

## MICHIGAN STRATEGIC FUND ACT (EXCERPT)

### Act 270 of 1984

#### CHAPTER 8D

#### 125.2090g Definitions.

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 withholding tax capture revenues pursuant to this chapter and section 51f of the income tax act of 1967, 1967 PA 281, MCL 206.51f.

(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 of casino described in this subdivision, including, but not limited to, a parking lot, hotel, or motel.

(c) "Certified new job" means a full-time job created by an authorized business at a facility in this state that is in excess of the number of full-time jobs that authorized business maintained in this state prior to the expansion or location and the number of full-time jobs that the authorized business acquired through a merger or acquisition that were located in this state prior to the expansion or location, as determined by the fund. Pursuant to a written agreement between the authorized business, the fund, and the primary supplier, certified new jobs for an authorized business described in subdivision (d)(i) may, as determined by the fund, include the number of those new jobs created by the primary supplier of that authorized business as a result of the new or increased business activity with that authorized business as determined by the fund.

(d) "Eligible business" means a business other than a retail establishment, professional sports stadium, casino, or that portion of an eligible business used exclusively for retail sales that proposes to create 1 or more of the following:

(i) A minimum of 3,000 certified new jobs in this state with an average annual wage that is equal to or greater than the prosperity region average wage.

(ii) A minimum of 500 certified new jobs in this state with an average annual wage that is equal to or greater than the prosperity region average wage.

(iii) A minimum of 250 certified new jobs in this state with an average annual wage that is equal to 125% or more of the prosperity region average wage.

(e) "Facility" means a site or sites within this state in which an authorized business creates certified new jobs.

(f) "Full-time job" means a full-time job as determined by the fund performed by an individual whose income and social security taxes are withheld by 1 or more of the following:

(i) An authorized business.

(ii) An employee leasing company.

(iii) A professional employer organization on behalf of the authorized business.

(g) "Good jobs for Michigan fund" means the good jobs for Michigan fund created in section 90j.

(h) "Municipality" means that term as defined in section 4.

(i) "Primary supplier" means an entity that creates not fewer than 25 new jobs in this state and that provides both of the following to an authorized business pursuant to a written agreement under this chapter:

(i) A minimum of \$5,000,000.00 in tangible personal property annually as determined by the fund.

(ii) A minimum of 10% of the tangible personal property used by the authorized business annually as determined by the fund.

(j) "Prosperity region" means each of the 10 prosperity regions identified by the department of technology, management, and budget on the effective date of the amendatory act that added this section.

(k) "Prosperity region average wage" means the average annual wage for the prosperity region where the facility is located based on the most recent data made available by the Michigan bureau of labor market information and strategic initiatives.

(l) "Withholding tax capture revenues" means the amount of income tax withheld under part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, each calendar year that is attributable to individuals employed within certified new jobs. The state treasurer shall develop methods and processes that are necessary for each authorized business to report the amount of withholding under part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from individuals employed within certified new jobs.

(m) "Written agreement" means a written agreement made between the eligible business and the fund pursuant to this chapter.

**History:** Add. 2017, Act 109, Eff. Aug. 25, 2017.

**125.2090h Good jobs for Michigan program; creation and operation by fund; transfer of dedicated portion of withholding tax capture revenues to businesses; application; requirements; determination of amount and duration; limitation; factors; written agreement; contents; execution; maximum amount of total withholding tax capture revenue; limitation on number of written agreements.**

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.

**History:** Add. 2017, Act 109, Eff. Aug. 25, 2017.

**Popular name:** Strategic Fund

**125.2090i Withholdings certificate; issuance; contents; request for payment; failure of authorized business to satisfy and maintain jobs and other conditions; forfeiture of payment; assignment or transfer of written agreement; retention of amount to pay for administrative expenses; identification of authorized business and disclosure of amount an duration of payments; publication of information on website.**

Sec. 90i. (1) Subject to the limitations under section 90h(9), an authorized business is eligible to receive withholding tax capture revenue payments as provided in this chapter.

(2) Except as otherwise provided under subsection (3), the fund shall issue a withholdings certificate each calendar year to an authorized business that states the following:

(a) That the eligible business is an authorized business.

(b) The amount of withholding tax capture revenues to be paid from the good jobs for Michigan fund for the designated calendar year.

(c) The authorized business's federal employer identification number or the Michigan treasury number assigned to the authorized business.

(3) The fund shall provide the department of treasury with a copy of each withholdings certificate issued under this section. Upon receipt of a withholdings certificate, an authorized business may request a payment from the good jobs for Michigan fund by filing a copy of the withholdings certificate with the fund. The fund shall issue the withholding tax capture revenue payment from the good jobs for Michigan fund within 90 days of receipt of the request for payment from the authorized business.

(4) If the authorized business subsequently fails to satisfy and maintain the minimum number of certified new jobs as required under this chapter or any other conditions included in the written agreement, the authorized business forfeits its withholding tax capture revenue payment for the calendar year that the authorized business fails to comply with this chapter or the written agreement. The forfeiture of a withholding tax capture revenue payment under this subsection does not extend the duration of the original written agreement. Accordingly, if the duration of the written agreement has not expired, an authorized business that satisfies all of the terms of the written agreement after a forfeiture under this subsection is entitled to certification for withholding tax capture revenue payments for those subsequent calendar years.

(5) In the event of a proposed reorganization, merger, or other change of ownership of the authorized business for which reimbursement will continue pursuant to a written agreement, the approval of the fund is required prior to the assignment or transfer of the written agreement.

(6) The fund shall retain an amount equal to 5% of the withholding tax capture revenue payments authorized for that year for the fund. The board shall use the amount described in this subsection to pay for the additional administration expenses under this chapter.

(7) As a condition of being an authorized business, an authorized business authorizes the fund to identify the authorized business and disclose the amount and duration of the withholding tax capture revenue payments. The fund shall publish the information described in this subsection on the fund's website and include this information in the report required under section 9.

**History:** Add. 2017, Act 109, Eff. Aug. 25, 2017.

**Popular name:** Strategic Fund

**125.2090j Good jobs for Michigan fund; creation; deposit of money or other assets; investment; interest and earnings; money remaining in fund; use.**

Sec. 90j. (1) The good jobs for Michigan fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit all amounts deposited pursuant to section 51f of the income tax act of 1967, 1967 PA 281, MCL 206.51f, to the fund and shall credit to the fund any interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(2) The good jobs for Michigan fund may be used only for 1 or more of the following purposes:

(a) To make withholding tax capture revenue payments in accordance with a written agreement to an authorized business within 90 days after receipt of a request for payment and a copy of the withholding certificate issued under section 90i.

(b) To distribute an amount equal to 5% of the withholding tax capture revenue payments certified under section 90i to the Michigan strategic fund to pay for administration expenses.

**History:** Add. 2017, Act 109, Eff. Aug. 25, 2017.

**Popular name:** Strategic Fund