

SUBSTITUTE FOR
HOUSE BILL NO. 6118

A bill to amend 1995 PA 24, entitled
"Michigan economic growth authority act,"
by amending sections 3, 8, and 10 (MCL 207.803, 207.808, and
207.810), sections 3 and 8 as amended by 2006 PA 117 and section 10
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 that owns at least
5 50% of and controls, directly or indirectly, an authorized
6 business.

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

2 (i) A single eligible business with a unique federal employer
3 identification number that has met the requirements of section 8
4 and with which the authority has entered into a written agreement
5 for a tax credit under section 9.

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

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

27 (d) "Authority" means the Michigan economic growth authority

1 created under section 4.

2 (e) "Business" means proprietorship, joint venture,
3 partnership, limited liability partnership, trust, business trust,
4 syndicate, association, joint stock company, corporation,
5 cooperative, limited liability company, or any other organization.

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

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

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

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

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

1 Professional sports stadium does not include a sports stadium in
2 existence on June 6, 2000 that is not used by a professional sports
3 team on the date that an application related to that professional
4 sports stadium 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 qualified new jobs.

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

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

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

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

21 (A) Computer hardware and software.

22 (B) Data communications.

23 (C) Information technologies.

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

27 (iii) Biotechnology, which is any technology that uses living

1 organisms, cells, macromolecules, microorganisms, or substances
2 from living organisms to make or modify a product, improve plants
3 or animals, or develop microorganisms for useful purposes.

4 Biotechnology does not include human cloning as defined in section
5 16274 of the public health code, 1978 PA 368, MCL 333.16274, or
6 stem cell research with embryonic tissue.

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

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

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

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

22 (viii) Product research and development.

23 (ix) Advanced vehicles technology, which is any technology that
24 involves electric vehicles, hybrid vehicles, or alternative fuel
25 vehicles, or components used in the construction of electric
26 vehicles, hybrid vehicles, or alternative fuel vehicles. For
27 purposes of this act:

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

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

7 (x) Tool and die manufacturing.

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

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

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

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

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

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

27 (i) A business with not less than 25% of the total operating

1 expenses of the business used for research and development in the
2 tax year in which the business files an application under this act
3 as determined under generally accepted accounting principles and
4 verified by the authority.

5 (ii) A business whose primary business activity is high-
6 technology activity.

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

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

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

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

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

25 (p) "Rural business" means an eligible business located in a
26 county with a population of 90,000 or less.

27 (q) "Subsidiary business" means a business that is directly or

1 indirectly controlled or at least 80% owned by an authorized
2 business.

3 (r) "Written agreement" means a written agreement made
4 pursuant to section 8. **A WRITTEN AGREEMENT MAY ADDRESS NEW JOBS,**
5 **QUALIFIED NEW JOBS, FULL-TIME JOBS, RETAINED JOBS, OR ANY**
6 **COMBINATION OF NEW JOBS, QUALIFIED NEW JOBS, FULL-TIME JOBS, OR**
7 **RETAINED JOBS.**

8 Sec. 8. (1) After receipt of an application, the authority may
9 enter into an agreement with an eligible business for a tax credit
10 under section 9 if the authority determines that all of the
11 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 the
14 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 the
20 facility is located in a neighborhood enterprise zone as determined
21 under the neighborhood enterprise zone act, 1992 PA 147, MCL
22 207.771 to 207.786, is located in a renaissance zone under the
23 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
24 125.2696, or is located in a federally designated empowerment zone,
25 rural enterprise community, or enterprise community.

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

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

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

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

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

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

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

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

20 (B) A minimum of 25 qualified new jobs at the facility within
21 5 years after the date of the expansion or location as determined
22 by the authority and a minimum of 25 qualified new jobs at the
23 facility each year thereafter for which a credit is authorized
24 under this act.

25 (v) If the eligible business is a rural business, all of the
26 following apply:

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

1 (B) A minimum of 25 qualified new jobs at the facility within
2 5 years after the date of the expansion or location as determined
3 by the authority.

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

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

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

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

25 (g) The financial statements of the eligible business
26 indicated that it is financially sound or has submitted a chapter
27 11 plan of reorganization to the bankruptcy court and that its

1 plans for the expansion, retention, or location are economically
2 sound.

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

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

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

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

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

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

25 (2) If the authority determines that the requirements of
26 subsection (1) or (5) have been met, the authority shall determine
27 the amount and duration of tax credits to be authorized under

1 section 9, and shall enter into a written agreement as provided in
2 this section. The duration of the tax credits shall not exceed 20
3 years or for an authorized business that is a distressed business,
4 3 years. In determining the amount and duration of tax credits
5 authorized, the authority shall consider the following factors:

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

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

11 (c) The total capital investment or new capital investment the
12 eligible business will make.

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

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

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

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

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

27 (b) Conditions upon which the authorized business designation

1 is made.

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

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

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

13 (f) A written certification from the eligible business
14 regarding all of the following:

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

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

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

26 (iv) The eligible business is encouraged to make a good faith
27 effort to utilize Michigan-based suppliers and vendors when

1 purchasing goods and services.

2 (g) A condition that if the eligible business qualified under
3 subsection (5)(b)(ii) and met the subsection (1)(g) requirement by
4 filing a chapter 11 plan of reorganization, the plan must be
5 approved by the bankruptcy court within 2 years of the date of the
6 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 provision
11 of all or a portion of the credits under section 9 for a violation
12 of the written agreement, with an eligible business that meets 1 or
13 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, and
16 maintains 500 retained jobs, as determined by the authority.

17 (b) Meets 1 or more 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, as
21 determined by the authority.

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

25 (iii) Is located in this state on the date of the application,
26 maintains at least 100 retained jobs at a single facility, and
27 agrees to make new capital investment at that facility equal to the

1 greater of \$100,000.00 per retained job maintained at that facility
2 or \$10,000,000.00 to be completed or contracted for not later than
3 December 31, 2007.

4 (iv) Maintains 300 retained jobs at a facility; ~~is a rural~~
5 ~~business;~~ the facility is at risk of being closed and if it were
6 to close, the work would go to a location outside this state, as
7 determined by the authority; new management or new ownership is
8 proposed for the facility that is committed to improve the
9 viability of the facility; and the tax credits offered under this
10 act are necessary for the facility to maintain operations. The
11 authority may not enter into a written agreement under this
12 subparagraph after December 31, ~~2006~~ 2007. Of the written
13 agreements entered into under this subparagraph, the authority may
14 enter into ~~1~~ 3 written ~~agreement~~ **AGREEMENTS** under this
15 subparagraph that ~~is~~ **ARE** excluded from the requirements of
16 subsection (1)(e), (f), (g), (h), (j), and (k) if the authority
17 considers it in the public interest and if the eligible business
18 would have met the requirements of subsection (1)(e), (i), (j), and
19 (k) within the immediately preceding 6 months from the signing of
20 the written agreement for a tax credit.

21 (v) **MAINTAINS 100 RETAINED JOBS AT A FACILITY; IS A RURAL**
22 **BUSINESS; THE FACILITY IS AT RISK OF BEING CLOSED AND IF IT WERE TO**
23 **CLOSE, THE WORK WOULD GO TO A LOCATION OUTSIDE THIS STATE, AS**
24 **DETERMINED BY THE AUTHORITY; NEW MANAGEMENT OR NEW OWNERSHIP IS**
25 **PROPOSED FOR THE FACILITY THAT IS COMMITTED TO IMPROVE THE**
26 **VIABILITY OF THE FACILITY; AND THE TAX CREDITS OFFERED UNDER THIS**
27 **ACT ARE NECESSARY FOR THE FACILITY TO MAINTAIN OPERATIONS. THE**

1 AUTHORITY MAY NOT ENTER INTO A WRITTEN AGREEMENT UNDER THIS
2 SUBPARAGRAPH AFTER DECEMBER 31, 2007. OF THE WRITTEN AGREEMENTS
3 ENTERED INTO UNDER THIS SUBPARAGRAPH, THE AUTHORITY MAY ENTER INTO
4 3 WRITTEN AGREEMENTS UNDER THIS SUBPARAGRAPH THAT ARE EXCLUDED FROM
5 THE REQUIREMENTS OF SUBSECTION (1)(E), (F), (G), (H), (J), AND (K)
6 IF THE AUTHORITY CONSIDERS IT IN THE PUBLIC INTEREST AND IF THE
7 ELIGIBLE BUSINESS WOULD HAVE MET THE REQUIREMENTS OF SUBSECTION
8 (1)(E), (I), (J), AND (K) WITHIN THE IMMEDIATELY PRECEDING 6 MONTHS
9 FROM THE SIGNING OF THE WRITTEN AGREEMENT FOR A TAX CREDIT.

10 (vi) ~~—(v)—~~ Maintains 175 retained jobs and makes new capital
11 investment at a facility in a county with a population of not less
12 than 7,500 but not greater than 8,000.

13 (c) Is a distressed business.

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

21 (7) The authority shall not execute more than 50 new written
22 agreements each year for eligible businesses that are qualified
23 high-technology businesses or rural business. Only ~~—5—~~ 25 of the 50
24 written agreements for businesses that are qualified high-
25 technology businesses or rural business may be executed each year
26 for qualified rural businesses.

27 (8) The authority shall not execute more than 20 new written

1 agreements each year for eligible businesses that are distressed
2 businesses. The authority shall not execute more than 5 of the
3 written agreements described in this subsection each year for
4 distressed businesses that had 1,000 or more full-time jobs at a
5 facility 4 years immediately preceding the application to the
6 authority under this act.

7 Sec. 10. The authority shall report to both houses of the
8 legislature yearly on October 1 on the activities of the authority.
9 The report shall include, but is not limited to, all of the
10 following:

11 (a) The total amount of capital investment attracted under
12 this act.

13 (b) The total number of qualified new jobs created under this
14 act.

15 (c) The total number of new written agreements.

16 (d) Name and location of all authorized businesses and the
17 names and addresses of all of the following:

18 (i) The directors and officers of the corporation if the
19 authorized business is a corporation.

20 (ii) The partners of the partnership or limited liability
21 partnership if the authorized business is a partnership or limited
22 liability partnership.

23 (iii) The members of the limited liability company if the
24 authorized business is a limited liability company.

25 (e) The amount and duration of the tax credit separately for
26 each authorized business.

27 (f) The amount of any fee, donation, or other payment of any

1 kind from the authorized business to the Michigan economic
2 development corporation or a foundation or fund associated with the
3 Michigan economic development corporation paid or made in the
4 previous reporting year end or, if it is the first reporting year
5 for the authorized business, for the immediately preceding 3
6 calendar years.

7 (G) THE TOTAL NUMBER OF NEW WRITTEN AGREEMENTS ENTERED INTO
8 UNDER SECTION 8(5) AND, OF THOSE WRITTEN AGREEMENTS, THE NUMBER IN
9 WHICH THE BOARD DETERMINED THAT IT WAS IN THE PUBLIC INTEREST TO
10 WAIVE 1 OR MORE OF THE REQUIREMENTS OF SECTION 8(1).