

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 824

A bill to amend 1995 PA 24, entitled
"Michigan economic growth authority act,"
by amending sections 3 and 8 (MCL 207.803 and 207.808), as
amended by 2003 PA 248.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Affiliated business" means a business that is 100% owned
3 and controlled by an associated business.

4 (b) "Associated business" means a business which owns at
5 least 50% of and controls, directly or indirectly, an authorized
6 business.

7 (c) "Authorized business" means 1 of the following:

8 (i) A single eligible business with a unique federal employer
9 identification number which has met the requirements of section 8
10 and with which the authority has entered into a written agreement

1 for a tax credit under section 9.

2 (ii) A single eligible business with a unique federal
3 employer identification number which has met the requirements of
4 section 8, except as provided in this subparagraph, and with
5 which the authority has entered into a written agreement for a
6 tax credit under section 9. An eligible business is not required
7 to create qualified new jobs or maintain retained jobs if
8 qualified new jobs are created or retained jobs are maintained by
9 an associated or affiliated business.

10 (iii) A single eligible business with a unique federal
11 employer identification number which has met the requirements of
12 section 8, except as provided in this subparagraph, and with
13 which the authority has entered into a written agreement for a
14 tax credit under section 9. An eligible business is not required
15 to create qualified new jobs or maintain retained jobs if
16 qualified new jobs are created or retained jobs are maintained by
17 an employee leasing company or professional employer organization
18 that has entered into a contractual service agreement with the
19 authorized business in which the employee leasing company or
20 professional employer organization withholds income and social
21 security taxes on behalf of the authorized business.

22 (d) "Authority" means the Michigan economic growth authority
23 created under section 4.

24 (e) "Business" means proprietorship, joint venture,
25 partnership, limited liability partnership, trust, business
26 trust, syndicate, association, joint stock company, corporation,
27 cooperative, limited liability company, or any other

1 organization.

2 (f) "Distressed business" means a business that meets all of
3 the following as verified by the Michigan economic growth
4 authority:

5 (i) Four years immediately preceding the application to the
6 authority under this act, the business had 150 or more full-time
7 jobs in this state.

8 (ii) Within the immediately preceding 4 years, there has been
9 a reduction of not less than 30% of the number of full-time jobs
10 in this state during any consecutive 3-year period. The highest
11 number of full-time jobs within the consecutive 3-year period
12 shall be used in order to determine the percentage reduction of
13 full-time jobs in this subparagraph.

14 (iii) Is not a seasonal employer as defined in section 27 of
15 the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL
16 421.27.

17 (g) "Eligible business" means a distressed business or
18 business that proposes to maintain retained jobs after December
19 31, 1999 or to create qualified new jobs in this state after
20 April 18, 1995 in manufacturing, mining, research and
21 development, wholesale and trade, or office operations or a
22 business that is a qualified high-technology business. An
23 eligible business does not include retail establishments,
24 professional sports stadiums, or that portion of an eligible
25 business used exclusively for retail sales. Professional sports
26 stadium does not include a sports stadium in existence on June 6,
27 2000 that is not used by a professional sports team on the date

1 that an application related to that professional sports stadium
2 is filed under section 8.

3 (h) "Facility" means a site **or sites** within this state in
4 which an authorized business maintains retained jobs or creates
5 qualified new jobs. A facility does not include a site that was
6 a vaccine laboratory owned by this state on April 1, 1995.

7 (i) "Full-time job" means a job performed by an individual
8 who is employed by an authorized business or an employee leasing
9 company or professional employer organization on behalf of the
10 authorized business for consideration for 35 hours or more each
11 week and for which the authorized business or an employee leasing
12 company or professional employer organization on behalf of the
13 authorized business withholds income and social security taxes.

14 (j) "Local governmental unit" means a county, city, village,
15 or township in this state.

16 (k) "High-technology activity" means 1 or more of the
17 following:

18 (i) Advanced computing, which is any technology used in the
19 design and development of any of the following:

20 (A) Computer hardware and software.

21 (B) Data communications.

22 (C) Information technologies.

23 (ii) Advanced materials, which are materials with engineered
24 properties created through the development of specialized process
25 and synthesis technology.

26 (iii) Biotechnology, which is any technology that uses living
27 organisms, cells, macromolecules, microorganisms, or substances

1 from living organisms to make or modify a product, improve plants
2 or animals, or develop microorganisms for useful purposes.
3 Biotechnology does not include human cloning as defined in
4 section 16274 of the public health code, 1978 PA 368,
5 MCL 333.16274, or stem cell research with embryonic tissue.

6 (iv) Electronic device technology, which is any technology
7 that involves microelectronics, semiconductors, electronic
8 equipment, and instrumentation, radio frequency, microwave, and
9 millimeter electronics, and optical and optic-electrical devices,
10 or data and digital communications and imaging devices.

11 (v) Engineering or laboratory testing related to the
12 development of a product.

13 (vi) Technology that assists in the assessment or prevention
14 of threats or damage to human health or the environment,
15 including, but not limited to, environmental cleanup technology,
16 pollution prevention technology, or development of alternative
17 energy sources.

18 (vii) Medical device technology, which is any technology that
19 involves medical equipment or products other than a
20 pharmaceutical product that has therapeutic or diagnostic value
21 and is regulated.

22 (viii) Product research and development.

23 (ix) Advanced vehicles technology that is any technology that
24 involves electric vehicles, hybrid vehicles, or alternative fuel
25 vehicles, or components used in the construction of electric
26 vehicles, hybrid vehicles, or alternative fuel vehicles. For
27 purposes of this act:

1 (A) "Electric vehicle" means a road vehicle that draws
2 propulsion energy only from an on-board source of electrical
3 energy.

4 (B) "Hybrid vehicle" means a road vehicle that can draw
5 propulsion energy from both a consumable fuel and a rechargeable
6 energy storage system.

7 (x) Tool and die manufacturing.

8 (l) "New capital investment" means 1 or more of the
9 following:

10 (i) New construction. As used in this subparagraph:

11 (A) "New construction" means property not in existence on the
12 date the authorized business enters into a written agreement with
13 the authority and not replacement construction. New construction
14 includes the physical addition of equipment or furnishings,
15 subject to section 27(2)(a) to (o) of the general property tax
16 act, 1893 PA 206, MCL 211.27.

17 (B) "Replacement construction" means that term as defined in
18 section 34d(1)(b)(v) of the general property tax act, 1893
19 PA 206, MCL 211.34d.

20 (ii) The purchase of new personal property. As used in this
21 subparagraph, "new personal property" means personal property
22 that is not subject to or that is exempt from the collection of
23 taxes under the general property tax act, 1893 PA 206, MCL 211.1
24 to 211.157, on the date the authorized business enters into a
25 written agreement with the authority.

26 (m) "Qualified high-technology business" means a business
27 that is either of the following:

1 (i) A business with not less than 25% of the total operating
2 expenses of the business used for research and development in the
3 tax year in which the business files an application under this
4 act as determined under generally accepted accounting principles
5 and verified by the authority.

6 (ii) A business whose primary business activity is
7 high-technology activity.

8 (n) "Qualified new job" means 1 of the following:

9 (i) A full-time job created by an authorized business at a
10 facility that is in excess of the number of full-time jobs the
11 authorized business maintained in this state prior to the
12 expansion or location, as determined by the authority.

13 (ii) For jobs created after July 1, 2000, a full-time job at
14 a facility created by an eligible business that is in excess of
15 the number of full-time jobs maintained by that eligible business
16 in this state 120 days before the eligible business became an
17 authorized business, as determined by the authority.

18 (iii) For a distressed business, a full-time job at a
19 facility that is in excess of the number of full-time jobs
20 maintained by that eligible business in this state on the date
21 the eligible business became an authorized business.

22 (o) "Retained jobs" means the number of full-time jobs at a
23 facility of an authorized business maintained in this state on a
24 specific date as that date and number of jobs is determined by
25 the authority.

26 (p) "Rural business" means an eligible business located in a
27 county with a population of 75,000 or less.

1 (q) "Written agreement" means a written agreement made
2 pursuant to section 8.

3 Sec. 8. (1) After receipt of an application, the authority
4 may enter into an agreement with an eligible business for a tax
5 credit under section 9 if the authority determines that all of
6 the following are met:

7 (a) Except as provided in subsection (5), the eligible
8 business creates 1 or more of the following within 12 months of
9 the expansion or location as determined by the authority:

10 (i) A minimum of 75 qualified new jobs at the facility if
11 expanding in this state.

12 (ii) A minimum of 150 qualified new jobs at the facility if
13 locating in this state.

14 (iii) A minimum of 25 qualified new jobs at the facility if
15 the facility is located in a neighborhood enterprise zone as
16 determined under the neighborhood enterprise zone act, 1992
17 PA 147, MCL 207.771 to ~~207.787~~ **207.786**, is located in a
18 renaissance zone under the Michigan renaissance zone act, 1996
19 PA 376, MCL 125.2681 to 125.2696, or is located in a federally
20 designated empowerment zone, rural enterprise community, or
21 enterprise community.

22 (iv) A minimum of 5 qualified new jobs at the facility if the
23 eligible business is a qualified high-technology business.

24 (v) A minimum of 5 qualified new jobs at the facility if the
25 eligible business is a rural business.

26 (b) Except as provided in subsection (5), the eligible
27 business agrees to maintain 1 or more of the following for each

1 year that a credit is authorized under this act:

2 (i) A minimum of 75 qualified new jobs at the facility if
3 expanding in this state.

4 (ii) A minimum of 150 qualified new jobs at the facility if
5 locating in this state.

6 (iii) A minimum of 25 qualified new jobs at the facility if
7 the facility is located in a neighborhood enterprise zone as
8 determined under the neighborhood enterprise zone act, 1992
9 PA 147, MCL 207.771 to ~~207.787~~ **207.786**, is located in a
10 renaissance zone under the Michigan renaissance zone act, 1996
11 PA 376, MCL 125.2681 to 125.2696, or is located in a federally
12 designated empowerment zone, rural enterprise community, or
13 enterprise community.

14 (iv) If the eligible business is a qualified high-technology
15 business, all of the following apply:

16 (A) A minimum of 5 qualified new jobs at the facility.

17 (B) A minimum of 25 qualified new jobs at the facility within
18 5 years after the date of the expansion or location as determined
19 by the authority and a minimum of 25 qualified new jobs at the
20 facility each year thereafter for which a credit is authorized
21 under this act.

22 (v) If the eligible business is a rural business, all of the
23 following apply:

24 (A) A minimum of 5 qualified new jobs at the facility.

25 (B) A minimum of 25 qualified new jobs at the facility within
26 5 years after the date of the expansion or location as determined
27 by the authority.

1 (c) Except as provided in subsection (5), in addition to the
2 jobs specified in subdivision (b), the eligible business, if
3 already located within this state, agrees to maintain a number of
4 full-time jobs equal to or greater than the number of full-time
5 jobs it maintained in this state prior to the expansion, as
6 determined by the authority.

7 (d) Except as otherwise provided in this subdivision, the
8 average wage paid for all retained jobs and qualified new jobs is
9 equal to or greater than 150% of the federal minimum wage.
10 However, if the eligible business is a qualified high-technology
11 business, then the average wage paid for all qualified new jobs
12 is equal to or greater than 400% of the federal minimum wage.

13 (e) Except for a qualified high-technology business, the
14 expansion, retention, or location of the eligible business will
15 not occur in this state without the tax credits offered under
16 this act.

17 (f) The local governmental unit in which the eligible
18 business will expand, be located, or maintain retained jobs, or a
19 local economic development corporation or similar entity, will
20 make a staff, financial, or economic commitment to the eligible
21 business for the expansion, retention, or location.

22 (g) The financial statements of the eligible business
23 indicated that it is financially sound and that its plans for the
24 expansion, retention, or location are economically sound.

25 (h) Except as provided in subsection (5)(c), the eligible
26 business has not begun construction of the facility.

27 (i) The expansion, retention, or location of the eligible

1 business will benefit the people of this state by increasing
2 opportunities for employment and by strengthening the economy of
3 this state.

4 (j) The tax credits offered under this act are an incentive
5 to expand, retain, or locate the eligible business in Michigan
6 and address the competitive disadvantages with sites outside this
7 state.

8 (k) A cost/benefit analysis reveals that authorizing the
9 eligible business to receive tax credits under this act will
10 result in an overall positive fiscal impact to the state.

11 (l) If feasible, as determined by the authority, in locating
12 the facility, the authorized business reuses or redevelops
13 property that was previously used for an industrial or commercial
14 purpose.

15 (m) If the eligible business is a qualified high-technology
16 business **described in section 3(m)(i)**, the eligible business
17 agrees that not less than 25% of the total operating expenses of
18 the business will be maintained for research and development for
19 the first 3 years of the written agreement.

20 (2) If the authority determines that the requirements of
21 subsection (1) or (5) have been met, the authority shall
22 determine the amount and duration of tax credits to be authorized
23 under section 9, and shall enter into a written agreement as
24 provided in this section. The duration of the tax credits shall
25 not exceed 20 years or for an authorized business that is a
26 distressed business, 3 years. In determining the amount and
27 duration of tax credits authorized, the authority shall consider

1 the following factors:

2 (a) The number of qualified new jobs to be created or
3 retained jobs to be maintained.

4 (b) The average wage level of the qualified new jobs or
5 retained jobs relative to the average wage paid by private
6 entities in the county in which the facility is located.

7 (c) The total capital investment or new capital investment
8 the eligible business will make.

9 (d) The cost differential to the business between expanding,
10 locating, or retaining new jobs in Michigan and a site outside of
11 Michigan.

12 (e) The potential impact of the expansion, retention, or
13 location on the economy of Michigan.

14 (f) The cost of the credit under section 9, the staff,
15 financial, or economic assistance provided by the local
16 government unit, or local economic development corporation or
17 similar entity, and the value of assistance otherwise provided by
18 this state.

19 (3) A written agreement between an eligible business and the
20 authority shall include, but need not be limited to, all of the
21 following:

22 (a) A description of the business expansion, retention, or
23 location that is the subject of the agreement.

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

26 (c) A statement by the eligible business that a violation of
27 the written agreement may result in the revocation of the

1 designation as an authorized business and the loss or reduction
2 of future credits under section 9.

3 (d) A statement by the eligible business that a
4 misrepresentation in the application may result in the revocation
5 of the designation as an authorized business and the refund of
6 credits received under section 9.

7 (e) A method for measuring full-time jobs before and after an
8 expansion, retention, or location of an authorized business in
9 this state.

10 (f) A written certification from the eligible business
11 regarding all of the following:

12 (i) The eligible business will follow a competitive bid
13 process for the construction, rehabilitation, development, or
14 renovation of the facility, and that this process will be open to
15 all Michigan residents and firms. The eligible business may not
16 discriminate against any contractor on the basis of its
17 affiliation or nonaffiliation with any collective bargaining
18 organization.

19 (ii) The eligible business will make a good faith effort to
20 employ, if qualified, Michigan residents at the facility.

21 (iii) The eligible business will make a good faith effort to
22 employ or contract with Michigan residents and firms to
23 construct, rehabilitate, develop, or renovate the facility.

24 (iv) The eligible business is encouraged to make a good faith
25 effort to utilize Michigan-based suppliers and vendors when
26 purchasing goods and services.

27 (4) Upon execution of a written agreement as provided in this

Senate Bill No. 824 (H-5) as amended February 19, 2004

1 section, an eligible business is an authorized business.

2 (5) After receipt of an application, the authority may enter
3 into a written agreement[, which shall include a repayment provision of
4 all or a portion of the credits under section 9 for a violation of the
5 written agreement,] with an eligible business that meets 1

6 or more of the following criteria:

7 (a) Is located in this state on the date of the application,
8 makes new capital investment of \$250,000,000.00 in this state,
9 and maintains 500 retained jobs, as determined by the authority.

10 (b) Meets either of the following criteria:

11 (i) Relocates production of a product to this state after the
12 date of the application, makes capital investment of
13 \$500,000,000.00 in this state, and maintains 500 retained jobs,
14 as determined by the authority.

15 (ii) Makes capital investment of \$100,000,000.00 in a time
16 period beginning 3 years prior to and 2 years following becoming
17 an authorized business and agrees to maintain at least 1,500 jobs
18 at the facility without permanent reduction in full-time
19 employment except through attrition or retirement. The credit
20 under this subparagraph can only be granted as part of a package
21 of incentives that addresses international competition and
22 includes a negotiated labor contribution.

23 (c) Is a distressed business.

24 [(d) That maintains 150 retained jobs at a facility, maintains 1,000
25 or more full-time jobs in this state, and makes new capital investment in
26 this state.]

27 (6) The authority shall not execute more than 25 new written
28 agreements each year for eligible businesses that are not
29 qualified high-technology businesses, distressed businesses, or
30 rural businesses. If the authority executes less than 25 new
31 written agreements in a year, the authority may carry forward for
32 1 year only the difference between 25 and the number of new

1 agreements executed in the immediately preceding year.

2 (7) The authority shall not execute more than 50 new written
3 agreements each year for eligible businesses that are qualified
4 high-technology businesses or rural business. Only 5 of the 50
5 written agreements for businesses that are qualified
6 high-technology businesses or rural business may be executed each
7 year for qualified rural businesses.

8 (8) The authority shall not execute more than 20 new written
9 agreements each year for eligible businesses that are distressed
10 businesses. The authority shall not execute more than 5 of the
11 written agreements described in this subsection each year for
12 distressed businesses that had 1,000 or more full-time jobs at a
13 facility 4 years immediately preceding the application to the
14 authority under this act.