

HOUSE BILL No. 4454

March 25, 2003, Introduced by Reps. Hoogendyk, Milosch, Vander Veen, Brandenburg, Pastor, Nofs, Lipsey, Wenke, Acciavatti and Amos and referred to the Committee on Commerce.

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
5 portion of an eligible business used exclusively for retail
6 sales. Professional sports stadium does not include a sports
7 stadium in existence on June 6, 2000 that is not used by a
8 professional sports team on the date that an application related
9 to that professional sports stadium is filed under section 8.

10 (d) "Eligible pharmaceutical company" means a company that
11 meets all of the following criteria:

12 (i) Is engaged primarily in manufacturing, research and
13 development, and sale of pharmaceuticals.

14 (ii) Has not less than 8,500 employees located in this state,
15 all of which are located within a 100-mile radius of each other.

16 (iii) Of the total number of employees located in this state,
17 has not less than 5,000 engaged primarily in research and
18 development of pharmaceuticals.

19 (iv) Enters into a written agreement with the authority not
20 later than 18 months following the effective date of the
21 amendatory act that added this subdivision.

22 (e) ~~-(d)-~~ "Facility" means a site or sites within this state
23 in which an authorized business maintains retained jobs or
24 creates qualified new jobs. A facility does not include a site
25 that was a vaccine laboratory owned by this state on April 1,
26 1995.

27 (f) ~~-(e)-~~ "Full-time job" means a job performed by an

1 individual who is employed by an authorized business for
2 consideration for 35 hours or more each week and for which the
3 authorized business withholds income and social security taxes.

4 **(g)** ~~-(f)-~~ "Local governmental unit" means a county, city,
5 village, or township in this state.

6 **(h)** ~~-(g)-~~ "High-technology activity" means 1 or more of the
7 following:

8 *(i)* Advanced computing, which is any technology used in the
9 design and development of any of the following:

10 (A) Computer hardware and software.

11 (B) Data communications.

12 (C) Information technologies.

13 *(ii)* Advanced materials, which are materials with engineered
14 properties created through the development of specialized process
15 and synthesis technology.

16 *(iii)* Biotechnology, which is any technology that uses living
17 organisms, cells, macromolecules, microorganisms, or substances
18 from living organisms to make or modify a product, improve plants
19 or animals, or develop microorganisms for useful purposes.

20 Biotechnology does not include human cloning as defined in
21 section 16274 of the public health code, 1978 PA 368,
22 MCL 333.16274, or stem cell research with embryonic tissue.

23 *(iv)* Electronic device technology, which is any technology
24 that involves microelectronics, semiconductors, electronic
25 equipment, and instrumentation, radio frequency, microwave, and
26 millimeter electronics, and optical and optic-electrical devices,
27 or data and digital communications and imaging devices.

1 (v) Engineering or laboratory testing related to the
2 development of a product.

3 (vi) Technology that assists in the assessment or prevention
4 of threats or damage to human health or the environment,
5 including, but not limited to, environmental cleanup technology,
6 pollution prevention technology, or development of alternative
7 energy sources.

8 (vii) Medical device technology, which is any technology that
9 involves medical equipment or products other than a
10 pharmaceutical product that has therapeutic or diagnostic value
11 and is regulated.

12 (viii) Product research and development.

13 (ix) Advanced vehicles technology that is any technology that
14 involves electric vehicles, hybrid vehicles, or alternative fuel
15 vehicles, or components used in the construction of electric
16 vehicles, hybrid vehicles, or alternative fuel vehicles. For
17 purposes of this act:

18 (A) "Electric vehicle" means a road vehicle that draws
19 propulsion energy only from an on-board source of electrical
20 energy.

21 (B) "Hybrid vehicle" means a road vehicle that can draw
22 propulsion energy from both a consumable fuel and a rechargeable
23 energy storage system.

24 (i) ~~(h)~~ "New capital investment" means 1 or more of the
25 following:

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

27 (A) "New construction" means property not in existence on the

1 date the authorized business enters into a written agreement with
2 the authority and not replacement construction. New construction
3 includes the physical addition of equipment or furnishings,
4 subject to section 27(2)(a) to (o) of the general property tax
5 act, 1893 PA 206, MCL 211.27.

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

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

15 (j) ~~(i)~~ "Qualified high-technology business" means a
16 business that is both of the following:

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

22 (ii) A business whose primary business activity is
23 high-technology activity.

24 (k) ~~(j)~~ "Qualified new job" means either of the following:

25 (i) A full-time job created by an authorized business at a
26 facility that is in excess of the number of full-time jobs the
27 authorized business maintained in this state prior to the

1 expansion or location, as determined by the authority.

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

7 (l) ~~(k)~~ "Retained jobs" means the number of full-time jobs
8 at a facility of an authorized business maintained in this state
9 on a specific date as that date and number of jobs is determined
10 by the authority.

11 (m) ~~(l)~~ "Written agreement" means a written agreement made
12 pursuant to section 8.

13 Sec. 4. (1) The Michigan economic growth authority is
14 created within the Michigan ~~jobs commission~~ **strategic fund**.
15 The Michigan ~~jobs commission~~ **strategic fund** shall provide staff
16 for the authority and shall carry out the administrative duties
17 and functions as directed by the authority. The budgeting,
18 procurement, and related functions as directed by the authority
19 are under the supervision of the ~~director~~ **president** of the
20 Michigan ~~jobs commission~~ **strategic fund**.

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

22 (a) The ~~director~~ **president** of the Michigan ~~jobs~~
23 ~~commission~~ **strategic fund**, or his or her designee, as
24 chairperson of the authority.

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

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

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

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

7 (3) A member shall be appointed for a term of 4 years, except
8 that of the members first appointed by the governor, 2 shall be
9 appointed for a term of 2 years and 2 for a term of 4 years from
10 the dates of their appointments. A vacancy shall be filled for
11 the balance of the unexpired term in the same manner as an
12 original appointment.

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

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

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

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

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

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

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

11 (v) **A minimum of 5 qualified new jobs at the facility if the**
12 **eligible business is an eligible pharmaceutical company.**

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

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

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

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

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

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

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

9 (v) **A minimum of 5 qualified new jobs at the facility if the**
10 **eligible business is an eligible pharmaceutical company.**

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

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

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

27 (f) The local governmental unit in which the eligible

1 business will expand, be located, or maintain retained jobs, or a
2 local economic development corporation or similar entity, will
3 make a staff, financial, or economic commitment to the eligible
4 business for the expansion, retention, or location.

5 (g) The financial statements of the eligible business
6 indicated that it is financially sound and that its plans for the
7 expansion, retention, or location are economically sound.

8 (h) The eligible business has not begun construction of the
9 facility.

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

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

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

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

25 (m) If the eligible business is a qualified high-technology
26 business, the eligible business agrees that not less than 25% of
27 the total operating expenses of the business will be maintained

1 for research and development for the first 3 years of the written
2 agreement.

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

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

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

16 (c) The total capital investment or new capital investment
17 the eligible business will make.

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

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

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

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

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

6 (b) Conditions upon which the authorized business designation
7 is made.

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

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

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

19 (f) A written certification from the eligible business
20 regarding all of the following:

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

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

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

6 ~~(g) If the authority determines that it is necessary to
7 provide infrastructure assistance for the location or expansion
8 of an eligible business within an international tradeport
9 development zone under the international tradeport development
10 authority act, 1994 PA 325, MCL 125.2521 to 125.2546, a statement
11 that if the authorized business locates or expands within that
12 international tradeport development zone, that all or a portion
13 of the tax credit received each year by the authorized business,
14 as determined by the authority, shall be assigned by the
15 authorized business to the international tradeport development
16 authority for infrastructure improvements within the
17 international tradeport development zone under the international
18 tradeport development authority act, 1994 PA 325, MCL 125.2521 to
19 125.2546.~~

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

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

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

1 (b) Relocates production of a product to this state after the
2 date of the application, makes capital investment of
3 \$500,000,000.00 in this state, and maintains 500 retained jobs,
4 as determined by the authority.

5 (6) The authority shall not execute more than 25 new written
6 agreements each year for eligible businesses that are not
7 qualified high-technology businesses. If the authority executes
8 less than 25 new written agreements in a year, the authority may
9 carry forward for 1 year only the difference between 25 and the
10 number of new agreements executed in the immediately preceding
11 year.

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