

STATE ESSENTIAL SERVICES ASSESSMENT ACT (EXCERPT)
Act 92 of 2014

211.1059 Exemption from assessment; resolution; application, approval, and compliance process; approval of exemption; criteria; costs; fees.

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

(2) An exemption under this section is effective in the assessment year immediately succeeding the year in which the fund board adopts the resolution under subsection (1) and shall continue in effect for a period specified in the resolution. A copy of the resolution shall be filed with the department.

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

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

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

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

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

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

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

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

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

(a) Out-of-state competition.

(b) Net-positive return to this state.

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

(d) Business diversification.

(e) Reuse of existing facilities.

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

(g) Strong links to Michigan suppliers.

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

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

History: 2014, Act 92, Eff. Aug. 22, 2014;—Am. 2016, Act 107, Imd. Eff. May 6, 2016.

Compiler's note: Enacting section 2 of Act 92 of 2014 provides:

"Enacting section 2. This act does not take effect unless Senate Bill No. 822 of the 97th Legislature is approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

Enacting section 3 of Act 92 of 2014 provides:

"Enacting section 3. The legislature declares that stable local government funding and a tax system that allows individuals, small businesses, and large businesses to thrive and create jobs in this state are priorities of state government. The legislature also declares that all state priorities should be considered in enacting any legislation that has a fiscal impact and that any costs should be managed in a fiscally responsible way. In furtherance of these objectives, the legislature has reduced the state use tax under section 3 of the use tax act, 1937 PA 94, MCL 205.93, and replaced the portion reduced with a use tax levied by the local community stabilization authority on behalf of local units of government throughout this state to provide more stable funding for local units of government than exists today. It is the

intent of the legislature to offset the fiscal impact on the state general fund resulting from the reduction of the state use tax with new revenue generated by the assessment levied under this act and with new revenue resulting from the expiration of over \$630,000,000.00 in expiring refundable tax credits that were awarded to individual businesses under tax laws enacted by past legislatures."

Compiler's note: Pursuant to section 34 of article IV of the state constitution of 1963, a legislative referendum on Act 80 of 2014 was presented to the electors as Proposal 14-1 at the August 5, 2014 primary election. The proposal read as follows:

"APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS

The amendatory act adopted by the Legislature would:

1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan.
2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services.
3. Increase portion of state use tax dedicated for aid to local school districts.
4. Prohibit Authority from increasing taxes.
5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation.

Should this law be approved?

YES ☐

NO ☐

Act 80 of 2014 was approved by a majority of the voters at the August 5, 2014 primary election. The election results were certified by the Michigan Board of State Canvassers on August 22, 2014.