

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5445**

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
by amending section 37c (MCL 208.37c), as amended by 2003 PA
251.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 37c. (1) For tax years beginning after December 31,
2 1994 and for a period of time not to exceed 20 years as
3 determined by the Michigan economic growth authority, a taxpayer
4 that is an authorized business may credit against the tax imposed
5 by section 31 the amount certified each year by the Michigan
6 economic growth authority.
7 (2) The credit allowed under subsection (1) for an authorized
8 business for the tax year as determined under the Michigan
9 economic growth authority act, 1995 PA 24, MCL 207.801 to
10 207.810, shall not exceed the payroll of the authorized business

1 attributable to employees who perform qualified new jobs
2 multiplied by the tax rate.

3 (3) A taxpayer shall not claim a credit under this section
4 unless the Michigan economic growth authority has issued a
5 certificate to the taxpayer. The taxpayer shall attach the
6 certificate to the return filed under this act on which a credit
7 under this section is claimed.

8 (4) The certificate required by subsection (3) shall state
9 all of the following:

10 (a) The taxpayer is an authorized business.

11 (b) The amount of the credit under this section for the
12 authorized business for the designated tax year.

13 (c) The taxpayer's federal employer identification number or
14 the Michigan treasury number assigned to the taxpayer.

15 (d) For a taxpayer that claims a credit allowed under
16 subsection (10), the taxpayer is a distressed business.

17 (5) If the credit allowed under subsection (1) exceeds the
18 tax liability of the taxpayer for the tax year, the excess shall
19 be refunded to the taxpayer.

20 (6) A taxpayer that claims a credit under subsection (1) or
21 section 37d that has an agreement with the Michigan economic
22 growth authority based on qualified new jobs as defined in
23 section ~~3(j)(ii)~~ **3(n)(ii)** of the Michigan economic growth
24 authority act, 1995 PA 24, MCL 207.803, that removes from this
25 state 51% or more of those qualified new jobs within 3 years
26 after the first year in which the taxpayer claims a credit
27 described in this subsection shall pay to the department no later

1 than 12 months after those qualified new jobs are removed from
2 the state an amount equal to the total of all credits described
3 in this subsection that were claimed by the taxpayer.

4 (7) If the Michigan economic growth authority or a designee
5 of the Michigan economic growth authority requests that a
6 taxpayer who claims the credit under this section get a statement
7 prepared by a certified public accountant verifying that the
8 actual number of new jobs created is the same number of new jobs
9 used to calculate the credit under this section, the taxpayer
10 shall get the statement and attach that statement to its annual
11 return under this act on which the credit under this section is
12 claimed.

13 (8) For a credit allowed under subsection (1), an affiliated
14 group as defined in this act, a controlled group of corporations
15 as defined in section 1563 of the internal revenue code and
16 further described in 26 CFR 1.414(b)-1 and 1.414(c)-1 to
17 1.414(c)-5, or an entity under common control as defined by the
18 internal revenue code shall claim only 1 credit for each tax year
19 for each expansion or location evidenced by a written agreement
20 whether or not a combined or consolidated return is filed.

21 (9) A credit shall not be claimed by a taxpayer under
22 subsection (1) if the taxpayer's initial certification as
23 required in subsection (3) is issued after December 31, 2009.

24 (10) In addition to the credit allowed under subsection (1),
25 for tax years that begin after December 31, 2003 and before
26 January 1, 2007, a taxpayer that is an authorized business and is
27 a distressed business, with an initial certification under

1 section 9 of the Michigan economic growth authority act, 1995 PA
2 24, MCL 207.809, issued after December 31, 2003 and before
3 January 1, 2005 may claim a credit equal to the sum of the
4 following:

5 (a) Up to 50% of the tax paid in the tax year under the
6 Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1
7 to 421.75, based on qualified new jobs as defined in section
8 ~~3(k)(iii)~~ **3(n)(iii)** of the Michigan economic growth authority
9 act, 1995 PA 24, MCL 207.803.

10 (b) Up to 25% of the tax paid in the tax year under the
11 Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1
12 to 421.75, based on all jobs other than qualified new jobs as
13 defined in section ~~3(k)(iii)~~ **3(n)(iii)** of the Michigan economic
14 growth authority act, 1995 PA 24, MCL 207.803.

15 (11) An authorized business that is a distressed business
16 shall apply to the Michigan economic growth authority, which
17 shall determine the percentage under subsection (10) for that
18 authorized business. The Michigan economic growth authority
19 shall issue a certificate to the authorized business stating the
20 percentage amount and the tax years to which that percentage
21 applies not more than 30 days after receipt of an application
22 under this subsection.

23 (12) If the credit allowed under subsection (10) for the tax
24 year and any unused carryforward of the credit allowed under this
25 section exceed the tax liability of the taxpayer for the tax
26 year, the excess shall not be refunded, but may be carried
27 forward as an offset to the tax liability in subsequent tax years

1 for 10 tax years or until the excess credit is used up, whichever
2 occurs first.

3 (13) On or before September 1, 2004, the Michigan economic
4 growth authority shall submit a report to the legislature that
5 includes all of the following information related to credits
6 allowed under subsections (10) and (11):

7 (a) The status of implementing the provisions of subsection
8 (11) including development of the application form and the
9 standards for determining the percentages for the credits under
10 subsection (10).

11 (b) The number of authorized businesses that have applied for
12 the credit.

13 (c) The number of certificates issued under subsection (11).

14 (14) ~~—(13)—~~ As used in this section:

15 (a) "Authority" or "Michigan economic growth authority" means
16 the Michigan economic growth authority created in the Michigan
17 economic growth authority act, 1995 PA 24, MCL 207.801 to
18 207.810.

19 (b) "Authorized business", "facility", "full-time job",
20 "qualified high-technology business", and "written agreement"
21 mean those terms as defined in the Michigan economic growth
22 authority act, 1995 PA 24, MCL 207.801 to 207.810.

23 (c) "Payroll" means the total salaries and wages before
24 deducting any personal or dependency exemptions.

25 (d) "Qualified new jobs" means 1 or more of the following:

26 (i) For a credit allowed under subsection (1), the average
27 number of full-time jobs at a facility of an authorized business

1 for a tax year in excess of the average number of full-time jobs
2 the authorized business maintained in this state prior to the
3 expansion or location as that is determined under the Michigan
4 economic growth authority act, 1995 PA 24, MCL 207.801 to
5 207.810.

6 (ii) After July 1, 2000 for a credit allowed under subsection
7 (1), the average number of full-time jobs at a facility created
8 by an eligible business within 120 days before becoming an
9 authorized business, that is in excess of the average number of
10 full-time jobs that the business maintained in this state 120
11 days before becoming an authorized business, as determined under
12 the Michigan economic growth authority act, 1995 PA 24, MCL
13 207.801 to 207.810.

14 (iii) For credits allowed under subsection (10), that term as
15 defined in section ~~3(k)(iii)~~ **3(n)(iii)** of the Michigan economic
16 growth authority act, 1995 PA 24, MCL 207.803.

17 (e) "Tax rate" means the rate imposed under sections 51, 51d,
18 and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51,
19 206.51d, and 206.51e, for the tax year in which the tax year of
20 the taxpayer for which the credit is being computed begins.