

**SENATE SUBSTITUTE FOR HOUSE SUBSTITUTE FOR
SENATE BILL NO. 824**

A bill to amend 1995 PA 24, entitled
"Michigan economic growth authority act,"
by amending sections 3 and 8 (MCL 207.803 and 207.808), as
amended by 2003 PA 248.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Affiliated business" means a business that is 100% owned
3 and controlled by an associated business.

4 (b) "Associated business" means a business which owns at
5 least 50% of and controls, directly or indirectly, an authorized
6 business.

7 (c) "Authorized business" means 1 of the following:

8 (i) A single eligible business with a unique federal employer
9 identification number which has met the requirements of section 8
10 and with which the authority has entered into a written agreement

1 for a tax credit under section 9.

2 (ii) A single eligible business with a unique federal
3 employer identification number which has met the requirements of
4 section 8, except as provided in this subparagraph, and with
5 which the authority has entered into a written agreement for a
6 tax credit under section 9. An eligible business is not required
7 to create qualified new jobs or maintain retained jobs if
8 qualified new jobs are created or retained jobs are maintained by
9 an associated or affiliated business.

10 (iii) A single eligible business with a unique federal
11 employer identification number which has met the requirements of
12 section 8, except as provided in this subparagraph, and with
13 which the authority has entered into a written agreement for a
14 tax credit under section 9. An eligible business is not required
15 to create qualified new jobs or maintain retained jobs if
16 qualified new jobs are created or retained jobs are maintained by
17 a subsidiary business which withholds income and social security
18 taxes, or an employee leasing company or professional employer
19 organization that has entered into a contractual service
20 agreement with the authorized business in which the employee
21 leasing company or professional employer organization withholds
22 income and social security taxes on behalf of the authorized
23 business.

24 (d) "Authority" means the Michigan economic growth authority
25 created under section 4.

26 (e) "Business" means proprietorship, joint venture,
27 partnership, limited liability partnership, trust, business

1 trust, syndicate, association, joint stock company, corporation,
2 cooperative, limited liability company, or any other
3 organization.

4 (f) "Distressed business" means a business that meets all of
5 the following as verified by the Michigan economic growth
6 authority:

7 (i) Four years immediately preceding the application to the
8 authority under this act, the business had 150 or more full-time
9 jobs in this state.

10 (ii) Within the immediately preceding 4 years, there has been
11 a reduction of not less than 30% of the number of full-time jobs
12 in this state during any consecutive 3-year period. The highest
13 number of full-time jobs within the consecutive 3-year period
14 shall be used in order to determine the percentage reduction of
15 full-time jobs in this subparagraph.

16 (iii) Is not a seasonal employer as defined in section 27 of
17 the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL
18 421.27.

19 (g) "Eligible business" means a distressed business or
20 business that proposes to maintain retained jobs after
21 December 31, 1999 or to create qualified new jobs in this state
22 after April 18, 1995 in manufacturing, mining, research and
23 development, wholesale and trade, or office operations or a
24 business that is a qualified high-technology business. An
25 eligible business does not include retail establishments,
26 professional sports stadiums, or that portion of an eligible
27 business used exclusively for retail sales. Professional sports

Senate Bill No. 824 as amended March 31, 2004

1 stadium does not include a sports stadium in existence on June 6,
2 2000 that is not used by a professional sports team on the date
3 that an application related to that professional sports stadium
4 is filed under section 8.

5 (h) "Facility" means a site **or sites** within this state in
6 which an authorized business **<<or subsidiary businesses>>** maintains
7 retained jobs or creates
8 qualified new jobs. A facility does not include a site that was
9 a vaccine laboratory owned by this state on April 1, 1995.

10 (i) "Full-time job" means a job performed by an individual
11 who is employed by an authorized business or an employee leasing
12 company or professional employer organization on behalf of the
13 authorized business for consideration for 35 hours or more each
14 week and for which the authorized business or an employee leasing
15 company or professional employer organization on behalf of the
16 authorized business withholds income and social security taxes.

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

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

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

23 (A) Computer hardware and software.

24 (B) Data communications.

25 (C) Information technologies.

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

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

8 (iv) Electronic device technology, which is any technology
9 that involves microelectronics, semiconductors, electronic
10 equipment, and instrumentation, radio frequency, microwave, and
11 millimeter electronics, and optical and optic-electrical devices,
12 or data and digital communications and imaging devices.

13 (v) Engineering or laboratory testing related to the
14 development of a product.

15 (vi) Technology that assists in the assessment or prevention
16 of threats or damage to human health or the environment,
17 including, but not limited to, environmental cleanup technology,
18 pollution prevention technology, or development of alternative
19 energy sources.

20 (vii) Medical device technology, which is any technology that
21 involves medical equipment or products other than a
22 pharmaceutical product that has therapeutic or diagnostic value
23 and is regulated.

24 (viii) Product research and development.

25 (ix) Advanced vehicles technology that is any technology that
26 involves electric vehicles, hybrid vehicles, or alternative fuel
27 vehicles, or components used in the construction of electric

1 vehicles, hybrid vehicles, or alternative fuel vehicles. For
2 purposes of this act:

3 (A) "Electric vehicle" means a road vehicle that draws
4 propulsion energy only from an on-board source of electrical
5 energy.

6 (B) "Hybrid vehicle" means a road vehicle that can draw
7 propulsion energy from both a consumable fuel and a rechargeable
8 energy storage system.

9 (x) ~~(x)~~ Tool and die manufacturing.

10 (l) "New capital investment" means 1 or more of the
11 following:

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

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

19 (B) "Replacement construction" means that term as defined in
20 section 34d(1)(b)(v) of the general property tax act, 1893 PA
21 206, MCL 211.34d.

22 (ii) The purchase of new personal property. As used in this
23 subparagraph, "new personal property" means personal property
24 that is not subject to or that is exempt from the collection of
25 taxes under the general property tax act, 1893 PA 206, MCL 211.1
26 to 211.157, on the date the authorized business enters into a
27 written agreement with the authority.

1 (m) "Qualified high-technology business" means a business
2 that is either of the following:

3 (i) A business with not less than 25% of the total operating
4 expenses of the business used for research and development in the
5 tax year in which the business files an application under this
6 act as determined under generally accepted accounting principles
7 and verified by the authority.

8 (ii) A business whose primary business activity is
9 high-technology activity.

10 (n) "Qualified new job" means 1 of the following:

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

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

20 (iii) For a distressed business, a full-time job at a
21 facility that is in excess of the number of full-time jobs
22 maintained by that eligible business in this state on the date
23 the eligible business became an authorized business.

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

1 (p) "Rural business" means an eligible business located in a
2 county with a population of 75,000 or less.

3 (q) **"Subsidiary business" means a business that is directly**
4 **or indirectly controlled or at least 80% owned by an authorized**
5 **business.**

6 (r) ~~(q)~~ "Written agreement" means a written agreement made
7 pursuant to section 8.

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

12 (a) Except as provided in subsection (5), the eligible
13 business creates 1 or more of the following within 12 months of
14 the expansion or location as determined by the authority:

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

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

19 (iii) A minimum of 25 qualified new jobs at the facility if
20 the facility is located in a neighborhood enterprise zone as
21 determined under the neighborhood enterprise zone act, 1992 PA
22 147, MCL 207.771 to ~~207.787~~ **207.786**, is located in a
23 renaissance zone under the Michigan renaissance zone act, 1996 PA
24 376, MCL 125.2681 to 125.2696, or is located in a federally
25 designated empowerment zone, rural enterprise community, or
26 enterprise community.

27 (iv) A minimum of 5 qualified new jobs at the facility if the

1 eligible business is a qualified high-technology business.

2 (v) A minimum of 5 qualified new jobs at the facility if the
3 eligible business is a rural business.

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

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

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

11 (iii) A minimum of 25 qualified new jobs at the facility if
12 the facility is located in a neighborhood enterprise zone as
13 determined under the neighborhood enterprise zone act, 1992 PA
14 147, MCL 207.771 to ~~207.787~~ **207.786**, is located in a
15 renaissance zone under the Michigan renaissance zone act, 1996 PA
16 376, MCL 125.2681 to 125.2696, or is located in a federally
17 designated empowerment zone, rural enterprise community, or
18 enterprise community.

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

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

22 (B) A minimum of 25 qualified new jobs at the facility within
23 5 years after the date of the expansion or location as determined
24 by the authority and a minimum of 25 qualified new jobs at the
25 facility each year thereafter for which a credit is authorized
26 under this act.

27 (v) If the eligible business is a rural business, all of the

1 following apply:

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

3 (B) A minimum of 25 qualified new jobs at the facility within
4 5 years after the date of the expansion or location as determined
5 by the authority.

6 (c) Except as provided in subsection (5), in addition to the
7 jobs specified in subdivision (b), the eligible business, if
8 already located within this state, agrees to maintain a number of
9 full-time jobs equal to or greater than the number of full-time
10 jobs it maintained in this state prior to the expansion, as
11 determined by the authority.

12 (d) Except as otherwise provided in this subdivision, the
13 average wage paid for all retained jobs and qualified new jobs is
14 equal to or greater than 150% of the federal minimum wage.
15 However, if the eligible business is a qualified high-technology
16 business, then the average wage paid for all qualified new jobs
17 is equal to or greater than 400% of the federal minimum wage.

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

22 (f) ~~The~~ **Except for an eligible business described in**
23 **subsection (5) (b) (ii), the** local governmental unit in which the
24 eligible business will expand, be located, or maintain retained
25 jobs, or a local economic development corporation or similar
26 entity, will make a staff, financial, or economic commitment to
27 the eligible business for the expansion, retention, or location.

Senate Bill No. 824 as amended April 1, 2004

1 (g) The financial statements of the eligible business
2 indicated that it is financially sound <<or has submitted a chapter 11
3 plan of reorganization to the bankruptcy court>> and that its plans for
4 the
5 expansion, retention, or location are economically sound.

6 (h) Except ~~as provided~~ for an eligible business described
7 in subsection (5)(c), the eligible business has not begun
8 construction of the facility.

9 (i) The expansion, retention, or location of the eligible
10 business will benefit the people of this state by increasing
11 opportunities for employment and by strengthening the economy of
12 this state.

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

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

20 (l) If feasible, as determined by the authority, in locating
21 the facility, the authorized business reuses or redevelops
22 property that was previously used for an industrial or commercial
23 purpose.

24 (m) If the eligible business is a qualified high-technology
25 business **described in section 3(m)(i)**, the eligible business
26 agrees that not less than 25% of the total operating expenses of
27 the business will be maintained for research and development for
the first 3 years of the written agreement.

(2) If the authority determines that the requirements of

1 subsection (1) or (5) have been met, the authority shall
2 determine the amount and duration of tax credits to be authorized
3 under section 9, and shall enter into a written agreement as
4 provided in this section. The duration of the tax credits shall
5 not exceed 20 years or for an authorized business that is a
6 distressed business, 3 years. In determining the amount and
7 duration of tax credits authorized, the authority shall consider
8 the following factors:

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

11 (b) The average wage level of the qualified new jobs or
12 retained jobs relative to the average wage paid by private
13 entities in the county in which the facility is located.

14 (c) The total capital investment or new capital investment
15 the eligible business will make.

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

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

21 (f) The cost of the credit under section 9, the staff,
22 financial, or economic assistance provided by the local
23 government unit, or local economic development corporation or
24 similar entity, and the value of assistance otherwise provided by
25 this state.

26 (3) A written agreement between an eligible business and the
27 authority shall include, but need not be limited to, all of the

1 following:

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

4 (b) Conditions upon which the authorized business designation
5 is made.

6 (c) A statement by the eligible business that a violation of
7 the written agreement may result in the revocation of the
8 designation as an authorized business and the loss or reduction
9 of future credits under section 9.

10 (d) A statement by the eligible business that a
11 misrepresentation in the application may result in the revocation
12 of the designation as an authorized business and the refund of
13 credits received under section 9.

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

17 (f) A written certification from the eligible business
18 regarding all of the following:

19 (i) The eligible business will follow a competitive bid
20 process for the construction, rehabilitation, development, or
21 renovation of the facility, and that this process will be open to
22 all Michigan residents and firms. The eligible business may not
23 discriminate against any contractor on the basis of its
24 affiliation or nonaffiliation with any collective bargaining
25 organization.

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

Senate Bill No. 824 as amended April 1, 2004

1 (iii) The eligible business will make a good faith effort to
2 employ or contract with Michigan residents and firms to
3 construct, rehabilitate, develop, or renovate the facility.

4 (iv) The eligible business is encouraged to make a good faith
5 effort to utilize Michigan-based suppliers and vendors when
6 purchasing goods and services.

<<(g) A condition that if the eligible business qualified under
section 8(5)(b)(ii) and met the section 8(1)(g) requirement by filing a
chapter 11 plan of reorganization, the plan must be approved by the
bankruptcy court within 2 years of the date of the agreement or the
agreement is rescinded.>>

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

9 (5) After receipt of an application, the authority may enter
10 into a written agreement, **which shall include a repayment**
11 **provision of all or a portion of the credits under section 9 for**
12 **a violation of the written agreement**, with an eligible business
13 that meets 1 or more of the following criteria:

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

17 (b) Meets either of the following criteria:

18 (i) Relocates production of a product to this state after the
19 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 ~~(ii) Makes capital investment of \$100,000,000.00 in a time~~
23 ~~period beginning 3 years prior to and 2 years following becoming~~
24 ~~an authorized business and agrees to maintain at least 1,500 jobs~~
25 ~~at the facility without permanent reduction in full-time~~
26 ~~employment except through attrition or retirement. The credit~~
27 ~~under this subparagraph can only be granted as part of a package~~

Senate Bill No. 824 as amended March 31, 2004

1 ~~of incentives that addresses international competition and~~
 2 ~~includes a negotiated labor contribution.~~ **Maintains 150 retained**
 3 **jobs at a facility, maintains 1,000 or more full-time jobs in**
 4 **this state, and makes new capital investment in this state.**

<<(iii) Is located in this state on the date of the application, maintains at least 100 retained jobs at a single facility, and agrees to make new capital investment at that facility equal to the greater of \$150,000.00 per retained job maintained at that facility or \$15,000,000.00 to be completed not later than December 31, 2006.>>

5 (c) Is a distressed business.

6 <<

7

8

9

10

11

>>

12 (6) The authority shall not execute more than 25 new written
 13 agreements each year for eligible businesses that are not
 14 qualified high-technology businesses, distressed businesses, or
 15 rural businesses. If the authority executes less than 25 new
 16 written agreements in a year, the authority may carry forward for
 17 1 year only the difference between 25 and the number of new
 18 agreements executed in the immediately preceding year.

19 (7) The authority shall not execute more than 50 new written
 20 agreements each year for eligible businesses that are qualified
 21 high-technology businesses or rural business. Only 5 of the 50
 22 written agreements for businesses that are qualified
 23 high-technology businesses or rural business may be executed each
 24 year for qualified rural businesses.

25 (8) The authority shall not execute more than 20 new written
 26 agreements each year for eligible businesses that are distressed
 27 businesses. The authority shall not execute more than 5 of the

Senate Bill No. 824 as amended March 31, 2004

1 written agreements described in this subsection each year for
2 distressed businesses that had 1,000 or more full-time jobs at a
3 facility << >> 4 years immediately
4 preceding the application to the authority under this act.

5 Enacting section 1. This amendatory act does not take
6 effect unless House Bill No. 5445 of the 92nd Legislature is
7 enacted into law.