SENATE BILL NO. 492

September 04, 2019, Introduced by Senators HORN, MACDONALD, ZORN, POLEHANKI, MACGREGOR and HOLLIER and referred to the Committee on Economic and Small Business Development.

A bill to amend 1984 PA 270, entitled

"Michigan strategic fund act,"

by amending section 90h (MCL 125.2090h), as added by 2017 PA 109.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 90h. (1) The fund shall create and operate the good jobs for Michigan program to authorize the transfer of the dedicated portion of withholding tax capture revenues to authorized businesses that provide certified new jobs in this state. The fund shall develop and use a detailed application, approval, and compliance process published and available on the fund's website.

(2) An eligible business may apply to the fund to enter into a written agreement which authorizes the payment of withholding tax capture revenues under this chapter.

(3) The fund may request information, in addition to that contained in an application, as may be needed to permit the fund to discharge its responsibilities under this chapter.

(4) After receipt of an application, the fund may enter into an agreement with an eligible business for withholding tax capture revenues under this chapter if the fund determines that all of the following are met:

(a) The eligible business proposes to create and maintain the minimum number of certified new jobs at a facility in this state and to pay an average annual wage that is described in section 90g(d).

(b) In addition to the jobs specified in subdivision (a), the eligible business, if already located within this state, agrees to maintain a number of full-time jobs equal to or greater than the number of full-time jobs it maintained in this state prior to the expansion, as determined by the fund.

(c) The plans for the expansion or location are economically sound.

(d) The expansion or location of the eligible business will benefit the people of this state by increasing opportunities for employment and by strengthening the economy of this state.

(e) The withholding tax capture revenues offered under this chapter and paid from the good jobs for Michigan fund is an incentive to expand or locate the eligible business in this state and address the competitive disadvantages with sites outside this state.

(f) An industry-recognized regional economic model cost-benefit analysis reveals that the payment of withholding tax capture revenues under this chapter to an eligible business will result in an overall positive fiscal impact to the state.

(g) The eligible business will create the requisite number of certified new jobs within not more than 5 years after entering into the written agreement as determined by the fund.

(h) The eligible business will maintain the number of certified new jobs throughout the duration of the period of time that the authorized business receives withholding tax capture revenues paid from the good jobs for Michigan fund. However, if the authorized business fails to maintain the requisite number of certified new jobs as provided in the written agreement, the authorized business will forfeit the withholding tax capture revenues for that calendar year.

(i) That the local governing body of the municipality in which the facility is located approves the expansion or new location by resolution.

(5) If the fund determines that the eligible business satisfies all of the requirements of subsection (4), subject to subsection (6), the fund shall determine the amount and duration of the withholding tax capture revenues to be authorized under this chapter and shall enter into a written agreement as provided in this section. The duration of the withholding tax capture revenues must not exceed 5 or 10 years, whichever is applicable based on the average annual wage of the certified new jobs, from the date the authorized business creates the certified new jobs as provided in the written agreement. Subject to subsection (6), in determining the maximum amount and maximum duration of the withholding tax

capture revenues authorized, the fund shall consider the following factors, if applicable:

(a) The number of certified new jobs to be created.

(b) The degree to which the average annual wage of the certified new jobs exceeds the prosperity region average wage.

(c) Whether there is a disadvantage to the eligible business if it were to expand or locate in this state versus a site outside this state.

(d) The potential impact of the expansion or location on the economy of this state.

(e) The estimated cost of the reimbursement of withholding tax capture revenues under this chapter, the staff, financial, or economic assistance provided by the municipality, or local economic development corporation or similar entity, and the value of assistance otherwise provided by this state.

(f) Whether the expansion or location will occur in this state without the payment of withholding tax capture revenues offered under this chapter.

(g) Whether the eligible business has made a written commitment to fund some portion of costs for applicable training of the individuals who will perform the full-time jobs that leads to a professional or technical certification for these individuals.

(h) That the eligible business will make a good-faith effort to employ, if qualified, Michigan residents at the facility.

(6) The fund shall determine the duration and amount of the withholding tax capture revenues. In determining the duration of the withholding tax capture revenues, the fund shall provide a duration of up to 5 years for eligible businesses described in section 90g(d)(*ii*) and up to a duration of 10 years for eligible

businesses described in section 90g(d)(*i*) or (*iii*). In determining the amount of the withholding tax capture revenue payments, the fund may approve a payment of not more than 50% of the withholding tax capture revenues for an eligible business described in section 90g(d)(*ii*) and a payment of up to 100% of the withholding tax capture revenues for an eligible business described in section 90g(d)(*i*) or (*iii*). The amount of withholding tax capture revenues certified to be paid to an authorized business shall be reduced by 5%, which shall be retained by the fund for additional administrative expenses under this chapter as provided under section 90i.

(7) A written agreement between an eligible business and the fund must include, but need not be limited to, all of the following:

(a) A description of the business expansion or location that is the subject of the written agreement.

(b) Conditions upon which the authorized business designation is made.

(c) A statement from the eligible business that the eligible business would not have added certified new jobs without the withholding tax capture revenue payments authorized under this chapter.

(d) An estimate of the amount of withholding tax capture revenues expected to be generated for each calendar year of the duration of the written agreement.

(e) A statement by the eligible business that a violation of the written agreement may result in the revocation of the designation as an authorized business, the loss or reduction of future withholding tax capture revenue payments under this chapter, or a repayment of withholding tax capture revenues received pursuant to this chapter.

(f) A statement by the eligible business that a misrepresentation in the application may result in the revocation of the designation as an authorized business and the repayment of withholding tax capture revenues received under this chapter plus a penalty equal to 10% of the withholding tax capture revenue payments received pursuant to this chapter.

(g) A method for measuring and verifying full-time jobs before and after an expansion or location of an authorized business in this state.

(h) A provision that the authorized business that is certified under section 90i(2) for a payment from the good jobs for Michigan fund shall file the required returns and reports under this chapter and part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, with the department of treasury, and shall provide any other information reasonably requested by the fund or the department of treasury.

(i) A maximum amount of withholding tax capture revenues that the authorized business may claim before reduction of the 5% payment described in section 90i for administrative expenses.

(8) Upon execution of a written agreement as provided in this chapter, an eligible business is an authorized business. The fund shall provide a copy of each written agreement to the department of treasury. Upon execution of the written agreement, the transfer and payment of withholding tax capture revenues as specified in this chapter and in the written agreement is binding on this state. The state treasurer shall calculate, based on the written agreements received pursuant to this subsection, the amount of withholding tax

capture revenues collected as a result of the certified new jobs created pursuant to those written agreements for each calendar year and the percentage of that amount that needs to be transferred from the general fund and deposited, in accordance with section 51f of the income tax act of 1967, 1967 PA 281, MCL 206.51f, into the good jobs for Michigan fund, where the fund shall issue payments to the authorized business in the manner provided in section 90i.

(9) ~~The fund shall not commit, and the department of treasury shall not disburse, an amount of total withholding tax capture revenues that exceeds $200,000,000.00, which includes the 5% payment for administrative expenses as provided in section 90i.~~ The fund shall not execute more than 15 new written agreements each calendar year for authorized businesses. If the fund approves fewer than 15 written agreements in a calendar year, then any unused written agreements shall carry forward into future calendar years, and shall be in addition to the annual limit that is otherwise applicable. ~~For purposes of this subsection, "total withholding tax capture revenues" means the aggregate amount of withholding tax capture revenues that may be distributed to authorized businesses under all written agreements.~~

~~(10) The fund shall not designate an authorized business or enter into a new written agreement on or after December 31, 2019.~~