

SENATE BILL No. 1573

November 4, 2010, Introduced by Senators CASSIS and GILBERT and referred to the Committee on Finance.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 431 (MCL 208.1431), as amended by 2009 PA 126.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 431. (1) Except as otherwise provided under this
2 ~~subsection~~**SECTION**, 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

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 multiplied by the tax rate; beginning after April 28, 2008, for an
4 authorized business for the tax year, an amount not to exceed the
5 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~~ **FOR A CREDIT CERTIFIED UNDER THIS SECTION BASED ON**
22 **AN AGREEMENT ENTERED INTO BEFORE DECEMBER 1, 2010, IF THAT** credit
23 allowed under this section exceeds the tax liability of the
24 taxpayer for the tax year, that portion of the credit that exceeds
25 the tax liability of the taxpayer shall be refunded. **FOR A CREDIT**
26 **CERTIFIED UNDER THIS SECTION BASED ON AN AGREEMENT ENTERED INTO ON**
27 **OR AFTER DECEMBER 1, 2010, IF THAT CREDIT ALLOWED UNDER THIS**

1 SECTION EXCEEDS THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR,
2 THAT PORTION THAT EXCEEDS THE TAX LIABILITY OF THE TAXPAYER SHALL
3 NOT BE REFUNDED.

4 (6) 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(q)(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 after April 28, 2008, a
16 taxpayer that claims a credit under subsection (1) and subsequently
17 fails to meet the requirements of this section or any other
18 conditions included in an agreement entered into with the Michigan
19 economic growth authority in order to obtain a certificate for the
20 credit claimed under this section or removes any of the qualified
21 new jobs from this state during the term of the written agreement
22 and for a period of years after the term of the written agreement,
23 as determined by the Michigan economic growth authority, may have
24 its credit reduced or terminated or have a percentage of the credit
25 amount previously claimed under this section added back to the tax
26 liability of the taxpayer in the tax year that the taxpayer fails
27 to comply with this section or the agreement.

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

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

12 (9) For the 2010 calendar year, ~~and each calendar year after~~
13 ~~2010,~~ the total amount of all credits allowed to be claimed in the
14 first year of all new written agreements approved in that calendar
15 year under this section shall not exceed \$95,000,000.00. **FOR THE**
16 **2011 CALENDAR YEAR AND EACH CALENDAR YEAR AFTER 2011, THE TOTAL**
17 **AMOUNT OF ALL CREDITS ALLOWED, FOR A PERIOD OF TIME NOT TO EXCEED 7**
18 **YEARS AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY, TO**
19 **BE CLAIMED IN THE FIRST YEAR OF ALL NEW WRITTEN AGREEMENTS APPROVED**
20 **IN THAT CALENDAR YEAR UNDER THIS SECTION SHALL NOT EXCEED**
21 **\$19,000,000.00, DISTRIBUTED AS FOLLOWS:**

22 (A) NOT MORE THAN 3 CREDITS OF NOT MORE THAN \$3,000,000.00
23 EACH TO AN AUTHORIZED BUSINESS THAT AGREES TO CREATE AND RETAIN A
24 MINIMUM OF 500 QUALIFIED NEW JOBS FOR THE DURATION OF THE CREDIT
25 AGREEMENT.

26 (B) NOT MORE THAN 10 CREDITS OF NOT MORE THAN \$1,000,000.00
27 EACH TO AN AUTHORIZED BUSINESS THAT AGREES TO CREATE AND RETAIN A

1 **MINIMUM OF 100 QUALIFIED NEW JOBS FOR THE DURATION OF THE CREDIT**
2 **AGREEMENT.**

3 (10) For purposes of this section, taxpayer includes a person
4 subject to the tax imposed under chapter 2A and a person subject to
5 the tax imposed under chapter 2B.

6 (11) As used in this section:

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

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

21 (c) "Michigan economic growth authority" means the Michigan
22 economic growth authority created in the Michigan economic growth
23 authority act, 1995 PA 24, MCL 207.801 to 207.810.

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

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

27 (i) The average number of full-time jobs at a facility of an

1 authorized business for a tax year in excess of the average number
2 of full-time jobs the authorized business maintained in this state
3 prior to the expansion or location as that is determined under the
4 Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to
5 207.810.

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

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