

SENATE BILL No. 1343

May 27, 2008, Introduced by Senators JANSEN, THOMAS, VAN WOERKOM, RICHARDVILLE and GILBERT and referred to the Committee on Commerce and Tourism.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending sections 351, 355, and 365 (MCL 206.351, 206.355, and
206.365), section 351 as amended by 2003 PA 22, section 355 as
amended by 2003 PA 48, and section 365 as amended by 2003 PA 47,
and by adding section 366.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 351. (1) Every employer in this state required under the
2 provisions of the internal revenue code to withhold a tax on the
3 compensation of an individual, except as otherwise provided, shall
4 deduct and withhold a tax in an amount computed by applying, except
5 as provided by subsection (9), the rate prescribed in section 51 to
6 the remainder of the compensation after deducting from compensation
7 the same proportion of the total amount of personal and dependency

1 exemptions of the individual allowed under this act that the period
2 of time covered by the compensation is of 1 year. The commissioner
3 may prescribe withholding tables that may be used by employers to
4 compute the amount of tax required to be withheld.

5 (2) Every flow-through entity in this state shall withhold a
6 tax in an amount computed by applying the rate prescribed in
7 section 51 to the share of taxable income available for
8 distribution of each nonresident member after deducting from that
9 distributive income the same proportion of the total amount of
10 personal and dependency exemptions of the individual allowed under
11 this act that the period of time covered by the distributive income
12 is of 1 year. If a flow-through entity is a nonresident member of a
13 separate flow-through entity in this state, the flow-through entity
14 in this state of which it is a member shall withhold the tax as
15 required by this subsection on behalf of the flow-through entity
16 that is a nonresident member and all nonresident members of that
17 flow-through entity that is a nonresident member.

18 (3) Every casino licensee shall withhold a tax in an amount
19 computed by applying the rate prescribed in section 51 to the
20 winnings of a nonresident reportable by the casino licensee under
21 the internal revenue code.

22 (4) Every race meeting licensee or track licensee shall
23 withhold a tax in an amount computed by applying the rate
24 prescribed in section 51 to a payoff price on a winning ticket of a
25 nonresident reportable by the race meeting licensee or track
26 licensee under the internal revenue code that is the result of
27 pari-mutuel wagering at a licensed race meeting.

1 (5) Every casino licensee or race meeting licensee or track
2 licensee shall report winnings of a resident reportable by the
3 casino licensee or race meeting licensee or track licensee under
4 the internal revenue code to the department in the same manner and
5 format as required under the internal revenue code.

6 (6) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION,**
7 **ALL OF THE** taxes withheld under this section shall accrue to the
8 state on the last day of the month in which the taxes are withheld
9 but shall be returned and paid to the department by the employer,
10 flow-through entity, casino licensee, or race meeting licensee or
11 track licensee within 15 days after the end of any month or as
12 provided in section 355, except prior to July 1, 1993, taxes
13 deposited pursuant to section 19(2) of 1941 PA 122, MCL 205.19, are
14 accrued on the last day of the filing period. **FOR AN EMPLOYER OR**
15 **FLOW-THROUGH ENTITY THAT HAS ENTERED INTO AN AGREEMENT WITH A**
16 **COMMUNITY COLLEGE PURSUANT TO CHAPTER 13 OF THE COMMUNITY COLLEGE**
17 **ACT OF 1966, 1966 PA 331, MCL 389.161 TO 389.166, A PORTION OF THE**
18 **TAXES WITHHELD UNDER THIS SECTION THAT ARE ATTRIBUTABLE TO EACH**
19 **EMPLOYEE IN A NEW JOB CREATED PURSUANT TO THE AGREEMENT SHALL**
20 **ACCRUE TO THE COMMUNITY COLLEGE ON THE LAST DAY OF THE MONTH IN**
21 **WHICH THE TAXES ARE WITHHELD BUT SHALL BE RETURNED AND PAID TO THE**
22 **COMMUNITY COLLEGE BY THE EMPLOYER OR FLOW-THROUGH ENTITY WITHIN 15**
23 **DAYS AFTER THE END OF ANY MONTH OR AS PROVIDED IN SECTION 355 FOR**
24 **AS LONG AS THE AGREEMENT REMAINS IN EFFECT. FOR PURPOSES OF THIS**
25 **ACT AND 1941 PA 122, MCL 205.1 TO 205.31, PAYMENTS MADE BY AN**
26 **EMPLOYER OR FLOW-THROUGH ENTITY TO A COMMUNITY COLLEGE UNDER THIS**
27 **SUBSECTION SHALL BE CONSIDERED INCOME TAXES PAID TO THIS STATE.**

1 (7) An employer, flow-through entity, casino licensee, or race
2 meeting licensee or track licensee required by this section to
3 deduct and withhold taxes on compensation, a share of income
4 available for distribution on which withholding is required under
5 subsection (2), winning on which withholding is required under
6 subsection (3), or a payoff price on which withholding is required
7 under subsection (4) holds the amount of tax withheld as a trustee
8 for the state ~~—~~is liable for the payment of the tax to the state ~~—~~
9 **OR, IF APPLICABLE, TO THE COMMUNITY COLLEGE** and is not liable to
10 any individual for the amount of the payment.

11 (8) An employer in this state is not required to deduct and
12 withhold a tax on the compensation paid to a nonresident individual
13 employee, who, under section 256, may claim a tax credit equal to
14 or in excess of the tax estimated to be due for the tax year or is
15 exempted from liability for the tax imposed by this act. In each
16 tax year, the nonresident individual shall furnish to the employer,
17 on a form approved by the department, a verified statement of
18 nonresidence.

19 (9) An employer, flow-through entity, casino licensee, or race
20 meeting licensee or track licensee required to withhold a tax under
21 this act, by the fifteenth day of the following month, shall
22 provide the department with a copy of any exemption certificate on
23 which the employee, nonresident member, or person subject to
24 withholding under subsection (3) or (4) claims more than 9 personal
25 or dependency exemptions, claims a status that exempts the
26 employee, nonresident member, or person subject to withholding
27 under subsection (3) or (4) from withholding under this section, or

1 elects to pay the tax imposed by this act calculated under section
2 51a.

3 (10) An employer shall deduct and withhold the tax imposed by
4 this act calculated under section 51a for a resident who files an
5 exemption certificate under subsection (9) to elect to pay the tax
6 calculated under section 51a.

7 (11) The exemption certificate required by this section shall
8 include the following statement, "Electing to file using the no-
9 form option may not be for everyone who is eligible. If a taxpayer
10 chooses the no-form option, he or she may not be eligible for some
11 of the credits allowed under this act including the property tax
12 credit allowed under sections 520 and 522, the tuition tax credit
13 allowed under section 274, and the city income tax credit allowed
14 under section 257.".

15 (12) As used in this section:

16 (a) "Casino" means that term as defined in section 110.

17 (b) "Casino licensee" means a person licensed to operate a
18 casino under the Michigan gaming control and revenue act, ~~the~~
19 ~~Initiated Law of 1996 IL 1~~, MCL 432.201 to 432.226.

20 (c) "Race meeting licensee" and "track licensee" mean a person
21 to whom a race meeting license or track license is issued pursuant
22 to section 8 of the horse racing law of 1995, 1995 PA 279, MCL
23 431.308.

24 Sec. 355. (1) All provisions relating to the administration,
25 collection, and enforcement of this act apply to the employer,
26 flow-through entity, casino licensee, or race meeting licensee or
27 track licensee required to withhold taxes and to the taxes required

1 to be withheld. If the department has reasonable grounds to believe
 2 that an employer, flow-through entity, casino licensee, or race
 3 meeting licensee or track licensee will not pay taxes withheld to
 4 the state **OR, IF APPLICABLE, TO THE COMMUNITY COLLEGE**, as
 5 prescribed by this act, or to provide a more efficient
 6 administration, the department may require the employer, flow-
 7 through entity, casino licensee, or race meeting licensee or track
 8 licensee to make the return and pay to the department **OR, IF**
 9 **APPLICABLE, TO THE COMMUNITY COLLEGE**, the tax deducted and withheld
 10 at other than monthly periods, or from time to time, or require the
 11 employer, flow-through entity, casino licensee, or race meeting
 12 licensee or track licensee to deposit the tax in a bank approved by
 13 the department in a separate account, in trust for the department
 14 **OR, IF APPLICABLE, THE COMMUNITY COLLEGE**, and payable to the
 15 department **OR COMMUNITY COLLEGE**, and to keep the amount of the
 16 taxes in the account until payment over to the department **OR**
 17 **COMMUNITY COLLEGE**.

18 (2) Every publicly traded partnership as that term is defined
 19 under section 7704 of the internal revenue code that has equity
 20 securities registered with the securities and exchange commission
 21 under section 12 of title I of the securities and exchange act of
 22 1934, ~~chapter 404, 48 Stat. 881, 15 U.S.C. 15 USC 78l~~, shall file on
 23 or before each August 31 all unitholder information from the
 24 publicly traded partnership's schedule K-1 for the immediately
 25 preceding calendar year by paper or electronic format on a form
 26 prescribed by the department.

27 (3) As used in this section:

1 (a) "Casino" means that term as defined in section 110.

2 (b) "Casino licensee" means a person licensed to operate a
3 casino under the Michigan gaming control and revenue act, ~~the~~
4 ~~Initiated Law of 1996 IL 1~~, MCL 432.201 to 432.226.

5 (c) "Race meeting licensee" and "track licensee" mean a person
6 to whom a race meeting license or track license is issued pursuant
7 to section 8 of the horse racing law of 1995, 1995 PA 279, MCL
8 431.308.

9 Sec. 365. (1) Every employer, flow-through entity, casino
10 licensee, and race meeting licensee and track licensee required by
11 this act to deduct and withhold taxes for a tax year on
12 compensation, share of income available for distribution, winnings,
13 or payoff on a winning ticket shall furnish to each employee,
14 nonresident member, or person with winnings or a payoff on a
15 winning ticket subject to withholding under this act on or before
16 January 31 of the succeeding year a statement in duplicate of the
17 total compensation, share of income available for distribution,
18 winnings, or payoff on a winning ticket paid during the tax year
19 and the amount deducted or withheld. However, if employment is
20 terminated before the close of a calendar year by an employer who
21 goes out of business or permanently ceases to be an employer in
22 this state, or a flow-through entity, casino licensee, race meeting
23 licensee, or track licensee goes out of business or permanently
24 ceases to be a flow-through entity, casino licensee, race meeting
25 licensee, or track licensee before the close of a calendar year,
26 then the statement required by this subsection shall be issued
27 within 30 days after the last compensation, share of income

1 available for distribution, winnings, or payoff of a winning ticket
2 is paid. A duplicate of a statement made pursuant to this section
3 and an annual reconciliation return, MI-W3, shall be filed with the
4 department by February 28 of the succeeding year except that an
5 employer, flow-through entity, casino licensee, and race meeting
6 licensee and track licensee who goes out of business or permanently
7 ceases to be an employer, flow-through entity, casino licensee, and
8 race meeting licensee and track licensee shall file the statement
9 and the annual reconciliation return within 30 days after going out
10 of business or permanently ceasing to be an employer, flow-through
11 entity, casino licensee, and race meeting licensee and track
12 licensee.

13 (2) Every employer, flow-through entity, casino licensee, and
14 race meeting licensee and track licensee required by this act to
15 deduct or withhold taxes from compensation, share of income
16 available for distribution, winnings, or payoff on a winning ticket
17 shall make a return or report in form and content and at times as
18 prescribed by the department. **AN EMPLOYER OR FLOW-THROUGH ENTITY**
19 **THAT HAS ENTERED INTO AN AGREEMENT WITH A COMMUNITY COLLEGE**
20 **PURSUANT TO CHAPTER 13 OF THE COMMUNITY COLLEGE ACT OF 1966, 1966**
21 **PA 331, MCL 389.161 TO 389.166, AND IS REQUIRED TO DEDUCT OR**
22 **WITHHOLD TAXES FROM COMPENSATION AND MAKE PAYMENTS TO A COMMUNITY**
23 **COLLEGE PURSUANT TO THE AGREEMENT FOR A PORTION OF THOSE TAXES**
24 **WITHHELD SHALL, FOR AS LONG AS THE AGREEMENT REMAINS IN EFFECT,**
25 **DELINEATE IN THE RETURN OR REPORT REQUIRED UNDER THIS SUBSECTION**
26 **BETWEEN THE AMOUNT DEDUCTED OR WITHHELD AND PAID TO THE STATE AND**
27 **THAT AMOUNT PAID TO A COMMUNITY COLLEGE.**

1 (3) Every employee, nonresident member, or person with
2 winnings or a payoff on a winning ticket subject to withholding
3 under this act shall furnish to his or her employer, flow-through
4 entity, casino licensee, and race meeting licensee and track
5 licensee information required for the employer, flow-through
6 entity, casino licensee, and race meeting licensee and track
7 licensee to make an accurate withholding. An employee, nonresident
8 member, or person with winnings or a payoff on a winning ticket
9 subject to withholding under this act shall file with his or her
10 employer, flow-through entity, casino licensee, and race meeting
11 licensee and track licensee revised information within 10 days
12 after a decrease in the number of exemptions or a change in status
13 from a nonresident to a resident. An employee shall file revised
14 information with his or her employer within 10 days after the
15 employee completes the residency requirements under section
16 31(11)(d), and when a change of status occurs from resident of a
17 renaissance zone to nonresident of a renaissance zone. Within 10
18 days after an employer receives revised information from an
19 employee who completes the residency requirements under section
20 31(11)(d), the employer shall forward a copy of that revised
21 information to the department. The employee, nonresident member, or
22 person with winnings or a payoff on a winning ticket subject to
23 withholding under this act may file revised information when the
24 number of exemptions increases or when a change in status occurs
25 from that of a resident of this state to a nonresident of this
26 state. Revised information shall not be given retroactive effect
27 for withholding purposes. An employer, flow-through entity, casino

1 licensee, and race meeting licensee and track licensee shall rely
 2 on this information for withholding purposes unless directed by the
 3 department to withhold on some other basis. If an employee,
 4 nonresident member, or person with winnings or a payoff on a
 5 winning ticket subject to withholding under this act fails or
 6 refuses to furnish information, the employer, flow-through entity,
 7 casino licensee, and race meeting licensee and track licensee shall
 8 withhold the full rate of tax from the employee's total
 9 compensation, the nonresident member's share of income available
 10 for distribution, or the winnings of a person with winnings or a
 11 payoff on a winning ticket subject to withholding under this act.
 12 As used in this subsection, "renaissance zone" means a renaissance
 13 zone designated pursuant to the Michigan renaissance zone act, 1996
 14 PA 376, MCL 125.2681 to 125.2696.

15 (4) As used in this section:

16 (a) "Casino" means that term as defined in section 110.

17 (b) "Casino licensee" means a person licensed to operate a
 18 casino under the Michigan gaming control and revenue act, ~~the~~
 19 ~~Initiated Law of 1996 IL 1~~, MCL 432.201 to 432.226.

20 (c) "Race meeting licensee" and "track licensee" mean a person
 21 to whom a race meeting license or track license is issued pursuant
 22 to section 8 of the horse racing law of 1995, 1995 PA 279, MCL
 23 431.308.

24 **SEC. 366. BY JULY 1 OF EACH YEAR, BASED ON THE INFORMATION**
 25 **RECEIVED FROM EACH COMMUNITY COLLEGE DISTRICT PURSUANT TO SECTION**
 26 **163 OF THE COMMUNITY COLLEGE ACT OF 1966, 1966 PA 331, MCL 389.163,**
 27 **THE DEPARTMENT SHALL SUBMIT TO THE GOVERNOR, THE CLERK OF THE HOUSE**

1 OF REPRESENTATIVES, THE SECRETARY OF THE SENATE, THE CHAIRPERSON OF
2 EACH STANDING COMMITTEE THAT HAS JURISDICTION OVER ECONOMIC
3 DEVELOPMENT ISSUES, THE CHAIRPERSON OF EACH LEGISLATIVE BUDGET
4 SUBCOMMITTEE THAT HAS JURISDICTION OVER ECONOMIC DEVELOPMENT
5 ISSUES, AND THE PRESIDENT OF THE MICHIGAN STRATEGIC FUND AN ANNUAL
6 REPORT CONCERNING THE OPERATION AND EFFECTIVENESS OF THE NEW JOBS
7 TRAINING PROGRAMS AND THE CORRESPONDING WITHHOLDING REQUIREMENTS
8 UNDER THIS CHAPTER. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

9 (A) THE NUMBER OF COMMUNITY COLLEGES PARTICIPATING IN THE NEW
10 JOBS TRAINING PROGRAM AND THE NAMES OF THOSE COLLEGES.

11 (B) THE NUMBER OF EMPLOYERS THAT HAVE ENTERED INTO AGREEMENTS
12 WITH COMMUNITY COLLEGES PURSUANT TO THE NEW JOBS TRAINING PROGRAM
13 AND THE NAMES OF THOSE EMPLOYERS ORGANIZED BY MAJOR INDUSTRY GROUP
14 UNDER THE STANDARD INDUSTRIAL CLASSIFICATION CODE AS COMPILED BY
15 THE UNITED STATES DEPARTMENT OF LABOR.

16 (C) THE TOTAL AMOUNT OF MONEY FROM A NEW JOBS CREDIT FROM
17 WITHHOLDING EACH EMPLOYER DESCRIBED IN SUBDIVISION (B) HAS REMITTED
18 TO THE COMMUNITY COLLEGE DISTRICT.

19 (D) THE TOTAL AMOUNT OF NEW JOBS TRAINING REVENUE BONDS EACH
20 COMMUNITY COLLEGE DISTRICT HAS AUTHORIZED, ISSUED, OR SOLD.

21 (E) THE TOTAL AMOUNT OF EACH COMMUNITY COLLEGE DISTRICT'S DEBT
22 RELATED TO AGREEMENTS AT THE END OF THE CALENDAR YEAR.

23 (F) THE NUMBER OF DEGREES OR CERTIFICATES AWARDED TO PROGRAM
24 PARTICIPANTS IN THE CALENDAR YEAR.

25 (G) THE NUMBER OF INDIVIDUALS WHO ENTERED A PROGRAM AT EACH
26 COMMUNITY COLLEGE DISTRICT IN THE CALENDAR YEAR; WHO COMPLETED THE
27 PROGRAM IN THE CALENDAR YEAR; AND WHO WERE ENROLLED IN A PROGRAM AT

1 THE END OF THE CALENDAR YEAR.

2 (H) THE NUMBER OF INDIVIDUALS WHO COMPLETED A PROGRAM AN
3 EMPLOYER DESCRIBED IN SUBDIVISION (B) HIRED TO FILL NEW JOBS.

4 Enacting section 1. This amendatory act does not take effect
5 unless Senate Bill No. 1342

6 of the 94th Legislature is enacted into law.