

**SUBSTITUTE FOR
HOUSE BILL NO. 4456**

A bill to provide for the establishment of agricultural production districts in local governmental units; to provide for the exemption of certain agricultural property from certain taxes; to levy and collect a specific tax upon the owners of certain agricultural property; to provide for an administrative fee; to provide for the disposition of the tax; to provide for certain agreements; to provide for the obtaining and transferring of exemption certificates and agreements and to prescribe the contents of those certificates and agreements; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; to reimburse for certain lost revenues; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "alternative agricultural production tax act".

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

2

1 Sec. 2. As used in this act:

2 (a) "Agricultural production agreement" or "agreement" means
3 a written agreement between the owner of agricultural property
4 and the local governmental unit in which the agricultural prop-
5 erty is located.

6 (b) "Agricultural production district" or "district" means
7 an area designated by a local governmental unit under section 3.

8 (c) "Agricultural production exemption certificate" or
9 "certificate" means a certificate issued pursuant to sections 4,
10 5, and 6.

11 (d) "Agricultural property" means farmland as that term is
12 defined in section 36101 of the natural resources and environmen-
13 tal protection act, 1994 PA 451, MCL 324.36101.

14 (e) "Agricultural use value" means that value calculated
15 using the method determined by the state tax commission after
16 consultation with the department of agriculture. The method
17 shall not include sales of comparable agricultural property. The
18 method shall include, but is not limited to, all of the following
19 considerations:

20 (i) Evidence of the productive capability of the agricul-
21 tural property for agricultural use, including soil
22 characteristics.

23 (ii) The average annual net return in the immediately pre-
24 ceding 5-year period for typical agricultural property located in
25 the county in which the agricultural property is located, dis-
26 counted by an appropriate interest rate.

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

3

1 (iii) The average rental income for typical agricultural
2 property located in the county in which the agricultural property
3 is located.

4 (iv) The actual value of the buildings or improvements on
5 the agricultural property.

6 (f) "Alternative agricultural production tax" means the spe-
7 cific tax levied under section 12.

8 (g) "Commission" means the state tax commission created by
9 1927 PA 360, MCL 209.101 to 209.107.

10 (h) "Local governmental unit" means a city, village, or
11 township.

12 Sec. 3. (1) A local governmental unit, by resolution of its
13 legislative body, may establish or modify the boundaries of an
14 agricultural production district that consists of 1 or more par-
15 cels or tracts of agricultural property.

16 (2) The legislative body of a local governmental unit may
17 establish an agricultural production district on its own initia-
18 tive or upon a written request filed by the owner or owners of
19 not less than 75% of the state equalized valuation of the agri-
20 cultural property located within a proposed agricultural produc-
21 tion district. This request shall be filed with the clerk of the
22 local governmental unit.

23 (3) Before adopting a resolution establishing an agricul-
24 tural production district, the legislative body shall give writ-
25 ten notice by certified mail to the owners of all real property
26 within the proposed agricultural production district and shall
27 hold a public hearing on the establishment of the agricultural

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

4

1 production district at which those owners and other residents or
2 taxpayers of the local governmental unit shall have a right to
3 appear and be heard.

4 (4) An agricultural production district established by a
5 township shall be only within the unincorporated territory of the
6 township and shall not be within a village.

7 (5) If a local governmental unit establishes an agricultural
8 production district under this act, the county in which the local
9 governmental unit is located may terminate the agricultural pro-
10 duction district by resolution if the resolution of termination
11 is enacted within 30 days of the local governmental unit estab-
12 lishing an agricultural production district.

13 Sec. 4. (1) After the establishment of an agricultural pro-
14 duction district, the owner of agricultural property located
15 within the agricultural production district may file an applica-
16 tion for an agricultural production exemption certificate with
17 the clerk of the local governmental unit that established that
18 agricultural production district. The application shall be filed
19 in the manner and form prescribed by the commission. The appli-
20 cation shall contain or be accompanied by a general description
21 of the agricultural property, a general description of the pro-
22 posed use of the agricultural property, and a legal description
23 of the agricultural property.

24 (2) Upon receipt of an application for an agricultural pro-
25 duction exemption certificate, the clerk of the local governmen-
26 tal unit shall notify in writing the assessor of the local tax
27 collecting unit in which the agricultural property is located and

HB4456, As Passed House, June 19, 2001

Sub. HB 4456 (H-4) as amended June 14, 2001 5

1 the legislative body of each taxing unit that levies ad valorem
2 property taxes in the local governmental unit in which the agri-
3 cultural property is located. Before acting upon the applica-
4 tion, the legislative body of the local governmental unit shall
5 afford the applicant, the assessor, and a representative of the
6 affected taxing units an opportunity for a hearing.

7 Sec. 5. The legislative body of the local governmental
8 unit, not more than 60 days after receipt by its clerk of the
9 application, shall by resolution either approve or disapprove the
10 application for an agricultural production exemption certificate
11 in accordance with section 10 and the other provisions of this
12 act. [The local governmental unit must request and review a
financial impact statement from the involved intermediate school
district, as well as the local school district.] If disapproved,
the reasons shall be set forth in writing
13 in the resolution. If approved, the clerk shall forward the
14 application to the commission within 60 days of approval or
15 before October 31 of that year, whichever is first. If disap-
16 proved, the clerk shall return the application to the applicant.
17 The applicant may appeal the disapproval to the commission within
18 10 days after the date of the disapproval.

19 Sec. 6. (1) Within 60 days after receipt of an approved
20 application or an appeal of a disapproved application that was
21 submitted to the commission before October 31 of that year, the
22 commission shall determine whether the agricultural property com-
23 plies with section 10 and with the other provisions of this act.
24 Except as otherwise provided in this subsection, if the commis-
25 sion makes that determination, it shall issue an agricultural
26 production exemption certificate for a period of 12 years.

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

6

1 (2) The commission shall send an agricultural property
2 exemption certificate, when issued, to the clerk of the local
3 governmental unit, and a certified copy to the assessor of the
4 assessing unit in which the agricultural property is located and
5 that copy shall be filed in his or her office. Notice of the
6 commission's refusal to issue a certificate shall be sent by cer-
7 tified mail to the applicant, the clerk of the local governmental
8 unit, and the assessor of the assessing unit in which the agri-
9 cultural property is located.

10 (3) Within 30 days of the commission issuing a certificate,
11 the clerk of the local governmental unit shall prepare and pro-
12 vide to the owner of the agricultural property an agricultural
13 production agreement that complies with this act. If the owner
14 of the agricultural property executes the agricultural production
15 agreement, the certificate is subject to the agreement and an
16 original agricultural production agreement and certificate shall
17 be provided to the owner. The effective date of the certificate
18 for agricultural property is the immediately succeeding December
19 31 following the date the certificate is issued and the agricul-
20 tural production agreement is executed by the owner of the agri-
21 cultural property, but not earlier than December 31, 2002.

22 (4) Upon the execution of the agricultural production agree-
23 ment, the clerk of the local governmental unit shall file a
24 notice, in recordable form, in the office of the register of
25 deeds in the county in which the agricultural property is located
26 that provides notice that the agricultural property is subject to

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

7

1 this act and that a subsequent buyer may be liable for the amount
2 described in section 15.

3 Sec. 7. Upon the expiration of a certificate, the owner of
4 the agricultural property is no longer subject to the agricul-
5 tural production agreement. However, if the owner complied with
6 this act while his or her certificate was in effect and complied
7 with the agricultural production agreement, the local governmen-
8 tal unit shall automatically renew the agricultural production
9 agreement and certificate if the owner files a written request
10 within the 90-day period immediately preceding the expiration of
11 the certificate with the local governmental unit that approved
12 the original application. If the owner of the agricultural prop-
13 erty files the written request within that 90-day period, the
14 certificate and the agricultural production agreement are
15 extended for an additional period of 6 years unless the local
16 governmental unit modifies the boundaries of the agricultural
17 production district to no longer cover that agricultural property
18 and notifies the owner within 30 days of receipt of the written
19 request, by certified mail, that the local governmental unit will
20 not renew the certificate.

21 Sec. 8. The agricultural production agreement shall provide
22 all of the following:

23 (a) The period of time that the certificate is in effect.

24 (b) A provision providing that the owner of the agricultural
25 property will maintain the property as agricultural property for
26 the period of time that the certificate is in effect or be

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

8

1 responsible for the payment of the amount described in section
2 15(2).

3 Sec. 9. (1) Agricultural property for which an agriculture
4 production exemption certificate is in effect, for the period on
5 and after the effective date of the certificate and continuing so
6 long as the agricultural production exemption certificate is in
7 force, is exempt from ad valorem property taxes and the lessee,
8 occupant, user, or person in possession of that agricultural
9 property for the same period is exempt from ad valorem taxes
10 imposed under 1953 PA 189, MCL 211.181 to 211.182.

11 (2) Personal property that is exempt from the collection of
12 ad valorem property taxes under the general property tax act,
13 1893 PA 206, MCL 211.1 to 211.157, is exempt from the alternative
14 agricultural production tax imposed under section 12.

15 (3) If the agricultural production exemption certificate is
16 revoked or expires or if the owner violates the agricultural pro-
17 duction agreement, the agricultural property is subject to the
18 collection of taxes under the general property tax act, 1893
19 PA 206, MCL 211.1 to 211.157.

20 Sec. 10. The legislative body of the local governmental
21 unit, in its resolution approving an application, shall set forth
22 a finding and determination that granting the agricultural pro-
23 duction exemption certificate, considered together with the
24 aggregate amount of agricultural production exemption certifi-
25 cates previously granted and currently in force, shall not sub-
26 stantially impede the operation of the local governmental unit or
27 impair the financial soundness of a taxing unit that levies an ad

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

9

1 valorem property tax in the local governmental unit in which the
2 agricultural property is located.

3 Sec. 11. (1) The assessor of each city or township in which
4 there is agricultural property with respect to which 1 or more
5 agricultural production exemption certificates have been issued
6 and are in force shall determine annually as of December 31 the
7 true cash value and taxable value of each agricultural property
8 separately for each parcel of agricultural property having the
9 benefit of a certificate.

10 (2) The assessor, upon receipt of notice of the filing of an
11 application for the issuance of a certificate, shall determine
12 and furnish to the local legislative body and the commission the
13 true cash value of the property to which the application pertains
14 and other information as may be necessary to permit the local
15 legislative body and the commission to make the determinations
16 required by section 10.

17 Sec. 12. (1) Except as provided in subsection (5), there is
18 levied upon every owner of agricultural property to which an
19 agricultural production exemption certificate is issued a spe-
20 cific tax to be known as the alternative agricultural production
21 tax and an administrative fee calculated in the same manner and
22 at the same rate that the local tax collecting unit imposes on ad
23 valorem taxes collected under the general property tax act, 1893
24 PA 206, MCL 211.1 to 211.157.

25 (2) The alternative agricultural production tax and adminis-
26 trative fee are to be paid annually, at the same times, in the
27 same installments, and to the same officer or officers as taxes

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

10

1 collected under the general property tax act, 1893 PA 206,
2 MCL 211.1 to 211.157. Except as otherwise provided in this sec-
3 tion, the officer or officers shall disburse the alternative
4 agricultural production tax payments received each year to and
5 among this state and cities, townships, villages, school dis-
6 tricts, counties, and authorities, at the same times and in the
7 same proportions as required by law for the disbursement of taxes
8 collected under the general property tax act, 1893 PA 206,
9 MCL 211.1 to 211.157.

10 (3) Except as provided by subsection (4) for an intermediate
11 school district receiving state aid under section 56, 62, or 81
12 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656,
13 388.1662, and 388.1681, of the amount that would otherwise be
14 disbursed to or retained by the intermediate school district, all
15 or a portion, to be determined on the basis of the tax rates
16 being utilized to compute the amount of the state school aid,
17 shall be paid instead to the state treasury to the credit of the
18 state school aid fund established by section 11 of article IX of
19 the state constitution of 1963. This subsection does not apply
20 to taxes levied for either of the following:

21 (a) Mills allocated to an intermediate school district for
22 operating purposes as provided for under the property tax limita-
23 tion act, 1933 PA 62, MCL 211.201 to 211.217a.

24 (b) An intermediate school district that is not receiving
25 state aid under section 56 or 62 of the state school aid act of
26 1979, 1979 PA 94, MCL 388.1656 and 388.1662.

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

11

1 (4) The amount of alternative agricultural production taxes
2 to be disbursed to a local school district, except for that
3 amount of tax attributable to mills levied under section 1211(2)
4 of the revised school code, 1976 PA 451, MCL 380.1211, and mills
5 that are not included as mills levied for school operating pur-
6 poses under section 1211 of the revised school code, 1976 PA 451,
7 MCL 380.1211, shall be paid to the state treasury and credited to
8 the state school aid fund established by section 11 of article IX
9 of the state constitution of 1963.

10 (5) Agricultural property located in a renaissance zone
11 under the Michigan renaissance zone act, 1996 PA 376,
12 MCL 125.2681 to 125.2696, is exempt from the alternative agricul-
13 tural production tax levied under this act to the extent and for
14 the duration provided pursuant to the Michigan renaissance zone
15 act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that por-
16 tion of the alternative agricultural production tax attributable
17 to a special assessment or a tax described in section 7ff(2) of
18 the general property tax act, 1893 PA 206, MCL 211.7ff. The
19 alternative agricultural production tax calculated under this
20 subsection shall be disbursed proportionately to the local taxing
21 unit or units that levied the special assessment or the tax
22 described in section 7ff(2) of the general property tax act, 1893
23 PA 206, MCL 211.7ff.

24 Sec. 13. (1) Until paid, the alternative agricultural pro-
25 duction tax and administrative fee are a lien upon the agricul-
26 tural property to which the certificate is applicable. Upon the
27 filing by the officer of a certificate of nonpayment of the

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

12

1 alternative agricultural production tax, together with an
2 affidavit of proof of service of the certificate of nonpayment
3 upon the owner of the agricultural property by certified mail,
4 with the register of deeds of the county in which the agricul-
5 tural property is located, the lien may be enforced in the same
6 manner as provided by law for the foreclosure of mortgage liens
7 upon real property.

8 (2) On or after the December 31 immediately succeeding the
9 expiration of 60 days after the service upon the owner of a cer-
10 tificate of nonpayment and the filing of the certificate of non-
11 payment, if payment has not been made within the intervening 60
12 days, provided for by subsection (1), the agricultural production
13 exemption certificate is automatically terminated.

14 Sec. 14. The amount of the alternative agricultural produc-
15 tion tax in each year for agricultural property for which an
16 agricultural production exemption certificate is in effect shall
17 be determined by multiplying 50% of the agricultural use value of
18 the agricultural property by the total mills levied as ad valorem
19 taxes for that year by all taxing units within which the agricul-
20 tural property is located.

21 Sec. 15. (1) The agricultural use value shall not increase
22 each year by more than the increase in the immediately preceding
23 year in the general price level or 5%, whichever is less, minus
24 any losses and plus all additions. As used in this section:

25 (a) "Additions" and "losses" mean those terms as defined in
26 section 34d of the general property tax act, 1893 PA 206,
27 MCL 211.34d.

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

13

1 (b) "General price level" means that term as defined in
2 section 33 of article IX of the state constitution of 1963.

3 (2) If an agricultural production exemption certificate is
4 revoked or expires and is not automatically renewed, if the prop-
5 erty no longer qualifies as agricultural property, or if the
6 owner violates the agricultural production agreement, the owner
7 of that property is liable to the local governmental unit in
8 which that property is located in an amount equal to the differ-
9 ence between the alternative agricultural production tax paid on
10 that property and the amount that would have been assessed
11 against that property if that property were subject to ad valorem
12 property taxes collected under the general property tax act, 1893
13 PA 206, MCL 211.1 to 211.157, for each year in which the most
14 recent agricultural production exemption certificate was in
15 effect, not to exceed 7 years, plus interest as determined under
16 subsection (4). However, if upon the expiration of a certifi-
17 cate, the owner requests automatic renewal in writing and the
18 local governmental unit notifies the owner that it will not renew
19 the certificate and agricultural production agreement under sec-
20 tion 7, the owner is not liable for the amount described in this
21 subsection.

22 (3) Not later than the fifteenth day of each month, the
23 treasurer of the local governmental unit shall, on a form pre-
24 scribed by the state treasurer, itemize the amount collected
25 under this subsection during the preceding month and transmit the
26 form and the amount collected to the state treasurer. The
27 treasurer of the local governmental unit may retain the interest

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

14

1 earned on the money collected under this subsection while held by
2 the treasurer as reimbursement for the costs incurred by the
3 local governmental unit in collecting the funds. The state trea-
4 surer shall credit the proceeds of the funds collected by local
5 governmental units under this subsection to the fund in which the
6 proceeds from lien payments made under part 361 of the natural
7 resources and environmental protection act, 1994 PA 451,
8 MCL 324.36101 to 324.36117, are deposited.

9 (4) The rate of interest described in subsection (2) shall
10 be determined annually by the state treasurer. The rate of
11 interest shall equal the increase in the immediately preceding
12 calendar year in the general price level or 5%, whichever is
13 less, as described in section 15. The rate of interest shall be
14 noncompounded.

15 (5) If, prior to a transfer of agricultural property, the
16 purchaser files a notice of intent to terminate the certificate
17 and the agricultural production agreement with the local govern-
18 mental unit and delivers a copy of that notice to the seller of
19 the agricultural property, the person who owns the property prior
20 to the transfer is liable to the local governmental unit for the
21 amount described in subsection (2), only if the sale is consum-
22 mated within 120 days of the filing of the notice under this sub-
23 section or within 120 days of a subsequent filing of the notice
24 under this subsection. The notice of intent to terminate the
25 certificate and the agricultural production agreement shall be on
26 a form prescribed by the department of treasury.

HB4456, As Passed House, June 19, 2001

House Bill No. 4456

15

1 Sec. 16. (1) The assessor of each city or township in which
2 is located agricultural property with respect to which an
3 agricultural production exemption certificate is in force shall
4 annually determine, with respect to each such agricultural prop-
5 erty, an assessment of the agricultural property having the bene-
6 fit of an agricultural production exemption certificate that
7 would have been made under the general property tax act, 1893
8 PA 206, MCL 211.1 to 211.157, if the certificate had not been in
9 force. A holder of an agricultural production exemption certifi-
10 cate shall furnish to the assessor the information necessary for
11 the determination.

12 (2) The assessor, having made the determination, shall annu-
13 ally notify the commission, the legislative body of each unit of
14 local government that levies taxes upon property in the city or
15 township in which the agricultural property is located, and the
16 holder of the agricultural property exemption certificate of the
17 determination, separately stating the assessment for the agricul-
18 tural property, by certified mail not later than October 15 based
19 upon valuations as of the preceding December 31.

20 Sec. 17. The commission may promulgate rules as it deems
21 necessary for the administration of this act pursuant to the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
23 24.328.

24 Sec. 18. An agricultural production exemption certificate
25 shall be in the form the commission determines but shall
26 contain:

HB4456, As Passed House, June 19, 2001

Sub. HB 4456 (H-4) as amended June 14, 2001 16

1 (a) A legal description of the agricultural property.

2 (b) A statement that, unless revoked as provided in this
3 act, the agricultural production exemption certificate shall
4 remain in force for the period of 12 years.

5 Sec. 19. A party aggrieved by the issuance or refusal to
6 issue, revocation, transfer, or modification of an agricultural
7 production exemption certificate may appeal from the finding and
8 order of the commission in the manner and form and within the
9 time provided by the administrative procedures act of 1969, 1969
10 PA 306, MCL 24.201 to 24.328.

11 Sec. 20. An agricultural production exemption certificate
12 and corresponding agricultural production agreement shall be
13 transferred and assigned by the holder of the certificate and
14 agreement to a new owner or lessee of the agricultural property
15 as long as the property is maintained as agricultural property.

[Sec. 21. (1) This state shall reimburse intermediate school districts each year for all tax revenue lost as the result of a certificate being issued under this act.

(2) This state shall reimburse local school districts each year for all tax revenue lost as the result of a certificate being issued under this act from taxes levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(3) This state shall reimburse a community college district each year for all tax revenue lost as a result of a certificate being issued under this act from taxes levied or collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(4) This state shall reimburse out of the general fund the school aid fund established by section 11 of article IX of the state constitution of 1963 for all revenues lost as the result of the establishment of agricultural production districts and the issuance of certificates under this act.

(5) This section is in effect through October 1, 2007.

(6) The department of treasury shall conduct a review of the fiscal impact of holding schools harmless under this section.]