUCTION IN PROGRESS IS PROPERTY OF A PERSONAL  
6 PROPERTY NATURE THAT HAS NEVER BEEN IN SERVICE AND WAS IN THE  
7 PROCESS OF BEING INSTALLED ON TAX DAY. The ~~state tax commission~~  
8 DEPARTMENT may provide guidelines for circumstances in which the  
9 actual acquisition price is not determinative of acquisition cost  
10 and the basis of determining acquisition cost in those  
11 circumstances. When the acquisition cost, year of acquisition by  
12 the first owner, or both are unknown, the ~~state tax commission~~  
13 DEPARTMENT may provide guidelines for estimating the acquisition  
14 cost and year of acquisition by the first owner. The state tax  
15 commission may issue guidelines that allow for the reduction of  
16 acquisition cost for property that is idle, is obsolete or has  
17 material obsolescence, or is surplus.

18 (b) "Assessment" means the state essential services assessment  
19 levied under section 5.

20 (c) "Assessment year" means the year in which the state  
21 essential services assessment levied under section 5 is due.

22 (D) "DEPARTMENT" MEANS THE DEPARTMENT OF TREASURY.

23 (E) ~~(d)~~-"Eligible claimant" means a person that claims an  
24 exemption for eligible personal property.

25 (F) ~~(e)~~-"Eligible personal property" means all of the  
26 following:

27 (i) Personal property exempt under section 9m or 9n of the

1 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n.

2 (ii) Personal property that is eligible manufacturing personal  
3 property as defined in section 9m and that is exempt under section  
4 9f of the general property tax act, 1893 PA 206, MCL 211.9f, which  
5 exemption was approved under section 9f of the general property tax  
6 act, 1893 PA 206, MCL 211.9f, after 2013, unless both of the  
7 following conditions are satisfied:

8 (A) The application for the exemption was filed with the  
9 eligible local assessing district or Next Michigan development  
10 corporation before August 5, 2014.

11 (B) The resolution approving the exemption states that the  
12 project is expected to have total new personal property of over  
13 \$25,000,000.00 within 5 years of the adoption of the resolution by  
14 the eligible local assessing district or Next Michigan development  
15 corporation.

16 (iii) Personal property subject to an extended industrial  
17 facilities exemption certificate under section 11a of 1974 PA 198,  
18 MCL 207.561a.

19 (iv) Personal property subject to an extended exemption under  
20 section 9f(8)(a) of the general property tax act, 1893 PA 206, MCL  
21 211.9f.

22 (G) ~~(F)~~ "Fund board" means the board of directors of the  
23 Michigan strategic fund created under the Michigan strategic fund  
24 act, 1984 PA 270, MCL 125.2001 to 125.2094.

25 (H) ~~(G)~~ "Michigan economic development corporation" means the  
26 Michigan economic development corporation, the public body  
27 corporate created under section 28 of article VII of the state

1 constitution of 1963 and the urban cooperation act of 1967, 1967  
2 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal  
3 agreement effective April 5, 1999, and subsequently amended,  
4 between local participating economic development corporations  
5 formed under the economic development corporations act, 1974 PA  
6 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

7 (I) ~~(h)~~ "Michigan strategic fund" means the Michigan strategic  
8 fund created under the Michigan strategic fund act, 1984 PA 270,  
9 MCL 125.2001 to 125.2094.

10 (J) ~~(i)~~ "Next Michigan development corporation" means that  
11 term as defined under the Next Michigan development act, 2010 PA  
12 275, MCL 125.2951 to 125.2959.

13 Sec. 7. (1) The department ~~of treasury~~ shall collect and  
14 administer the assessment as provided in this section.

15 (2) Not later than May 1 in each assessment year, the  
16 department ~~of treasury~~ shall make available in electronic form to  
17 each eligible claimant a statement for calculation of the  
18 assessment as provided in section 5. **THAT STATEMENT SHALL BE**  
19 **DEVELOPED FROM THE INFORMATION SUBMITTED BY THE ELIGIBLE CLAIMANT**  
20 **ON THE COMBINED DOCUMENT AS REQUIRED BY SECTIONS 9M AND 9N OF THE**  
21 **GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M AND 211.9N.**

22 (3) Not later than August 15 in each assessment year, each  
23 eligible claimant shall submit electronically to the department of  
24 treasury the completed statement, in a form and manner prescribed  
25 by the department of treasury, and full payment of the assessment  
26 levied under section 5 for that assessment year as calculated in  
27 section 5(2). The department of treasury may waive or delay the

1 electronic filing requirement at its discretion. The department of  
2 treasury may accept a timely filed statement using reporting  
3 software approved by the department of treasury, subject to audit  
4 under subsection (6). A statement submitted by an eligible claimant  
5 shall include all of the eligible claimant's eligible personal  
6 property located in this state subject to the assessment levied  
7 under section 5. The completed statement required under this  
8 subsection shall not be subject to disclosure under the freedom of  
9 information act, 1976 PA 442, MCL 15.231 to 15.246.

10 (4) If an eligible claimant does not submit the statement and  
11 full payment of the assessment levied under section 5 by August 15,  
12 the department of treasury shall issue a notice to the eligible  
13 claimant not later than September 15. The notice shall include a  
14 statement explaining the consequences of nonpayment as set forth in  
15 subsection (5) and instructing the eligible claimant of its  
16 potential responsibility under subsection (5)(e). An eligible  
17 claimant shall submit payment in full by October 15 of the  
18 assessment year along with a penalty of 1% per week on the unpaid  
19 balance for each week payment is not made in full up to a maximum  
20 of 5% of the total amount due and unpaid. For the eligible  
21 claimant's first assessment year, the penalty shall be waived if  
22 the eligible claimant submits the statement and full payment of the  
23 assessment levied under section 5 by September 15. An eligible  
24 claimant may amend a filed statement for the current year up to  
25 September 15. Payments made due to an amended statement are subject  
26 to the penalties as described in this subsection. The department of  
27 treasury shall issue refunds for overpayments due to an amended

1 statement. All refunds due to overpayment shall be remitted without  
2 interest except as provided by section 37 of the tax tribunal act,  
3 1973 PA 186, MCL 205.737.

4 (5) For any assessment year in which an eligible claimant does  
5 not submit payment in full and any penalty due under subsection (4)  
6 or (6) by October 15, or if the state tax commission discovers that  
7 the property is not eligible under section 9m or 9n of the general  
8 property tax act, 1893 PA 206, MCL 211.9m and 211.9n, all of the  
9 following shall apply:

10 (a) The ~~state tax commission~~ **DEPARTMENT** shall issue an order  
11 to rescind no later than the first Monday in December for the  
12 assessment year any exemption described in section 9m or 9n of the  
13 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n,  
14 granted for any parcel for which payment in full and any penalty  
15 due have not been received or for which the ~~state tax commission~~  
16 **DEPARTMENT** discovers that the property is not eligible under  
17 section 9m or 9n of the general property tax act, 1893 PA 206, MCL  
18 211.9m and 211.9n.

19 (b) ~~The~~ **UPON REQUEST OF THE DEPARTMENT, THE** state tax  
20 commission shall issue an order to rescind no later than the first  
21 Monday in December for the assessment year any exemption under  
22 section 9f of the general property tax act, 1893 PA 206, MCL  
23 211.9f, which exemption was approved under section 9f of the  
24 general property tax act, 1893 PA 206, MCL 211.9f, after 2013 for  
25 any parcel for which payment in full and any penalty due have not  
26 been received or for which the state tax commission discovers that  
27 the property is not eligible ~~under section 9m or 9n of the general~~

1 ~~property tax act, 1893 PA 206, MCL 211.9m and 211.9n.~~**PERSONAL**  
 2 **PROPERTY.**

3 (c) ~~The~~**UPON REQUEST OF THE DEPARTMENT, THE** state tax  
 4 commission shall issue an order to rescind no later than the first  
 5 Monday in December for the assessment year any exemption for  
 6 eligible personal property subject to an extended industrial  
 7 facilities exemption certificate under section 11a of 1974 PA 198,  
 8 MCL 207.561a, for any parcel for which payment in full and any  
 9 penalty due have not been received or for which the ~~state tax~~  
 10 ~~commission~~**DEPARTMENT** discovers that the property is not eligible  
 11 ~~under section 9m or 9n of the general property tax act, 1893 PA~~  
 12 ~~206, MCL 211.9m and 211.9n.~~**PERSONAL PROPERTY.**

13 (d) ~~The~~**UPON REQUEST OF THE DEPARTMENT, THE** state tax  
 14 commission shall issue an order to rescind no later than the first  
 15 Monday in December for the assessment year any extended exemption  
 16 for eligible personal property under section 9f(8)(a) of the  
 17 general property tax act, 1893 PA 206, MCL 211.9f, for any parcel  
 18 for which payment in full and any penalty due have not been  
 19 received or for which the ~~state tax commission~~**DEPARTMENT** discovers  
 20 that the property is not eligible ~~under section 9m or 9n of the~~  
 21 ~~general property tax act, 1893 PA 206, MCL 211.9m and~~  
 22 ~~211.9n.~~**PERSONAL PROPERTY.**

23 (e) The eligible claimant shall file with the assessor of the  
 24 township or city within 30 days of the date of the ~~state tax~~  
 25 ~~commission order to rescind~~**RESCISSION** issued under subdivisions  
 26 (a) to (d) a statement under section 19 of the general property tax  
 27 act, 1893 PA 206, MCL 211.19, for all property for which the

1 exemption has been rescinded under this section.

2 (f) Within 60 days of ~~an order of A~~ rescission by the state  
3 ~~tax commission~~ under subdivisions (a) to (d), the treasurer of the  
4 local tax collecting unit shall issue amended tax bills for any  
5 taxes, including penalty and interest, that were not billed under  
6 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or  
7 under 1974 PA 198, MCL 207.551 to 207.572, and that are owed as a  
8 result of the order of rescission.

9 (6) An eligible claimant shall provide access to the books and  
10 records, for audit purposes, relating to the location and  
11 description; the date of purchase, lease, or acquisition; and the  
12 purchase price, lease amount, or value of all personal property  
13 owned by, leased by, or in the possession of that person or a  
14 related entity if requested by the assessor of the township or  
15 city, county equalization department, or department of treasury for  
16 the year in which the statement is filed and the immediately  
17 preceding 3 years. The department ~~of treasury~~ shall develop and  
18 implement an audit program which includes, but is not limited to,  
19 the audit of statements submitted under subsection (3) and amended  
20 statements submitted under subsection (4) for the current calendar  
21 year and the 3 calendar years immediately preceding the  
22 commencement of an audit. An assessment as a result of an audit  
23 shall be paid in full within 35 days of issuance and shall include  
24 penalties and interest as described in section 154(3) of the  
25 general property tax act, 1893 PA 206, MCL 211.154. Refunds as a  
26 result of an audit under this subsection shall be without interest.  
27 The exemption for personal property for which an assessment has

1 been issued as a result of an audit under this subsection shall be  
2 subject to the rescission provisions of subsection (5) for the  
3 years of the assessment if full payment is not timely made as  
4 required by this subsection.

5 (7) An eligible claimant may appeal an assessment levied under  
6 section 5 or a penalty or rescission under this section to the  
7 ~~state tax commission~~ **MICHIGAN TAX TRIBUNAL** by filing a petition not  
8 later than December 31 in that tax year. An eligible claimant may  
9 appeal an assessment issued, including penalties, interest, or  
10 rescission, as a result of an audit conducted under subsection (6)  
11 by filing a petition with the ~~state tax commission~~ **MICHIGAN TAX**  
12 **TRIBUNAL** within ~~30~~ **35** days of the date of that assessment's  
13 issuance. The department of ~~treasury~~ may appeal to the ~~state tax~~  
14 ~~commission~~ **MICHIGAN TAX TRIBUNAL** by filing a petition for the  
15 current calendar year and 3 immediately preceding calendar years.  
16 ~~The state tax commission shall decide any appeal based on the~~  
17 ~~written petition and the written recommendation of state tax~~  
18 ~~commission staff and any other relevant information. The department~~  
19 ~~of treasury or any eligible claimant may appeal the determination~~  
20 ~~of the state tax commission to the Michigan tax tribunal within 35~~  
21 ~~days of the date of the determination.~~

22 (8) ~~For any year before 2023, the~~ ~~THE~~ department of treasury  
23 may require eligible claimants to **ANNUALLY** file by February 20 of  
24 ~~the~~ **EACH** year a combined document that includes the affidavit ~~FORM~~  
25 **TO CLAIM THE EXEMPTION** under sections 9f(9), 9m, and 9n of the  
26 general property tax act, 1893 PA 206, MCL 211.9f, 211.9m, and  
27 211.9n, ~~the affidavit~~ **AND** under section 11a of 1974 PA 198, MCL

1 207.561a, a statement under section 19 of the general property tax  
2 act, 1893 PA 206, MCL 211.19, and a report of the acquisition cost  
3 and year of acquisition by the first owner of eligible personal  
4 property. The combined document shall be in a form prescribed by  
5 the state tax commission. The combined document shall be filed with  
6 the assessor of the township or city in which the eligible personal  
7 property is located. The assessor shall transmit the information  
8 contained in the combined document filed under this subsection, and  
9 other parcel information required by the department, ~~of treasury,~~  
10 to the department ~~of treasury~~ in the form and in the manner  
11 prescribed by the department ~~of treasury~~ no later than April 1.

12       Sec. 9. (1) The fund board may adopt a resolution to exempt  
13 from the assessment under this act eligible personal property  
14 designated in the resolution as provided in this section and  
15 described in subsection (3)(c) that is owned by, leased to, or in  
16 the possession of an eligible claimant. In the resolution, the fund  
17 board may determine that the eligible personal property designated  
18 in the resolution shall be subject to the alternative state  
19 essential services assessment under the alternative state essential  
20 services assessment act. The resolution shall not be approved if  
21 the state treasurer, or his or her designee to the fund board,  
22 votes against the resolution.

23       (2) An exemption under this section is effective in the  
24 assessment year immediately succeeding the year in which the fund  
25 board adopts the resolution under subsection (1) and shall continue  
26 in effect for a period specified in the resolution. A copy of the  
27 resolution shall be filed with the ~~state tax commission~~. **DEPARTMENT.**

1           (3) The fund board shall provide for a detailed application,  
2 approval, and compliance process published and available on the  
3 fund's website. The detailed application, approval, and compliance  
4 process shall, at a minimum, contain the following:

5           (a) An eligible claimant, or a next Michigan development  
6 corporation on behalf of an eligible claimant, may apply for an  
7 exemption to the assessment in a form and manner determined by the  
8 fund board.

9           (b) After receipt of an application, the fund may enter into  
10 an agreement with an eligible claimant if the eligible claimant  
11 agrees to make certain investments of eligible personal property in  
12 this state.

13           (c) An eligible claimant shall present a business plan or  
14 demonstrate that a minimum of \$25,000,000.00 will be invested in  
15 additional eligible personal property in this state during the  
16 duration of the written agreement.

17           (d) The written agreement shall provide in a clear and concise  
18 manner all of the conditions imposed, including specific time  
19 frames, on the eligible claimant, to receive the exemption to the  
20 assessment under this section.

21           (e) The written agreement shall provide that the exemption  
22 under this section is revoked if the eligible claimant fails to  
23 comply with the provisions of the written agreement.

24           (f) The written agreement shall provide for a repayment  
25 provision on the exemption to the assessment if the eligible  
26 claimant fails to comply with the provisions of the written  
27 agreement.

1 (g) The written agreement shall provide for an audit provision  
2 that requires the fund to verify that the specific time frames for  
3 the investment have been met.

4 (4) The fund board shall consider the following criteria to  
5 the extent reasonably applicable to the type of investment proposed  
6 when approving an exemption to the assessment:

7 (a) Out-of-state competition.

8 (b) Net-positive return to this state.

9 (c) Level of investment made by the eligible claimant.

10 (d) Business diversification.

11 (e) Reuse of existing facilities.

12 (f) Near-term job creation or significant job retention as a  
13 result of the investment made in eligible personal property.

14 (g) Strong links to Michigan suppliers.

15 (h) Whether the project is in a local unit of government that  
16 contains an eligible distressed area as that term is defined in  
17 section 11 of the state housing development authority act of 1966,  
18 1966 PA 346, MCL 125.1411.

19 (5) The fund board, or the Michigan economic development  
20 corporation, may charge actual and reasonable fees for costs  
21 associated with administering the activities authorized under this  
22 section.

23 Sec. 11. (1) Proceeds of the assessment collected under  
24 section 7 shall be credited to the general fund.

25 (2) Beginning in fiscal year 2014-2015 and each fiscal year  
26 thereafter, the legislature shall appropriate funds in an amount  
27 equal to the necessary expenses incurred by the department of

1 ~~treasury~~-in implementing this act.