

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 802

A bill to amend 1995 PA 24, entitled
"Michigan economic growth authority act,"
by amending sections 8 and 10 (MCL 207.808 and 207.810), section 8
as amended by 2006 PA 117 and section 10 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 may
2 enter into an agreement with an eligible business for a tax credit
3 under section 9 if the authority determines that all of the
4 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 the

1 expansion or location as determined by the authority:

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

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

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

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

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

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

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

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

24 (iii) A minimum of 25 qualified new jobs at the facility if the
25 facility is located in a neighborhood enterprise zone as determined
26 under the neighborhood enterprise zone act, 1992 PA 147, MCL
27 207.771 to 207.786, is located in a renaissance zone under the

1 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
2 125.2696, or is located in a federally designated empowerment zone,
3 rural enterprise community, or enterprise community.

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

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

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

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

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

15 (B) A minimum of 25 qualified new jobs at the facility within
16 5 years after the date of the expansion or location as determined
17 by the authority.

18 (c) Except as provided in subsection (5) **AND AS OTHERWISE**
19 **PROVIDED IN THIS SUBDIVISION**, in addition to the jobs specified in
20 subdivision (b), the eligible business, if already located within
21 this state, agrees to maintain a number of full-time jobs equal to
22 or greater than the number of full-time jobs it maintained in this
23 state prior to the expansion, as determined by the authority. **AFTER**
24 **AN ELIGIBLE BUSINESS HAS ENTERED INTO A WRITTEN AGREEMENT AS**
25 **PROVIDED IN SUBSECTION (2), THE AUTHORITY MAY ADJUST THE NUMBER OF**
26 **FULL-TIME JOBS REQUIRED TO BE MAINTAINED BY THE AUTHORIZED BUSINESS**
27 **UNDER THIS SUBDIVISION, IN ORDER TO ADJUST FOR DECREASES IN FULL-**

1 TIME JOBS IN THE AUTHORIZED BUSINESS IN THIS STATE DUE TO THE
2 DIVESTITURE OF OPERATIONS, PROVIDED A SINGLE OTHER PERSON CONTINUES
3 TO MAINTAIN THOSE FULL-TIME JOBS IN THIS STATE. THE AUTHORITY SHALL
4 NOT APPROVE A REDUCTION IN THE NUMBER OF FULL-TIME JOBS TO BE
5 MAINTAINED UNLESS THE AUTHORITY HAS DETERMINED THAT IT CAN MONITOR
6 THE MAINTENANCE OF THE FULL-TIME JOBS IN THIS STATE BY THE OTHER
7 PERSON, AND THE AUTHORIZED BUSINESS AGREES IN WRITING THAT THE
8 CONTINUED MAINTENANCE OF THE FULL-TIME JOBS IN THIS STATE BY THE
9 OTHER PERSON, AS DETERMINED BY THE AUTHORITY, IS A CONDITION OF
10 RECEIVING TAX CREDITS UNDER THE WRITTEN AGREEMENT. A FULL-TIME JOB
11 MAINTAINED BY ANOTHER PERSON UNDER THIS SUBDIVISION, THAT OTHERWISE
12 MEETS THE REQUIREMENTS OF SECTION 3(I), SHALL BE CONSIDERED A FULL-
13 TIME JOB, NOTWITHSTANDING THE REQUIREMENT THAT A FULL-TIME JOB BE
14 PERFORMED BY AN INDIVIDUAL EMPLOYED BY AN AUTHORIZED BUSINESS, OR
15 AN EMPLOYEE LEASING COMPANY OR PROFESSIONAL EMPLOYER ORGANIZATION
16 ON BEHALF OF AN AUTHORIZED BUSINESS.

17 (d) Except as otherwise provided in this subdivision, the
18 average wage paid for all retained jobs and qualified new jobs is
19 equal to or greater than 150% of the federal minimum wage. However,
20 if the eligible business is a qualified high-technology business,
21 then the average wage paid for all qualified new jobs is equal to
22 or greater than ~~400%~~ 300% of the federal minimum wage.

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

26 (f) Except for an eligible business described in subsection
27 (5)(b)(ii), the local governmental unit in which the eligible

1 business will expand, be located, or maintain retained jobs, or a
2 local economic development corporation or similar entity, will make
3 a staff, financial, or economic commitment to the eligible business
4 for the expansion, retention, or location.

5 (g) The financial statements of the eligible business
6 indicated that it is financially sound or has submitted a chapter
7 11 plan of reorganization to the bankruptcy court and that its
8 plans for the expansion, retention, or location are economically
9 sound.

10 (h) Except for an eligible business described in subsection
11 (5)(c), the eligible business has not begun construction of the
12 facility.

13 (i) The expansion, retention, or location of the eligible
14 business will benefit the people of this state by increasing
15 opportunities for employment and by strengthening the economy of
16 this state.

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

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

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

27 (m) If the eligible business is a qualified high-technology

1 business described in section 3(m)(i), the eligible business agrees
2 that not less than 25% of the total operating expenses of the
3 business will be maintained for research and development for the
4 first 3 years of the written agreement.

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

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

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

18 (c) The total capital investment or new capital investment the
19 eligible business will make.

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

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

25 (f) The cost of the credit under section 9, the staff,
26 financial, or economic assistance provided by the local government
27 unit, or local economic development corporation or similar entity,

1 and the value of assistance otherwise provided by this state.

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

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

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

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

13 (d) A statement by the eligible business that a
14 misrepresentation in the application may result in the revocation
15 of the designation as an authorized business and the refund of
16 credits received under section 9.

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

20 (f) A written certification from the eligible business
21 regarding all of the following:

22 (i) The eligible business will follow a competitive bid process
23 for the construction, rehabilitation, development, or renovation of
24 the facility, and that this process will be open to all Michigan
25 residents and firms. The eligible business may not discriminate
26 against any contractor on the basis of its affiliation or
27 nonaffiliation with any collective bargaining organization.

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

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

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

9 (g) A condition that if the eligible business qualified under
10 subsection (5)(b)(ii) and met the subsection (1)(g) requirement by
11 filing a chapter 11 plan of reorganization, the plan must be
12 approved by the bankruptcy court within 2 years of the date of the
13 agreement or the agreement is rescinded.

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

16 (5) After receipt of an application, the authority may enter
17 into a written agreement, which shall include a repayment provision
18 of all or a portion of the credits under section 9 for a violation
19 of the written agreement, with an eligible business that meets 1 or
20 more of the following criteria:

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

24 (b) Meets 1 or more of the following criteria:

25 (i) Relocates production of a product to this state after the
26 date of the application, makes capital investment of
27 \$500,000,000.00 in this state, and maintains 500 retained jobs, as

1 determined by the authority.

2 (ii) Maintains 150 retained jobs at a facility, maintains 1,000
3 or more full-time jobs in this state, and makes new capital
4 investment in this state.

5 (iii) Is located in this state on the date of the application,
6 maintains at least 100 retained jobs at a single facility, and
7 agrees to make new capital investment at that facility equal to the
8 greater of \$100,000.00 per retained job maintained at that facility
9 or \$10,000,000.00 to be completed or contracted for not later than
10 December 31, 2007.

11 (iv) Maintains 300 retained jobs at a facility; ~~is a rural~~
12 ~~business;~~ the facility is at risk of being closed and if it were
13 to close, the work would go to a location outside this state, as
14 determined by the authority; new management or new ownership is
15 proposed for the facility that is committed to improve the
16 viability of the facility; and the tax credits offered under this
17 act are necessary for the facility to maintain operations. The
18 authority may not enter into a written agreement under this
19 subparagraph after December 31, ~~2006~~ 2007. Of the written
20 agreements entered into under this subparagraph, the authority may
21 enter into ~~1~~ 3 written ~~agreement~~ **AGREEMENTS** under this
22 subparagraph that ~~is~~ **ARE** excluded from the requirements of
23 subsection (1)(e), (f), (g), (h), (j), and (k) if the authority
24 considers it in the public interest and if the eligible business
25 would have met the requirements of subsection (1)(e), (i), (j), and
26 (k) within the immediately preceding 6 months from the signing of
27 the written agreement for a tax credit.

1 (v) MAINTAINS 100 RETAINED JOBS AT A FACILITY; IS A RURAL
2 BUSINESS; THE FACILITY IS AT RISK OF BEING CLOSED AND IF IT WERE TO
3 CLOSE, THE WORK WOULD GO TO A LOCATION OUTSIDE THIS STATE, AS
4 DETERMINED BY THE AUTHORITY; NEW MANAGEMENT OR NEW OWNERSHIP IS
5 PROPOSED FOR THE FACILITY THAT IS COMMITTED TO IMPROVE THE
6 VIABILITY OF THE FACILITY; AND THE TAX CREDITS OFFERED UNDER THIS
7 ACT ARE NECESSARY FOR THE FACILITY TO MAINTAIN OPERATIONS. THE
8 AUTHORITY MAY NOT ENTER INTO A WRITTEN AGREEMENT UNDER THIS
9 SUBPARAGRAPH AFTER DECEMBER 31, 2007. OF THE WRITTEN AGREEMENTS
10 ENTERED INTO UNDER THIS SUBPARAGRAPH, THE AUTHORITY MAY ENTER INTO
11 3 WRITTEN AGREEMENTS UNDER THIS SUBPARAGRAPH THAT ARE EXCLUDED FROM
12 THE REQUIREMENTS OF SUBSECTION (1)(E), (F), (G), (H), (J), AND (K)
13 IF THE AUTHORITY CONSIDERS IT IN THE PUBLIC INTEREST AND IF THE
14 ELIGIBLE BUSINESS WOULD HAVE MET THE REQUIREMENTS OF SUBSECTION
15 (1)(E), (I), (J), AND (K) WITHIN THE IMMEDIATELY PRECEDING 6 MONTHS
16 FROM THE SIGNING OF THE WRITTEN AGREEMENT FOR A TAX CREDIT.

17 (vi) ~~—(v)—~~ Maintains 175 retained jobs and makes new capital
18 investment at a facility in a county with a population of not less
19 than 7,500 but not greater than 8,000.

20 (vii) IS LOCATED IN THIS STATE ON THE DATE OF THE APPLICATION,
21 MAINTAINS AT LEAST 675 RETAINED JOBS AT A FACILITY, AGREES TO
22 CREATE 400 NEW JOBS, AND AGREES TO MAKE A NEW CAPITAL INVESTMENT OF
23 AT LEAST \$45,000,000.00 TO BE COMPLETED OR CONTRACTED FOR NOT LATER
24 THAN DECEMBER 31, 2007. OF THE WRITTEN AGREEMENTS ENTERED INTO
25 UNDER THIS SUBPARAGRAPH, THE AUTHORITY MAY ENTER INTO 1 WRITTEN
26 AGREEMENT UNDER THIS SUBPARAGRAPH THAT IS EXCLUDED FROM THE
27 REQUIREMENTS OF SUBSECTION (1)(H) IF THE AUTHORITY CONSIDERS IT IN

1 **THE PUBLIC INTEREST.**

2 (c) Is a distressed business.

3 (6) The authority shall not execute more than 25 new written
4 agreements each year for eligible businesses that are not qualified
5 high-technology businesses, distressed businesses, or rural
6 businesses. If the authority executes less than 25 new written
7 agreements in a year, the authority may carry forward for 1 year
8 only the difference between 25 and the number of new agreements
9 executed in the immediately preceding year.

10 (7) The authority shall not execute more than 50 new written
11 agreements each year for eligible businesses that are qualified
12 high-technology businesses or rural business. Only ~~5~~ 25 of the 50
13 written agreements for businesses that are qualified high-
14 technology businesses or rural business may be executed each year
15 for qualified rural businesses.

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

23 Sec. 10. The authority shall report to both houses of the
24 legislature yearly on October 1 on the activities of the authority.
25 The report shall include, but is not limited to, all of the
26 following:

27 (a) The total amount of capital investment attracted under

1 this act.

2 (b) The total number of qualified new jobs created under this
3 act.

4 (c) The total number of new written agreements.

5 (d) Name and location of all authorized businesses and the
6 names and addresses of all of the following:

7 (i) The directors and officers of the corporation if the
8 authorized business is a corporation.

9 (ii) The partners of the partnership or limited liability
10 partnership if the authorized business is a partnership or limited
11 liability partnership.

12 (iii) The members of the limited liability company if the
13 authorized business is a limited liability company.

14 (e) The amount and duration of the tax credit separately for
15 each authorized business.

16 (f) The amount of any fee, donation, or other payment of any
17 kind from the authorized business to the Michigan economic
18 development corporation or a foundation or fund associated with the
19 Michigan economic development corporation paid or made in the
20 previous reporting year end or, if it is the first reporting year
21 for the authorized business, for the immediately preceding 3
22 calendar years.

23 **(G) THE TOTAL NUMBER OF NEW WRITTEN AGREEMENTS ENTERED INTO**
24 **UNDER SECTION 8(5) AND, OF THOSE WRITTEN AGREEMENTS, THE NUMBER IN**
25 **WHICH THE BOARD DETERMINED THAT IT WAS IN THE PUBLIC INTEREST TO**
26 **WAIVE 1 OR MORE OF THE REQUIREMENTS OF SECTION 8(1).**

27 Enacting section 1. This amendatory act does not take effect

1 unless House Bill No. 6035 of the 93rd Legislature is enacted into
2 law.