

SENATE BILL No. 933

December 13, 2005, Introduced by Senator BIRKHOLZ and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3701, 3702, 3703, 3705, 3706, 3707, 3708, 5901, 5902, 5903, 5905, 5906, 5907, and 5908 (MCL 324.3701, 324.3702, 324.3703, 324.3705, 324.3706, 324.3707, 324.3708, 324.5901, 324.5902, 324.5903, 324.5905, 324.5906, 324.5907, and 324.5908), as added by 1995 PA 60.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3701. As used in this part:

2 (A) "CERTIFICATE" MEANS A WATER POLLUTION CONTROL TAX
3 EXEMPTION CERTIFICATE.

4 (B) "DISPOSAL SYSTEM" MEANS A SYSTEM USED PRIMARILY FOR

1 DISPOSING OF OR ISOLATING INDUSTRIAL WASTE AND INCLUDES PIPELINES
2 OR CONDUITS, PUMPING STATIONS AND FORCE MAINS, AND ALL OTHER
3 CONSTRUCTIONS, DEVICES, APPURTENANCES, AND FACILITIES USED FOR
4 COLLECTING OR CONDUCTING WATER-BORNE INDUSTRIAL WASTE TO A POINT OF
5 DISPOSAL, TREATMENT, OR ISOLATION, EXCEPT THAT WHICH IS NECESSARY
6 TO THE MANUFACTURE OF PRODUCTS.

7 (C) ~~—(a)—~~ "Facility" means any disposal system, including
8 disposal wells, or any treatment works, appliance, equipment,
9 machinery, or installation constructed, used, or placed in
10 operation primarily for the purpose of reducing, controlling, or
11 eliminating water pollution caused by industrial waste.

12 (D) ~~—(b)—~~ "Industrial waste" means any liquid, gaseous, or
13 solid waste substance resulting from any process of industry,
14 manufacture, trade, or business, or from the development,
15 processing, or recovery of any paper or wood, which is capable of
16 polluting the waters of the state.

17 (E) ~~—(c)—~~ "Treatment works" means any plant, pumping station,
18 incinerator, or other works or reservoir used primarily for the
19 purpose of treating, stabilizing, isolating, or holding industrial
20 waste.

21 ~~———(d) "Disposal system" means a system used primarily for~~
22 ~~disposing of or isolating industrial waste and includes pipelines~~
23 ~~or conduits, pumping stations and force mains, and all other~~
24 ~~constructions, devices, appurtenances, and facilities used for~~
25 ~~collecting or conducting water borne industrial waste to a point of~~
26 ~~disposal, treatment, or isolation, except that which is necessary~~
27 ~~to the manufacture of products.~~

1 Sec. 3702. (1) An application for a water pollution control
2 tax exemption certificate shall be filed with the ~~state tax~~
3 ~~commission~~ **DEPARTMENT** in a manner and in a form as prescribed by
4 the ~~state tax commission~~ **DEPARTMENT**. The application shall
5 contain plans and specifications of the facility, including all
6 materials incorporated or to be incorporated in the facility and a
7 descriptive list of all equipment acquired or to be acquired by the
8 applicant for the purpose of industrial waste pollution control,
9 together with the proposed operating procedure for the control
10 facility.

11 (2) Before issuing a certificate, the ~~state tax commission~~
12 ~~shall seek approval of the department and~~ **DEPARTMENT SHALL** give
13 notice in writing ~~by certified mail~~ to the department of treasury
14 and **BY CERTIFIED MAIL** to the assessor of the ~~taxing~~ **LOCAL TAX**
15 **COLLECTING** unit in which the facility is located or **IS** to be
16 located, and shall afford to the applicant and the assessor an
17 opportunity for a hearing. ~~Tax~~ **A TAX** exemption granted under this
18 part shall be reduced to the extent of any commercial or productive
19 value derived from any materials captured or recovered by any
20 facility.

21 Sec. 3703. If the department finds that the facility is
22 designed and operated primarily for the control, capture, and
23 removal of industrial waste from the water, and is suitable,
24 reasonably adequate, and meets the intent and purposes of part 31,
25 the department shall ~~notify the state tax commission, which shall~~
26 issue a certificate. The effective date of the certificate is the
27 date on which the certificate is issued.

1 Sec. 3705. ~~The state tax commission shall send a water~~
2 ~~pollution control tax exemption certificate, when issued, by~~
3 ~~certified mail to the applicant, and certified copies by certified~~
4 ~~mail to the assessor of the taxing unit in which any property to~~
5 ~~which the certificate relates is located or to be located and to~~
6 ~~the department of treasury, which copies shall be filed of record~~
7 ~~in their offices. Notice of the state tax commission's refusal to~~
8 ~~issue a certificate shall be sent by certified mail to the~~
9 ~~applicant, to the department of treasury, and to the assessor.~~

10 (1) IF THE DEPARTMENT ISSUES A WATER POLLUTION CONTROL TAX
11 EXEMPTION CERTIFICATE, THE DEPARTMENT SHALL DO ALL OF THE
12 FOLLOWING:

13 (A) SEND THE CERTIFICATE BY CERTIFIED MAIL TO THE APPLICANT.

14 (B) SEND A CERTIFIED COPY OF THE CERTIFICATE BY CERTIFIED MAIL
15 TO THE ASSESSOR OF THE LOCAL TAX COLLECTING UNIT IN WHICH ANY
16 PROPERTY TO WHICH THE CERTIFICATE RELATES IS LOCATED OR IS TO BE
17 LOCATED. THE CERTIFIED COPY OF THE CERTIFICATE SHALL BE FILED OR
18 RECORDED IN THE OFFICE OF THE ASSESSOR.

19 (C) SEND A CERTIFIED COPY OF THE CERTIFICATE TO THE DEPARTMENT
20 OF TREASURY.

21 (2) IF THE DEPARTMENT REFUSES TO ISSUE A WATER POLLUTION
22 CONTROL TAX EXEMPTION CERTIFICATE, THE DEPARTMENT SHALL SEND NOTICE
23 OF THE REFUSAL IN WRITING TO THE DEPARTMENT OF TREASURY AND BY
24 CERTIFIED MAIL TO THE APPLICANT AND TO THE ASSESSOR OF THE LOCAL
25 TAX COLLECTING UNIT IN WHICH ANY PROPERTY TO WHICH THE APPLICATION
26 FOR THE CERTIFICATE RELATES IS LOCATED OR IS TO BE LOCATED.

27 Sec. 3706. (1) The ~~state tax commission~~ DEPARTMENT, on

1 notice by certified mail to the applicant and opportunity for a
2 hearing, **SHALL**, on its own initiative or on complaint of ~~the~~
3 ~~department, the department of treasury, or~~ the assessor of the
4 ~~taxing~~ **LOCAL TAX COLLECTING** unit in which any property to which
5 the certificate relates is located **OR IS TO BE LOCATED**, ~~shall~~
6 modify or revoke the certificate if any of the following appear:

7 (a) The certificate was obtained by fraud or
8 misrepresentation.

9 (b) The holder of the certificate has failed substantially to
10 proceed with the construction, reconstruction, installation, or
11 acquisition of a facility or to operate the facility for the
12 purpose and degree of control specified in the ~~certification~~
13 **CERTIFICATE** or an amended certificate.

14 (c) The facility covered by the certificate is no longer used
15 for the primary purpose of pollution control and is being used for
16 a different purpose.

17 (2) ~~On the mailing by certified mail to the certificate~~
18 ~~holder, the department of treasury, and the local assessor of~~
19 ~~notice~~ **AFTER SENDING NOTICE IN WRITING TO THE DEPARTMENT OF**
20 **TREASURY AND BY CERTIFIED MAIL TO THE CERTIFICATE HOLDER AND TO THE**
21 **ASSESSOR** of the action of the ~~state tax commission~~ **DEPARTMENT**
22 modifying or revoking a certificate, the ~~certificates~~ **CERTIFICATE**
23 shall cease to be in force or shall remain in force only as
24 modified. If a certificate is revoked because it was obtained by
25 fraud or misrepresentation, all taxes that would have been payable
26 if a certificate had not been issued are immediately due and
27 payable with the maximum interest and penalties prescribed by

1 applicable law. A statute of limitations shall not operate in the
2 event of fraud or misrepresentation.

3 Sec. 3707. A party aggrieved by the issuance, refusal to
4 issue, revocation, or modification of a **WATER** pollution control tax
5 exemption certificate may appeal from the finding and order of the
6 ~~state tax commission~~ **DEPARTMENT** in the manner and form and within
7 the time provided by the administrative procedures act of 1969,
8 ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to~~
9 ~~24.328 of the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 TO**
10 **24.328.**

11 Sec. 3708. The ~~state tax commission~~ **DEPARTMENT** may
12 promulgate rules as it considers necessary for the administration
13 of this part. ~~These rules shall not abridge the authority of the~~
14 ~~department to determine whether or not industrial waste pollution~~
15 ~~control exists within the meaning of this part.~~

16 Sec. 5901. As used in this part: ~~—~~ "faecility"

17 **(A) "CERTIFICATE" MEANS AN AIR POLLUTION CONTROL TAX EXEMPTION**
18 **CERTIFICATE.**

19 **(B) "FACILITY"** means machinery, equipment, structures, or any
20 part or accessories of machinery, equipment, or structures,
21 installed or acquired for the primary purpose of controlling or
22 disposing of air pollution that if released would render the air
23 harmful or inimical to the public health or to property within this
24 state. Facility includes an incinerator equipped with a pollution
25 abatement device in effective operation. Facility does not include
26 an air conditioner, dust collector, fan, or other similar facility
27 for the benefit of personnel or of a business. Facility also means

1 the following, if the installation was completed on or after July
2 23, 1965:

3 (i) ~~—(a)—~~ Conversion or modification of a fuel burning system
4 to effect air pollution control. The fuel burner portion only of
5 the system is eligible for tax exemption.

6 (ii) ~~—(b)—~~ Installation of a new fuel burning system to effect
7 air pollution control. The fuel burner portion only of the system
8 is eligible for tax exemption.

9 (iii) ~~—(c)—~~ A process change involving production equipment made
10 to satisfy the requirements of part 55 and rules promulgated under
11 that part. The maximum cost allowed shall be 25% of the cost of the
12 new process unit but shall not exceed the cost of the conventional
13 control equipment applied on the basis of the new process
14 production rate on the preexisting process.

15 Sec. 5902. (1) An application for ~~—a—~~ **AN AIR** pollution control
16 tax exemption certificate shall be filed with the ~~—state tax~~
17 ~~commission—~~ **DEPARTMENT** in a manner and in a form as prescribed by
18 the ~~—state tax commission—~~ **DEPARTMENT**. The application shall
19 contain plans and specifications of the facility, including all
20 materials incorporated or to be incorporated in the facility and a
21 descriptive list of all equipment acquired or to be acquired by the
22 applicant for the purpose of **AIR** pollution control, together with
23 the proposed operating procedure for the control facility.

24 (2) Before issuing a certificate, the ~~—state tax commission~~
25 **DEPARTMENT** shall ~~—seek approval of the department and—~~ give notice
26 in writing ~~—by certified mail—~~ to the department of treasury and **BY**
27 **CERTIFIED MAIL** to the assessor of the taxing unit in which the

1 facility is located or **IS** to be located, and shall afford to the
2 applicant and the assessor an opportunity for a hearing. ~~Tax~~ **A**
3 **TAX** exemption granted under this part shall be reduced to the
4 extent of any commercial or productive value derived from any
5 materials captured or recovered by any air pollution control
6 facility as defined in this part.

7 Sec. 5903. If the department finds that the facility is
8 designed and operated primarily for the control, capture, and
9 removal of pollutants from the air, and is suitable, reasonably
10 adequate, and meets the intent and purposes of part 55 and rules
11 promulgated under that part, the department shall ~~notify the state~~
12 ~~tax commission, which shall~~ issue a certificate. The effective
13 date of the certificate is the date on which the certificate is
14 issued.

15 Sec. 5905. ~~The state tax commission shall send an air~~
16 ~~pollution control tax exemption certificate, when issued, by~~
17 ~~certified mail to the applicant, and certified copies by certified~~
18 ~~mail to the assessor of the taxing unit in which any property to~~
19 ~~which the certificate relates is located or to be located and to~~
20 ~~the department of treasury, which copies shall be filed of record~~
21 ~~in their offices. Notice of the state tax commission's refusal to~~
22 ~~issue a certificate shall be sent by certified mail to the~~
23 ~~applicant, to the department of treasury, and to the assessor.~~

24 **(1) IF THE DEPARTMENT ISSUES AN AIR POLLUTION CONTROL TAX**
25 **EXEMPTION CERTIFICATE, THE DEPARTMENT SHALL DO ALL OF THE**
26 **FOLLOWING:**

27 **(A) SEND THE CERTIFICATE BY CERTIFIED MAIL TO THE APPLICANT.**

1 (B) SEND A CERTIFIED COPY OF THE CERTIFICATE BY CERTIFIED MAIL
2 TO THE ASSESSOR OF THE LOCAL TAX COLLECTING UNIT IN WHICH ANY
3 PROPERTY TO WHICH THE CERTIFICATE RELATES IS LOCATED OR IS TO BE
4 LOCATED. THE CERTIFIED COPY OF THE CERTIFICATE SHALL BE FILED OR
5 RECORDED IN THE OFFICE OF THE ASSESSOR.

6 (C) SEND A CERTIFIED COPY OF THE CERTIFICATE TO THE DEPARTMENT
7 OF TREASURY.

8 (2) IF THE DEPARTMENT REFUSES TO ISSUE AN AIR POLLUTION
9 CONTROL TAX EXEMPTION CERTIFICATE, THE DEPARTMENT SHALL SEND NOTICE
10 OF THE REFUSAL IN WRITING TO THE DEPARTMENT OF TREASURY AND BY
11 CERTIFIED MAIL TO THE APPLICANT AND TO THE ASSESSOR OF THE LOCAL
12 TAX COLLECTING UNIT IN WHICH ANY PROPERTY TO WHICH THE APPLICATION
13 FOR THE CERTIFICATE RELATES IS LOCATED OR IS TO BE LOCATED.

14 Sec. 5906. (1) The ~~state tax commission~~ DEPARTMENT, on
15 notice by certified mail to the applicant and opportunity for a
16 hearing, shall, on its own initiative or on complaint of ~~the~~
17 ~~department, the department of treasury, or~~ the assessor of the
18 ~~taxing~~ LOCAL TAX COLLECTING unit in which any property to which
19 the certificate relates is located OR IS TO BE LOCATED, modify or
20 revoke the certificate if any of the following appear:

21 (a) The certificate was obtained by fraud or
22 misrepresentation.

23 (b) The holder of the certificate has failed substantially to
24 proceed with the construction, reconstruction, installation, or
25 acquisition of a facility or to operate the facility for the
26 purpose and degree of control specified in the ~~certification~~
27 CERTIFICATE or an amended certificate.

1 (c) The facility covered by the certificate is no longer used
2 for the primary purpose of pollution control and is being used for
3 a different purpose.

4 (d) Substantial noncompliance with part 55 or any rule
5 promulgated under that part.

6 (2) ~~On the mailing by certified mail to the certificate~~
7 ~~holder, the department of treasury, and the local assessor of~~
8 ~~notice~~ **AFTER SENDING NOTICE IN WRITING TO THE DEPARTMENT OF**
9 **TREASURY AND BY CERTIFIED MAIL TO THE CERTIFICATE HOLDER AND TO THE**
10 **ASSESSOR** of the action of the ~~state tax commission~~ **DEPARTMENT**
11 modifying or revoking a certificate, the certificate shall cease to
12 be in force or shall remain in force only as modified. If a
13 certificate is revoked because it was obtained by fraud or
14 misrepresentation, all taxes that would have been payable if a
15 certificate had not been issued are immediately due and payable
16 with the maximum interest and penalties prescribed by applicable
17 law. A statute of limitations shall not operate in the event of
18 fraud or misrepresentation.

19 Sec. 5907. A party aggrieved by the issuance, refusal to
20 issue, revocation, or modification of ~~a~~ **AN AIR** pollution control
21 tax exemption certificate may appeal from the finding and order of
22 the ~~state tax commission~~ **DEPARTMENT** in the manner and form and
23 within the time provided by the administrative procedures act of
24 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
25 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ **1969 PA 306, MCL**
26 **24.201 TO 24.328.**

27 Sec. 5908. The ~~state tax commission~~ **DEPARTMENT** may adopt

1 rules as it considers necessary for the administration of this
2 part. ~~These rules shall not abridge the authority of the~~
3 ~~department to determine whether or not air pollution control exists~~
4 ~~within the meaning of this part.~~