

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 774

A bill to amend 2007 PA 36, entitled  
"Michigan business tax act,"  
by amending section 431 (MCL 208.1431), as amended by 2008 PA 111.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 431. (1) 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 may claim a credit against the tax  
5 imposed by this act equal to the amount certified each year by the  
6 Michigan economic growth authority as follows:

7       (a) Except as otherwise provided under this subdivision, for  
8 an authorized business for the tax year, an amount not to exceed  
9 the payroll of the authorized business attributable to employees  
10 who perform qualified new jobs as determined under the Michigan

1 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810,  
2 multiplied by the tax rate; beginning after ~~the effective date of~~  
3 ~~the amendatory act that added subdivision (d)~~ **APRIL 28, 2008**, for  
4 an authorized business for the tax year, an amount not to exceed  
5 the sum of the payroll and health care benefits of the authorized  
6 business attributable to employees who perform qualified new jobs  
7 as determined under the Michigan economic growth authority act,  
8 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate.

9 (b) For an eligible business as determined under section  
10 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24,  
11 MCL 207.808, an amount not to exceed 50% of the payroll of the  
12 authorized business attributable to employees who perform retained  
13 jobs as determined under the Michigan economic growth authority  
14 act, 1995 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate  
15 for the tax year.

16 (c) For an eligible business as determined under section  
17 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24,  
18 MCL 207.808, an amount not to exceed the payroll of the authorized  
19 business attributable to employees who perform retained jobs as  
20 determined under the Michigan economic growth authority act, 1995  
21 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the  
22 tax year.

23 (d) For an authorized business that is a qualified high-  
24 technology business, for a period of time not to exceed 7 years as  
25 determined by the Michigan economic growth authority, an amount not  
26 to exceed 200% of the sum of the payroll and health care benefits  
27 of the qualified high-technology business attributable to employees

1 who perform qualified new jobs as determined under the Michigan  
2 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810,  
3 for the first 3 tax years of the credit, multiplied by the tax rate  
4 and, for each of the remaining tax years of the credit, an amount  
5 not to exceed 100% of the sum of the payroll and health care  
6 benefits of the qualified high-technology business attributable to  
7 employees who perform qualified new jobs as determined under the  
8 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to  
9 207.810, multiplied by the tax rate.

10 (e) For an authorized business as determined under section  
11 8(9) of the Michigan economic growth authority act, 1995 PA 24, MCL  
12 207.808, an amount up to, but not to exceed 100% of, the sum of the  
13 payroll and health care benefits of the authorized business  
14 attributable to employees who perform retained jobs multiplied by a  
15 fraction, the numerator of which is the amount of new capital  
16 investment made at the facility and the denominator of which is the  
17 product of the number of retained jobs multiplied by \$100,000.00,  
18 and then multiplied by the tax rate for the tax year.

19 (f) For an authorized business as determined under section  
20 8(11) of the Michigan economic growth authority act, 1995 PA 24,  
21 MCL 207.808, an amount not to exceed 100% of the sum of the payroll  
22 and health care benefits of the authorized business attributable to  
23 employees who perform new full-time jobs and retained jobs as  
24 determined under the Michigan economic growth authority act, 1995  
25 PA 24, MCL 207.801 to 207.810, multiplied by the tax rate for the  
26 tax year.

27 (2) A taxpayer shall not claim a credit under this section

1 unless the Michigan economic growth authority has issued a  
2 certificate to the taxpayer. The taxpayer shall attach the  
3 certificate to the annual return filed under this act on which a  
4 credit under this section is claimed.

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

7 (a) The taxpayer is an authorized business.

8 (b) The amount of the credit under this section for the  
9 authorized business for the designated tax year.

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

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

21 (5) If the credit allowed under this section exceeds the tax  
22 liability of the taxpayer for the tax year, that portion of the  
23 credit that exceeds the tax liability of the taxpayer shall be  
24 refunded.

25 (6) Except as otherwise provided under this subsection, a  
26 taxpayer that claims a credit under subsection (1) or section 37c  
27 or 37d of former 1975 PA 228, that has an agreement with the

1 Michigan economic growth authority based on qualified new jobs as  
2 defined in section ~~3(p)(ii)~~ **3(Q)(ii)** of the Michigan economic growth  
3 authority act, 1995 PA 24, MCL 207.803, and that removes from this  
4 state 51% or more of those qualified new jobs within 3 years after  
5 the first year in which the taxpayer claims a credit described in  
6 this subsection shall pay to the department no later than 12 months  
7 after those qualified new jobs are removed from the state an amount  
8 equal to the total of all credits described in this subsection that  
9 were claimed by the taxpayer. Beginning after ~~the effective date of~~  
10 ~~the amendatory act that added subsection (1)(d)~~ **APRIL 28, 2008**, a  
11 taxpayer that claims a credit under subsection (1) and subsequently  
12 fails to meet the requirements of this section or any other  
13 conditions included in an agreement entered into with the Michigan  
14 economic growth authority in order to obtain a certificate for the  
15 credit claimed under this section or removes any of the qualified  
16 new jobs from this state during the term of the written agreement  
17 and for a period of years after the term of the written agreement,  
18 as determined by the Michigan economic growth authority, may have  
19 its credit reduced or terminated or have a percentage of the credit  
20 amount previously claimed under this section added back to the tax  
21 liability of the taxpayer in the tax year that the taxpayer fails  
22 to comply with this section or the agreement.

23 (7) If the Michigan economic growth authority or a designee of  
24 the Michigan economic growth authority requests that a taxpayer  
25 that claims the credit under this section get a statement prepared  
26 by a certified public accountant verifying that the actual number  
27 of new jobs created is the same number of new jobs used to

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1 calculate the credit under this section, the taxpayer shall get the  
2 statement and attach that statement to its annual return under this  
3 act on which the credit under this section is claimed.

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

7 (9) **FOR THE 2010 CALENDAR YEAR AND EACH CALENDAR YEAR AFTER**  
8 **2010, THE TOTAL AMOUNT OF ALL CREDITS ALLOWED TO BE CLAIMED IN THE**  
9 **FIRST YEAR OF ALL NEW WRITTEN AGREEMENTS APPROVED [IN THAT CALENDAR YEAR]**  
10 **UNDER THIS SECTION SHALL NOT EXCEED \$95,000,000.00.**

11 (10) ~~(9)~~ For purposes of this section, taxpayer includes a  
12 person subject to the tax imposed under ~~chapters~~ **CHAPTER 2A and A**  
13 **PERSON SUBJECT TO THE TAX IMPOSED UNDER CHAPTER 2B.**

14 (11) ~~(10)~~ As used in this section:

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

19 (b) "Health care benefits" means all costs paid for a self-  
20 funded health care benefit plan or for an expense-incurred  
21 hospital, medical, or surgical policy or certificate, nonprofit  
22 health care corporation certificate, or health maintenance  
23 organization contract. Health care benefit does not include  
24 accident-only, credit, dental, or disability income insurance;  
25 long-term care insurance; coverage issued as a supplement to  
26 liability insurance; coverage only for a specified disease or  
27 illness; worker's compensation or similar insurance; or automobile

1 medical payment insurance.

2 (c) "Michigan economic growth authority" means the Michigan  
3 economic growth authority created in the Michigan economic growth  
4 authority act, 1995 PA 24, MCL 207.801 to 207.810.

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

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

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

14 (ii) The average number of full-time jobs at a facility created  
15 by an eligible business up to 90 days before becoming an authorized  
16 business that is in excess of the average number of full-time jobs  
17 that the business maintained in this state up to 90 days before  
18 becoming an authorized business, as determined under the Michigan  
19 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

20 (f) "Tax rate" means the rate imposed under section 51 of the  
21 income tax act of 1967, 1967 PA 281, MCL 206.51, for the tax year  
22 in which the tax year of the taxpayer for which the credit is being  
23 computed begins.

24 Enacting section 1. This amendatory act does not take effect  
25 unless all of the following bills of the 95th Legislature are  
26 enacted into law:

27 (a) Senate Bill No. 70.

- 1 (b) Senate Bill No. 71.
- 2 (c) House Bill No. 4922.