

# SENATE BILL No. 1188

March 5, 2008, Introduced by Senators GILBERT, CLARKE, STAMAS and HUNTER and referred to the Committee on Commerce and Tourism.

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
(MCL 208.1101 to 208.1601) by adding section 431b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 431B. (1) UPON APPLICATION, A PERSON OR GROUP OF PERSONS  
2        ACTING COLLECTIVELY MAY ENTER INTO AN AGREEMENT WITH THE MICHIGAN  
3        ECONOMIC GROWTH AUTHORITY FOR A CREDIT UNDER THIS SECTION. IN  
4        DETERMINING WHETHER TO ENTER INTO AN AGREEMENT WITH A PERSON OR  
5        GROUP OF PERSONS, THE AUTHORITY SHALL CONSIDER THE FOLLOWING  
6        FACTORS:

7        (A) THE NUMBER OF QUALIFIED NEW JOBS OR PRODUCTS, OR BOTH, TO  
8        BE CREATED OR MAINTAINED AS A RESULT OF WINNING A FEDERAL  
9        PROCUREMENT CONTRACT OFFERED BY THE UNITED STATES DEPARTMENT OF

1 DEFENSE, DEPARTMENT OF ENERGY, OR DEPARTMENT OF HOMELAND SECURITY.

2 (B) THE POTENTIAL IMPACT OF THE EXPANSION, RETENTION, OR  
3 LOCATION ON THE ECONOMY OF MICHIGAN IF THE PERSON OR GROUP OF  
4 PERSONS ACTING COLLECTIVELY IS AWARDED THE FEDERAL CONTRACT  
5 DESCRIBED UNDER SUBDIVISION (A).

6 (C) THE NUMBER OF OUT-OF-STATE PERSONS BIDDING AGAINST THE  
7 PERSON OR GROUP OF PERSONS ACTING COLLECTIVELY FOR THE FEDERAL  
8 CONTRACT DESCRIBED UNDER SUBDIVISION (A).

9 (D) THE TOTAL CAPITAL INVESTMENT OR NEW CAPITAL INVESTMENT THE  
10 PERSON OR GROUP OF PERSONS ACTING COLLECTIVELY WILL MAKE TO WIN AND  
11 MAINTAIN THE FEDERAL CONTRACT DESCRIBED UNDER SUBDIVISION (A).

12 (2) THE AGREEMENT REQUIRED UNDER SUBSECTION (1) SHALL INCLUDE,  
13 BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

14 (A) A DESCRIPTION OF THE FEDERAL CONTRACT FOR WHICH THE PERSON  
15 OR GROUP OF PERSONS ACTING COLLECTIVELY INTENDS TO BID.

16 (B) A DESCRIPTION OF THE PERSON'S OR GROUP'S EXPANSION,  
17 RETENTION, OR LOCATION THAT IS NECESSARY IF AWARDED THE FEDERAL  
18 CONTRACT THAT IS THE SUBJECT OF THE AGREEMENT.

19 (C) CONDITIONS UPON WHICH THE PERSON OR GROUP OF PERSONS  
20 ACTING COLLECTIVELY IS DESIGNATED A QUALIFIED TAXPAYER UNDER THIS  
21 SECTION.

22 (D) A STATEMENT BY THE PERSON OR GROUP OF PERSONS ACTING  
23 COLLECTIVELY THAT A VIOLATION OF THE WRITTEN AGREEMENT MAY RESULT  
24 IN THE REVOCATION OF THE DESIGNATION AS A QUALIFIED TAXPAYER AND  
25 THE LOSS OR REDUCTION OF FUTURE CREDITS UNDER THIS SECTION.

26 (E) A STATEMENT BY THE PERSON OR GROUP OF PERSONS ACTING  
27 COLLECTIVELY THAT A MISREPRESENTATION IN THE APPLICATION MAY RESULT

1 IN THE REVOCATION OF THE DESIGNATION AS A QUALIFIED TAXPAYER AND  
2 THE REFUND OF CREDITS RECEIVED UNDER THIS SECTION.

3 (F) A METHOD FOR MEASURING QUALIFIED NEW JOBS BEFORE AND AFTER  
4 THE AWARD OF A FEDERAL CONTRACT AND THE EXPANSION, RETENTION, OR  
5 LOCATION OF THE PERSON OR GROUP OF PERSONS ACTING COLLECTIVELY IN  
6 THIS STATE AS A RESULT OF WINNING THE FEDERAL CONTRACT.

7 (3) A QUALIFIED TAXPAYER MAY CLAIM A CREDIT AGAINST THE TAX  
8 IMPOSED BY THIS ACT IN AN AMOUNT UP TO 100% OF THE QUALIFIED  
9 TAXPAYER'S PAYROLL ATTRIBUTABLE TO EMPLOYEES WHO PERFORM QUALIFIED  
10 NEW JOBS CREATED AS A RESULT OF THE PERSON OR GROUP OF PERSONS  
11 ACTING COLLECTIVELY BEING AWARDED A FEDERAL PROCUREMENT CONTRACT BY  
12 THE UNITED STATES DEPARTMENT OF DEFENSE, DEPARTMENT OF ENERGY, OR  
13 DEPARTMENT OF HOMELAND SECURITY AS DETERMINED BY THE MICHIGAN  
14 ECONOMIC GROWTH AUTHORITY, MULTIPLIED BY THE TAX RATE FOR THE TAX  
15 YEAR FOR A PERIOD OF UP TO 7 YEARS OR THE TERM OF THE CONTRACT,  
16 WHICHEVER IS LESS, AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH  
17 AUTHORITY. IF THE QUALIFIED TAXPAYER IS A GROUP OF PERSONS ACTING  
18 COLLECTIVELY, THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL  
19 DETERMINE THE AMOUNT OF THE CREDIT WHICH EACH PERSON INCLUDED IN  
20 THE GROUP IS ALLOWED TO CLAIM BY MULTIPLYING THE AMOUNT OF THE  
21 CREDIT ALLOWED COLLECTIVELY BY THE QUALIFIED TAXPAYER BY A  
22 FRACTION, THE NUMERATOR OF WHICH IS THE PERSON'S PAYROLL  
23 ATTRIBUTABLE TO EMPLOYEES WHO PERFORM QUALIFIED NEW JOBS AND THE  
24 DENOMINATOR OF WHICH IS 100% OF THE QUALIFIED TAXPAYER'S PAYROLL  
25 ATTRIBUTABLE TO EMPLOYEES WHO PERFORM QUALIFIED NEW JOBS, AND THEN  
26 CERTIFYING THE AMOUNT OF THE CREDIT THAT EACH PERSON IS ALLOWED TO  
27 CLAIM RESPECTIVELY. IF THE CREDIT ALLOWED UNDER THIS SUBSECTION

1 EXCEEDS THE LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THE  
2 TAXPAYER MAY ELECT TO HAVE THAT PORTION THAT EXCEEDS THE TAX  
3 LIABILITY OF THE TAXPAYER REFUNDED OR TO HAVE THE EXCESS CARRIED  
4 FORWARD TO OFFSET TAX LIABILITY IN SUBSEQUENT YEARS FOR 10 YEARS OR  
5 UNTIL IT IS USED UP, WHICHEVER OCCURS FIRST. THE MICHIGAN ECONOMIC  
6 GROWTH AUTHORITY SHALL NOT EXECUTE MORE THAN 10 NEW WRITTEN  
7 AGREEMENTS EACH YEAR. IF A QUALIFIED TAXPAYER IS AWARDED A CREDIT  
8 UNDER THIS SECTION, ANY SUBSEQUENT CREDITS AWARDED TO THAT  
9 QUALIFIED TAXPAYER SHALL NOT BE INCLUDED IN DETERMINING THE YEARLY  
10 LIMIT OF 10 NEW AGREEMENTS UNDER THIS SUBSECTION.

11 (4) A TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION  
12 UNLESS THE MICHIGAN ECONOMIC GROWTH AUTHORITY HAS ISSUED THE  
13 TAXPAYER A CERTIFICATE OF DESIGNATION AS A QUALIFIED TAXPAYER. THE  
14 TAXPAYER SHALL ATTACH THE CERTIFICATE TO THE ANNUAL RETURN FILED  
15 UNDER THIS ACT ON WHICH THE CREDIT UNDER THIS SECTION IS CLAIMED.  
16 THE CERTIFICATE REQUIRED BY THIS SUBSECTION SHALL STATE ALL OF THE  
17 FOLLOWING:

18 (A) THE TAXPAYER IS A QUALIFIED TAXPAYER.

19 (B) THE AMOUNT OF THE CREDIT UNDER THIS SECTION FOR THE  
20 QUALIFIED TAXPAYER FOR THE DESIGNATED TAX YEAR OR, IF THE QUALIFIED  
21 TAXPAYER IS A GROUP OF PERSONS, THE PERCENTAGE OF THE AMOUNT OF THE  
22 CREDIT THAT THE TAXPAYER IS ALLOWED TO CLAIM FOR THE DESIGNATED TAX  
23 YEAR.

24 (C) THE TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER OR  
25 THE MICHIGAN DEPARTMENT OF TREASURY NUMBER ASSIGNED TO THE  
26 TAXPAYER.

27 (5) AS USED IN THIS SECTION:

1 (A) "FULL-TIME JOB" MEANS A JOB PERFORMED BY AN INDIVIDUAL FOR  
2 35 HOURS OR MORE EACH WEEK AND WHOSE INCOME AND SOCIAL SECURITY  
3 TAXES ARE WITHHELD BY 1 OR MORE OF THE FOLLOWING:

4 (i) A TAXPAYER.

5 (ii) AN EMPLOYEE LEASING COMPANY ON BEHALF OF A TAXPAYER.

6 (iii) A PROFESSIONAL EMPLOYER ORGANIZATION ON BEHALF OF A  
7 TAXPAYER.

8 (B) "MICHIGAN ECONOMIC GROWTH AUTHORITY" OR "AUTHORITY" MEANS  
9 THE MICHIGAN ECONOMIC GROWTH AUTHORITY CREATED IN THE MICHIGAN  
10 ECONOMIC GROWTH AUTHORITY ACT, 1995 PA 24, MCL 207.801 TO 207.810.

11 (C) "QUALIFIED NEW JOB" MEANS A FULL-TIME JOB CREATED BY A  
12 QUALIFIED TAXPAYER AT A FACILITY OR FACILITIES THAT IS IN EXCESS OF  
13 THE NUMBER OF FULL-TIME JOBS THE QUALIFIED TAXPAYER MAINTAINED IN  
14 THIS STATE OR AT A FACILITY PRIOR TO BEING AWARDED THE FEDERAL  
15 PROCUREMENT CONTRACT AND THE EXPANSION OR LOCATION, AS DETERMINED  
16 BY THE AUTHORITY.

17 (D) "QUALIFIED TAXPAYER" MEANS A PERSON THAT INDIVIDUALLY  
18 SATISFIES EACH OF THE FOLLOWING OR A GROUP OF 1 OR MORE PERSONS  
19 THAT ENTER INTO A COOPERATIVE OR INFORMAL AGREEMENT TO ACT  
20 COLLECTIVELY AND SATISFY EACH OF THE FOLLOWING:

21 (i) HAS ENTERED INTO AN AGREEMENT WITH THE AUTHORITY AS  
22 DESCRIBED UNDER THIS SECTION.

23 (ii) HAS SUBMITTED A COMPETITIVE BID FOR A FEDERAL PROCUREMENT  
24 CONTRACT OFFERED BY THE UNITED STATES DEPARTMENT OF DEFENSE,  
25 DEPARTMENT OF ENERGY, OR DEPARTMENT OF HOMELAND SECURITY.

26 (iii) HAS BEEN AWARDED THE FEDERAL CONTRACT FOR WHICH THE PERSON  
27 OR GROUP OF PERSONS ACTING COLLECTIVELY SUBMITTED A BID UNDER

1    **SUBPARAGRAPH (ii) .**

2           **(iv) HAS CREATED A MINIMUM OF 25 QUALIFIED NEW JOBS.**

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

6           (a) Senate Bill No. 1115.

7           (b) Senate Bill No. 1187.

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9           (c) Senate Bill No. 1190.

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11           (d) Senate Bill No. 1189.

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