

SENATE BILL No. 829

February 25, 2014, Introduced by Senators WARREN and NOFS and referred to the Committee on Finance.

A bill to levy a tax on certain personal property; to provide for the administration, collection, and distribution of the tax; to provide for an exemption from that tax; to impose certain duties on persons and certain state departments; to impose penalties; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "state
2 essential services assessment act".

3 Sec. 3. As used in this act:

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

1 current owner for eligible personal property, and any costs of
2 freight, sales tax, and installation, and other capitalized costs,
3 except capitalized interest, reflect the fair market value of the
4 eligible personal property. For property described in subdivision
5 (e) (i) that would otherwise be exempt under section 7k of the
6 general property tax act, 1893 PA 206, MCL 211.7k, and for property
7 described in subdivision (e) (iii), acquisition cost means 1/2 of the
8 fair market value of that eligible personal property at the time of
9 acquisition by the current owner. The acquisition cost for eligible
10 personal property exempt under the renaissance zone act, 1996 PA
11 376, MCL 125.2681 to 125.2696, is \$0.00 except for the 3 years
12 immediately preceding the expiration of the exemption of that
13 eligible personal property under the renaissance zone act, 1996 PA
14 376, MCL 125.2681 to 125.2696, during which period of time the
15 acquisition cost for that eligible personal property means the fair
16 market value of that eligible personal property at the time of
17 acquisition by the current owner multiplied by the percentage
18 reduction in the exemption as provided in section 9(3) of the
19 renaissance zone act, 1996 PA 376, MCL 125.2689. The department of
20 treasury may provide guidelines for circumstances in which the
21 actual acquisition price is not determinative of fair market value
22 and the basis of determining fair market value in those
23 circumstances, including when that property is idle, obsolete, or
24 surplus.

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

27 (c) "Assessment year" means the year in which the state

1 essential services assessment levied under section 5 is due.

2 (d) "Eligible claimant" means a person that claims an
3 exemption for eligible personal property.

4 (e) "Eligible personal property" means all of the following:

5 (i) Personal property exempt under section 9m or 9n of the
6 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n.

7 (ii) Personal property exempt under section 9f of the general
8 property tax act, 1893 PA 206, MCL 211.9f, which exemption was
9 approved under section 9f of the general property tax act, 1893 PA
10 206, MCL 211.9f, after 2013.

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

14 (iv) Personal property subject to an extended exemption under
15 section 9f(8) of the general property tax act, 1893 PA 206, MCL
16 211.9f.

17 (f) "Fund board" means the board of directors of the Michigan
18 strategic fund created under the Michigan strategic fund act, 1984
19 PA 270, MCL 125.2001 to 125.2094.

20 (g) "Michigan economic development corporation" means the
21 Michigan economic development corporation, the public body
22 corporate created under section 28 of article VII of the state
23 constitution of 1963 and the urban cooperation act of 1967, 1967
24 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal
25 agreement effective April 5, 1999, and subsequently amended,
26 between local participating economic development corporations
27 formed under the economic development corporations act, 1974 PA

1 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

2 (h) "Michigan strategic fund" means the Michigan strategic
3 fund created under the Michigan strategic fund act, 1984 PA 270,
4 MCL 125.2001 to 125.2094.

5 (i) "Next Michigan development corporation" means that term as
6 defined under the next Michigan development act, 2010 PA 275, MCL
7 125.2951 to 125.2959.

8 Sec. 5. (1) Beginning January 1, 2016, the state essential
9 services assessment is levied on all eligible personal property as
10 provided in this section.

11 (2) The assessment under this section is a state tax on the
12 eligible personal property owned by, leased to, or in the
13 possession of an eligible claimant on December 31 of the year
14 immediately preceding the assessment year and shall be calculated
15 as follows:

16 (a) For eligible personal property purchased by the eligible
17 claimant in a year 1 to 5 years before the assessment year,
18 multiply the acquisition cost of the eligible personal property by
19 2.4 mills.

20 (b) For eligible personal property purchased by the eligible
21 claimant in a year 6 to 10 years before the assessment year,
22 multiply the acquisition cost of the eligible personal property by
23 1.25 mills.

24 (c) For eligible personal property purchased by the eligible
25 claimant in a year more than 10 years before the assessment year,
26 multiply the acquisition cost of the eligible personal property by
27 0.9 mills.

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

3 (2) Not later than March 1 in each assessment year, the
4 department of treasury shall send to each eligible claimant a
5 statement for calculation of the assessment as provided in section
6 5. The statement shall be in a form prescribed by the department of
7 treasury.

8 (3) Not later than September 15 in each assessment year, each
9 eligible claimant shall submit to the department of treasury the
10 completed statement and full payment of the assessment levied under
11 section 5 for that assessment year as calculated in section 5(2). A
12 statement submitted by an eligible claimant shall include all of
13 the eligible claimant's eligible personal property located in this
14 state subject to the assessment levied under section 5.

15 (4) If an eligible claimant does not submit the statement and
16 full payment of the assessment levied under section 5 for that
17 assessment year as calculated under section 5(2), all of the
18 following shall apply:

19 (a) The department of treasury shall rescind for the
20 assessment year any exemption described in section 9m or 9n of the
21 general property tax act, 1893 PA 206, MCL 211.9m and 211.9n,
22 granted for the eligible personal property.

23 (b) The state tax commission shall rescind for the assessment
24 year any exemption under section 9f of the general property tax
25 act, 1893 PA 206, MCL 211.9f, which exemption was approved under
26 section 9f of the general property tax act, 1893 PA 206, MCL
27 211.9f, after 2013.

1 (c) The state tax commission shall rescind for the assessment
2 year any exemption for eligible personal property subject to an
3 extended industrial facilities exemption certificate under section
4 11a of 1974 PA 198, MCL 207.561a.

5 (d) The state tax commission shall rescind for the assessment
6 year any extended exemption for eligible personal property under
7 section 9f(8)(a) of the general property tax act, 1893 PA 206, MCL
8 211.9f.

9 (e) All taxes due as a result of a rescission by the
10 department of treasury or by the state tax commission under
11 subdivisions (a) to (d) that were not billed under the general
12 property tax act, 1893 PA 206, MCL 211.1 to 211.155, or under 1974
13 PA 198, MCL 207.551 to 207.572, on the summer bill shall be billed
14 under the general property tax act, 1893 PA 206, MCL 211.1 to
15 211.155, or under 1974 PA 198, MCL 207.551 to 207.572, on the
16 winter tax bill.

17 (5) The department of treasury or any eligible claimant may
18 appeal any statement submitted under subsection (3) to the state
19 tax commission. The state tax commission shall arbitrate any appeal
20 under this subsection. The department of treasury or any eligible
21 claimant may appeal the decision of the state tax commission to the
22 Michigan tax tribunal.

23 Sec. 9. (1) The fund board may adopt a resolution to exempt
24 from the assessment under this act all eligible personal property
25 owned by, leased to, or in the possession of an eligible claimant
26 designated in the resolution as provided in this section. The
27 resolution shall not be approved if the state treasurer, or his or

1 her designee to the fund board, votes against the resolution.

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

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

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

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

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

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

27 (e) The written agreement shall provide that the exemption

1 under this section is revoked if the eligible claimant fails to
2 comply with the provisions of the written agreement.

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

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

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

13 (a) Out-of-state competition.

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

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

16 (d) Business diversification.

17 (e) Reuse of existing facilities.

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

20 (g) Strong links to Michigan suppliers.

21 (h) Whether the project is in a local unit of government that
22 contains an eligible distressed area as that term is defined in
23 section 11 of the state housing development authority act of 1966,
24 1966 PA 346, MCL 125.1411.

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

1 section.

2 Sec. 11. Proceeds of the assessment collected under section 7
3 shall be credited to the general fund.

4 Enacting section 1. The local unit of government essential
5 services special assessment act, 2012 PA 406, MCL 123.1241 to
6 123.1247, is repealed.

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