

HOUSE BILL No. 5817

April 22, 2004, Introduced by Rep. Bisbee and referred to the Committee on Commerce.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

8 (i) A minimum of ~~75~~ 50 qualified new jobs at the facility
9 if expanding in this state.

10 (ii) A minimum of ~~150~~ 100 qualified new jobs at the
11 facility if locating in this state.

1 (iii) A minimum of 25 qualified new jobs at the facility if
2 the facility is located in a neighborhood enterprise zone as
3 determined under the neighborhood enterprise zone act, 1992 PA
4 147, MCL 207.771 to ~~207.787~~ **207.786**, is located in a
5 renaissance zone under the Michigan renaissance zone act, 1996 PA
6 376, MCL 125.2681 to 125.2696, or is located in a federally
7 designated empowerment zone, rural enterprise community, or
8 enterprise community.

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

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

13 (b) Except as provided in subsection (5), the eligible
14 business agrees to maintain 1 or more of the following for each
15 year that a credit is authorized under this act:

16 (i) A minimum of ~~75~~ **50** qualified new jobs at the facility
17 if expanding in this state.

18 (ii) A minimum of ~~150~~ **100** qualified new jobs at the
19 facility if locating in this state.

20 (iii) A minimum of 25 qualified new jobs at the facility if
21 the facility is located in a neighborhood enterprise zone as
22 determined under the neighborhood enterprise zone act, 1992 PA
23 147, MCL 207.771 to ~~207.787~~ **207.786**, is located in a
24 renaissance zone under the Michigan renaissance zone act, 1996 PA
25 376, MCL 125.2681 to 125.2696, or is located in a federally
26 designated empowerment zone, rural enterprise community, or
27 enterprise community.

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

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

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

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

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

12 (B) A minimum of 25 qualified new jobs at the facility within
13 5 years after the date of the expansion or location as determined
14 by the authority.

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

21 (d) Except as otherwise provided in this subdivision, the
22 average wage paid for all retained jobs and qualified new jobs is
23 equal to or greater than 150% of the federal minimum wage.

24 However, if the eligible business is a qualified high-technology
25 business, then the average wage paid for all qualified new jobs
26 is equal to or greater than 400% of the federal minimum wage.

27 (e) Except for a qualified high-technology business, the

1 expansion, retention, or location of the eligible business will
2 not occur in this state without the tax credits offered under
3 this act.

4 (f) ~~The~~ **Except for an eligible business described in**
5 **subsection (5)(b)(ii), the** local governmental unit in which the
6 eligible business will expand, be located, or maintain retained
7 jobs, or a local economic development corporation or similar
8 entity, will make a staff, financial, or economic commitment to
9 the eligible business for the expansion, retention, or location.

10 (g) The financial statements of the eligible business
11 indicated that it is financially sound **or has submitted a chapter**
12 **11 plan of reorganization to the bankruptcy court** and that its
13 plans for the expansion, retention, or location are economically
14 sound.

15 (h) Except ~~as provided~~ **for an eligible business described**
16 in subsection (5)(c), the eligible business has not begun
17 construction of the facility.

18 (i) The expansion, retention, or location of the eligible
19 business will benefit the people of this state by increasing
20 opportunities for employment and by strengthening the economy of
21 this state.

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

26 (k) A cost/benefit analysis reveals that authorizing the
27 eligible business to receive tax credits under this act will

1 result in an overall positive fiscal impact to the state.

2 (l) If feasible, as determined by the authority, in locating
3 the facility, the authorized business reuses or redevelops
4 property that was previously used for an industrial or commercial
5 purpose.

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

11 (2) If the authority determines that the requirements of
12 subsection (1) or (5) have been met, the authority shall
13 determine the amount and duration of tax credits to be authorized
14 under section 9, and shall enter into a written agreement as
15 provided in this section. The duration of the tax credits shall
16 not exceed 20 years or for an authorized business that is a
17 distressed business, 3 years. In determining the amount and
18 duration of tax credits authorized, the authority shall consider
19 the following factors:

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

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

25 (c) The total capital investment or new capital investment
26 the eligible business will make.

27 (d) The cost differential to the business between expanding,

1 locating, or retaining new jobs in Michigan and a site outside of
2 Michigan.

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

5 (f) The cost of the credit under section 9, the staff,
6 financial, or economic assistance provided by the local
7 government unit, or local economic development corporation or
8 similar entity, and the value of assistance otherwise provided by
9 this state.

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

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

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

17 (c) A statement by the eligible business that a violation of
18 the written agreement may result in the revocation of the
19 designation as an authorized business and the loss or reduction
20 of future credits under section 9.

21 (d) A statement by the eligible business that a
22 misrepresentation in the application may result in the revocation
23 of the designation as an authorized business and the refund of
24 credits received under section 9.

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

1 (f) A written certification from the eligible business
2 regarding all of the following:

3 (i) The eligible business will follow a competitive bid
4 process for the construction, rehabilitation, development, or
5 renovation of the facility, and that this process will be open to
6 all Michigan residents and firms. The eligible business may not
7 discriminate against any contractor on the basis of its
8 affiliation or nonaffiliation with any collective bargaining
9 organization.

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

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

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

18 (g) A condition that if the eligible business qualified under
19 section 8(5)(b)(ii) and met the section 8(1)(g) requirement by
20 filing a chapter 11 plan of reorganization, the plan must be
21 approved by the bankruptcy court within 2 years of the date of
22 the agreement or the agreement is rescinded.

23 (4) Upon execution of a written agreement as provided in this
24 section, an eligible business is an authorized business.

25 (5) After receipt of an application, the authority may enter
26 into a written agreement, **which shall include a repayment**
27 **provision of all or a portion of the credits under section 9 for**

1 a violation of the written agreement, with an eligible business
2 that meets 1 or more of the following criteria:

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

6 (b) Meets either of the following criteria:

7 (i) Relocates production of a product to this state after the
8 date of the application, makes capital investment of
9 \$500,000,000.00 in this state, and maintains 500 retained jobs,
10 as determined by the authority.

11 (ii) ~~Makes capital investment of \$100,000,000.00 in a time~~
12 ~~period beginning 3 years prior to and 2 years following becoming~~
13 ~~an authorized business and agrees to maintain at least 1,500 jobs~~
14 ~~at the facility without permanent reduction in full-time~~
15 ~~employment except through attrition or retirement. The credit~~
16 ~~under this subparagraph can only be granted as part of a package~~
17 ~~of incentives that addresses international competition and~~
18 ~~includes a negotiated labor contribution.~~ **Maintains 150 retained**
19 **jobs at a facility, maintains 1,000 or more full-time jobs in**
20 **this state, and makes new capital investment in this state.**

21 (iii) Is located in this state on the date of the
22 application, maintains at least 100 retained jobs at a single
23 facility, and agrees to make new capital investment at that
24 facility equal to the greater of \$150,000.00 per retained job
25 maintained at that facility or \$15,000,000.00 to be completed not
26 later than December 31, 2006.

27 (c) Is a distressed business.

1 (6) The authority shall not execute more than ~~25~~ 35 new
2 written agreements ~~each~~ **in the years 2004, 2005, and 2006 or**
3 **more than 25 new written agreements in any subsequent** year for
4 eligible businesses that are not qualified high-technology
5 businesses, distressed businesses, or rural businesses. If the
6 authority executes less than ~~25~~ 35 new written agreements in
7 ~~a~~ **2004, 2005, or 2006 or less than 25 new written agreements in**
8 **any subsequent** year, the authority may carry forward for 1 year
9 only the difference between ~~25~~ **the number authorized** and the
10 number of new agreements executed in the immediately preceding
11 year. **The authority shall not execute more than 5 written**
12 **agreements each year for eligible businesses described in**
13 **subsection (5)(a) or (b).**

14 (7) The authority shall not execute more than 50 new written
15 agreements each year for eligible businesses that are qualified
16 high-technology businesses or rural business. Only 5 of the 50
17 written agreements for businesses that are qualified
18 high-technology businesses or rural business may be executed each
19 year for qualified rural businesses.

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