

SUBSTITUTE FOR
SENATE BILL NO. 1153

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
(MCL 125.2001 to 125.2094) by adding chapter 8D.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 8D

SEC. 90G. AS USED IN THIS CHAPTER:

(A) "AUTHORIZED BUSINESS" MEANS AN ELIGIBLE BUSINESS THAT HAS
MET THE REQUIREMENTS OF THIS CHAPTER AND WITH WHICH THE FUND HAS
ENTERED INTO A WRITTEN AGREEMENT FOR A WITHHOLDING ABATEMENT
PURSUANT TO THIS CHAPTER.

(B) "CASINO" MEANS A CASINO REGULATED BY THIS STATE UNDER THE
MICHIGAN GAMING CONTROL AND REVENUE ACT, 1996 IL 1, MCL 432.201 TO
432.226, A CASINO AT WHICH GAMING IS CONDUCTED UNDER THE INDIAN
GAMING REGULATORY ACT, PUBLIC LAW 100-497, 102 STAT 2467, OR
PROPERTY ASSOCIATED OR AFFILIATED WITH THE OPERATION OF EITHER TYPE

1 OF CASINO DESCRIBED IN THIS SUBDIVISION, INCLUDING, BUT NOT LIMITED
2 TO, A PARKING LOT, HOTEL, OR MOTEL.

3 (C) "CERTIFIED NEW JOB" MEANS A FULL-TIME JOB CREATED BY AN
4 AUTHORIZED BUSINESS AT A FACILITY IN THIS STATE THAT IS IN EXCESS
5 OF THE NUMBER OF FULL-TIME JOBS THAT AUTHORIZED BUSINESS MAINTAINED
6 IN THIS STATE PRIOR TO THE EXPANSION OR LOCATION, AS DETERMINED BY
7 THE FUND.

8 (D) "COUNTY AVERAGE WAGE" MEANS THE AVERAGE WAGE FOR THE
9 COUNTY WHERE THE PROJECT IS LOCATED BASED OFF THE MOST RECENT DATA
10 MADE AVAILABLE BY THE MICHIGAN BUREAU OF LABOR MARKET INFORMATION
11 AND STRATEGIC INITIATIVES.

12 (E) "ELIGIBLE BUSINESS" MEANS A BUSINESS THAT PROPOSES TO
13 CREATE A MINIMUM OF 500 CERTIFIED NEW JOBS IN THIS STATE OR, IF THE
14 BUSINESS PROPOSES TO PAY AN AVERAGE WAGE THAT IS EQUAL TO 125% OR
15 MORE OF THE COUNTY AVERAGE WAGE, 250 CERTIFIED NEW JOBS. AN
16 ELIGIBLE BUSINESS DOES NOT INCLUDE RETAIL ESTABLISHMENTS,
17 PROFESSIONAL SPORTS STADIUMS, CASINOS, OR THAT PORTION OF AN
18 ELIGIBLE BUSINESS USED EXCLUSIVELY FOR RETAIL SALES.

19 (F) "FACILITY" MEANS A SITE OR SITES WITHIN THIS STATE IN
20 WHICH AN AUTHORIZED BUSINESS CREATES CERTIFIED NEW JOBS.

21 (G) "FULL-TIME JOB" MEANS A FULL-TIME JOB AS DETERMINED BY THE
22 FUND PERFORMED BY AN INDIVIDUAL WHOSE INCOME AND SOCIAL SECURITY
23 TAXES ARE WITHHELD BY 1 OR MORE OF THE FOLLOWING:

24 (i) AN AUTHORIZED BUSINESS.

25 (ii) AN EMPLOYEE LEASING COMPANY.

26 (iii) A PROFESSIONAL EMPLOYER ORGANIZATION ON BEHALF OF THE
27 AUTHORIZED BUSINESS.

1 (H) "MUNICIPALITY" MEANS THAT TERM AS DEFINED IN SECTION 4.

2 (I) "WITHHOLDING ABATEMENT" MEANS THAT PORTION OF WITHHOLDINGS
3 REQUIRED TO BE DEDUCTED AND WITHHELD UNDER PART 3 OF THE INCOME TAX
4 ACT OF 1967, 1967 PA 281, MCL 206.701 TO 206.713, WHICH MAY BE
5 RETAINED BY THE AUTHORIZED BUSINESS UNDER THE WRITTEN AGREEMENT.

6 (J) "WRITTEN AGREEMENT" MEANS A WRITTEN AGREEMENT MADE BETWEEN
7 THE ELIGIBLE BUSINESS AND THE FUND PURSUANT TO THIS CHAPTER.

8 SEC. 90H. (1) BEGINNING JUNE 1, 2017, THE FUND SHALL CREATE
9 AND OPERATE THE MICHIGAN BUSINESS WITHHOLDING ABATEMENT PROGRAM TO
10 PROVIDE ECONOMIC ASSISTANCE TO AUTHORIZED BUSINESSES THAT PROVIDE
11 CERTIFIED NEW JOBS IN THIS STATE. THE FUND SHALL DEVELOP AND USE A
12 DETAILED APPLICATION, APPROVAL, AND COMPLIANCE PROCESS PUBLISHED
13 AND AVAILABLE ON THE FUND'S WEBSITE.

14 (2) AN ELIGIBLE BUSINESS MAY APPLY TO THE FUND TO ENTER INTO A
15 WRITTEN AGREEMENT WHICH AUTHORIZES A WITHHOLDING ABATEMENT UNDER
16 THIS CHAPTER.

17 (3) THE FUND MAY REQUEST INFORMATION, IN ADDITION TO THAT
18 CONTAINED IN AN APPLICATION, AS MAY BE NEEDED TO PERMIT THE FUND TO
19 DISCHARGE ITS RESPONSIBILITIES UNDER THIS CHAPTER.

20 (4) AFTER RECEIPT OF AN APPLICATION, THE FUND MAY ENTER INTO
21 AN AGREEMENT WITH AN ELIGIBLE BUSINESS FOR A WITHHOLDING ABATEMENT
22 UNDER THIS CHAPTER IF THE FUND DETERMINES THAT ALL OF THE FOLLOWING
23 ARE MET:

24 (A) THE ELIGIBLE BUSINESS CREATES AND MAINTAINS A MINIMUM OF
25 500 CERTIFIED NEW JOBS AT A FACILITY IN THIS STATE OR, IF THE
26 BUSINESS PROPOSES TO PAY AN AVERAGE WAGE THAT IS EQUAL TO 125% OR
27 MORE OF THE COUNTY AVERAGE WAGE, 250 CERTIFIED NEW JOBS.

1 (B) IN ADDITION TO THE JOBS SPECIFIED IN SUBDIVISION (A), THE
2 ELIGIBLE BUSINESS, IF ALREADY LOCATED WITHIN THIS STATE, AGREES TO
3 MAINTAIN A NUMBER OF FULL-TIME JOBS EQUAL TO OR GREATER THAN THE
4 NUMBER OF FULL-TIME JOBS IT MAINTAINED IN THIS STATE PRIOR TO THE
5 EXPANSION, AS DETERMINED BY THE FUND.

6 (C) THE PLANS FOR THE EXPANSION OR LOCATION ARE ECONOMICALLY
7 SOUND.

8 (D) THE EXPANSION OR LOCATION OF THE ELIGIBLE BUSINESS WILL
9 BENEFIT THE PEOPLE OF THIS STATE BY INCREASING OPPORTUNITIES FOR
10 EMPLOYMENT AND BY STRENGTHENING THE ECONOMY OF THIS STATE.

11 (E) THE WITHHOLDING ABATEMENT OFFERED UNDER THIS CHAPTER IS AN
12 INCENTIVE TO EXPAND OR LOCATE THE ELIGIBLE BUSINESS IN THIS STATE
13 AND ADDRESS THE COMPETITIVE DISADVANTAGES WITH SITES OUTSIDE THIS
14 STATE.

15 (F) A REGIONAL ECONOMIC MODELS, INC. STYLE COST/BENEFIT
16 ANALYSIS REVEALS THAT AUTHORIZING THE ELIGIBLE BUSINESS TO RECEIVE
17 THE WITHHOLDING ABATEMENT UNDER THIS CHAPTER WILL RESULT IN AN
18 OVERALL POSITIVE FISCAL IMPACT TO THE STATE.

19 (G) THAT THE ELIGIBLE BUSINESS WILL CREATE THE CERTIFIED NEW
20 JOBS WITHIN 5 YEARS OF ENTERING INTO THE WRITTEN AGREEMENT AS
21 DETERMINED BY THE FUND.

22 (H) THAT THE ELIGIBLE BUSINESS WILL MAINTAIN THE NUMBER OF
23 CERTIFIED NEW JOBS THROUGHOUT THE TERM OF THE WRITTEN AGREEMENT IF
24 THE DURATION OF THE WITHHOLDING ABATEMENT EXCEEDS 5 YEARS.

25 (5) IF THE FUND DETERMINES THAT THE REQUIREMENTS OF THIS
26 SECTION HAVE BEEN MET, SUBJECT TO SUBSECTION (6), THE FUND SHALL
27 DETERMINE THE AMOUNT AND DURATION OF THE WITHHOLDING ABATEMENT TO

1 BE AUTHORIZED UNDER THIS CHAPTER AND SHALL ENTER INTO A WRITTEN
2 AGREEMENT AS PROVIDED IN THIS SECTION. THE DURATION OF THE
3 WITHHOLDING ABATEMENT SHALL NOT EXCEED 10 YEARS FROM THE DATE THE
4 AUTHORIZED BUSINESS CREATES THE CERTIFIED NEW JOBS AS PROVIDED IN
5 THE WRITTEN AGREEMENT. SUBJECT TO SUBSECTION (6), IN DETERMINING
6 THE MAXIMUM AMOUNT AND MAXIMUM DURATION OF THE WITHHOLDING
7 ABATEMENT AUTHORIZED, THE FUND SHALL CONSIDER THE FOLLOWING
8 FACTORS, IF APPLICABLE:

9 (A) THE NUMBER OF CERTIFIED NEW JOBS TO BE CREATED.

10 (B) THE DEGREE TO WHICH THE AVERAGE WAGE OF THE CERTIFIED NEW
11 JOBS EXCEEDS THE COUNTY AVERAGE WAGE.

12 (C) WHETHER THERE IS A DISADVANTAGE TO THE ELIGIBLE BUSINESS
13 IF IT WERE TO EXPAND OR LOCATE IN THIS STATE VERSUS A SITE OUTSIDE
14 THIS STATE.

15 (D) THE POTENTIAL IMPACT OF THE EXPANSION OR LOCATION ON THE
16 ECONOMY OF THIS STATE.

17 (E) THE COST OF THE WITHHOLDING ABATEMENT UNDER THIS CHAPTER,
18 THE STAFF, FINANCIAL, OR ECONOMIC ASSISTANCE PROVIDED BY THE
19 MUNICIPALITY, OR LOCAL ECONOMIC DEVELOPMENT CORPORATION OR SIMILAR
20 ENTITY, AND THE VALUE OF ASSISTANCE OTHERWISE PROVIDED BY THIS
21 STATE.

22 (F) WHETHER THE EXPANSION OR LOCATION WILL OCCUR IN THIS STATE
23 WITHOUT THE WITHHOLDING ABATEMENT OFFERED UNDER THIS CHAPTER.

24 (6) THE FUND SHALL DETERMINE THE DURATION OF THE WITHHOLDING
25 ABATEMENT AND THE AMOUNT OF THE WITHHOLDING ABATEMENT. IN
26 DETERMINING THE DURATION OF THE WITHHOLDING ABATEMENT, THE FUND
27 SHALL PROVIDE A DURATION OF UP TO 5 YEARS FOR ELIGIBLE BUSINESSES

1 THAT PAY AN AVERAGE WAGE THAT IS EQUAL TO OR MORE THAN THE COUNTY
2 AVERAGE WAGE AND UP TO A DURATION OF 10 YEARS FOR ELIGIBLE
3 BUSINESSES THAT PAY AN AVERAGE WAGE THAT IS EQUAL TO 125% OR MORE
4 OF THE COUNTY AVERAGE WAGE. IN DETERMINING THE AMOUNT OF THE
5 WITHHOLDING ABATEMENT, THE FUND SHALL PROVIDE AN AMOUNT OF UP TO
6 50% OF THE WITHHOLDING ABATEMENT FOR AN ELIGIBLE BUSINESS THAT PAYS
7 AN AVERAGE WAGE THAT IS EQUAL TO OR MORE THAN THE COUNTY AVERAGE
8 WAGE AND AN AMOUNT OF UP TO 100% OF THE WITHHOLDING ABATEMENT FOR
9 AN ELIGIBLE BUSINESS THAT PAYS AN AVERAGE WAGE THAT IS EQUAL TO
10 125% OR MORE OF THE COUNTY AVERAGE WAGE.

11 (7) A WRITTEN AGREEMENT BETWEEN AN ELIGIBLE BUSINESS AND THE
12 FUND SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, ALL OF THE
13 FOLLOWING:

14 (A) A DESCRIPTION OF THE BUSINESS EXPANSION OR LOCATION THAT
15 IS THE SUBJECT OF THE WRITTEN AGREEMENT.

16 (B) CONDITIONS UPON WHICH THE AUTHORIZED BUSINESS DESIGNATION
17 IS MADE.

18 (C) A STATEMENT THAT THE ELIGIBLE BUSINESS WOULD NOT HAVE
19 ADDED CERTIFIED NEW JOBS WITHOUT THE WITHHOLDING ABATEMENT.

20 (D) A STATEMENT BY THE ELIGIBLE BUSINESS THAT A VIOLATION OF
21 THE WRITTEN AGREEMENT MAY RESULT IN THE REVOCATION OF THE
22 DESIGNATION AS AN AUTHORIZED BUSINESS, THE LOSS OR REDUCTION OF
23 FUTURE WITHHOLDING ABATEMENT UNDER THIS CHAPTER, OR A REFUND OF THE
24 WITHHOLDING ABATEMENT RECEIVED UNDER THIS CHAPTER.

25 (E) A STATEMENT BY THE ELIGIBLE BUSINESS THAT A
26 MISREPRESENTATION IN THE APPLICATION MAY RESULT IN THE REVOCATION
27 OF THE DESIGNATION AS AN AUTHORIZED BUSINESS AND THE REFUND OF THE

1 WITHHOLDING ABATEMENT RECEIVED UNDER THIS CHAPTER PLUS A PENALTY
2 EQUAL TO 10% OF THE WITHHOLDING ABATEMENT UNDER THIS CHAPTER.

3 (F) A METHOD FOR MEASURING AND VERIFYING FULL-TIME JOBS BEFORE
4 AND AFTER AN EXPANSION OR LOCATION OF AN AUTHORIZED BUSINESS IN
5 THIS STATE.

6 (G) A PROVISION THAT THE WITHHOLDINGS ABATEMENT SHALL BE BASED
7 ON SALARY AND WAGES PAID TO EMPLOYEES OF THE AUTHORIZED BUSINESS IN
8 THE CERTIFIED NEW JOBS.

9 (H) A PROVISION THAT, FOR EACH EMPLOYEE IN A CERTIFIED NEW
10 JOB, THE AUTHORIZED BUSINESS MAY RETAIN THAT PORTION OF THE AMOUNT
11 REQUIRED TO BE DEDUCTED AND WITHHELD BY THE AUTHORIZED BUSINESS
12 UNDER SECTION 703 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL
13 206.703, SHALL CERTIFY TO THE DEPARTMENT OF TREASURY THE AMOUNT
14 THAT HAS BEEN RETAINED PURSUANT TO A WRITTEN AGREEMENT, AND SHALL
15 PROVIDE ANY OTHER INFORMATION REASONABLY REQUESTED BY THE
16 DEPARTMENT OF TREASURY.

17 (I) A MAXIMUM AMOUNT OF THE WITHHOLDING ABATEMENT THAT THE
18 AUTHORIZED BUSINESS MAY CLAIM.

19 (8) UPON EXECUTION OF A WRITTEN AGREEMENT AS PROVIDED IN THIS
20 CHAPTER, AN ELIGIBLE BUSINESS IS AN AUTHORIZED BUSINESS.

21 (9) THE FUND SHALL NOT EXECUTE MORE THAN 15 NEW WRITTEN
22 AGREEMENTS EACH YEAR FOR AUTHORIZED BUSINESSES.

23 (10) THE FUND SHALL NOT HAVE WRITTEN AGREEMENTS IN EFFECT THAT
24 PROVIDE FOR MORE THAN \$250,000,000.00 IN COMBINED WITHHOLDING
25 ABATEMENTS.

26 SEC. 90I. (1) SUBJECT TO SECTION 90H(9), AN AUTHORIZED
27 BUSINESS IS ELIGIBLE FOR THE WITHHOLDING ABATEMENT PROVIDED IN THIS

1 CHAPTER.

2 (2) THE FUND SHALL ISSUE A CERTIFICATE EACH YEAR TO AN
3 AUTHORIZED BUSINESS THAT STATES THE FOLLOWING:

4 (A) THAT THE ELIGIBLE BUSINESS IS AN AUTHORIZED BUSINESS.

5 (B) THE AMOUNT OF THE WITHHOLDING ABATEMENT FOR THE DESIGNATED
6 TAX YEAR.

7 (C) THE TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER OR
8 THE MICHIGAN TREASURY NUMBER ASSIGNED TO THE TAXPAYER.

9 (3) AS A CONDITION OF BEING AN AUTHORIZED BUSINESS, THE
10 AUTHORIZED BUSINESS SHALL PAY AN AMOUNT EQUAL TO 5% OF THE
11 WITHHOLDING ABATEMENT FOR THAT YEAR TO THE FUND. THE BOARD SHALL
12 USE THE AMOUNT DESCRIBED IN THIS SUBSECTION TO PAY FOR
13 ADMINISTRATION EXPENSES UNDER THIS ACT.

14 (4) AS A CONDITION OF BEING AN AUTHORIZED BUSINESS, THE
15 AUTHORIZED BUSINESS AUTHORIZES THE FUND TO IDENTIFY THE AUTHORIZED
16 BUSINESS AND DISCLOSE THE AMOUNT AND DURATION OF THE WITHHOLDING
17 ABATEMENT. THE FUND SHALL PUBLISH THE INFORMATION DESCRIBED IN THIS
18 SUBSECTION ON THE FUND'S WEBSITE.