

SENATE BILL No. 1153

October 20, 2016, Introduced by Senators STAMAS, SCHMIDT, HORN, MEEKHOF, KNEZEK, HERTEL and ANANICH and referred to the Committee on Economic Development and International Investment.

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) "ELIGIBLE BUSINESS" MEANS A BUSINESS THAT PROPOSES TO
4 CREATE A MINIMUM OF 500 QUALIFIED NEW JOBS IN THIS STATE OR, IF THE
5 BUSINESS PROPOSES TO PAY A WAGE THAT IS EQUAL TO 125% OR MORE OF
6 THE AVERAGE WAGE PAID IN THE COUNTY IN WHICH THE FACILITY IS
7 LOCATED, 250 QUALIFIED NEW JOBS. AN ELIGIBLE BUSINESS DOES NOT
8 INCLUDE RETAIL ESTABLISHMENTS, PROFESSIONAL SPORTS STADIUMS,
9 CASINOS, OR THAT PORTION OF AN ELIGIBLE BUSINESS USED EXCLUSIVELY
10 FOR RETAIL SALES.

11 (D) "FACILITY" MEANS A SITE OR SITES WITHIN THIS STATE IN
12 WHICH AN AUTHORIZED BUSINESS CREATES QUALIFIED NEW JOBS.

13 (E) "FULL-TIME JOB" MEANS A JOB PERFORMED BY AN INDIVIDUAL FOR
14 35 HOURS OR MORE EACH WEEK AND WHOSE INCOME AND SOCIAL SECURITY
15 TAXES ARE WITHHELD BY 1 OR MORE OF THE FOLLOWING:

16 (i) AN AUTHORIZED BUSINESS.

17 (ii) AN EMPLOYEE LEASING COMPANY.

18 (iii) A PROFESSIONAL EMPLOYER ORGANIZATION ON BEHALF OF THE
19 AUTHORIZED BUSINESS.

20 (F) "LOCAL GOVERNMENTAL UNIT" MEANS A COUNTY, CITY, VILLAGE,
21 OR TOWNSHIP IN THIS STATE.

22 (G) "QUALIFIED NEW JOB" MEANS A FULL-TIME JOB CREATED BY AN
23 AUTHORIZED BUSINESS AT A FACILITY IN THIS STATE THAT IS IN EXCESS
24 OF THE NUMBER OF FULL-TIME JOBS THAT AUTHORIZED BUSINESS MAINTAINED
25 IN THIS STATE PRIOR TO THE EXPANSION OR LOCATION, AS DETERMINED BY
26 THE FUND WITH AN AVERAGE WAGE THAT IS EQUAL TO OR GREATER THAN THE
27 AVERAGE WAGE PAID IN THE COUNTY IN WHICH THE FACILITY IS LOCATED.

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

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

7 SEC. 90H. (1) BEGINNING JANUARY 1, 2017, THE FUND SHALL CREATE
8 AND OPERATE THE MICHIGAN BUSINESS WITHHOLDING ABATEMENT PROGRAM TO
9 PROVIDE ECONOMIC ASSISTANCE TO AUTHORIZED BUSINESSES THAT PROVIDE
10 QUALIFIED NEW JOBS IN THIS STATE. THE FUND SHALL DEVELOP AND USE A
11 DETAILED APPLICATION, APPROVAL, AND COMPLIANCE PROCESS ADOPTED BY A
12 RESOLUTION OF THE BOARD AND PUBLISHED AND AVAILABLE ON THE FUND'S
13 WEBSITE. PROGRAM STANDARDS, GUIDELINES, TEMPLATES, OR ANY OTHER
14 FORMS USED BY THE FUND TO IMPLEMENT THE MICHIGAN BUSINESS
15 WITHHOLDING ABATEMENT PROGRAM SHALL BE APPROVED BY THE BOARD.

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

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

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

26 (A) THE ELIGIBLE BUSINESS CREATES AND MAINTAINS A MINIMUM OF
27 500 QUALIFIED NEW JOBS AT A FACILITY IN THIS STATE OR, IF THE

1 BUSINESS PROPOSES TO PAY A WAGE THAT IS EQUAL TO 125% OR MORE OF
2 THE AVERAGE WAGE PAID IN THE COUNTY IN WHICH THE FACILITY IS
3 LOCATED, 250 QUALIFIED NEW JOBS.

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

9 (C) THE WAGE PAID FOR EACH QUALIFIED NEW JOB IS EQUAL TO OR
10 GREATER THAN THE AVERAGE WAGE PAID IN THE COUNTY IN WHICH THE
11 FACILITY IS LOCATED. THE FUND MAY INCLUDE THE VALUE OF THE HEALTH
12 CARE BENEFIT IN DETERMINING THE WAGE PAID FOR EACH QUALIFIED NEW
13 JOB FOR AN ELIGIBLE BUSINESS UNDER THIS ACT.

14 (D) THE PLANS FOR THE EXPANSION OR LOCATION ARE ECONOMICALLY
15 SOUND.

16 (E) THE ELIGIBLE BUSINESS HAS NOT BEGUN CONSTRUCTION OR
17 OCCUPATION OF THE FACILITY.

18 (F) THE EXPANSION OR LOCATION OF THE ELIGIBLE BUSINESS WILL
19 BENEFIT THE PEOPLE OF THIS STATE BY INCREASING OPPORTUNITIES FOR
20 EMPLOYMENT AND BY STRENGTHENING THE ECONOMY OF THIS STATE.

21 (G) THE WITHHOLDING ABATEMENT OFFERED UNDER THIS CHAPTER IS AN
22 INCENTIVE TO EXPAND OR LOCATE THE ELIGIBLE BUSINESS IN THIS STATE
23 AND ADDRESS THE COMPETITIVE DISADVANTAGES WITH SITES OUTSIDE THIS
24 STATE.

25 (H) A COST/BENEFIT ANALYSIS BY A THIRD PARTY REVEALS THAT
26 AUTHORIZING THE ELIGIBLE BUSINESS TO RECEIVE THE WITHHOLDING
27 ABATEMENT UNDER THIS CHAPTER WILL RESULT IN AN OVERALL POSITIVE

1 FISCAL IMPACT TO THE STATE.

2 (I) THAT THE ELIGIBLE BUSINESS WILL CREATE THE QUALIFIED NEW
3 JOBS WITHIN 5 YEARS OF ENTERING INTO THE WRITTEN AGREEMENT AS
4 DETERMINED BY THE FUND.

5 (J) THAT THE ELIGIBLE BUSINESS WILL MAINTAIN THE NUMBER OF
6 QUALIFIED NEW JOBS THROUGHOUT THE TERM OF THE WRITTEN AGREEMENT IF
7 THE DURATION OF THE WITHHOLDING ABATEMENT EXCEEDS 5 YEARS.

8 (5) IF THE FUND DETERMINES THAT THE REQUIREMENTS OF THIS
9 SECTION HAVE BEEN MET, SUBJECT TO SUBSECTION (6), THE FUND SHALL
10 DETERMINE THE AMOUNT AND DURATION OF THE WITHHOLDING ABATEMENT TO
11 BE AUTHORIZED UNDER THIS CHAPTER AND SHALL ENTER INTO A WRITTEN
12 AGREEMENT AS PROVIDED IN THIS SECTION. THE DURATION OF THE
13 WITHHOLDING ABATEMENT SHALL NOT EXCEED 10 YEARS FROM THE DATE THE
14 AUTHORIZED BUSINESS CREATES THE QUALIFIED NEW JOBS AS PROVIDED IN
15 THE WRITTEN AGREEMENT. SUBJECT TO SUBSECTION (6), IN DETERMINING
16 THE AMOUNT AND DURATION OF THE WITHHOLDING ABATEMENT AUTHORIZED,
17 THE FUND SHALL CONSIDER THE FOLLOWING FACTORS:

18 (A) THE NUMBER OF QUALIFIED NEW JOBS TO BE CREATED.

19 (B) THE DEGREE TO WHICH THE AVERAGE WAGE AND HEALTH CARE
20 BENEFIT LEVEL OF THE QUALIFIED NEW JOBS EXCEEDS THE AVERAGE WAGE
21 AND HEALTH CARE BENEFIT PAID BY PRIVATE ENTITIES IN THE COUNTY IN
22 WHICH THE FACILITY IS LOCATED.

23 (C) THE COST DIFFERENTIAL TO THE BUSINESS BETWEEN EXPANDING OR
24 LOCATING NEW JOBS IN THIS STATE AND A SITE OUTSIDE OF THIS STATE.

25 (D) THE POTENTIAL IMPACT OF THE EXPANSION OR LOCATION ON THE
26 ECONOMY OF THIS STATE.

27 (E) THE COST OF THE WITHHOLDING ABATEMENT UNDER THIS CHAPTER,

1 THE STAFF, FINANCIAL, OR ECONOMIC ASSISTANCE PROVIDED BY THE LOCAL
2 GOVERNMENT UNIT, OR LOCAL ECONOMIC DEVELOPMENT CORPORATION OR
3 SIMILAR ENTITY, AND THE VALUE OF ASSISTANCE OTHERWISE PROVIDED BY
4 THIS STATE.

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

7 (6) THE FUND SHALL DEVELOP A SLIDING SCALE IN DETERMINING THE
8 DURATION OF THE WITHHOLDING ABATEMENT AND THE AMOUNT OF THE
9 WITHHOLDING ABATEMENT. THE SLIDING SCALE OF THE DURATION OF THE
10 WITHHOLDING ABATEMENT SHALL PROVIDE A DURATION OF 5 YEARS FOR
11 ELIGIBLE BUSINESSES THAT PAY A WAGE THAT IS EQUAL TO THE AVERAGE
12 WAGE PAID IN THE COUNTY IN WHICH THE FACILITY IS LOCATED AND UP TO
13 A DURATION OF 10 YEARS FOR ELIGIBLE BUSINESSES THAT PAY A WAGE THAT
14 IS EQUAL TO 125% OR MORE OF THE AVERAGE WAGE PAID IN THE COUNTY IN
15 WHICH THE FACILITY IS LOCATED. THE SLIDING SCALE OF THE AMOUNT OF
16 THE WITHHOLDING ABATEMENT SHALL PROVIDE AN AMOUNT OF 50% OF THE
17 WITHHOLDING ABATEMENT FOR AN ELIGIBLE BUSINESS THAT PAYS A WAGE
18 THAT IS EQUAL TO THE AVERAGE WAGE PAID IN THE COUNTY IN WHICH THE
19 FACILITY IS LOCATED AND AN AMOUNT OF UP TO 100% OF THE WITHHOLDING
20 ABATEMENT FOR AN ELIGIBLE BUSINESS THAT PAYS A WAGE THAT IS EQUAL
21 TO 125% OR MORE OF THE AVERAGE WAGE PAID IN THE COUNTY IN WHICH THE
22 FACILITY IS LOCATED.

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

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

1 (B) CONDITIONS UPON WHICH THE AUTHORIZED BUSINESS DESIGNATION
2 IS MADE.

3 (C) A STATEMENT THAT THE ELIGIBLE BUSINESS WOULD NOT HAVE
4 ADDED QUALIFIED NEW JOBS WITHOUT THE WITHHOLDING ABATEMENT.

5 (D) A STATEMENT BY THE ELIGIBLE BUSINESS THAT A VIOLATION OF
6 THE WRITTEN AGREEMENT MAY RESULT IN THE REVOCATION OF THE
7 DESIGNATION AS AN AUTHORIZED BUSINESS, THE LOSS OR REDUCTION OF
8 FUTURE WITHHOLDING ABATEMENT UNDER THIS CHAPTER, OR A REFUND OF THE
9 WITHHOLDING ABATEMENT RECEIVED UNDER THIS CHAPTER.

10 (E) A STATEMENT BY THE ELIGIBLE BUSINESS THAT A
11 MISREPRESENTATION IN THE APPLICATION MAY RESULT IN THE REVOCATION
12 OF THE DESIGNATION AS AN AUTHORIZED BUSINESS AND THE REFUND OF THE
13 WITHHOLDING ABATEMENT RECEIVED UNDER THIS CHAPTER PLUS A PENALTY
14 EQUAL TO 10% OF THE WITHHOLDING ABATEMENT UNDER THIS CHAPTER.

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

18 (G) A PROVISION THAT THE WITHHOLDINGS ABATEMENT SHALL BE BASED
19 ON SALARY AND WAGES PAID TO EMPLOYEES OF THE AUTHORIZED BUSINESS IN
20 THE QUALIFIED NEW JOBS.

21 (H) A PROVISION THAT, FOR EACH EMPLOYEE IN A QUALIFIED NEW
22 JOB, THE AUTHORIZED BUSINESS MAY RETAIN THAT PORTION OF THE AMOUNT
23 REQUIRED TO BE DEDUCTED AND WITHHELD BY THE AUTHORIZED BUSINESS
24 UNDER SECTION 703 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL
25 206.703, SHALL CERTIFY TO THE DEPARTMENT OF TREASURY THE AMOUNT
26 THAT HAS BEEN RETAINED PURSUANT TO A WRITTEN AGREEMENT, AND SHALL
27 PROVIDE ANY OTHER INFORMATION REASONABLY REQUESTED BY THE

1 DEPARTMENT OF TREASURY.

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

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

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

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

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

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

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

17 (B) THE AMOUNT OF THE WITHHOLDING ABATEMENT FOR THE DESIGNATED
18 TAX YEAR.

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

21 (3) AS A CONDITION OF BEING AN AUTHORIZED BUSINESS, THE
22 AUTHORIZED BUSINESS SHALL PAY A FEE OF 5% OF THE WITHHOLDING
23 ABATEMENT FOR THAT YEAR TO THE FUND. THE BOARD SHALL USE THE FEE
24 DESCRIBED IN THIS SUBSECTION TO PAY FOR ADMINISTRATION EXPENSES
25 UNDER THIS ACT.

26 (4) AS A CONDITION OF BEING AN AUTHORIZED BUSINESS, THE
27 AUTHORIZED BUSINESS AUTHORIZES THE FUND TO IDENTIFY THE AUTHORIZED

1 BUSINESS AND DISCLOSE THE AMOUNT AND DURATION OF THE WITHHOLDING
2 ABATEMENT. THE FUND SHALL PUBLISH THE INFORMATION DESCRIBED IN THIS
3 SUBSECTION ON THE FUND'S WEBSITE.