

Act No. 109
Public Acts of 2008
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**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senators Gilbert, Clarke, Stamas and Hunter

ENROLLED SENATE BILL No. 1188

AN ACT to amend 2007 PA 36, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations," (MCL 208.1101 to 208.1601) by adding section 431b.

The People of the State of Michigan enact:

Sec. 431b. (1) Upon application, a person or group of persons acting collectively may enter into an agreement with the Michigan economic growth authority for a credit under this section. In determining whether to enter into an agreement with a person or group of persons, the authority shall consider the following factors:

(a) The number of qualified new jobs or products, or both, to be created or maintained as a result of winning a federal procurement contract offered by the United States department of defense, department of energy, or department of homeland security.

(b) The potential impact of the expansion, retention, or location on the economy of Michigan if the person or group of persons acting collectively is awarded the federal contract described under subdivision (a).

(c) The number of out-of-state persons bidding against the person or group of persons acting collectively for the federal contract described under subdivision (a).

(d) The total capital investment or new capital investment the person or group of persons acting collectively will make to win and maintain the federal contract described under subdivision (a).

(2) The agreement required under subsection (1) shall include, but is not limited to, all of the following:

(a) A description of the federal contract for which the person or group of persons acting collectively intends to bid.

(b) A description of the person's or group's expansion, retention, or location that is necessary if awarded the federal contract that is the subject of the agreement.

(c) Conditions upon which the person or group of persons acting collectively is designated a qualified taxpayer under this section.

(d) A statement by the person or group of persons acting collectively that a violation of the written agreement may result in the revocation of the designation as a qualified taxpayer and the loss or reduction of future credits under this section.

(e) A statement by the person or group of persons acting collectively that a misrepresentation in the application may result in the revocation of the designation as a qualified taxpayer and the refund of credits received under this section.

(f) A method for measuring qualified new jobs before and after the award of a federal contract and the expansion, retention, or location of the person or group of persons acting collectively in this state as a result of winning the federal contract.

(3) A qualified taxpayer may claim a credit against the tax imposed by this act in an amount up to 100% of the qualified taxpayer's payroll attributable to employees who perform qualified new jobs created as a result of the person or group of persons acting collectively being awarded a federal procurement contract by the United States department of defense, department of energy, or department of homeland security as determined by the Michigan economic growth authority, multiplied by the tax rate for the tax year for a period of up to 7 years or the term of the contract, whichever is less, as determined by the Michigan economic growth authority. If the qualified taxpayer is a group of persons acting collectively, the Michigan economic growth authority shall determine the amount of the credit which each person included in the group is allowed to claim by multiplying the amount of the credit allowed collectively by the qualified taxpayer by a fraction, the numerator of which is the person's payroll attributable to employees who perform qualified new jobs and the denominator of which is 100% of the qualified taxpayer's payroll attributable to employees who perform qualified new jobs, and then certifying the amount of the credit that each person is allowed to claim respectively. If the credit allowed under this subsection exceeds the liability of the taxpayer for the tax year, the taxpayer may elect to have that portion that exceeds the tax liability of the taxpayer refunded or to have the excess carried forward to offset tax liability in subsequent years for 10 years or until it is used up, whichever occurs first. The Michigan economic growth authority shall not execute more than 10 new written agreements each year. If a qualified taxpayer is awarded a credit under this section, any subsequent credits awarded to that qualified taxpayer shall not be included in determining the yearly limit of 10 new agreements under this subsection.

(4) A taxpayer shall not claim a credit under this section unless the Michigan economic growth authority has issued the taxpayer a certificate of designation as a qualified taxpayer. However, a credit shall not be provided for a tax year prior to the tax year during which the certification is made. The taxpayer shall attach the certificate to the annual return filed under this act on which the credit under this section is claimed. The certificate required by this subsection shall state all of the following:

(a) The taxpayer is a qualified taxpayer.

(b) The amount of the credit under this section for the qualified taxpayer for the designated tax year or, if the qualified taxpayer is a group of persons, the percentage of the amount of the credit that the taxpayer is allowed to claim for the designated tax year.

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

(5) As used in this section:

(a) "Full-time job" means a job performed by an individual for 35 hours or more each week and whose income and social security taxes are withheld by 1 or more of the following:

(i) A taxpayer.

(ii) An employee leasing company on behalf of a taxpayer.

(iii) A professional employer organization on behalf of a taxpayer.

(b) "Michigan economic growth authority" or "authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(c) "Qualified new job" means a full-time job created by a qualified taxpayer at a facility or facilities that is in excess of the number of full-time jobs the qualified taxpayer maintained in this state or at a facility prior to being awarded the federal procurement contract and the expansion or location, as determined by the authority.

(d) "Qualified taxpayer" means a person that individually satisfies each of the following or a group of 1 or more persons that enter into a cooperative or informal agreement to act collectively and satisfy each of the following:

(i) Has entered into an agreement with the authority as described under this section.

(ii) Has submitted a competitive bid for a federal procurement contract offered by the United States department of defense, department of energy, or department of homeland security.

(iii) Has been awarded the federal contract for which the person or group of persons acting collectively submitted a bid under subparagraph (ii).

(iv) Has created a minimum of 25 qualified new jobs.

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

(a) Senate Bill No. 1187.

(b) Senate Bill No. 1189.

(c) Senate Bill No. 1190.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor