

Act No. 379  
Public Acts of 1994  
Approved by the Governor  
December 26, 1994  
Filed with the Secretary of State  
December 27, 1994

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1994**

Introduced by Senator Cisky

# **ENROLLED SENATE BILL No. 874**

AN ACT to amend sections 9 and 11 of Act No. 198 of the Public Acts of 1974 entitled An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units to provide for the exemption from certain taxes to levy and collect a specific tax upon the owners of certain facilities to provide for the disposition of the tax to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates to prescribe the powers and duties of the state tax commission and certain officers of local governmental units and to provide penalties as amended by Act No. 266 of the Public Acts of 1994 being sections 207 559 and 207 561 of the Michigan Compiled Laws

*The People of the State of Michigan enact*

Section 1 Sections 9 and 11 of Act No. 198 of the Public Acts of 1974 as amended by Act No. 266 of the Public Acts of 1994 being sections 207 559 and 207 561 of the Michigan Compiled Laws are amended to read as follows

Sec 9 (1) The legislative body of the local governmental unit in its resolution approving an application shall set forth a finding and determination that the granting of the industrial facilities exemption certificate considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of a taxing unit that levies an ad valorem property tax in the local governmental unit in which the facility is located or to be located If the state equalized valuation of property proposed to be exempt pursuant to an application under consideration considered together with the aggregate state equalized valuation of property exempt under certificates previously granted and currently in force exceeds 5% of the state equalized valuation of the local governmental unit the commission with the approval of the state treasurer shall make a separate finding and shall include a statement in the order approving the industrial facilities exemption certificate that exceeding that amount shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of any affected taxing unit

(2) Except for an application for a speculative building which is governed by subsection (4) the legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate unless the applicant complies with all of the following requirements

(a) The commencement of the restoration replacement or construction of the facility occurred not earlier than 12 months before the filing of the application for the industrial facilities exemption certificate If the application is not filed within the 12 month period the application may be filed within the succeeding 12 month period and the industrial facilities exemption certificate shall in this case expire 1 year earlier than it would have expired if the application had been timely filed This subdivision does not apply for applications filed with the local governmental unit after December 31 1983

(b) For applications made after December 31 1983 the proposed facility shall be located within a plant rehabilitation district or industrial development district that was duly established in a local governmental unit eligible under this act to establish a district and that was established upon a request filed or by the local governmental unit's own initiative taken before the commencement of the restoration replacement or construction of the facility

(c) For applications made after December 31 1983 the commencement of the restoration replacement or construction of the facility occurred not earlier than 6 months before the filing of the application for the industrial facilities exemption certificate

(d) The application relates to a construction restoration or replacement program that when completed constitutes a new or replacement facility within the meaning of this act and that shall be situated within a plant rehabilitation district or industrial development district duly established in a local governmental unit eligible under this act to establish the district

(e) Completion of the facility is calculated to and will at the time of issuance of the certificate have the reasonable likelihood to create employment retain employment prevent a loss of employment or produce energy in the community in which the facility is situated

(f) Completion of the facility shall not have the effect of transferring employment from 1 or more local governmental units of the state to the local governmental unit in which the facility is to be located except that this restriction does not prevent the granting of a certificate if the legislative body of each local governmental unit from which employment is to be transferred consents by resolution to the granting of the certificate If the local governmental unit does not give its consent a copy of the resolution of denial showing reasons for the denial shall be filed within 20 days after adoption with the department of commerce

(g) Completion of the facility does not constitute merely the addition of machinery and equipment for the purpose of increasing productive capacity but rather is primarily for the purpose and will primarily have the effect of restoration replacement or updating the technology of obsolete industrial property An increase in productive capacity even though significant shall not constitute an impediment to the issuance of an industrial facilities exemption certificate if other criteria in this section and act are met This subdivision does not apply to a new facility

(h) The provisions of subdivision (c) do not apply to a new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in April of 1992 if the application was approved by the local governing body and was denied by the state tax commission in April of 1993

(i) The provisions of subdivision (c) do not apply to any of the following

(i) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in October 1993 if the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the state tax commission in December 1993

(ii) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in September 1993 if the personal property portion of the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the legislative body of the local governmental unit in October 1993 and subsequently approved by the legislative body of the local governmental unit in September 1994

(iii) A facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in August 1993 if the application was approved by the local governmental unit in September 1993 and the application was denied by the state tax commission in December 1993

(3) If the replacement facility when completed will not be located on the same premises or contiguous premises as the obsolete industrial property then the applicant shall make provision for the obsolete industrial property by way of demolition sale or transfer to another person with the effect that the obsolete industrial property shall within a reasonable time again be subject to assessment and taxation under the general property tax act Act No 206 of the Public Acts of 1893 as amended being sections 211 1 to 211 157 of the Michigan Compiled Laws or be used in a manner consistent with the general purposes of this act subject to approval of the commission

(4) The legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate that applies to a speculative building unless the speculative building is or is to be located in a plant rehabilitation district or industrial development district duly established by a local governmental unit eligible under this act to establish a district the speculative building was constructed less than 9 years before the filing of the application for the industrial facilities exemption certificate the speculative building has not been occupied since completion of construction and the speculative building otherwise qualifies under subsection (2)(e) and (f) for an industrial facilities exemption certificate An industrial facilities exemption certificate granted under this subsection shall expire as provided in section 16(3)

(5) Not later than September 1 1989 the commission shall provide to all local assessing units the name address and telephone number of the person on the commission staff responsible for providing procedural information concerning this act After October 1 1989 a local unit of government shall notify each prospective applicant of this information in writing

Sec 11 (1) There is levied upon every owner of a speculative building a new facility or a replacement facility to which an industrial facilities exemption certificate is issued a specific tax to be known as the industrial facility tax

(2) The industrial facility tax shall be an annual tax payable at the same times in the same installments and to the same officer or officers as taxes imposed under the general property tax act Act No 206 of the Public Acts of 1893 as amended being sections 211 1 to 211 157 of the Michigan Compiled Laws are payable Except as otherwise provided in this section the officer or officers shall disburse the industrial facility tax payments received each year to and among the state cities townships villages school districts counties and authorities at the same times and in the same proportions as required by law for the disbursement of taxes collected under Act No 206 of the Public Acts of 1893 as amended To determine the proportion for the disbursement of taxes under this subsection and for attribution of taxes under subsection (5) for taxes collected pursuant to industrial facilities exemption certificates issued before January 1 1994 the number of mills levied for local school district operating purposes to be used in the calculation shall equal the number of mills for local school district operating purposes levied in 1993 minus the number of mills levied under the state education tax act Act No 331 of the Public Acts of 1993 being sections 211 901 to 211 906 of the Michigan Compiled Laws for the year for which the disbursement is calculated

(3) Except as provided by subsections (4) and (5) in the case of an intermediate school district receiving state aid under section 56 62 or 81(1) of the state school aid act of 1979 Act No 94 of the Public Acts of 1979 being sections 388 1656 388 1662 and 388 1681 of the Michigan Compiled Laws of the amount that would otherwise be disbursed to or retained by the intermediate school district all or a portion to be determined on the basis of the tax rates being utilized to compute the amount of the state school aid shall be paid instead to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963 If the sum of any commercial facilities taxes prescribed by the commercial redevelopment act Act No 255 of the Public Acts of 1978 being sections 207 651 to 207 668 of the Michigan Compiled Laws and the industrial facility taxes paid to the state treasury to the credit of the state school aid fund that would otherwise be disbursed to the local or intermediate school district pursuant to section 12 of Act No 255 of the Public Acts of 1978 being section 207 662 of the Michigan Compiled Laws and this section exceeds the amount received by the local or intermediate school district under sections 56 62 and 81(1) of Act No 94 of the Public Acts of 1979 the department of treasury shall allocate to each eligible local or intermediate school district an amount equal to the difference between the sum of the commercial facilities taxes and the industrial facility taxes paid to the state treasury to the credit of the state school aid fund and the amount the local or intermediate school district received under sections 56 62 and 81(1) of Act No 94 of the Public Acts of 1979 This subsection does not apply to taxes levied in 1994 for either of the following

(a) Mills allocated to an intermediate school district for operating purposes as provided for under the property tax limitation act Act No 62 of the Public Acts of 1933 being sections 211 201 to 211 217a of the Michigan Compiled Laws

(b) An intermediate school district that is not receiving state aid under section 56 or 62 of Act No 94 of the Public Acts of 1979

(4) For industrial facilities taxes levied before 1994 a local or intermediate school district shall receive or retain its industrial facility tax payment that is levied in any year and becomes a lien before December 1 of the year if the district files a statement with the state treasurer not later than June 30 of the year certifying that the district does not expect to receive state school aid payments under section 56 62 or 81(1) of Act No 94 of the Public Acts of 1979 in the state fiscal year commencing in the year this statement is filed and if the district did not receive state school aid payments under section 56 62 or 81(1) of Act No 94 of the Public Acts of 1979 for the state fiscal year concluding in the year the statement required by this subsection is filed However if a local or intermediate school district receives or retains its summer industrial facility tax payment pursuant to this subsection and becomes entitled to receive state school aid payments under section 56 62 or 81(1) of Act No 94 of the Public Acts of 1979 in the state fiscal year commencing in the year in which it filed the statement required by this subsection the district immediately shall pay to the state treasury to the credit of the state school aid fund an amount of the summer industrial facility tax payments that would have been paid to the state treasury to the credit of the state school aid fund under subsection (3) had not this subsection allowed the district to receive or retain the summer industrial facility tax payment

(5) For industrial facilities taxes levied after 1993 the amount to be disbursed to a local school district except for that amount of tax attributable to mills levied under section 1211(2) or 1211c of the school code of 1976 Act No 451 of the Public Acts of 1976 being sections 380 1211 and 380 1211c of the Michigan Compiled Laws and mills that are not included as mills levied for school operating purposes under section 1211 of the school code of 1976 Act No 451 of the

Public Acts of 1976 being section 380 1211 of the Michigan Compiled Laws shall be paid to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor