

SUBSTITUTE FOR
SENATE BILL NO. 1187

A bill to amend 1995 PA 24, entitled
"Michigan economic growth authority act,"
by amending sections 3 and 5 (MCL 207.803 and 207.805), section 3
as amended by 2007 PA 62 and section 5 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% AT~~
3 **LEAST 50%** owned and controlled, **DIRECTLY OR INDIRECTLY**, by an
4 associated business.

5 (b) "Associated business" means a business that owns at least
6 50% of and controls, directly or indirectly, an authorized
7 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,
13 **SUBSIDIARY, or affiliated business, OR AN EMPLOYEE LEASING COMPANY**
14 **OR PROFESSIONAL EMPLOYER ORGANIZATION THAT HAS ENTERED INTO A**
15 **CONTRACTUAL SERVICE AGREEMENT WITH THE AUTHORIZED BUSINESS IN WHICH**
16 **THE EMPLOYEE LEASING COMPANY OR PROFESSIONAL EMPLOYER ORGANIZATION**
17 **WITHHOLDS INCOME AND SOCIAL SECURITY TAXES ON BEHALF OF THE**
18 **AUTHORIZED BUSINESS.**

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

1 ~~has entered into a contractual service agreement with the~~
2 ~~authorized business in which the employee leasing company or~~
3 ~~professional employer organization withholds income and social~~
4 ~~security taxes on behalf of the authorized business.~~

5 (d) "Authority" means the Michigan economic growth authority
6 created under section 4.

7 (e) "Business" means proprietorship, joint venture,
8 partnership, limited liability partnership, trust, business trust,
9 syndicate, association, joint stock company, corporation,
10 cooperative, limited liability company, or any other organization.

11 (f) "Distressed business" means a business that meets all of
12 the following as verified by the Michigan economic growth
13 authority:

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

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

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

25 (g) "Eligible business" means a distressed business or
26 business that proposes to maintain retained jobs after December 31,
27 1999 or to create qualified new jobs in this state after April 18,

1 1995 in manufacturing, mining, research and development, wholesale
2 and trade, or office operations or a business that is a qualified
3 high-technology business **OR A BUSINESS THAT IS A TOURISM ATTRACTION**
4 **FACILITY OR A QUALIFIED LODGING FACILITY. ~~An~~ EXCEPT FOR A RETAIL**
5 **ESTABLISHMENT THAT MEETS THE CRITERIA IN SECTION 8(11), AN** eligible
6 business does not include retail establishments, professional
7 sports stadiums, or that portion of an eligible business used
8 exclusively for retail sales. Professional sports stadium does not
9 include a sports stadium in existence on June 6, 2000 that is not
10 used by a professional sports team on the date that an application
11 related to that professional sports stadium is filed under section
12 8.

13 (h) "Facility" means a site or sites within this state in
14 which an authorized business or subsidiary business maintains
15 retained jobs or creates qualified new jobs.

16 (i) "Full-time job" means a job performed by an individual for
17 35 hours or more each week and whose income and social security
18 taxes are withheld by 1 or more of the following:

19 (i) An authorized business.

20 (ii) An employee leasing company.

21 (iii) A professional employer organization on behalf of the
22 authorized business.

23 (iv) Another person as provided in section 8(1)(c).

24 (v) A business that sells all or part of its assets to an
25 eligible business that receives a credit under section 8(1) or (5).

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

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

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

5 (A) Computer hardware and software.

6 (B) Data communications.

7 (C) Information technologies.

8 (ii) Advanced materials, which are materials with engineered
9 properties created through the development of specialized process
10 and synthesis technology.

11 (iii) Biotechnology, which is any technology that uses living
12 organisms, cells, macromolecules, microorganisms, or substances
13 from living organisms to make or modify a product, improve plants
14 or animals, or develop microorganisms for useful purposes.

15 Biotechnology does not include human cloning as defined in section
16 16274 of the public health code, 1978 PA 368, MCL 333.16274, or
17 stem cell research with embryonic tissue.

18 (iv) Electronic device technology, which is any technology that
19 involves microelectronics, semiconductors, electronic equipment,
20 and instrumentation, radio frequency, microwave, and millimeter
21 electronics, and optical and optic-electrical devices, or data and
22 digital communications and imaging devices.

23 (v) Engineering or laboratory testing related to the
24 development of a product.

25 (vi) Technology that assists in the assessment or prevention of
26 threats or damage to human health or the environment, including,
27 but not limited to, environmental cleanup technology, pollution

1 prevention technology, or development of alternative energy
2 sources.

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

6 (viii) Product research and development.

7 (ix) Advanced vehicles technology, which is any technology that
8 involves electric vehicles, hybrid vehicles, or alternative fuel
9 vehicles, or components used in the construction of electric
10 vehicles, hybrid vehicles, or alternative fuel vehicles. For
11 purposes of this act:

12 (A) "Electric vehicle" means a road vehicle that draws
13 propulsion energy only from an on-board source of electrical
14 energy.

15 (B) "Hybrid vehicle" means a road vehicle that can draw
16 propulsion energy from both a consumable fuel and a rechargeable
17 energy storage system.

18 (x) Tool and die manufacturing.

19 (xi) Competitive edge technology as defined in section 88a of
20 the Michigan strategic fund act, 1984 PA 270, MCL 125.2088a.

21 (xii) **DIGITAL MEDIA, INCLUDING INTERNET PUBLISHING AND**
22 **BROADCASTING, VIDEO GAMING, WEB DEVELOPMENT, AND ENTERTAINMENT**
23 **TECHNOLOGY.**

24 (xiii) **MUSIC PRODUCTION, INCLUDING RECORD PRODUCTION AND**
25 **DEVELOPMENT, SOUND RECORDING STUDIOS, AND INTEGRATED HIGH-**
26 **TECHNOLOGY RECORD PRODUCTION AND DISTRIBUTION.**

27 (xiv) **FILM AND VIDEO, INCLUDING MOTION PICTURE AND VIDEO**

1 PRODUCTION AND DISTRIBUTION, POSTPRODUCTION SERVICES, AND
2 TELEPRODUCTION AND PRODUCTION SERVICES.

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

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

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

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

14 (ii) The purchase of new personal property. As used in this
15 subparagraph, "new personal property" means personal property that
16 is not subject to or that is exempt from the collection of taxes
17 under the general property tax act, 1893 PA 206, MCL 211.1 to
18 211.155, on the date the authorized business enters into a written
19 agreement with the authority.

20 (m) "Qualified high-technology business" means a business or
21 facility ~~that is either of the following:~~

22 ~~—— (i) A business with not less than 25% of the total operating~~
23 ~~expenses of the business used for research and development in the~~
24 ~~tax year in which the business files an application under this act~~
25 ~~as determined under generally accepted accounting principles and~~
26 ~~verified by the authority.~~

27 ~~—— (ii) A business or facility whose primary business activity is~~

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1 high-technology activity OR A QUALIFIED HIGH-WAGE ACTIVITY.

2 (N) "QUALIFIED HIGH-WAGE ACTIVITY" MEANS A BUSINESS THAT HAS
 3 AN AVERAGE WAGE OF 300% OR MORE OF THE FEDERAL MINIMUM WAGE<<. QUALIFIED
 4 HIGH-WAGE ACTIVITY MAY ALSO INCLUDE, BUT IS NOT LIMITED TO, 1 OR MORE OF
 THE FOLLOWING AS LONG AS THEY HAVE AN AVERAGE WAGE OF 300% OR MORE OF THE
 FEDERAL MINIMUM WAGE:>>

5 (i) ARCHITECTURE AND DESIGN, INCLUDING ARCHITECTURAL DESIGN,
 6 GRAPHIC DESIGN, INTERIOR DESIGN, FASHION DESIGN, AND INDUSTRIAL
 7 DESIGN.

8 (ii) ADVERTISING AND MARKETING, INCLUDING ADVERTISING AND
 9 MARKETING FIRMS AND AGENCIES, PUBLIC RELATIONS AGENCIES, AND
 10 DISPLAY ADVERTISING.

11 (O) "QUALIFIED LODGING FACILITY" MEANS 1 OR MORE OF THE
 12 FOLLOWING:

13 (i) LODGING FACILITIES THAT CONSTITUTE A PORTION OF A TOURISM
 14 ATTRACTION FACILITY AND REPRESENT LESS THAN 50% OF THE TOTAL COST
 15 OF THE TOURISM ATTRACTION FACILITY, OR THE LODGING FACILITIES ARE
 16 TO BE LOCATED ON RECREATIONAL PROPERTY OWNED OR LEASED BY THE
 17 MUNICIPAL, STATE, OR FEDERAL GOVERNMENT.

18 (ii) THE LODGING FACILITIES INVOLVE THE RESTORATION OR
 19 REHABILITATION OF A STRUCTURE THAT IS LISTED INDIVIDUALLY IN THE
 20 NATIONAL REGISTER OF HISTORIC PLACES OR ARE LOCATED IN A NATIONAL
 21 REGISTER HISTORIC DISTRICT AND CERTIFIED BY THIS STATE AS
 22 CONTRIBUTING TO THE HISTORIC SIGNIFICANCE OF THE DISTRICT, AND THE
 23 REHABILITATION OR RESTORATION PROJECT HAS BEEN APPROVED IN ADVANCE
 24 BY THIS STATE.

25 (P) ~~(n)~~"Qualified new job" means 1 of the following:

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

1 authorized business maintained in this state prior to the expansion
2 or location, as determined by the authority.

3 (ii) For jobs created after July 1, 2000, a full-time job at a
4 facility created by an eligible business that is in excess of the
5 number of full-time jobs maintained by that eligible business in
6 this state up to ~~120~~90 days before the eligible business became an
7 authorized business, as determined by the authority.

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

12 (Q) ~~(e)~~—"Retained jobs" means the number of full-time jobs at
13 a facility of an authorized business maintained in this state on a
14 specific date as that date and number of jobs is determined by the
15 authority.

16 (R) ~~(p)~~—"Rural business" means an eligible business located in
17 a county with a population of 90,000 or less.

18 (S) ~~(q)~~—"Subsidiary business" means a business that is
19 directly or indirectly controlled or at least 80% owned by an
20 authorized business.

21 (T) "TOURISM ATTRACTION FACILITY" MEANS A CULTURAL OR
22 HISTORICAL SITE, A RECREATION OR ENTERTAINMENT FACILITY, AN AREA OF
23 NATURAL PHENOMENA OR SCENIC BEAUTY, OR AN ENTERTAINMENT DESTINATION
24 CENTER AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY AS
25 FOLLOWS:

26 (i) IN MAKING A DETERMINATION, THE MICHIGAN ECONOMIC GROWTH
27 AUTHORITY SHALL CONSIDER ALL OF THE FOLLOWING:

1 (A) WHETHER THE FACILITY WILL ACTUALLY ATTRACT TOURISTS.

2 (B) WHETHER 50% OR MORE OF THE PERSONS USING THE FACILITY
3 RESIDE OUTSIDE A 100-MILE RADIUS.

4 (C) WHETHER 50% OR MORE OF THE GROSS RECEIPTS ARE FROM
5 ADMISSIONS, FOOD, OR NONALCOHOLIC DRINKS.

6 (D) WHETHER THE FACILITY OFFERS A UNIQUE EXPERIENCE.

7 (ii) THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL NOT DETERMINE
8 ANY OF THE FOLLOWING AS A TOURISM ATTRACTION FACILITY:

9 (A) FACILITIES THAT ARE PRIMARILY DEVOTED TO THE RETAIL SALE
10 OF GOODS, OTHER THAN AN ENTERTAINMENT DESTINATION CENTER, A THEME
11 RESTAURANT DESTINATION ATTRACTION, OR A TOURISM ATTRACTION WHERE
12 THE SALE OF GOODS IS A SECONDARY AND SUBORDINATE COMPONENT OF THE
13 ATTRACTION.

14 (B) RECREATIONAL FACILITIES THAT DO NOT SERVE AS A LIKELY
15 DESTINATION WHERE INDIVIDUALS WHO ARE NOT RESIDENTS OF THE STATE
16 WOULD REMAIN OVERNIGHT IN COMMERCIAL LODGING AT OR NEAR THE
17 FACILITY.

18 (U) ~~(r)~~—"Written agreement" means a written agreement made
19 pursuant to section 8. A written agreement may address new jobs,
20 qualified new jobs, full-time jobs, retained jobs, or any
21 combination of new jobs, qualified new jobs, full-time jobs, or
22 retained jobs.

23 Sec. 5. (1) The powers of the authority are vested in the
24 authority members in office. Regardless of the existence of a
25 vacancy, a majority of the members of the authority constitutes a
26 quorum necessary for the transaction of business at a meeting or
27 the exercise of a power or function of the authority. Action may be

1 taken by the authority at a meeting upon a vote of the majority of
2 the members present. **MEMBERS OF THE AUTHORITY MAY BE PRESENT IN**
3 **PERSON AT A MEETING OF THE AUTHORITY OR, IF AUTHORIZED BY THE**
4 **BYLAWS OF THE AUTHORITY, BY USE OF TELECOMMUNICATIONS OR OTHER**
5 **ELECTRONIC EQUIPMENT.**

6 (2) The authority shall meet at the call of the chairperson or
7 as may be provided by the authority. Meetings of the authority may
8 be held anywhere within this state.

9 (3) The business of the authority shall be conducted at a
10 public meeting of the authority held in compliance with the open
11 meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of
12 the time, date, and place of the meeting shall be given as provided
13 by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A
14 record or portion of a record, material, or other data received,
15 prepared, used, or retained by the authority in connection with an
16 application for a tax credit under section 9 that relates to
17 financial or proprietary information submitted by the applicant
18 that is considered by the applicant and acknowledged by the
19 authority as confidential shall not be subject to the disclosure
20 requirements of the freedom of information act, 1976 PA 442, MCL
21 15.231 to 15.246. A designee of the authority shall make the
22 determination as to whether the authority acknowledges as
23 confidential any financial or proprietary information submitted by
24 the applicant and considered by the applicant as confidential.
25 Unless considered proprietary information, the authority shall not
26 acknowledge routine financial information as confidential. If the
27 designee of the authority determines that information submitted to

1 the authority is financial or proprietary information and is
2 confidential, the designee of the authority shall release a written
3 statement, subject to disclosure under the freedom of information
4 act, 1976 PA 442, MCL 15.231 to 15.246, which states all of the
5 following:

6 (a) The name and business location of the person requesting
7 that the information submitted be confidential as financial or
8 proprietary information.

9 (b) That the information submitted was determined by the
10 designee of the authority to be confidential as financial or
11 proprietary information.

12 (c) A broad nonspecific overview of the financial or
13 proprietary information determined to be confidential.

14 (4) The authority shall not disclose financial or proprietary
15 information not subject to disclosure pursuant to subsection (3)
16 without consent of the applicant submitting the information.

17 (5) As used in this section, "financial or proprietary
18 information" means information that has not been publicly
19 disseminated or is unavailable from other sources, the release of
20 which might cause the applicant significant competitive harm.
21 Financial or proprietary information does not include a written
22 agreement under this act.

23 Enacting section 1. This amendatory act does not take effect
24 unless all of the following bills of the 94th Legislature are
25 enacted into law:

26 (a) Senate Bill No. 1188.

27 (b) Senate Bill No. 1189.

1 (c) Senate Bill No. 1190.