

HOUSE BILL No. 6077

May 9, 2002, Introduced by Reps. Woronchak, DeRossett, Howell, Richardville, Newell, Cassis, LaSata, Gilbert, Meyer, Bisbee, Kuipers, Birkholz, Voorhees, Vear, Mead, Pumford, Ehardt, Jelinek, Ruth Johnson, Faunce, Hummel, Cameron Brown, Vander Veen, Bishop, George, DeVuyst, Kowall, Allen, Gosselin, Julian, Koetje, Tabor and Raczkowski and referred to the Committee on Energy and Technology.

A bill to amend 1995 PA 24, entitled
"Michigan economic growth authority act,"
by amending sections 3, 4, and 8 (MCL 207.803, 207.804, and
207.808), section 3 as amended by 2000 PA 428 and section 8 as
amended by 2000 PA 144.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Authorized business" means an eligible business with
3 which the authority has entered into a written agreement for a
4 tax credit under section 9.

5 (b) "Authority" means the Michigan economic growth authority
6 created under section 4.

7 (c) "Eligible business" means a business that proposes to
8 maintain retained jobs after December 31, 1999 or to create
9 qualified new jobs in this state after April 18, 1995 in

1 manufacturing, mining, research and development, wholesale and
2 trade, or office operations or a business that is a qualified
3 high-technology business. An eligible business does not include
4 retail establishments, professional sports stadiums, or that por-
5 tion of an eligible business used exclusively for retail sales.
6 Professional sports stadium does not include a sports stadium in
7 existence on June 6, 2000 that is not used by a professional
8 sports team on the date that an application related to that pro-
9 fessional sports stadium is filed under section 8.

10 (d) "Facility" means a site OR SITES within this state in
11 which an authorized business maintains retained jobs or creates
12 qualified new jobs. A facility does not include a site that was
13 a vaccine laboratory owned by this state on April 1, 1995.

14 (e) "Full-time job" means a job performed by an individual
15 who is employed by an authorized business for consideration for
16 35 hours or more each week and for which the authorized business
17 withholds income and social security taxes.

18 (f) "Local governmental unit" means a county, city, village,
19 or township in this state.

20 (g) "High-technology activity" means 1 or more of the
21 following:

22 (i) Advanced computing, which is any technology used in the
23 design and development of any of the following:

24 (A) Computer hardware and software.

25 (B) Data communications.

26 (C) Information technologies.

1 (ii) Advanced materials, which are materials with engineered
2 properties created through the development of specialized process
3 and synthesis technology.

4 (iii) Biotechnology, which is any technology that uses
5 living organisms, cells, macromolecules, microorganisms, or sub-
6 stances from living organisms to make or modify a product,
7 improve plants or animals, or develop microorganisms for useful
8 purposes. Biotechnology does not include human cloning as
9 defined in section 16274 of the public health code, 1978 PA 368,
10 MCL 333.16274, or stem cell research with embryonic tissue.

11 (iv) Electronic device technology, which is any technology
12 that involves microelectronics, semiconductors, electronic equip-
13 ment, and instrumentation, radio frequency, microwave, and milli-
14 meter electronics, and optical and optic-electrical devices, or
15 data and digital communications and imaging devices.

16 (v) Engineering or laboratory testing related to the devel-
17 opment of a product.

18 (vi) Technology that assists in the assessment or prevention
19 of threats or damage to human health or the environment, includ-
20 ing, but not limited to, environmental cleanup technology, pollu-
21 tion prevention technology, or development of alternative energy
22 sources.

23 (vii) Medical device technology, which is any technology
24 that involves medical equipment or products other than a pharma-
25 ceutical product that has therapeutic or diagnostic value and is
26 regulated.

1 (viii) Product research and development.

2 (ix) Advanced vehicles technology that is any technology
3 that involves electric vehicles, hybrid vehicles, or alternative
4 fuel vehicles, or components used in the construction of electric
5 vehicles, hybrid vehicles, or alternative fuel vehicles. For
6 purposes of this act:

7 (A) "Electric vehicle" means a road vehicle that draws pro-
8 pulsion energy only from an on-board source of electrical
9 energy.

10 (B) "Hybrid vehicle" means a road vehicle that can draw pro-
11 pulsion energy from both a consumable fuel and a rechargeable
12 energy storage system.

13 (h) "New capital investment" means 1 or more of the
14 following:

15 (i) New construction. As used in this subparagraph:

16 (A) "New construction" means property not in existence on
17 the date the authorized business enters into a written agreement
18 with the authority and not replacement construction. New con-
19 struction includes the physical addition of equipment or furnish-
20 ings, subject to section 27(2)(a) to (o) of the general property
21 tax act, 1893 PA 206, MCL 211.27.

22 (B) "Replacement construction" means that term as defined in
23 section 34d(1)(b)(v) of the general property tax act, 1893
24 PA 206, MCL 211.34d.

25 (ii) The purchase of new personal property. As used in this
26 subparagraph, "new personal property" means personal property
27 that is not subject to or that is exempt from the collection of

1 taxes under the general property tax act, 1893 PA 206, MCL 211.1
2 to 211.157, on the date the authorized business enters into a
3 written agreement with the authority.

4 (i) "Qualified high-technology business" means a business
5 ~~that is both of the following: (i) A business with not less~~
6 ~~than 25% of the total operating expenses of the business used for~~
7 ~~research and development in the tax year in which the business~~
8 ~~files an application under this act as determined under generally~~
9 ~~accepted accounting principles and verified by the authority.~~
10 ~~(ii) A business~~ whose primary business activity is
11 high-technology activity.

12 (j) "Qualified new job" means either of the following:

13 (i) A full-time job created by an authorized business at a
14 facility that is in excess of the number of full-time jobs the
15 authorized business maintained in this state prior to the expan-
16 sion or location, as determined by the authority.

17 (ii) For jobs created after July 1, 2000, a full-time job at
18 a facility created by an eligible business that is in excess of
19 the number of full-time jobs maintained by that eligible business
20 in this state 120 days before the eligible business became an
21 authorized business, as determined by the authority.

22 (k) "Retained jobs" means the number of full-time jobs at a
23 facility of an authorized business maintained in this state on a
24 specific date as that date and number of jobs is determined by
25 the authority.

26 (l) "Written agreement" means a written agreement made
27 pursuant to section 8.

1 Sec. 4. (1) The Michigan economic growth authority is
2 created within the Michigan ~~jobs commission~~ STRATEGIC FUND.
3 The Michigan ~~jobs commission~~ STRATEGIC FUND shall provide staff
4 for the authority and shall carry out the administrative duties
5 and functions as directed by the authority. The budgeting, pro-
6 curement, and related functions as directed by the authority are
7 under the supervision of the ~~director~~ PRESIDENT of the Michigan
8 ~~jobs commission~~ STRATEGIC FUND.

9 (2) The authority consists of the following 8 members:

10 (a) The ~~director~~ PRESIDENT of the Michigan ~~jobs~~
11 ~~commission~~ STRATEGIC FUND, or his or her designee, as chair-
12 person of the authority.

13 (b) The state treasurer or his or her designee.

14 (c) The director of the department of management and budget,
15 or his or her designee.

16 (d) The director of the state transportation department, or
17 his or her designee.

18 (e) Four other members appointed by the governor who are not
19 employed by this state and who have knowledge, skill, and
20 experience in the academic, business, local government, labor, or
21 financial fields.

22 (3) A member shall be appointed for a term of 4 years,
23 except that of the members first appointed by the governor, 2
24 shall be appointed for a term of 2 years and 2 for a term of 4
25 years from the dates of their appointments. A vacancy shall be
26 filled for the balance of the unexpired term in the same manner
27 as an original appointment.

1 (4) Except as otherwise provided by law, a member of the
2 authority shall not receive compensation for services, but the
3 authority may reimburse each member for expenses necessarily
4 incurred in the performance of his or her duties.

5 Sec. 8. (1) After receipt of an application, the authority
6 may enter into an agreement with an eligible business for a tax
7 credit under section 9 if the authority determines that all of
8 the following are met:

9 (a) Except as provided in subsection (5), the eligible busi-
10 ness creates 1 or more of the following within 12 months of the
11 expansion or location as determined by the authority:

12 (i) A minimum of 75 qualified new jobs at the facility if
13 expanding in this state.

14 (ii) A minimum of 150 qualified new jobs at the facility if
15 locating in this state.

16 (iii) A minimum of 25 qualified new jobs at the facility if
17 the facility is located in a neighborhood enterprise zone as
18 determined under the neighborhood enterprise zone act, 1992
19 PA 147, MCL 207.771 to ~~207.787~~ 207.786, is located in a renais-
20 sance zone under the Michigan renaissance zone act, 1996 PA 376,
21 MCL 125.2681 to 125.2696, or is located in a federally designated
22 empowerment zone, rural enterprise community, or enterprise
23 community.

24 (iv) A minimum of 5 qualified new jobs at the facility if
25 the eligible business is a qualified high-technology business.

(b) Except as provided in subsection (5), the eligible business agrees to maintain 1 or more of the following for each year that a credit is authorized under this act:

(i) A minimum of 75 qualified new jobs at the facility if expanding in this state.

(ii) A minimum of 150 qualified new jobs at the facility if locating in this state.

(iii) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to ~~207.787~~ 207.786, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

(iv) If the eligible business is a qualified high-technology business, all of the following apply:

(A) A minimum of 5 qualified new jobs at the facility.

(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority and a minimum of 25 qualified new jobs at the facility each year thereafter for which a credit is authorized under this act.

(c) Except as provided in subsection (5), in addition to the jobs specified in subdivision (b), the eligible business, if already located within this state, agrees to maintain a number of full-time jobs equal to or greater than the number of full-time

1 jobs it maintained in this state OR, AT THE DISCRETION OF THE
2 AUTHORITY, THE NUMBER OF FULL-TIME JOBS IT MAINTAINED AT THE
3 FACILITY, prior to the expansion, as determined by the
4 authority.

5 (d) Except as otherwise provided in this subdivision, the
6 average wage paid for all retained jobs and qualified new jobs is
7 equal to or greater than 150% of the federal minimum wage.
8 However, if the eligible business is a qualified high-technology
9 business, then the average wage paid for all qualified new jobs
10 is equal to or greater than 400% of the federal minimum wage.

11 (e) Except for a qualified high-technology business, the
12 expansion, retention, or location of the eligible business will
13 not occur in this state without the tax credits offered under
14 this act.

15 (f) The local governmental unit in which the eligible busi-
16 ness will expand, be located, or maintain retained jobs, or a
17 local economic development corporation or similar entity, will
18 make a staff, financial, or economic commitment to the eligible
19 business for the expansion, retention, or location.

20 (g) The financial statements of the eligible business indi-
21 cated that it is financially sound and that its plans for the
22 expansion, retention, or location are economically sound.

23 (h) The eligible business has not begun construction of the
24 facility.

25 (i) The expansion, retention, or location of the eligible
26 business will benefit the people of this state by increasing

1 opportunities for employment and by strengthening the economy of
2 this state.

3 (j) The tax credits offered under this act are an incentive
4 to expand, retain, or locate the eligible business in Michigan
5 and address the competitive disadvantages with sites outside this
6 state.

7 (k) A cost/benefit analysis reveals that authorizing the
8 eligible business to receive tax credits under this act will
9 result in an overall positive fiscal impact to the state.

10 (l) If feasible, as determined by the authority, in locating
11 the facility, the authorized business reuses or redevelops prop-
12 erty that was previously used for an industrial or commercial
13 purpose.

14 ~~(m) If the eligible business is a qualified high-technology~~
15 ~~business, the eligible business agrees that not less than 25% of~~
16 ~~the total operating expenses of the business will be maintained~~
17 ~~for research and development for the first 3 years of the written~~
18 ~~agreement.~~

19 (2) If the authority determines that the requirements of
20 subsection (1) or (5) have been met, the authority shall deter-
21 mine the amount and duration of tax credits to be authorized
22 under section 9, and shall enter into a written agreement as pro-
23 vided in this section. The duration of the tax credits shall not
24 exceed 20 years. In determining the amount and duration of tax
25 credits authorized, the authority shall consider the following
26 factors:

1 (a) The number of qualified new jobs to be created or
2 retained jobs to be maintained.

3 (b) The average wage level of the qualified new jobs or
4 retained jobs relative to the average wage paid by private enti-
5 ties in the county in which the facility is located.

6 (c) The total capital investment or new capital investment
7 the eligible business will make.

8 (d) The cost differential to the business between expanding,
9 locating, or retaining new jobs in Michigan and a site outside of
10 Michigan.

11 (e) The potential impact of the expansion, retention, or
12 location on the economy of Michigan.

13 (f) The cost of the credit under section 9, the staff,
14 financial, or economic assistance provided by the local govern-
15 ment unit, or local economic development corporation or similar
16 entity, and the value of assistance otherwise provided by this
17 state.

18 (3) A written agreement between an eligible business and the
19 authority shall include, but need not be limited to, all of the
20 following:

21 (a) A description of the business expansion, retention, or
22 location that is the subject of the agreement.

23 (b) Conditions upon which the authorized business designa-
24 tion is made.

25 (c) A statement by the eligible business that a violation of
26 the written agreement may result in the revocation of the

1 designation as an authorized business and the loss or reduction
2 of future credits under section 9.

3 (d) A statement by the eligible business that a misrepresen-
4 tation in the application may result in the revocation of the
5 designation as an authorized business and the refund of credits
6 received under section 9.

7 (e) A method for measuring full-time jobs before and after
8 an expansion, retention, or location of an authorized business in
9 this state.

10 (f) A written certification from the eligible business
11 regarding all of the following:

12 (i) The eligible business will follow a competitive bid pro-
13 cess for the construction, rehabilitation, development, or reno-
14 vation of the facility, and that this process will be open to all
15 Michigan residents and firms. The eligible business may not dis-
16 criminate against any contractor on the basis of its affiliation
17 or nonaffiliation with any collective bargaining organization.

18 (ii) The eligible business will make a good faith effort to
19 employ, if qualified, Michigan residents at the facility.

20 (iii) The eligible business will make a good faith effort to
21 employ or contract with Michigan residents and firms to con-
22 struct, rehabilitate, develop, or renovate the facility.

23 ~~-(g) If the authority determines that it is necessary to~~
24 ~~provide infrastructure assistance for the location or expansion~~
25 ~~of an eligible business within an international tradeport devel-~~
26 ~~opment zone under the international tradeport development~~
27 ~~authority act, 1994 PA 325, MCL 125.2521 to 125.2546, a statement~~

~~1 that if the authorized business locates or expands within that
2 international tradeport development zone, that all or a portion
3 of the tax credit received each year by the authorized business,
4 as determined by the authority, shall be assigned by the autho-
5 rized business to the international tradeport development author-
6 ity for infrastructure improvements within the international
7 tradeport development zone under the international tradeport
8 development authority act, 1994 PA 325, MCL 125.2521 to
9 125.2546.~~

10 (4) Upon execution of a written agreement as provided in
11 this section, an eligible business is an authorized business.

12 (5) After receipt of an application, the authority may enter
13 into a written agreement with an eligible business that meets
14 either of the following criteria:

15 (a) Is located in this state on the date of the application,
16 makes new capital investment of \$250,000,000.00 in this state,
17 and maintains 500 retained jobs, as determined by the authority.

18 (b) Relocates production of a product to this state after
19 the date of the application, makes capital investment of
20 \$500,000,000.00 in this state, and maintains 500 retained jobs,
21 as determined by the authority.

22 (6) The authority shall not execute more than 25 new written
23 agreements each year for eligible businesses that are not quali-
24 fied high-technology businesses. If the authority executes less
25 than 25 new written agreements in a year, the authority may carry
26 forward for 1 year only the difference between 25 and the number
27 of new agreements executed in the immediately preceding year.

1 (7) The authority shall not execute more than 50 new written
2 agreements each year for eligible businesses that are qualified
3 high-technology businesses.