

Act No. 183
Public Acts of 2007
Approved by the Governor
December 20, 2007
Filed with the Secretary of State
December 21, 2007
EFFECTIVE DATE: December 21, 2007

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2007**

Introduced by Rep. Robert Jones

ENROLLED HOUSE BILL No. 5484

AN ACT to amend 1984 PA 431, entitled "An act to prescribe the powers and duties of the department of management and budget; to define the authority and functions of its director and its organizational entities; to authorize the department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts," by amending sections 268, 350d, and 367b (MCL 18.1268, 18.1350d, and 18.1367b), section 268 as added by 1988 PA 237, section 350d as added by 1988 PA 504, and section 367b as amended by 1999 PA 8.

The People of the State of Michigan enact:

Sec. 268. (1) A bidder for a state contract is a Michigan business for the purposes of this section if it certifies that it has done any of the following during the 12 months immediately preceding the bid deadline or for the period the business has been in existence, if the business is newly established within the 12 months immediately preceding the bid deadline:

(a) Filed a Michigan single business tax return or Michigan business tax return showing a portion or all of the income tax base allocated or apportioned to the state of Michigan pursuant to the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(b) Filed a Michigan income tax return showing income generated in or attributed to the state of Michigan.

(c) Withheld Michigan income tax from compensation paid to the bidder's owners and remitted the tax to the department of treasury.

(2) The filing or withholding shall be more than a nominal filing for the purpose of gaining the status of a Michigan business, but shall indicate a significant business presence in the state, considering the size of the business and the nature of its activities.

(3) A bidder certifying that it meets the criteria for a Michigan business listed in subsections (1) and (2) shall authorize the department of treasury to verify that the bidder has or has not met 1 of the 3 criteria in subsection (1).

This authorization shall permit the department of treasury to disclose the verifying information to the procuring agency in accordance with the procedures established by section 28 of 1941 PA 122, MCL 205.28.

(4) Only a bidder that has certified that it is a Michigan business is entitled to have the department apply a reciprocal preference in its favor against a business that submits a bid from a state which applies a preference law against out-of-state bidders. A bidder that does not certify that it is a Michigan business shall indicate in its bid the state in which it maintains its principal place of business for the purpose of applying that state's preference law against the bidder.

(5) If the low bid for a state procurement exceeds \$100,000.00 and is from a business located in a state which applies a preference law against out-of-state businesses, the department shall prefer a bid from a Michigan business in the same manner in which the out-of-state bidder would be preferred in its home state.

(6) The department shall compile a list of states that give preference to in-state bidders and the extent of the preference and shall update the list at least annually. An agency may rely on this compilation in implementing the provisions of this act without incurring liability to any bidder.

(7) A bidder waives any entitlement to claim a preference under this act if the bidder has not certified in its bid that the bidder is a Michigan business and has not authorized the department of treasury to release information necessary to verify the entitlement.

(8) A bidder shall not fraudulently certify that it is a Michigan business under this act or falsely indicate the state in which it has its principal place of business for the purpose of avoiding application of the reciprocal preference.

(9) A business that purposefully or willfully submits a false certification that it is a Michigan business or falsely indicates the state in which it has its principal place of business is guilty of a felony, punishable by a fine of not less than \$25,000.00.

(10) Two years after October 1, 1988, the department shall review the costs and consequences of implementing this section. The department shall solicit input from the business community and from state agencies receiving procurements affected by the provisions of this section, and shall make recommendations to the legislature regarding continuation or modification of this section.

(11) This section shall not apply to any procurement if the provisions of this section would conflict with federal statute.

Sec. 350d. (1) The procedures enumerated in this section shall be followed when revenues are required to be refunded pursuant to section 26 of article IX of the state constitution of 1963.

(2) For any fiscal year in which total state revenues exceed the revenue limit as provided in section 26 of article IX of the state constitution of 1963 by 1% or more, the revenues in excess of the revenue limit shall be refunded in accordance with 1941 PA 122, MCL 205.1 to 205.31, for the taxpayer's tax year beginning in the fiscal year for which it is determined that the revenue limit has been exceeded.

(3) A refund shall not be required if total state revenues exceed the revenue limit by less than 1%.

(4) If total state revenues exceed the revenue limit by less than 1%, the governor shall recommend to the legislature that the excess be appropriated to the countercyclical budget and economic stabilization fund, or its successor.

(5) A refund required pursuant to this section shall be refunded during the fiscal year beginning on the October 1 following the filing of the report required by section 350e which determines that the limit was exceeded in the prior fiscal year for which the report was filed.

Sec. 367b. (1) A revenue estimating conference shall be held in the second week of January and in the last week in May of each year, and as otherwise provided in this act.

(2) The principals of the conference shall be the state budget director or the state treasurer, the director of the senate fiscal agency, and the director of the house fiscal agency, or their respective designees.

(3) The conference shall establish an official economic forecast of major variables of the national and state economies. The conference shall also establish a forecast of anticipated state revenues as the conference determines including the following:

- (a) State income tax collections.
- (b) State sales tax collections.
- (c) Single business tax collections.
- (d) Michigan business tax collections.
- (e) Total general fund/general purpose revenues.
- (f) Lottery transfers to the school aid fund.
- (g) Total school aid fund revenues.

(h) Annual percentage growth in the basic foundation allowance provided for in the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772.

(i) Compliance with the state revenue limit established by section 26 of article IX of the state constitution of 1963.

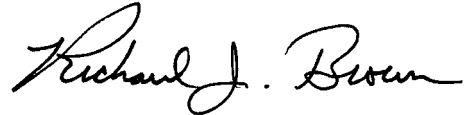
(j) Pay-ins or pay-outs required under the countercyclical budget and economic stabilization fund.

(4) The conference's official forecast of economic and revenue variables shall be determined by consensus among the principals.

(5) The forecasts required by this section shall be for the fiscal year in which the conference is being held and the ensuing fiscal year.

(6) The official conference forecast shall be based upon the assumption that the current law and current administrative procedures will remain in effect for the forecast period.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor