

SUBSTITUTE FOR
HOUSE BILL NO. 4547

A bill to amend 1995 PA 24, entitled
"Michigan economic growth authority act,"
by amending sections 4, 5, 7, 8, and 9 (MCL 207.804, 207.805,
207.807, 207.808, and 207.809), section 4 as amended by 2006 PA
484, section 5 as amended by 2008 PA 108, section 8 as amended by
2009 PA 123, and section 9 as amended by 2007 PA 150.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) The Michigan economic growth authority is created
2 within the Michigan strategic fund. The Michigan strategic fund
3 shall provide staff for the authority and shall carry out the
4 administrative duties and functions **OF THE AUTHORITY** as directed by
5 the authority **BOARD OF DIRECTORS**. The budgeting, procurement, and
6 related **MANAGEMENT** functions ~~as directed by~~ **OF** the authority are
7 under the **DIRECTION AND** supervision of the president of the

1 Michigan strategic fund.

2 (2) The authority **BOARD OF DIRECTORS** consists of the following
3 8 members:

4 (a) The president of the Michigan strategic fund, ~~or his or~~
5 ~~her designee, as chairperson of the authority~~ **WHO SHALL SERVE AS A**
6 **NONVOTING MEMBER OF THE AUTHORITY BOARD OF DIRECTORS.**

7 (b) The state treasurer or his or her designee **FROM WITHIN THE**
8 **DEPARTMENT OF TREASURY, WHO SHALL SERVE AS CHAIRPERSON OF THE**
9 **AUTHORITY BOARD OF DIRECTORS.**

10 (c) The director of the department of **ENERGY, labor, and**
11 **economic growth, or his or her designee FROM WITHIN THE DEPARTMENT**
12 **OF ENERGY, LABOR, AND ECONOMIC GROWTH.**

13 (d) The **STATE BUDGET** director, ~~of the state transportation~~
14 ~~department,~~ or his or her designee **FROM WITHIN THE STATE BUDGET**
15 **OFFICE.**

16 (e) Four other members appointed by the governor by and with
17 the advice and consent of the senate who are not employed by this
18 state and who have knowledge, skill, and experience in the
19 academic, business, local government, labor, or financial fields.

20 (3) A member **OF THE AUTHORITY BOARD OF DIRECTORS UNDER**
21 **SUBDIVISION (2) (E)** shall be appointed for a term of 4 years, except
22 that of the members first appointed by the governor, 2 shall be
23 appointed for a term of 2 years and 2 for a term of 4 years from
24 the dates of their appointments. A vacancy shall be filled for the
25 balance of the unexpired term in the same manner as an original
26 appointment by the governor and by and with the advice and consent
27 of the senate.

1 (4) Except as otherwise provided by law, a member of the
2 authority **BOARD OF DIRECTORS** shall not receive compensation for
3 services **AS A MEMBER OF THE AUTHORITY BOARD OF DIRECTORS**, but the
4 authority may ~~reimburse each member~~ **BE REIMBURSED** for **NECESSARY**
5 **TRAVEL AND** expenses ~~necessarily~~ incurred in the performance of his
6 or her duties **CONSISTENT WITH APPLICABLE LAW AND THE RULES AND**
7 **PROCEDURES OF THE CIVIL SERVICE COMMISSION AND THE DEPARTMENT OF**
8 **TECHNOLOGY, MANAGEMENT, AND BUDGET, SUBJECT TO AVAILABLE FUNDING.**

9 (5) **MEMBERS OF THE AUTHORITY BOARD OF DIRECTORS MAY ELECT A**
10 **VICE-CHAIRPERSON.**

11 (6) **MEMBERS OF THE AUTHORITY BOARD OF DIRECTORS SHALL**
12 **DISCHARGE THEIR DUTIES IN A NONPARTISAN MANNER, WITH GOOD FAITH,**
13 **AND WITH THAT DEGREE OF DILIGENCE, CARE, AND SKILL THAT AN**
14 **ORDINARILY PRUDENT PERSON WOULD EXERCISE UNDER SIMILAR**
15 **CIRCUMSTANCES IN A LIKE POSITION.**

16 Sec. 5. (1) The powers of the authority are vested in the
17 authority ~~members in office~~ **BOARD OF DIRECTORS**. Regardless of the
18 existence of a vacancy, a majority of the **VOTING** members of the
19 authority **BOARD OF DIRECTORS** constitutes a quorum necessary for the
20 transaction of business at a meeting or the exercise of a power or
21 function of the authority. Action may be taken by the authority
22 **BOARD OF DIRECTORS** at a meeting upon a vote of the majority of the
23 **VOTING AND SERVING** members ~~present~~ **OF THE AUTHORITY BOARD OF**
24 **DIRECTORS**. Members of the authority **BOARD OF DIRECTORS** may be
25 present in person at a meeting of the authority or, if authorized
26 by the bylaws of the authority, by use of telecommunications or
27 other electronic equipment **IF A QUORUM OF THE AUTHORITY BOARD OF**

1 **DIRECTORS IS PRESENT AT THE MEETING.**

2 (2) The authority shall meet at the call of the chairperson or
3 as may be provided by the authority **BOARD OF DIRECTORS**. Meetings of
4 the authority may be held anywhere within this state **AT A LOCATION**
5 **ACCESSIBLE TO THE GENERAL PUBLIC.**

6 (3) The business of the authority shall be conducted at a
7 public meeting of the authority **BOARD OF DIRECTORS** held in
8 compliance with the open meetings act, 1976 PA 267, MCL 15.261 to
9 15.275. Public notice of the time, date, and place of the meeting
10 shall be given as provided by the open meetings act, 1976 PA 267,
11 MCL 15.261 to 15.275. A record or portion of a record, material, or
12 other data received, prepared, used, or retained by the authority
13 in connection with an application for a tax credit under section 9
14 that relates to financial or proprietary information submitted by
15 the applicant that is considered by the applicant and acknowledged
16 by the authority as confidential shall not be subject to the
17 disclosure requirements of the freedom of information act, 1976 PA
18 442, MCL 15.231 to 15.246. A designee of the authority **BOARD OF**
19 **DIRECTORS** shall make the determination as to whether the authority
20 acknowledges as confidential any financial or proprietary
21 information submitted by the applicant and considered by the
22 applicant as confidential, **WITH THE CONCURRENCE OF THE OFFICE OF**
23 **THE CHIEF COMPLIANCE OFFICER PROVIDED FOR UNDER SECTION 88I OF THE**
24 **MICHIGAN STRATEGIC FUND ACT, 1984 PA 270, MCL 125.2088I.** Unless
25 considered proprietary information, the authority shall not
26 acknowledge routine financial information as confidential. If the
27 designee of the authority **BOARD OF DIRECTORS** determines that

1 information submitted to the authority is financial or proprietary
2 information and is confidential **AND IF THE OFFICE OF THE CHIEF**
3 **COMPLIANCE OFFICER CONCURS**, the designee of the authority **BOARD OF**
4 **DIRECTORS** shall release a written statement, subject to disclosure
5 under the freedom of information act, 1976 PA 442, MCL 15.231 to
6 15.246, which states all of the following:

7 (a) The name and business location of the person requesting
8 that the information submitted be confidential as financial or
9 proprietary information.

10 (b) That the information submitted was determined by the
11 designee of the authority to be confidential as financial or
12 proprietary information.

13 (c) A broad nonspecific overview of the financial or
14 proprietary information determined to be confidential.

15 (4) The authority shall not disclose financial or proprietary
16 information not subject to disclosure pursuant to subsection (3)
17 without consent of the applicant submitting the information.

18 (5) As used in this section, "financial or proprietary
19 information" means information that has not been publicly
20 disseminated or is unavailable from other sources, the release of
21 which might cause the applicant significant competitive harm.

22 Financial or proprietary information does not include a written
23 agreement under this act **OR INFORMATION OF A FRAUDULENT NATURE OR**
24 **INFORMATION SUBMITTED TO THE AUTHORITY IN A FRAUDULENT MANNER.**

25 (6) **THE AUTHORITY BOARD OF DIRECTORS MAY, AS APPROPRIATE, MAKE**
26 **INQUIRIES, STUDIES, AND INVESTIGATIONS, HOLD HEARINGS, AND RECEIVE**
27 **COMMENTS FROM THE PUBLIC. THE AUTHORITY BOARD OF DIRECTORS ALSO MAY**

1 CONSULT WITH OUTSIDE EXPERTS IN ORDER TO PERFORM ITS DUTIES,
2 INCLUDING, BUT NOT LIMITED TO, EXPERTS IN THE PRIVATE SECTOR,
3 ORGANIZED LABOR, GOVERNMENT AGENCIES, AND AT INSTITUTIONS OF HIGHER
4 EDUCATION.

5 Sec. 7. (1) An eligible business may apply to the authority to
6 enter into a written agreement ~~which authorizes~~ **AUTHORIZING** a tax
7 credit under section 9.

8 (2) The **AUTHORITY SHALL SPECIFY THE** form of the application.
9 ~~shall be as specified by the authority from time to time.~~ The
10 authority may request such information, in addition to that
11 contained in an application, as may be needed to permit the
12 authority **AND THE OFFICE OF THE CHIEF COMPLIANCE OFFICER PROVIDED**
13 **FOR UNDER SECTION 88I OF THE MICHIGAN STRATEGIC FUND ACT, 1984 PA**
14 **270, MCL 125.2088I,** to discharge ~~its~~ **THEIR** responsibilities under
15 ~~section 8~~ **THIS ACT AND OTHER APPLICABLE LAW.**

16 (3) **THE AUTHORITY SHALL NOT ENTER INTO A WRITTEN AGREEMENT**
17 **AUTHORIZING A TAX CREDIT UNDER SECTION 9 WITHOUT A WRITTEN**
18 **DETERMINATION BY THE OFFICE OF THE CHIEF COMPLIANCE OFFICER**
19 **PROVIDED FOR UNDER SECTION 88I OF THE MICHIGAN STRATEGIC FUND ACT,**
20 **1984 PA 270, MCL 125.2088I, THAT BOTH THE APPLICATION AND THE**
21 **AUTHORIZATION COMPLY WITH THE REQUIREMENTS OF THIS ACT AND OTHER**
22 **APPLICABLE LAW.**

23 (4) **THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL ESTABLISH A**
24 **BUSINESS INTEGRITY VERIFICATION PROGRAM TO EVALUATE THE BUSINESS**
25 **PROBITY OF A BUSINESS ENTITY APPLYING FOR A TAX CREDIT UNDER**
26 **SECTION 9. THE BUSINESS INTEGRITY VERIFICATION PROGRAM SHALL**
27 **INCLUDE, WITHOUT LIMITATION, ALL OF THE FOLLOWING:**

1 (A) A POLICY ADOPTED BY THE BOARD OF DIRECTORS OF THE
2 AUTHORITY REQUIRING A BUSINESS ENTITY APPLYING FOR A TAX CREDIT
3 UNDER SECTION 9, OR A PERSON ASSOCIATED WITH THE BUSINESS ENTITY,
4 TO SUBMIT A WRITTEN BUSINESS INTEGRITY QUESTIONNAIRE AND OTHER
5 DOCUMENTATION IN A FORM DETERMINED BY THE MICHIGAN ECONOMIC GROWTH
6 AUTHORITY, IF A QUESTIONNAIRE OR OTHER DOCUMENTATION IS NECESSARY
7 TO VERIFY THE BUSINESS INTEGRITY OF THE BUSINESS ENTITY.

8 (B) A POLICY ADOPTED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY
9 REQUIRING A BUSINESS ENTITY APPLYING FOR A TAX CREDIT UNDER SECTION
10 9, OR A PERSON ASSOCIATED WITH THE BUSINESS ENTITY, TO SUBMIT TO A
11 CIVIL, CRIMINAL, OR CREDIT BACKGROUND CHECK IF A BACKGROUND CHECK
12 IS NECESSARY TO VERIFY THE BUSINESS INTEGRITY OF THE BUSINESS
13 ENTITY. THE POLICY SHALL INCLUDE, WITHOUT LIMITATION, MEASURES TO
14 ASSURE THAT THE BUSINESS ENTITY OR PERSON HAS NOT BEEN CONVICTED OF
15 EMBEZZLEMENT, FRAUD, THEFT, FORGERY, BRIBERY, FALSIFICATION OR
16 DESTRUCTION OF RECORDS, RECEIVING STOLEN PROPERTY, OR VIOLATION OF
17 STATE OR FEDERAL ANTITRUST LAWS OR PROCUREMENT LAWS.

18 (5) IF A BUSINESS ENTITY FAILS TO COMPLY WITH THE REQUIREMENTS
19 OF SUBSECTION (4) OR IF ACTIVITIES AUTHORIZED UNDER SUBSECTION (4)
20 DEMONSTRATE A LACK OF BUSINESS INTEGRITY ON THE PART OF THE
21 BUSINESS ENTITY, THE BOARD SHALL NOT AUTHORIZE THE MICHIGAN
22 ECONOMIC GROWTH AUTHORITY TO ENTER INTO AN AGREEMENT FOR A TAX
23 CREDIT WITH THE BUSINESS ENTITY.

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

1 (a) Except as provided in subsection (5), the eligible
2 business creates 1 or more of the following as determined by the
3 authority and provided with written agreement:

4 (i) A minimum of 50 qualified new jobs at the facility if
5 expanding in this state.

6 (ii) A minimum of 50 qualified new jobs at the facility if
7 locating in this state.

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

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

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

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

22 (i) A minimum of 50 qualified new jobs at the facility if
23 expanding in this state.

24 (ii) A minimum of 50 qualified new jobs at the facility if
25 locating in this state.

26 (iii) A minimum of 25 qualified new jobs at the facility if the
27 facility is located in a neighborhood enterprise zone as determined

1 under the neighborhood enterprise zone act, 1992 PA 147, MCL
2 207.771 to 207.786, is located in a renaissance zone under the
3 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
4 125.2696, or is located in a federally designated empowerment zone,
5 rural enterprise community, or enterprise community.

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

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

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

14 (v) If the eligible business is a rural business, all of the
15 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.

20 (c) Except as provided in subsection (5) and as otherwise
21 provided in this subdivision, in addition to the jobs specified in
22 subdivision (b), the eligible business, if already located within
23 this state, agrees to maintain a number of full-time jobs equal to
24 or greater than the number of full-time jobs it maintained in this
25 state prior to the expansion, as determined by the authority. After
26 an eligible business has entered into a written agreement as
27 provided in subsection (2), the authority may adjust the number of

1 full-time jobs required to be maintained by the authorized business
2 under this subdivision, in order to adjust for decreases in full-
3 time jobs in the authorized business in this state due to the
4 divestiture of operations, provided a single other person continues
5 to maintain those full-time jobs in this state. The authority shall
6 not approve a reduction in the number of full-time jobs to be
7 maintained unless the authority has determined that it can monitor
8 the maintenance of the full-time jobs in this state by the other
9 person, and the authorized business agrees in writing that the
10 continued maintenance of the full-time jobs in this state by the
11 other person, as determined by the authority, is a condition of
12 receiving tax credits under the written agreement. A full-time job
13 maintained by another person under this subdivision, that otherwise
14 meets the requirements of section 3(j), shall be considered a full-
15 time job, notwithstanding the requirement that a full-time job be
16 performed by an individual employed by an authorized business, or
17 an employee leasing company or professional employer organization
18 on behalf of an authorized business.

19 (d) Except as otherwise provided in this subdivision, the wage
20 paid for each retained job and qualified new job is equal to or
21 greater than 150% of the federal minimum wage. However, if the
22 eligible business is a qualified high-wage activity, then the wage
23 paid for each qualified new job is equal to or greater than 300% of
24 the state minimum wage. However, beginning on August 4, 2008, the
25 authority may include the value of the health care benefit in
26 determining the wage paid for each retained job or qualified new
27 job for an eligible business under this act.

1 (e) The plans for the expansion, retention, or location are
2 economically sound.

3 (f) Except for an eligible business described in subsection
4 (5)(c), the eligible business has not begun construction of the
5 facility.

6 (g) The expansion, retention, or location of the eligible
7 business will benefit the people of this state by increasing
8 opportunities for employment and by strengthening the economy of
9 this state.

10 (h) The tax credits offered under this act are an incentive to
11 expand, retain, or locate the eligible business in Michigan and
12 address the competitive disadvantages with sites outside this
13 state.

14 (i) A cost/benefit analysis reveals that authorizing the
15 eligible business to receive tax credits under this act will result
16 in an overall positive fiscal impact to the state.

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

27 (a) The number of qualified new jobs to be created or retained

1 jobs to be maintained.

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

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

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

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

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

17 (g) Whether the expansion, retention, or location will occur
18 in this state without the tax credits offered under this act.

19 (h) Whether the authorized business reuses or redevelops
20 property that was previously used for an industrial or commercial
21 purpose in locating the facility.

22 (i) The project's effects on other Michigan businesses within
23 the same industry.

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

27 (a) A description of the business expansion, retention, or

1 location that is the subject of the agreement.

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

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

8 (d) A statement by the eligible business that a
9 misrepresentation in the application may result in the revocation
10 of the designation as an authorized business and the refund of
11 credits received under section 9 plus a penalty equal to 10% of the
12 credits received under section 9.

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

16 (f) A written certification from the eligible business
17 regarding all of the following:

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

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

26 (iii) The eligible business will make a good faith effort to
27 employ or contract with Michigan residents and firms to construct,

1 rehabilitate, develop, or renovate the facility.

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

5 (g) A condition that if the eligible business qualified under
6 subsection (5)(b)(ii) and met the subsection (1)(e) requirement by
7 filing a chapter 11 plan of reorganization, the plan must be
8 confirmed by the bankruptcy court within 6 years of the date of the
9 agreement or the agreement is rescinded.

10 (H) ALL WRITTEN AGREEMENTS ENTERED INTO ON OR AFTER APRIL 1,
11 2010 SHALL CONTAIN A PROVISION REQUIRING THE PAYMENT OF A PENALTY
12 IF THE AUTHORIZED BUSINESS FAILS TO COMPLY WITH SECTION 3 OF THE
13 MICHIGAN CORPORATE RESPONSIBILITY ACT OR FAILS TO DISCLOSE A CIVIL
14 OR CRIMINAL OFFENSE AS REQUIRED BY SECTION 3 OF THE MICHIGAN
15 CORPORATE RESPONSIBILITY ACT. THE PENALTY IS EQUAL TO THE AMOUNT OF
16 ALL TAX CREDITS DESCRIBED IN SECTION 9 THAT WERE UTILIZED BY THE
17 AUTHORIZED BUSINESS UNDER THIS ACT.

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

20 (5) Through December 31, 2007, after receipt of an
21 application, the authority may enter into a written agreement with
22 an eligible business that meets 1 or more of the following
23 criteria:

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

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

1 (i) Relocates production of a product to this state after the
2 date of the application, makes capital investment of
3 \$500,000,000.00 in this state, and maintains 500 retained jobs, as
4 determined by the authority.

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

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

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

1 (1)(g) and (h) within the immediately preceding 6 months from the
2 signing of the written agreement for a tax credit. Of the 3 written
3 agreements described in this subparagraph, the authority may also
4 waive the requirement for new management if the existing management
5 and labor make a commitment to improve the viability and
6 productivity of the facility to better meet international
7 competition as determined by the authority.

8 (v) Maintains 100 retained jobs at a facility; is a rural
9 business, unless otherwise provided in this subparagraph; the
10 facility is at risk of being closed and if it were to close, the
11 work would go to a location outside this state, as determined by
12 the authority; new management or new ownership is proposed for the
13 facility that is committed to improve the viability of the
14 facility; and the tax credits offered under this act are necessary
15 for the facility to maintain operations. The authority may not
16 enter into a written agreement under this subparagraph after
17 December 31, 2007. Of the written agreements entered into under
18 this subparagraph, the authority may enter into 3 written
19 agreements under this subparagraph that are excluded from the
20 requirements of subsection (1)(e), (f), and (h) if the authority
21 considers it in the public interest and if the eligible business
22 would have met the requirements of subsection (1)(e) ~~, (g),~~ and (h)
23 within the immediately preceding 6 months from the signing of the
24 written agreement for a tax credit. Of the 3 written agreements
25 described in this subparagraph, the authority may also waive the
26 requirement that the business be a rural business if the business
27 is located in a county with a population of 500,000 or more and

1 600,000 or less.

2 (vi) Maintains 175 retained jobs and makes new capital
3 investment at a facility in a county with a population of not less
4 than 7,500 but not greater than 8,000.

5 (vii) Is located in this state on the date of the application,
6 maintains at least 675 retained jobs at a facility, agrees to
7 create 400 new jobs, and agrees to make a new capital investment of
8 at least \$45,000,000.00 to be completed or contracted for not later
9 than December 31, 2007. Of the written agreements entered into
10 under this subparagraph, the authority may enter into 1 written
11 agreement under this subparagraph that is excluded from the
12 requirements of subsection (1)(f) if the authority considers it in
13 the public interest.

14 (viii) Is located in this state on the date of the application,
15 makes new capital investment of \$250,000,000.00 or more in this
16 state, and makes that capital investment at a facility located
17 north of the 45th parallel.

18 (c) Is a distressed business.

19 (6) Through December 31, 2008, each year, the authority shall
20 not execute new written agreements that in total provide for more
21 than 400 yearly credits over the terms of those agreements entered
22 into that year for eligible businesses that are not qualified high-
23 technology businesses, distressed businesses, rural businesses, or
24 an eligible business described in subsection (11). For calendar
25 year 2009, the authority shall not execute new written agreements
26 described in this subsection that in total provide for more than
27 400 yearly credits over the terms of those agreements entered into

1 that year, plus up to 85 additional yearly credits taken from
2 previously issued credits by the authority. For calendar year 2010
3 and each year thereafter, the authority shall not execute new
4 written agreements described in this subsection that in total
5 provide for more than 300 yearly credits over the terms of those
6 agreements entered into that year, plus up to 85 additional yearly
7 credits taken from previously issued credits by the authority. As
8 used in this subsection, beginning calendar year 2010, "yearly
9 credit" means the number of years over the term of an agreement
10 multiplied by the percentage amount authorized in the agreement. As
11 used in this subsection, "previously issued credits" means 2/3 of
12 the number of tax credits authorized by the authority for an
13 authorized business beginning in calendar year 1999 that meet all
14 of the following:

15 (a) That the authorized business did not use any or a portion
16 of the tax credits authorized under that written agreement.

17 (b) The authority determined at a meeting upon a vote of the
18 majority of the members present that the credits previously
19 authorized satisfy subdivision (a).

20 (7) The authority shall not execute more than 50 new written
21 agreements each year for eligible businesses that are qualified
22 high-technology businesses or rural business. In addition, the
23 authority may execute not more than 25 additional new written
24 agreements each year for eligible businesses that are qualified
25 high-technology businesses that have demonstrated that not less
26 than 10% of the total operating expenses of the eligible business
27 in the immediately preceding 2 years was attributable to research

1 and development. Not more than 35 of the 75 written agreements for
2 businesses that are qualified high-technology businesses or rural
3 business may be executed each year for qualified rural businesses.
4 Not more than 50 of the 75 written agreements for businesses that
5 are qualified high-technology businesses or rural businesses may be
6 executed each year for a high-technology business that engages in a
7 qualified high-wage activity. Not more than 4 of the 75 agreements
8 executed under this subsection may provide for a tax credit with a
9 duration of more than 12 years but not more than 20 years. The
10 authority shall not execute a written agreement for an eligible
11 business that is a qualified high-technology business or rural
12 business under this subsection if that eligible business has
13 claimed a credit under section 455 of the Michigan business tax
14 act, 2007 PA 36, MCL 208.1455.

15 (8) The authority shall not execute more than 20 new written
16 agreements each year for eligible businesses that are distressed
17 businesses. The authority shall not execute more than 5 of the
18 written agreements described in this subsection each year for
19 distressed businesses that had 1,000 or more full-time jobs at a
20 facility 4 years immediately preceding the application to the
21 authority under this act. The authority shall not execute more than
22 5 new written agreements each year for eligible businesses
23 described in subsection (11). The authority shall not execute more
24 than 4 new written agreements each year for eligible businesses
25 described in subsection (11) in local governmental units that have
26 a population greater than 16,000.

27 (9) Beginning January 1, 2008, after receipt of an

1 application, the authority may enter into a written agreement with
2 an eligible business that does not meet the criteria described in
3 subsection (1), if the eligible business meets all of the
4 following:

5 (a) Agrees to retain not fewer than 50 jobs.

6 (b) Agrees to invest, through construction, acquisition,
7 transfer, purchase, contract, or any other method as determined by
8 the authority, at a facility equal to \$50,000.00 or more per
9 retained job maintained at the facility.

10 (c) Certifies to the authority that, without the credits under
11 this act and without the new capital investment, the facility is at
12 risk of closing and the work and jobs would be removed to a
13 location outside of this state.

14 (d) Certifies to the authority that the management or
15 ownership is committed to improving the long-term viability of the
16 facility in meeting the national and international competition
17 facing the facility through better management techniques, best
18 practices, including state of the art lean manufacturing practices,
19 and market diversification.

20 (e) Certifies to the authority that it will make best efforts
21 to keep jobs in Michigan when making plant location and closing
22 decisions.

23 (f) Certifies to the authority that the workforce at the
24 facility demonstrates its commitment to improving productivity and
25 profitability at the facility through various means.

26 (10) Beginning on April 28, 2008, if the authority enters into
27 a written agreement with an eligible business, the written

1 agreement shall include a repayment provision of all or a portion
2 of the credits received by the eligible business for a facility if
3 the eligible business moves full-time jobs outside this state
4 during the term of the written agreement and for a period of years
5 after the term of the written agreement, as determined by the
6 authority.

7 (11) Beginning January 1, 2008, after receipt of an
8 application, the authority may enter into a written agreement with
9 an eligible business that does not meet the criteria described in
10 subsection (1), if the eligible business meets all of the
11 following:

12 (a) Agrees to create or retain not fewer than 15 jobs.

13 (b) Agrees to occupy property that is a historic resource as
14 that term is defined in section 435 of the Michigan business tax
15 act, 2007 PA 36, MCL 208.1435, and that is located in a downtown
16 district as defined in section 1 of 1975 PA 197, MCL 125.1651.

17 (c) The average wage paid for each retained job and full-time
18 job is equal to or greater than 150% of the federal minimum wage.

19 **(12) BEGINNING APRIL 1, 2010, THE AUTHORITY SHALL NOT ENTER**
20 **INTO AN AGREEMENT WITH AN ELIGIBLE BUSINESS THAT HAS FAILED TO**
21 **COMPLY WITH SECTION 3 OF THE MICHIGAN CORPORATE RESPONSIBILITY ACT.**

22 Sec. 9. (1) An authorized business is eligible for the credits
23 provided in sections 37c, 37d, and 38g(19) to (24) of ~~the single~~
24 ~~business tax act, FORMER~~ 1975 PA 228, ~~MCL 208.37c, 208.37d, and~~
25 ~~208.38g,~~ and sections 407 and 431 of the Michigan business tax act,
26 2007 PA 36, MCL 208.1407 and 208.1431.

27 (2) The authority shall issue a certificate each year to an

1 authorized business that states the following:

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

3 (b) The amount of the tax credit for the designated tax year.

4 (c) The taxpayer's federal employer identification number or
5 the Michigan treasury number assigned to the taxpayer.

6 (D) THE TAXPAYER CONTINUES TO COMPLY WITH THE REQUIREMENTS OF
7 THIS ACT AND OTHER LAWS OF THIS STATE APPLICABLE TO THE TAX CREDIT.

8 (3) THE AUTHORITY SHALL NOT ISSUE A CERTIFICATE FOR A TAX
9 CREDIT TO AN ELIGIBLE BUSINESS UNDER THIS SECTION IF THE OFFICE OF
10 THE CHIEF COMPLIANCE OFFICER CREATED UNDER SECTION 88I OF THE
11 MICHIGAN STRATEGIC FUND ACT, 1984 PA 270, MCL 125.2088I, DETERMINES
12 THAT THE ELIGIBLE BUSINESS IS NOT IN COMPLIANCE WITH THIS ACT OR
13 OTHER LAWS OF THIS STATE APPLICABLE TO THE TAX CREDIT.