

# SENATE BILL No. 1396

September 15, 2004, Introduced by Senators GARCIA, CROPSEY, GEORGE, SANBORN, ALLEN, GILBERT, VAN WOERKOM, CASSIS, TOY, HARDIMAN, JELINEK, BIRKHOLZ, JOHNSON, KUIPERS, HAMMERSTROM, BERNERO, GOSCHKA, OLSHOVE and SWITALSKI and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

A bill to amend 1995 PA 24, entitled  
"Michigan economic growth authority act,"  
by amending section 8 (MCL 207.808), as amended by 2004 PA 81.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

10       (ii) A minimum of 150 qualified new jobs at the facility if  
11 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 PA  
4 147, MCL 207.771 to 207.786, is located in a renaissance zone  
5 under the Michigan renaissance zone act, 1996 PA 376, MCL  
6 125.2681 to 125.2696, or is located in a federally designated  
7 empowerment zone, rural enterprise community, or enterprise  
8 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 a rural business.

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 PA  
23 147, MCL 207.771 to 207.786, is located in a renaissance zone  
24 under the Michigan renaissance zone act, 1996 PA 376, MCL  
25 125.2681 to 125.2696, or is located in a federally designated  
26 empowerment zone, rural enterprise community, or enterprise  
27 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) If the eligible business is a rural business, all of the  
10 following apply:

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

12           (B) A minimum of 25 qualified new jobs at the facility within  
13 5 years after the date of the expansion or location as determined  
14 by the authority.

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

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

27           (e) Except for a qualified high-technology business, the

1 expansion, retention, or location of the eligible business will  
2 not occur in this state without the tax credits offered under  
3 this act.

4 (f) Except for an eligible business described in subsection  
5 (5)(b)(ii), the local governmental unit in which the eligible  
6 business will expand, be located, or maintain retained jobs, or a  
7 local economic development corporation or similar entity, will  
8 make a staff, financial, or economic commitment to the eligible  
9 business for the expansion, retention, or location.

10 (g) The financial statements of the eligible business  
11 indicated that it is financially sound or has submitted a chapter  
12 11 plan of reorganization to the bankruptcy court and that its  
13 plans for the expansion, retention, or location are economically  
14 sound.

15 (h) Except for an eligible business described in subsection  
16 (5)(c), the eligible business has not begun construction of the  
17 facility.

18 (i) The expansion, retention, or location of the eligible  
19 business will benefit the people of this state by increasing  
20 opportunities for employment and by strengthening the economy of  
21 this state.

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

26 (k) A cost/benefit analysis reveals that authorizing the  
27 eligible business to receive tax credits under this act will

1 result in an overall positive fiscal impact to the state.

2 (l) If feasible, as determined by the authority, in locating  
3 the facility, the authorized business reuses or redevelops  
4 property that was previously used for an industrial or commercial  
5 purpose.

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

11 (2) If the authority determines that the requirements of  
12 subsection (1) or (5) have been met, the authority shall  
13 determine the amount and duration of tax credits to be authorized  
14 under section 9, and shall enter into a written agreement as  
15 provided in this section. The duration of the tax credits shall  
16 not exceed 20 years or for an authorized business that is a  
17 distressed business, 3 years. In determining the amount and  
18 duration of tax credits authorized, the authority shall consider  
19 the following factors:

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

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

25 (c) The total capital investment or new capital investment  
26 the eligible business will make.

27 (d) The cost differential to the business between expanding,

1 locating, or retaining new jobs in Michigan and a site outside of  
2 Michigan.

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

5 (f) The cost of the credit under section 9, the staff,  
6 financial, or economic assistance provided by the local  
7 government unit, or local economic development corporation or  
8 similar entity, and the value of assistance otherwise provided by  
9 this state.

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

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

15 (b) Conditions upon which the authorized business designation  
16 is made.

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

21 (d) A statement by the eligible business that a  
22 misrepresentation in the application may result in the revocation  
23 of the designation as an authorized business and the refund of  
24 credits received under section 9.

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

1 (f) A written certification from the eligible business  
2 regarding all of the following:

3 (i) The eligible business will follow a competitive bid  
4 process for the construction, rehabilitation, development, or  
5 renovation of the facility, and that this process will be open to  
6 all Michigan residents and firms. The eligible business may not  
7 discriminate against any contractor on the basis of its  
8 affiliation or nonaffiliation with any collective bargaining  
9 organization.

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

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

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

18 (g) A condition that if the eligible business qualified under  
19 ~~section 8(5)(b)(ii)~~ **subsection (5)(b)(ii)** and met the ~~section~~  
20 ~~8(1)(g)~~ **subsection (1)(g)** requirement by filing a chapter 11  
21 plan of reorganization, the plan must be approved by the  
22 bankruptcy court within 2 years of the date of the agreement or  
23 the agreement is rescinded.

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

26 (5) After receipt of an application, the authority may enter  
27 into a written agreement, which shall include a repayment

1 provision of all or a portion of the credits under section 9 for  
2 a violation of the written agreement, with an eligible business  
3 that meets 1 or more of the following criteria:

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

7 (b) Meets either of the following criteria:

8 (i) Relocates production of a product to this state after the  
9 date of the application, makes capital investment of  
10 \$500,000,000.00 in this state, and maintains 500 retained jobs,  
11 as determined by the authority.

12 (ii) Maintains 150 retained jobs at a facility, maintains  
13 1,000 or more full-time jobs in this state, and makes new capital  
14 investment in this state.

15 (iii) Is located in this state on the date of the  
16 application, maintains at least 100 retained jobs at a single  
17 facility, and agrees to make new capital investment at that  
18 facility equal to the greater of ~~-\$150,000.00~~ \$100,000.00 per  
19 retained job maintained at that facility or ~~-\$15,000,000.00~~  
20 \$10,000,000.00 to be completed not later than December 31, 2006.

21 (c) Is a distressed business.

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

1 agreements executed in the immediately preceding year.

2       (7) The authority shall not execute more than 50 new written  
3 agreements each year for eligible businesses that are qualified  
4 high-technology businesses or rural business. Only 5 of the 50  
5 written agreements for businesses that are qualified  
6 high-technology businesses or rural business may be executed each  
7 year for qualified rural businesses.

8       (8) The authority shall not execute more than 20 new written  
9 agreements each year for eligible businesses that are distressed  
10 businesses. The authority shall not execute more than 5 of the  
11 written agreements described in this subsection each year for  
12 distressed businesses that had 1,000 or more full-time jobs at a  
13 facility 4 years immediately preceding the application to the  
14 authority under this act.