

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 6118**

A bill to amend 1995 PA 24, entitled  
"Michigan economic growth authority act,"  
by amending sections 4 and 8 (MCL 207.804 and 207.808), section 4  
as amended by 2003 PA 248 and section 8 as amended by 2006 PA 283.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 4. (1) The Michigan economic growth authority is created  
2       within the Michigan strategic fund. The Michigan strategic fund  
3       shall provide staff for the authority and shall carry out the  
4       administrative duties and functions as directed by the authority.  
5       The budgeting, procurement, and related functions as directed by  
6       the authority are under the supervision of the president of the  
7       Michigan strategic fund.

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

9       (a) The ~~director of the department of labor and economic~~

1 ~~growth~~ **PRESIDENT OF THE MICHIGAN STRATEGIC FUND**, or his or her  
2 designee, as chairperson of the authority.

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

4 (c) The ~~chief executive officer of the Michigan economic~~  
5 ~~development corporation~~ **DIRECTOR OF THE DEPARTMENT OF LABOR AND**  
6 **ECONOMIC GROWTH**, or his or her designee.

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

9 (e) Four other members appointed by the governor by and with  
10 the advice and consent of the senate who are not employed by this  
11 state and who have knowledge, skill, and experience in the  
12 academic, business, local government, labor, or financial fields.

13 (3) A member shall be appointed for a term of 4 years, except  
14 that of the members first appointed by the governor, 2 shall be  
15 appointed for a term of 2 years and 2 for a term of 4 years from  
16 the dates of their appointments. A vacancy shall be filled for the  
17 balance of the unexpired term in the same manner as an original  
18 appointment by the governor and by and with the advice and consent  
19 of the senate.

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

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

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

4 (i) A minimum of 50 qualified new jobs at the facility if  
5 expanding in this state.

6 (ii) A minimum of 100 qualified new jobs at the facility if  
7 locating in this state.

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

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

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

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

22 (i) A minimum of 50 qualified new jobs at the facility if  
23 expanding in this state.

24 (ii) A minimum of 100 qualified new jobs at the facility if  
25 locating in this state.

26 (iii) A minimum of 25 qualified new jobs at the facility if the  
27 facility is located in a neighborhood enterprise zone as determined

1 under the neighborhood enterprise zone act, 1992 PA 147, MCL  
2 207.771 to 207.786, is located in a renaissance zone under the  
3 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
4 125.2696, or is located in a federally designated empowerment zone,  
5 rural enterprise community, or enterprise community.

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

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

9 (B) A minimum of 25 qualified new jobs at the facility within  
10 5 years after the date of the expansion or location as determined  
11 by the authority and a minimum of 25 qualified new jobs at the  
12 facility each year thereafter for which a credit is authorized  
13 under this act.

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

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

17 (B) A minimum of 25 qualified new jobs at the facility within  
18 5 years after the date of the expansion or location as determined  
19 by the authority.

20 (c) Except as provided in subsection (5) and as otherwise  
21 provided in this subdivision, in addition to the jobs specified in  
22 subdivision (b), the eligible business, if already located within  
23 this state, agrees to maintain a number of full-time jobs equal to  
24 or greater than the number of full-time jobs it maintained in this  
25 state prior to the expansion, as determined by the authority. After  
26 an eligible business has entered into a written agreement as  
27 provided in subsection (2), the authority may adjust the number of

1 full-time jobs required to be maintained by the authorized business  
2 under this subdivision, in order to adjust for decreases in full-  
3 time jobs in the authorized business in this state due to the  
4 divestiture of operations, provided a single other person continues  
5 to maintain those full-time jobs in this state. The authority shall  
6 not approve a reduction in the number of full-time jobs to be  
7 maintained unless the authority has determined that it can monitor  
8 the maintenance of the full-time jobs in this state by the other  
9 person, and the authorized business agrees in writing that the  
10 continued maintenance of the full-time jobs in this state by the  
11 other person, as determined by the authority, is a condition of  
12 receiving tax credits under the written agreement. A full-time job  
13 maintained by another person under this subdivision, that otherwise  
14 meets the requirements of section 3(i), shall be considered a full-  
15 time job, notwithstanding the requirement that a full-time job be  
16 performed by an individual employed by an authorized business, or  
17 an employee leasing company or professional employer organization  
18 on behalf of an authorized business.

19 (d) Except as otherwise provided in this subdivision, the  
20 average wage paid for all retained jobs and qualified new jobs is  
21 equal to or greater than 150% of the federal minimum wage. However,  
22 if the eligible business is a qualified high-technology business,  
23 then the average wage paid for all qualified new jobs is equal to  
24 or greater than 300% of the federal minimum wage.

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

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

7           (g) The financial statements of the eligible business  
8     indicated that it is financially sound or has submitted a chapter  
9     11 plan of reorganization to the bankruptcy court and that its  
10    plans for the expansion, retention, or location are economically  
11    sound.

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

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

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

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

26          (l) If feasible, as determined by the authority, in locating  
27    the facility, the authorized business reuses or redevelops property

1 that was previously used for an industrial or commercial purpose.

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

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

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

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

20 (c) The total capital investment or new capital investment the  
21 eligible business will make.

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

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

27 (f) The cost of the credit under section 9, the staff,

1 financial, or economic assistance provided by the local government  
2 unit, or local economic development corporation or similar entity,  
3 and the value of assistance otherwise provided by this state.

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

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

9 (b) Conditions upon which the authorized business designation  
10 is made.

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

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

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

22 (f) A written certification from the eligible business  
23 regarding all of the following:

24 (i) The eligible business will follow a competitive bid process  
25 for the construction, rehabilitation, development, or renovation of  
26 the facility, and that this process will be open to all Michigan  
27 residents and firms. The eligible business may not discriminate

1 against any contractor on the basis of its affiliation or  
2 nonaffiliation with any collective bargaining organization.

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

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

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

11 (g) A condition that if the eligible business qualified under  
12 subsection (5)(b)(ii) and met the subsection (1)(g) requirement by  
13 filing a chapter 11 plan of reorganization, the plan must be  
14 ~~approved~~ **CONFIRMED** by the bankruptcy court within ~~2~~ 3 years of  
15 the date of the agreement or the agreement is rescinded.

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

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

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

26 (b) Meets 1 or more of the following criteria:

27 (i) Relocates production of a product to this state after the

1 date of the application, makes capital investment of  
2 \$500,000,000.00 in this state, and maintains 500 retained jobs, as  
3 determined by the authority.

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

7 (iii) Is located in this state on the date of the application,  
8 maintains at least 100 retained jobs at a single facility, and  
9 agrees to make new capital investment at that facility equal to the  
10 greater of \$100,000.00 per retained job maintained at that facility  
11 or \$10,000,000.00 to be completed or contracted for not later than  
12 December 31, 2007.

13 (iv) Maintains 300 retained jobs at a facility; the facility is  
14 at risk of being closed and if it were to close, the work would go  
15 to a location outside this state, as determined by the authority;  
16 new management or new ownership is proposed for the facility that  
17 is committed to improve the viability of the facility, **UNLESS**  
18 **OTHERWISE PROVIDED IN THIS SUBPARAGRAPH**; and the tax credits  
19 offered under this act are necessary for the facility to maintain  
20 operations. The authority may not enter into a written agreement  
21 under this subparagraph after December 31, 2007. Of the written  
22 agreements entered into under this subparagraph, the authority may  
23 enter into 3 written agreements under this subparagraph that are  
24 excluded from the requirements of subsection (1)(e), (f), (g), (h),  
25 (j), and (k) if the authority considers it in the public interest  
26 and if the eligible business would have met the requirements of  
27 subsection (1)(e), (i), (j), and (k) within the immediately

1 preceding 6 months from the signing of the written agreement for a  
2 tax credit. **OF THE 3 WRITTEN AGREEMENTS DESCRIBED IN THIS**  
3 **SUBPARAGRAPH, THE AUTHORITY MAY ALSO WAIVE THE REQUIREMENT FOR NEW**  
4 **MANAGEMENT IF THE EXISTING MANAGEMENT AND LABOR MAKE A COMMITMENT**  
5 **TO IMPROVE THE VIABILITY AND PRODUCTIVITY OF THE FACILITY TO BETTER**  
6 **MEET INTERNATIONAL COMPETITION AS DETERMINED BY THE AUTHORITY.**

7 (v) Maintains 100 retained jobs at a facility; is a rural  
8 business, **UNLESS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH;** the  
9 facility is at risk of being closed and if it were to close, the  
10 work would go to a location outside this state, as determined by  
11 the authority; new management or new ownership is proposed for the  
12 facility that is committed to improve the viability of the  
13 facility; and the tax credits offered under this act are necessary  
14 for the facility to maintain operations. The authority may not  
15 enter into a written agreement under this subparagraph after  
16 December 31, 2007. Of the written agreements entered into under  
17 this subparagraph, the authority may enter into 3 written  
18 agreements under this subparagraph that are excluded from the  
19 requirements of subsection (1)(e), (f), (g), (h), (j), and (k) if  
20 the authority considers it in the public interest and if the  
21 eligible business would have met the requirements of subsection  
22 (1)(e), (i), (j), and (k) within the immediately preceding 6 months  
23 from the signing of the written agreement for a tax credit. **OF THE**  
24 **3 WRITTEN AGREEMENTS DESCRIBED IN THIS SUBPARAGRAPH, THE AUTHORITY**  
25 **MAY ALSO WAIVE THE REQUIREMENT THAT THE BUSINESS BE A RURAL**  
26 **BUSINESS IF THE BUSINESS IS LOCATED IN A COUNTY WITH A POPULATION**  
27 **OF 500,000 OR MORE AND 600,000 OR LESS.**

1 (vi) Maintains 175 retained jobs and makes new capital  
2 investment at a facility in a county with a population of not less  
3 than 7,500 but not greater than 8,000.

4 (vii) Is located in this state on the date of the application,  
5 maintains at least 675 retained jobs at a facility, agrees to  
6 create 400 new jobs, and agrees to make a new capital investment of  
7 at least \$45,000,000.00 to be completed or contracted for not later  
8 than December 31, 2007. Of the written agreements entered into  
9 under this subparagraph, the authority may enter into 1 written  
10 agreement under this subparagraph that is excluded from the  
11 requirements of subsection (1)(h) if the authority considers it in  
12 the public interest.

13 (viii) IS LOCATED IN THIS STATE ON THE DATE OF THE APPLICATION,  
14 MAKES NEW CAPITAL INVESTMENT OF \$250,000,000.00 OR MORE IN THIS  
15 STATE, AND MAKES THAT CAPITAL INVESTMENT AT A FACILITY LOCATED  
16 NORTH OF THE 45TH PARALLEL.

17 (c) Is a distressed business.

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

25 (7) The authority shall not execute more than 50 new written  
26 agreements each year for eligible businesses that are qualified  
27 high-technology businesses or rural business. Only 25 of the 50

1 written agreements for businesses that are qualified high-  
2 technology businesses or rural business may be executed each year  
3 for qualified rural businesses.

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