

SENATE BILL No. 1190

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

A bill to amend 2007 PA 36, entitled "Michigan business tax act," by amending section 431 (MCL 208.1431).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 431. (1) ~~For~~ **EXCEPT AS OTHERWISE PROVIDED UNDER THIS**
2 **SUBSECTION, FOR** a period of time not to exceed 20 years as
3 determined by the Michigan economic growth authority, a taxpayer
4 that is an authorized business ~~or an eligible taxpayer~~ may claim a
5 credit against the tax imposed by this act equal to the amount
6 certified each year by the Michigan economic growth authority as
7 follows:

8 (a) For an authorized business for the tax year, an amount not
9 to exceed the payroll **AND HEALTH CARE BENEFITS** of the authorized

1 business attributable to employees who perform qualified new jobs
2 as determined under the Michigan economic growth authority act,
3 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

4 (b) For an eligible business as determined under section
5 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24,
6 MCL 207.808, an amount not to exceed 50% of the payroll **AND HEALTH**
7 **CARE BENEFITS** of the ~~eligible taxpayer~~ **AUTHORIZED BUSINESS**
8 attributable to employees who perform retained jobs as determined
9 under the Michigan economic growth authority act, 1995 PA 24, MCL
10 207.801 to 207.810, multiplied by the tax rate for the tax year.

11 (c) For an eligible business as determined under section
12 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24,
13 MCL 207.808, an amount not to exceed the payroll **AND HEALTH CARE**
14 **BENEFITS** of the ~~eligible taxpayer~~ **AUTHORIZED BUSINESS** attributable
15 to employees who perform retained jobs as determined under the
16 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
17 207.810, multiplied by the tax rate for the tax year.

18 (D) **FOR A PERIOD OF TIME NOT TO EXCEED 7 YEARS AS DETERMINED**
19 **BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY, FOR A QUALIFIED HIGH-**
20 **TECHNOLOGY BUSINESS FOR EACH OF THE FIRST 3 TAX YEARS OF THE**
21 **CREDIT, AN AMOUNT NOT TO EXCEED 200% OF THE PAYROLL AND HEALTH CARE**
22 **BENEFITS OF THE HIGH-TECHNOLOGY BUSINESS ATTRIBUTABLE TO EMPLOYEES**
23 **WHO PERFORM QUALIFIED NEW JOBS AS DETERMINED UNDER THE MICHIGAN**
24 **ECONOMIC GROWTH AUTHORITY ACT, 1995 PA 24, MCL 207.801 TO 207.810,**
25 **MULTIPLIED BY THE TAX RATE AND, FOR EACH OF THE REMAINING TAX YEARS**
26 **OF THE CREDIT, AN AMOUNT NOT TO EXCEED 100% OF THE PAYROLL AND**
27 **HEALTH CARE BENEFITS OF THE HIGH-TECHNOLOGY BUSINESS ATTRIBUTABLE**

1 TO EMPLOYEES WHO PERFORM QUALIFIED NEW JOBS AS DETERMINED UNDER THE
2 MICHIGAN ECONOMIC GROWTH AUTHORITY ACT, 1995 PA 24, MCL 207.801 TO
3 207.810, MULTIPLIED BY THE TAX RATE.

4 (2) A taxpayer shall not claim a credit under this section
5 unless the Michigan economic growth authority has issued a
6 certificate to the taxpayer. The taxpayer shall attach the
7 certificate to the annual return filed under this act on which a
8 credit under this section is claimed.

9 (3) The certificate required by subsection (2) shall state all
10 of the following:

11 (a) The taxpayer is an authorized business. ~~or an eligible~~
12 ~~taxpayer.~~

13 (b) The amount of the credit under this section for the
14 authorized business ~~or eligible taxpayer~~ for the designated tax
15 year.

16 (c) The taxpayer's federal employer identification number or
17 the Michigan department of treasury number assigned to the
18 taxpayer.

19 (4) The Michigan economic growth authority may certify a
20 credit under this section based on an agreement entered into prior
21 to January 1, 2008 pursuant to section 37c of former 1975 PA 228.
22 The number of years for which the credit may be claimed under this
23 section shall equal the maximum number of years designated in the
24 resolution reduced by the number of years for which a credit has
25 been claimed or could have been claimed under section 37c of former
26 1975 PA 228.

27 (5) If the credit allowed under this section exceeds the tax

1 liability of the taxpayer for the tax year, that portion of the
2 credit that exceeds the tax liability of the taxpayer shall be
3 refunded.

4 (6) ~~A~~ EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, A
5 taxpayer that claims a credit under subsection (1) or section 37c
6 or 37d of former 1975 PA 228, that has an agreement with the
7 Michigan economic growth authority based on qualified new jobs as
8 defined in section 3(n)(ii) of the Michigan economic growth
9 authority act, 1995 PA 24, MCL 207.803, and that removes from this
10 state 51% or more of those qualified new jobs within 3 years after
11 the first year in which the taxpayer claims a credit described in
12 this subsection shall pay to the department no later than 12 months
13 after those qualified new jobs are removed from the state an amount
14 equal to the total of all credits described in this subsection that
15 were claimed by the taxpayer. BEGINNING JANUARY 1, 2008, A TAXPAYER
16 THAT CLAIMS A CREDIT UNDER SUBSECTION (1) OR SECTION 37C OR 37D OF
17 FORMER 1975 PA 228, AND SUBSEQUENTLY FAILS TO MEET THE REQUIREMENTS
18 OF THIS SECTION OR ANY OTHER CONDITIONS INCLUDED IN AN AGREEMENT
19 ENTERED INTO WITH THE MICHIGAN ECONOMIC GROWTH AUTHORITY IN ORDER
20 TO OBTAIN A CERTIFICATE FOR THE CREDIT CLAIMED UNDER THIS SECTION
21 OR REMOVES ANY OF THE QUALIFIED NEW JOBS FROM THIS STATE DURING THE
22 TERM OF THE WRITTEN AGREEMENT AND FOR A PERIOD OF YEARS AFTER THE
23 TERM OF THE WRITTEN AGREEMENT, AS DETERMINED BY THE MICHIGAN
24 ECONOMIC GROWTH AUTHORITY, MAY HAVE ITS CREDIT REDUCED OR
25 TERMINATED OR HAVE A PERCENTAGE OF THE CREDIT AMOUNT PREVIOUSLY
26 CLAIMED UNDER THIS SECTION ADDED BACK TO THE TAX LIABILITY OF THE
27 TAXPAYER IN THE TAX YEAR THAT THE TAXPAYER FAILS TO COMPLY WITH

1 **THIS SECTION OR THE AGREEMENT.**

2 (7) If the Michigan economic growth authority or a designee of
 3 the Michigan economic growth authority requests that a taxpayer
 4 that claims the credit under this section get a statement prepared
 5 by a certified public accountant verifying that the actual number
 6 of new jobs created is the same number of new jobs used to
 7 calculate the credit under this section, the taxpayer shall get the
 8 statement and attach that statement to its annual return under this
 9 act on which the credit under this section is claimed.

10 (8) A credit shall not be claimed by a taxpayer under this
 11 section if the taxpayer's initial certification as required in
 12 subsection (3) is issued after December 31, 2013.

13 (9) For purposes of this section, taxpayer includes a person
 14 subject to the tax imposed under chapters 2A and 2B.

15 (10) As used in this section:

16 (a) "Authorized business", "facility", "full-time job",
 17 "qualified high-technology business", and "written agreement" mean
 18 those terms as defined in the Michigan economic growth authority
 19 act, 1995 PA 24, MCL 207.801 to 207.810.

20 ~~—— (b) "Eligible taxpayer" means an authorized business that~~
 21 ~~meets the criteria under section 8(5) of the Michigan economic~~
 22 ~~growth authority act, 1995 PA 24, MCL 207.808.~~

23 **(B) "HEALTH CARE BENEFITS" MEANS ALL COSTS PAID FOR A SELF-**
 24 **FUNDED HEALTH CARE BENEFIT PLAN OR FOR AN EXPENSE-INCURRED**
 25 **HOSPITAL, MEDICAL, OR SURGICAL POLICY OR CERTIFICATE, NONPROFIT**
 26 **HEALTH CARE CORPORATION CERTIFICATE, OR HEALTH MAINTENANCE**
 27 **ORGANIZATION CONTRACT. HEALTH CARE BENEFIT DOES NOT INCLUDE**

1 ACCIDENT-ONLY, CREDIT, DENTAL, OR DISABILITY INCOME INSURANCE;
2 LONG-TERM CARE INSURANCE; COVERAGE ISSUED AS A SUPPLEMENT TO
3 LIABILITY INSURANCE; COVERAGE ONLY FOR A SPECIFIED DISEASE OR
4 ILLNESS; WORKER'S COMPENSATION OR SIMILAR INSURANCE; OR AUTOMOBILE
5 MEDICAL PAYMENT INSURANCE.

6 (c) "Michigan economic growth authority" means the Michigan
7 economic growth authority created in the Michigan economic growth
8 authority act, 1995 PA 24, MCL 207.801 to 207.810.

9 (d) "Payroll" means the total salaries and wages before
10 deducting any personal or dependency exemptions.

11 (e) "Qualified new jobs" means 1 or more of the following:

12 (i) The average number of full-time jobs at a facility of an
13 authorized business for a tax year in excess of the average number
14 of full-time jobs the authorized business maintained in this state
15 prior to the expansion or location as that is determined under the
16 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
17 207.810.

18 (ii) The average number of full-time jobs at a facility created
19 by an eligible business ~~within 120~~ **UP TO 90** days before becoming an
20 authorized business that is in excess of the average number of
21 full-time jobs that the business maintained in this state ~~120~~ **60**
22 days before becoming an authorized business, as determined under
23 the Michigan economic growth authority act, 1995 PA 24, MCL 207.801
24 to 207.810.

25 (f) "Tax rate" means the rate imposed under section ~~51e~~ **51** of
26 the income tax act of 1967, 1967 PA 281, MCL ~~206.51e~~ **206.51**, for
27 the tax year in which the tax year of the taxpayer for which the

1 credit is being computed begins.

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

5 (a) Senate Bill No. 1115.

6 (b) Senate Bill No. 1187.

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8 (c) Senate Bill No. 1188.

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10 (d) Senate Bill No. 1189.

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