

SUBSTITUTE FOR
HOUSE BILL NO. 5484

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
by amending sections 268, 350d, and 367b (MCL 18.1268, 18.1350d,
and 18.1367b), section 268 as added by 1988 PA 237, section 350d as
added by 1988 PA 504, and section 367b as amended by 1999 PA 8.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 268. (1) A bidder for a state contract is a Michigan
2 business for the purposes of this section if it certifies that it
3 has done any of the following during the 12 months immediately
4 preceding the bid deadline or for the period the business has been
5 in existence, if the business is newly established within the 12
6 months immediately preceding the bid deadline:

7 (a) Filed a Michigan single business tax return **OR MICHIGAN**
8 **BUSINESS TAX RETURN** showing a portion or all of the income tax base

1 allocated or apportioned to the state of Michigan pursuant to the
2 ~~Michigan FORMER~~ single business tax act, ~~Act No. 228 of the Public~~
3 ~~Acts of 1975, being sections 208.1 to 208.145 of the Michigan~~
4 ~~Compiled Laws 1975 PA 228, OR THE MICHIGAN BUSINESS TAX ACT, 2007~~
5 ~~PA 36, MCL 208.1101 TO 208.1601.~~

6 (b) Filed a Michigan income tax return showing income
7 generated in or attributed to the state of Michigan.

8 (c) Withheld Michigan income tax from compensation paid to the
9 bidder's owners and remitted the tax to the department of treasury.

10 (2) The filing or withholding shall be more than a nominal
11 filing for the purpose of gaining the status of a Michigan
12 business, but shall indicate a significant business presence in the
13 state, considering the size of the business and the nature of its
14 activities.

15 (3) A bidder certifying that it meets the criteria for a
16 Michigan business listed in subsections (1) and (2) shall authorize
17 the department of treasury to verify that the bidder has or has not
18 met 1 of the 3 criteria in subsection (1). This authorization shall
19 permit the department of treasury to disclose the verifying
20 information to the procuring agency in accordance with the
21 procedures established by section 28 of ~~Act No. 122 of the Public~~
22 ~~Acts of 1941, being section 205.28 of the Michigan Compiled Laws~~
23 ~~1941 PA 122, MCL 205.28.~~

24 (4) Only a bidder that has certified that it is a Michigan
25 business is entitled to have the department apply a reciprocal
26 preference in its favor against a business that submits a bid from
27 a state which applies a preference law against out-of-state

1 bidders. A bidder that does not certify that it is a Michigan
2 business shall indicate in its bid the state in which it maintains
3 its principal place of business for the purpose of applying that
4 state's preference law against the bidder.

5 (5) If the low bid for a state procurement exceeds \$100,000.00
6 and is from a business located in a state which applies a
7 preference law against out-of-state businesses, the department
8 shall prefer a bid from a Michigan business in the same manner in
9 which the out-of-state bidder would be preferred in its home state.

10 (6) The department shall compile a list of states that give
11 preference to in-state bidders and the extent of the preference and
12 shall update the list at least annually. An agency may rely on this
13 compilation in implementing the provisions of this act without
14 incurring liability to any bidder.

15 (7) A bidder waives any entitlement to claim a preference
16 under this act if the bidder has not certified in its bid that the
17 bidder is a Michigan business and has not authorized the department
18 of treasury to release information necessary to verify the
19 entitlement.

20 (8) A bidder shall not fraudulently certify that it is a
21 Michigan business under this act or falsely indicate the state in
22 which it has its principal place of business for the purpose of
23 avoiding application of the reciprocal preference.

24 (9) A business that purposefully or willfully submits a false
25 certification that it is a Michigan business or falsely indicates
26 the state in which it has its principal place of business is guilty
27 of a felony, punishable by a fine of not less than \$25,000.00.

1 (10) Two years after ~~the effective date of this section~~
2 **OCTOBER 1, 1988**, the department shall review the costs and
3 consequences of implementing this section. The department shall
4 solicit input from the business community and from state agencies
5 receiving procurements affected by the provisions of this section,
6 and shall make recommendations to the legislature regarding
7 continuation or modification of this section.

8 (11) This section shall not apply to any procurement if the
9 provisions of this section would conflict with federal statute.

10 Sec. 350d. (1) The procedures enumerated in this section shall
11 be followed when revenues are required to be refunded pursuant to
12 section 26 of article IX of the state constitution of 1963.

13 (2) For any fiscal year in which total state revenues exceed
14 the revenue limit as provided in section 26 of article IX of the
15 state constitution of 1963 by 1% or more, the revenues in excess of
16 the revenue limit shall be refunded ~~pro rata based on the liability~~
17 ~~reported on the state income tax return filed pursuant to section~~
18 ~~441 of Act No. 281 of the Public Acts of 1967, being section~~
19 ~~206.441 of the Michigan Compiled Laws, and the single business tax~~
20 ~~return filed pursuant to section 97 of Act No. 228 of the Public~~
21 ~~Acts of 1975, being section 208.97 of the Michigan Compiled Laws~~ **IN**
22 **ACCORDANCE WITH 1941 PA 122, MCL 205.1 TO 205.31**, for the
23 taxpayer's tax year beginning in the fiscal year for which it is
24 determined that the revenue limit has been exceeded.

25 (3) A refund shall not be required if total state revenues
26 exceed the revenue limit by less than 1%.

27 (4) If total state revenues exceed the revenue limit by less

1 than 1%, the governor shall recommend to the legislature that the
2 excess be appropriated to the countercyclical budget and economic
3 stabilization fund, or its successor.

4 (5) A refund required pursuant to this section shall be
5 refunded during the fiscal year beginning on the October 1
6 following the filing of the report required by section 350e which
7 determines that the limit was exceeded in the prior fiscal year for
8 which the report was filed.

9 Sec. 367b. (1) A revenue estimating conference shall be held
10 in the second week of January and in the last week in May of each
11 year, and as otherwise provided in this act.

12 (2) The principals of the conference shall be the state budget
13 director or the state treasurer, the director of the senate fiscal
14 agency, and the director of the house fiscal agency, or their
15 respective designees.

16 (3) The conference shall establish an official economic
17 forecast of major variables of the national and state economies.
18 The conference shall also establish a forecast of anticipated state
19 revenues as the conference determines including the following:

20 (a) State income tax collections.

21 (b) State sales tax collections.

22 (c) Single business tax collections.

23 **(D) MICHIGAN BUSINESS TAX COLLECTIONS.**

24 **(E)** ~~(d)~~—Total general fund/general purpose revenues.

25 **(F)** ~~(e)~~—Lottery transfers to the school aid fund.

26 **(G)** ~~(f)~~—Total school aid fund revenues.

27 **(H)** ~~(g)~~—Annual percentage growth in the basic foundation

1 allowance provided for in the state school aid act of 1979, 1979 PA
2 94, MCL 388.1601 to 388.1772.

3 (I) ~~(h)~~—Compliance with the state revenue limit established by
4 section 26 of article IX of the state constitution of 1963.

5 (J) ~~(i)~~—Pay-ins or pay-outs required under the countercyclical
6 budget and economic stabilization fund.

7 (4) The conference's official forecast of economic and revenue
8 variables shall be determined by consensus among the principals.

9 (5) The forecasts required by this section shall be for the
10 fiscal year in which the conference is being held and the ensuing
11 fiscal year.

12 (6) The official conference forecast shall be based upon the
13 assumption that the current law and current administrative
14 procedures will remain in effect for the forecast period.