

**SUBSTITUTE FOR
SENATE BILL NO. 1189**

A bill to amend 1995 PA 24, entitled
"Michigan economic growth authority act,"
by amending sections 6 and 8 (MCL 207.806 and 207.808), section 6
as amended by 2007 PA 150 and section 8 as amended by 2007 PA 62.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. The authority shall have powers necessary or
2 convenient to carry out and effectuate the purpose of this act,
3 including, but not limited to, the following:

4 (a) To authorize eligible businesses to receive tax credits to
5 foster job creation in this state.

6 (b) To determine which businesses qualify for tax credits
7 under this act.

8 (c) To determine the amount and duration of tax credits
9 authorized under this act.

1 (d) To issue certificates and enter into written agreements
2 specifying the conditions under which tax credits are authorized
3 and the circumstances under which those tax credits may be reduced
4 or terminated.

5 (e) To charge and collect reasonable administrative fees.

6 (f) To delegate to the chairperson of the authority, staff, or
7 others the functions and powers it considers necessary and
8 appropriate to administer the programs under this act.

9 (g) To assist an eligible business to obtain the benefits of a
10 tax credit, incentive, or inducement program provided by this act
11 or by law.

12 (h) To determine the eligibility of and issue certificates to
13 certain qualified taxpayers for credits allowed under **FORMER**
14 section 38g(3) of ~~the single business tax act, 1975 PA 228, MCL~~
15 ~~208.38g,~~ and section 431 of the Michigan business tax act, 2007 PA
16 36, MCL 208.1431, and to develop the application process and
17 necessary forms to claim the credit under **FORMER** section 38g(3) of
18 ~~the single business tax act, 1975 PA 228, MCL 208.38g,~~ and section
19 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431. The
20 Michigan economic growth authority annually shall prepare and
21 submit to the house of representatives and senate committees
22 responsible for tax policy and economic development issues a report
23 on the credits under **FORMER** section 38g(3) of ~~the single business~~
24 ~~tax act, 1975 PA 228, MCL 208.38g,~~ and section 431 of the Michigan
25 business tax act, 2007 PA 36, MCL 208.1431. The report shall
26 include, but is not limited to, all of the following:

27 (i) A listing of the projects under **FORMER** section 38g(3) of

1 ~~the single business tax act, 1975 PA 228 , MCL 208.38g,~~ and section
 2 431 of the Michigan business tax act, 2007 PA 36, MCL 208.1431,
 3 that were approved in the previous calendar year.

4 (ii) The total amount of eligible investment approved under
 5 **FORMER** section 38g(3) of ~~the single business tax act, 1975 PA 228 ,~~
 6 ~~MCL 208.38g,~~ and section 431 of the Michigan business tax act, 2007
 7 PA 36, MCL 208.1431, in the previous calendar year.

8 (i) To approve the capture of school operating taxes and work
 9 plans as provided in sections 13 and 15 of the brownfield
 10 redevelopment financing act, 1996 PA 381, MCL 125.2663 and
 11 125.2665.

12 (j) To determine the eligibility of and issue certificates to
 13 certain qualified taxpayers for credits allowed under section 407
 14 of the Michigan business tax act, 2007 PA 36, MCL 208.1407.

15 **(K) TO DETERMINE THE ELIGIBILITY OF AND ISSUE CERTIFICATES TO**
 16 **CERTAIN TAXPAYERS FOR CREDITS ALLOWED UNDER SECTIONS 431A AND 431B**
 17 **OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1431A AND**
 18 **208.1431B.**

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

23 (a) Except as provided in subsection (5), the eligible
 24 business creates 1 or more of the following ~~within 12 months of the~~
 25 ~~expansion or location~~ as determined by the authority **AND PROVIDED**
 26 **WITH WRITTEN AGREEMENT:**

27 (i) A minimum of 50 qualified new jobs at the facility if

1 expanding in this state.

2 (ii) A minimum of ~~100~~50 qualified new jobs at the facility if
3 locating in this state.

4 (iii) A minimum of 25 qualified new jobs at the facility if the
5 facility is located in a neighborhood enterprise zone as determined
6 under the neighborhood enterprise zone act, 1992 PA 147, MCL
7 207.771 to 207.786, is located in a renaissance zone under the
8 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
9 125.2696, or is located in a federally designated empowerment zone,
10 rural enterprise community, or enterprise community.

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

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

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

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

20 (ii) A minimum of ~~100~~50 qualified new jobs at the facility if
21 locating in this state.

22 (iii) A minimum of 25 qualified new jobs at the facility if the
23 facility is located in a neighborhood enterprise zone as determined
24 under the neighborhood enterprise zone act, 1992 PA 147, MCL
25 207.771 to 207.786, is located in a renaissance zone under the
26 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
27 125.2696, or is located in a federally designated empowerment zone,

1 rural enterprise community, or enterprise community.

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

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

5 (B) A minimum of 25 qualified new jobs at the facility within
6 5 years after the date of the expansion or location as determined
7 by the authority and a minimum of 25 qualified new jobs at the
8 facility each year thereafter for which a credit is authorized
9 under this act.

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

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

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

16 (c) Except as provided in subsection (5) and as otherwise
17 provided in this subdivision, in addition to the jobs specified in
18 subdivision (b), the eligible business, if already located within
19 this state, agrees to maintain a number of full-time jobs equal to
20 or greater than the number of full-time jobs it maintained in this
21 state prior to the expansion, as determined by the authority. After
22 an eligible business has entered into a written agreement as
23 provided in subsection (2), the authority may adjust the number of
24 full-time jobs required to be maintained by the authorized business
25 under this subdivision, in order to adjust for decreases in full-
26 time jobs in the authorized business in this state due to the
27 divestiture of operations, provided a single other person continues

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

15 (d) Except as otherwise provided in this subdivision, the
16 ~~average wage paid for all~~ **EACH** retained ~~jobs~~ **JOB** and qualified new
17 ~~jobs~~ **JOB** is equal to or greater than 150% of the federal minimum
18 wage. However, if the eligible business is a qualified ~~high-~~
19 ~~technology business~~ **HIGH-WAGE ACTIVITY**, then the ~~average wage paid~~
20 for all ~~EACH~~ qualified new ~~jobs~~ **JOB** is equal to or greater than
21 300% of the federal minimum wage.

22 ~~— (c) Except for a qualified high technology business, the~~
23 ~~expansion, retention, or location of the eligible business will not~~
24 ~~occur in this state without the tax credits offered under this act.~~

25 ~~— (f) Except for an eligible business described in subsection~~
26 ~~(5) (b) (ii), the local governmental unit in which the eligible~~
27 ~~business will expand, be located, or maintain retained jobs, or a~~

1 ~~local economic development corporation or similar entity, will make~~
2 ~~a staff, financial, or economic commitment to the eligible business~~
3 ~~for the expansion, retention, or location.~~

4 (E) ~~(g)~~ The financial statements of the eligible business
5 indicated that it is financially sound or has submitted a chapter
6 11 plan of reorganization to the bankruptcy court and that its
7 plans for the expansion, retention, or location are economically
8 sound.

9 (F) ~~(h)~~ Except for an eligible business described in
10 subsection (5) (c), the eligible business has not begun construction
11 of the facility.

12 (G) ~~(i)~~ The expansion, retention, or location of the eligible
13 business will benefit the people of this state by increasing
14 opportunities for employment and by strengthening the economy of
15 this state.

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

20 (I) ~~(k)~~ A cost/benefit analysis reveals that authorizing the
21 eligible business to receive tax credits under this act will result
22 in an overall positive fiscal impact to the state.

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

26 (J) ~~(m)~~ If the eligible business is a qualified high-
27 technology business described in section 3(m) (i), the eligible

1 business agrees that not less than 25% of the total operating
2 expenses of the business will be maintained for research and
3 development for the first 3 years of the written agreement.

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

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

15 (b) The average wage **AND HEALTH CARE BENEFIT** level of the
16 qualified new jobs or retained jobs relative to the average wage
17 **AND HEALTH CARE BENEFIT** paid by private entities in the county in
18 which the facility is located.

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

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

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

26 (f) The cost of the credit under section 9, the staff,
27 financial, or economic assistance provided by the local government

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

3 (G) WHETHER THE EXPANSION, RETENTION, OR LOCATION WILL OCCUR
4 IN THIS STATE WITHOUT THE TAX CREDITS OFFERED UNDER THIS ACT.

5 (H) WHETHER THE AUTHORIZED BUSINESS REUSES OR REDEVELOPS
6 PROPERTY THAT WAS PREVIOUSLY USED FOR AN INDUSTRIAL OR COMMERCIAL
7 PURPOSE IN LOCATING THE FACILITY.

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

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

13 (b) Conditions upon which the authorized business designation
14 is made.

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

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

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

26 (f) A written certification from the eligible business
27 regarding all of the following:

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

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

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

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

15 (g) A condition that if the eligible business qualified under
16 subsection (5) (b) (ii) and met the subsection ~~(1) (g)~~ **(1) (E)**
17 requirement by filing a chapter 11 plan of reorganization, the plan
18 must be confirmed by the bankruptcy court within 6 years of the
19 date of the agreement or the agreement is rescinded.

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

22 (5) ~~After~~ **THROUGH DECEMBER 31, 2007, AFTER** receipt of an
23 application, the authority may enter into a written agreement ~~7~~
24 ~~which shall include a repayment provision of all or a portion of~~
25 ~~the credits under section 9 for a violation of the written~~
26 ~~agreement,~~ with an eligible business that meets 1 or more of the
27 following criteria:

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

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

5 (i) Relocates production of a product to this state after the
6 date of the application, makes capital investment of
7 \$500,000,000.00 in this state, and maintains 500 retained jobs, as
8 determined by the authority.

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

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

18 (iv) Maintains 300 retained jobs at a facility; the facility is
19 at risk of being closed and if it were to close, the work would go
20 to a location outside this state, as determined by the authority;
21 new management or new ownership is proposed for the facility that
22 is committed to improve the viability of the facility, unless
23 otherwise provided in this subparagraph; and the tax credits
24 offered under this act are necessary for the facility to maintain
25 operations. The authority may not enter into a written agreement
26 under this subparagraph after December 31, 2007. Of the written
27 agreements entered into under this subparagraph, the authority may

1 enter into 3 written agreements under this subparagraph that are
2 excluded from the requirements of subsection (1) (e), (f), ~~(g)~~, (h),
3 ~~(j)~~, and ~~(k)~~ **(I)** if the authority considers it in the public
4 interest and if the eligible business would have met the
5 requirements of subsection ~~(1) (e), (i), (j)~~, **(1) (G), (H)**, and (k)
6 within the immediately preceding 6 months from the signing of the
7 written agreement for a tax credit. Of the 3 written agreements
8 described in this subparagraph, the authority may also waive the
9 requirement for new management if the existing management and labor
10 make a commitment to improve the viability and productivity of the
11 facility to better meet international competition as determined by
12 the authority.

13 (v) Maintains 100 retained jobs at a facility; is a rural
14 business, unless otherwise provided in this subparagraph; the
15 facility is at risk of being closed and if it were to close, the
16 work would go to a location outside this state, as determined by
17 the authority; new management or new ownership is proposed for the
18 facility that is committed to improve the viability of the
19 facility; and the tax credits offered under this act are necessary
20 for the facility to maintain operations. The authority may not
21 enter into a written agreement under this subparagraph after
22 December 31, 2007. Of the written agreements entered into under
23 this subparagraph, the authority may enter into 3 written
24 agreements under this subparagraph that are excluded from the
25 requirements of subsection (1) (e), (f), ~~(g)~~, **AND** (h) ~~, (j)~~, and ~~(k)~~
26 if the authority considers it in the public interest and if the
27 eligible business would have met the requirements of subsection

1 ~~(1)(e), (i), (j), and (k)~~ **(1)(G), (H), AND (E)** within the
2 immediately preceding 6 months from the signing of the written
3 agreement for a tax credit. Of the 3 written agreements described
4 in this subparagraph, the authority may also waive the requirement
5 that the business be a rural business if the business is located in
6 a county with a population of 500,000 or more and 600,000 or less.

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

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

19 (viii) Is located in this state on the date of the application,
20 makes new capital investment of \$250,000,000.00 or more in this
21 state, and makes that capital investment at a facility located
22 north of the 45th parallel.

23 (c) Is a distressed business.

24 (6) ~~The~~ **EACH YEAR, THE** authority shall not execute ~~more than~~
25 ~~25~~ **new written agreements each** ~~each~~ **THAT IN TOTAL PROVIDE FOR MORE THAN**
26 **400 YEARLY CREDITS OVER THE TERMS OF THOSE AGREEMENTS ENTERED INTO**
27 **THAT** year for eligible businesses that are not qualified high-

1 technology businesses, distressed businesses, ~~or~~ rural businesses,
2 **OR AN ELIGIBLE BUSINESS DESCRIBED IN SUBSECTION (11)**. ~~If the~~
3 ~~authority executes less than 25 new written agreements in a year,~~
4 ~~the authority may carry forward for 1 year only the difference~~
5 ~~between 25 and the number of new agreements executed in the~~
6 ~~immediately preceding year.~~

7 (7) The authority shall not execute more than 50 new written
8 agreements each year for eligible businesses that are qualified
9 high-technology businesses or rural business. Only 25 of the 50
10 written agreements for businesses that are qualified high-
11 technology businesses or rural business may be executed each year
12 for qualified rural businesses.

13 (8) The authority shall not execute more than 20 new written
14 agreements each year for eligible businesses that are distressed
15 businesses. The authority shall not execute more than 5 of the
16 written agreements described in this subsection each year for
17 distressed businesses that had 1,000 or more full-time jobs at a
18 facility 4 years immediately preceding the application to the
19 authority under this act. **THE AUTHORITY SHALL NOT EXECUTE MORE THAN**
20 **5 NEW WRITTEN AGREEMENTS EACH YEAR FOR ELIGIBLE BUSINESSES**
21 **DESCRIBED IN SUBSECTION (11). THE AUTHORITY SHALL NOT EXECUTE MORE**
22 **THAN 4 NEW WRITTEN AGREEMENTS EACH YEAR FOR ELIGIBLE BUSINESSES**
23 **DESCRIBED IN SUBSECTION (11) IN LOCAL GOVERNMENTAL UNITS THAT HAVE**
24 **A POPULATION GREATER THAN 16,000.**

25 (9) **BEGINNING JANUARY 1, 2008, AFTER RECEIPT OF AN**
26 **APPLICATION, THE AUTHORITY MAY ENTER INTO A WRITTEN AGREEMENT WITH**
27 **AN ELIGIBLE BUSINESS THAT DOES NOT MEET THE CRITERIA DESCRIBED IN**

1 SUBSECTION (1), IF THE ELIGIBLE BUSINESS MEETS ALL OF THE
2 FOLLOWING:

3 (A) AGREES TO RETAIN NOT FEWER THAN 50 JOBS.

4 (B) AGREES TO MAKE NEW CAPITAL INVESTMENT AT A FACILITY EQUAL
5 TO \$50,000.00 OR MORE PER RETAINED JOB MAINTAINED AT THE FACILITY.

6 (C) CERTIFIES TO THE AUTHORITY THAT, WITHOUT THE CREDITS UNDER
7 THIS ACT AND WITHOUT THE NEW CAPITAL INVESTMENT, THE FACILITY IS AT
8 RISK OF CLOSING AND THE WORK AND JOBS WOULD BE REMOVED TO A
9 LOCATION OUTSIDE OF THIS STATE.

10 (D) CERTIFIES TO THE AUTHORITY THAT THE MANAGEMENT OR
11 OWNERSHIP IS COMMITTED TO IMPROVING THE LONG-TERM VIABILITY OF THE
12 FACILITY IN MEETING THE NATIONAL AND INTERNATIONAL COMPETITION
13 FACING THE FACILITY THROUGH BETTER MANAGEMENT TECHNIQUES, BEST
14 PRACTICES, INCLUDING STATE OF THE ART LEAN MANUFACTURING PRACTICES,
15 AND MARKET DIVERSIFICATION.

16 (E) CERTIFIES TO THE AUTHORITY THAT IT WILL MAKE BEST EFFORTS
17 TO KEEP JOBS IN MICHIGAN WHEN MAKING PLANT LOCATION AND CLOSING
18 DECISIONS.

19 (F) CERTIFIES TO THE AUTHORITY THAT THE WORKFORCE AT THE
20 FACILITY DEMONSTRATES ITS COMMITMENT TO IMPROVING PRODUCTIVITY AND
21 PROFITABILITY AT THE FACILITY THROUGH VARIOUS MEANS.

22 (10) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
23 THAT ADDED THIS SUBSECTION, IF THE AUTHORITY ENTERS INTO A WRITTEN
24 AGREEMENT WITH AN ELIGIBLE BUSINESS, THE WRITTEN AGREEMENT SHALL
25 INCLUDE A REPAYMENT PROVISION OF ALL OR A PORTION OF THE CREDITS
26 RECEIVED BY THE ELIGIBLE BUSINESS FOR A FACILITY IF THE ELIGIBLE
27 BUSINESS MOVES FULL-TIME JOBS OUTSIDE THIS STATE DURING THE TERM OF

1 THE WRITTEN AGREEMENT AND FOR A PERIOD OF YEARS AFTER THE TERM OF
2 THE WRITTEN AGREEMENT, AS DETERMINED BY THE AUTHORITY.

3 (11) BEGINNING JANUARY 1, 2008, AFTER RECEIPT OF AN
4 APPLICATION, THE AUTHORITY MAY ENTER INTO A WRITTEN AGREEMENT WITH
5 AN ELIGIBLE BUSINESS THAT DOES NOT MEET THE CRITERIA DESCRIBED IN
6 SUBSECTION (1), IF THE ELIGIBLE BUSINESS MEETS ALL OF THE
7 FOLLOWING:

8 (A) AGREES TO CREATE OR RETAIN NOT FEWER THAN 15 JOBS.

9 (B) AGREES TO OCCUPY PROPERTY THAT IS A HISTORIC RESOURCE AS
10 THAT TERM IS DEFINED IN SECTION 435 OF THE MICHIGAN BUSINESS TAX
11 ACT, 2007 PA 36, MCL 208.1435, AND THAT IS LOCATED IN A DOWNTOWN
12 DISTRICT AS DEFINED IN SECTION 1 OF 1975 PA 197, MCL 125.1651.

13 (C) THE AVERAGE WAGE PAID FOR EACH RETAINED JOB AND FULL-TIME
14 JOB IS EQUAL TO OR GREAT THAN 150% OF THE FEDERAL MINIMUM WAGE.

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

18 (a) Senate Bill No. 1187.

19 (b) Senate Bill No. 1188.

20 (c) Senate Bill No. 1190.