

Legislative Analysis



HIGH-WAGE INCENTIVE FOR REGIONAL EMPLOYMENT IN MICHIGAN PROGRAM

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<http://www.house.mi.gov/hfa>

House Bill 5413 as introduced
Sponsor: Rep. Jason Hoskins

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5414 as introduced
Sponsor: Rep. Jasper R. Martus

House Bill 5415 as introduced
Sponsor: Rep. Graham Filler

Committee: Economic Development and Small Business
Revised 2-16-24

SUMMARY:

Together, House Bills 5413, 5414, and 5415 would restore the Good Jobs for Michigan program, originally created in 2017 to incentivize high-wage job creation by allowing companies to keep up to 100% of their withholding taxes for new employees.¹ House Bill 5413 would rename the program as the High-Wage Incentive for Regional Employment (H.I.R.E.) in Michigan program and would provide for payments to eligible businesses from the H.I.R.E. in Michigan Fund. House Bills 5414 and 5415 are companion bills that would amend the Michigan Strategic Fund Act and the Income Tax Act, respectively, to reflect the renaming of the program and the fund.

House Bill 5413 would amend the Michigan Strategic Fund Act to modify the Good Jobs for Michigan program and rename it as the High-Wage Incentive for Regional Employment (H.I.R.E.) in Michigan program.

Good Jobs for Michigan

The original program allowed an *eligible business* that proposed to create a sufficient number of *certified new jobs* through an expansion or location in Michigan to enter into a written agreement with the Michigan Strategic Fund (MSF) to receive a percentage of the withholding taxes for those new employees for up to ten years.² The Department of Treasury then directed withholding tax revenue to the Good Jobs for Michigan Fund in an amount equal to the portion of the withholding tax capture revenues attributable to certified new jobs and paid those amounts to the businesses in the program.

Eligible business is currently defined under the Michigan Strategic Fund Act as a business other than a retail establishment, professional sports stadium, casino, or a

¹ An overview of Good Jobs for Michigan: <https://www.michiganbusiness.org/reports-data/good-jobs-for-michigan/>.

² For an analysis of the bills creating the program, enacted as 2017 PAs 109, 110, and 111, see: <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-0242-A21AB8A8.pdf>.

portion of an eligible business used exclusively for retail sales that proposes to create at least one of the following:

- A minimum of 3,000 certified new jobs in Michigan with an average annual wage that is equal to or greater than the average wage for the prosperity region where the facility is located.³
- A minimum of 500 certified new jobs in Michigan with an average annual wage that is equal to or greater than the prosperity region's average wage.
- A minimum of 250 certified new jobs in Michigan with an average annual wage that is equal to 125% or more of the prosperity region's average wage.

Certified job is currently defined as a full-time job created by an eligible business that has entered into a written agreement with the MSF at a facility in Michigan that is in excess of the number of full-time jobs in Michigan that the business maintained or acquired through a merger or acquisition before the expansion or location, as determined by the MSF. Currently, jobs created by an eligible business' primary supplier that proposes to create at least 3,000 new jobs as a result of that business' increased activity can qualify toward the 3,000-job threshold.

Businesses that created at least 3,000 certified new jobs in Michigan with an average annual wage at or above the applicable prosperity regional average wage and businesses that created at least 500 certified new jobs in Michigan with an average annual wage at or above 125% of the applicable prosperity region average wage could capture up to 100% of withholding tax revenues for up to ten years, while businesses that created at least 500 certified new jobs in Michigan with an average annual wage at or above the applicable prosperity regional annual wage could capture up to 50% of those revenues for up to five years. The MSF could retain 5% of the payments for administrative expenses.

The MSF could enter up to 15 agreements under the program each year and could disburse up to \$200.0 million in total withholding tax capture revenues over the life of the program. As of January 1, 2020, the MSF cannot enter into any new agreements.

H.I.R.E. in Michigan

House Bill 5413 would restore and rename the program as the High-Wage Incentive for Regional Employment in Michigan program, allowing the MSF to designate authorized businesses as eligible for the incentive and enter written agreements with those businesses for eight years after the bill takes effect. (The bill's provisions would not apply to written agreements that are in effect before the bill's effective date.)

Jobs would qualify for the H.I.R.E. in Michigan program based on their *median* wage in comparison to the median wage of the applicable prosperity region, rather than their average wages.

³ See milmi.org/archive/regional-prosperity-initiative-labor-market-information-supplements. A map of Michigan's ten prosperity regions can be found here: https://www.michigan.gov/-/media/Project/Websites/mdhhs/Folder3/Folder39/Folder2/Folder139/Folder1/Folder239/Prosperity_Map1_4303467.pdf?rev=4b907ee644814b6397163752b0c3807e.

The bill would amend the definition of *eligible business* to mean a business (other than a retail establishment, professional sports stadium, casino, or portion of a business used exclusively for retail sales) that proposes to create either of the following:

- A minimum of 250 new jobs in Michigan with a median annual wage of 125% of the prosperity region median wage.
- A minimum of 25 new jobs in Michigan with a median annual wage that is at least 150% of the prosperity region median wage.

The definition of *certified new job* would specify that the jobs must be permanent, and jobs created by a primary supplier would no longer qualify.⁴

Under the bill, the cap would be raised to \$200.0 million in withholding tax capture revenues *per year*, and the MSF would no longer be restricted to 15 agreements each year. If the MSF commits less than \$200.0 million in any calendar year, the remaining money would be available for disbursement in subsequent years in addition to the \$200.0 million annual cap. The MSF could not commit the entire \$200.0 million to a single business.

The bill would also specify that the 5% administrative fee could be used for periodic evaluations of the program in compliance with the Economic Development Incentive Evaluation Act.

MSF evaluation criteria

The following criteria, which the MSF was required to consider when determining whether to enter into a written agreement with an eligible business for the Good Jobs for Michigan program, would remain as criteria for the H.I.R.E. in Michigan program:

- Whether the eligible business proposes to create and maintain the minimum required number of certified new jobs at a facility in Michigan that meet the wage requirements.
- If an eligible business is already located in Michigan, whether it agrees to maintain a number of full-time jobs that is equal to or greater than the number of full-time jobs it maintained in Michigan before the expansion, as determined by the MSF.
- Whether the plans for the expansion or location are economically sound.
- Whether the expansion or location will benefit the people of Michigan by increasing opportunities for employment and strengthening the state's economy.
- Whether a cost-benefit analysis performed by an industry-recognized regional economic model reveals that the payment of withholding taxes to the business will have an overall positive fiscal impact on the state.
- Whether the business will create the required jobs within five years after entering into the written agreement, as determined by the MSF.
- Whether the business will maintain the number of certified new jobs as outlined in the written agreement throughout the duration that it receives withholding tax capture revenues and will forfeit the revenues for any calendar year in which it fails to do so.
- Whether the local governing body of the municipality in which the facility is located approves the expansion or location.

The former program required the MSF to consider whether the withholding tax capture revenues would address the competitive disadvantages with sites outside of Michigan. House

⁴ The definition of primary supplier would also be removed.

Bill 5413 would instead require the MSF to consider whether the revenues would address a need for additional assistance for deal closing and second-stage company gap financing.

The MSF would also have to determine that the eligible business provides detailed hiring plans and training plans to local workforce development agencies and agrees to coordinate with those agencies to attract and train a qualified workforce.

Capture duration and amount

If the MSF determines that a business satisfies the above requirements, it would have to determine the amount and duration of the withholding tax incentive that the business would receive under the H.I.R.E. in Michigan program. The 50% and five-year limits for businesses that create at least 500 certified new jobs with an annual wage at or above the wage for the applicable prosperity region would no longer apply, and any eligible business could receive up to 100% of the withholding tax capture revenues for up to ten years, depending on the MSF's determination.

As applicable, the MSF would have to consider the following factors, which were required under the Good Jobs for Michigan program, in determining the maximum amount and duration of withholding tax capture revenues to authorize:

- The number of certified new jobs to be created.
- The degree to which the median annual wage of the certified new jobs exceeds the prosperity region median wage.⁵
- Whether there is a disadvantage to the eligible business if it were to expand or locate in Michigan instead of a site in another state.
- The potential impact of the expansion or location on the state's economy.
- The estimated cost of the reimbursement of withholding tax capture revenues; the staff, financial, or economic assistance provided by a municipality or local economic development corporation; and the value of other assistance provided by the state.
- Whether the expansion or location will occur in Michigan without the payment of withholding tax capture revenues.
- Whether the business has made a written commitment to fund a portion of the costs for job training for individuals to receive a professional or technical certification.

The MSF would no longer have to consider whether the eligible business will make a good-faith effort to employ qualified Michigan residents at the facility. Instead, it would have to consider whether the expansion or location of the eligible business will support or enable progress towards the following goals:

- Community enhancement or engagement opportunities.
- Investing in Michigan's labor and workforce.
- Enacting a workforce plan that includes recruitment, hiring, training strategies, and advancement strategies for employees.

Upon the execution of a written agreement authorizing the capture, the MSF would provide a copy of the agreement to the Department of Treasury. The state treasurer would then calculate the amount of withholding tax capture revenues collected as a result of the certified new jobs that are created in accordance with the agreement and the percentage of that amount that needs

⁵ The Good Jobs for Michigan program required the MSF to consider *average* annual wages.

to be transferred from the general fund into the H.I.R.E. in Michigan fund, a fund within the Department of Treasury from which the MSF would issue payments to the business.

Deadlines

If a business's location or expansion requires construction, it would generally have to meet the following timeline:

- The business must begin construction within three years after the written agreement is executed.
- The business must hire its first individual into a certified new job within two years after the beginning of construction.
- The business must create the certified new jobs as provided in the written agreement and begin receiving withholding tax capture revenues not later than three years after its first hire for a certified new job.

If a location or expansion does not require construction, a business would generally have to meet the following timeline:

- The business must hire its first individual into a certified new job within three years after the written agreement is executed.
- The business must create the certified new jobs as provided in the written agreement and begin receiving withholding tax capture revenues not later than three years after its first hire for a certified new job.

The MSF would have to notify a business of any applicable deadlines at least 90 days in advance. A deadline could be extended for one year if the MSF determines that the business has proceeded in good faith with the location or expansion and there is good cause for the delay. A business would have to provide any information requested by the MSF that it considers necessary to make a determination on extending a deadline.

If a business does not follow the appropriate timeline and does not receive a deadline extension, both the business and the MSF would be released from the written agreement.

Additional provisions

House Bill 5413 would amend other provisions of the Michigan Strategic Fund Act to reflect the renaming of the program as the High-Wage Incentive for Regional Employment in Michigan program, including a requirement that the MSF include information about any written agreements entered into under the program⁶ in its annual report.

MCL 125.2009 et seq.

House Bill 5414 would amend the Michigan Strategic Fund Act to reflect the renaming of the Good Jobs for Michigan program as the High-Wage Incentive for Regional Employment in Michigan program and to allow the MSF to use the 5% of the withholding tax payments for both administrative expenses and periodic evaluations of the program in accordance with the Economic Development Incentive Act.

⁶ For each written agreement, the act requires the MSF to provide the name of the authorized business, the number of certified new jobs that are required to be created, and the amount and duration of the withholding tax capture revenues in its report.

The bill would also rename the Good Jobs for Michigan Fund, which is used to make withholding tax capture payments to eligible businesses and to pay for administrative expenses and incentive evaluations, as the High-Wage Incentive for Regional Employment in Michigan Fund.

MCL 125.2090i et seq.

House Bill 5415 would amend the Income Tax Act to replace references to the Good Jobs for Michigan Fund with the High-Wage Incentive for Regional Employment in Michigan Fund.

MCL 206.51f and 206.711

House Bills 5413 and 5414 are tie-barred to each other, meaning that neither can take effect unless both are enacted. House Bill 5415 is tie-barred to both HBs 5413 and 5414.

BACKGROUND:

The bills are similar to Senate Bills 579, 580, and 581 of the current legislative session. As of February 12, 2023, those bills were reported from the Senate Economic and Community Development Committee and have advanced to third reading on the Senate floor.

FISCAL IMPACT:

The bills would authorize up to \$200.0 million in annual general fund revenue capture from income tax withholding over the life of the H.I.R.E. program. In the previous version of the program (Good Jobs for Michigan), the total withholding tax capture was capped at \$200.0 million over the life of the program, of which \$188.4 million was approved through December 31, 2019.⁷ Despite having an annual calendar year cap, how the revenue impact will be allocated across fiscal years is not clear. Moreover, the provision in the bills allowing for unused cap space to be carried forward into subsequent fiscal years could raise the cap above \$200.0 million in any year with available carryforward.

To the extent that the H.I.R.E. program results in new employment, tax revenues, and other economic benefits for the state or a specific region that wouldn't have occurred but for the provisions of the bill, the general fund revenue loss due to the withholding capture would be mitigated, but not necessarily allocated solely to the general fund. However, this cannot be estimated with any certainty.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

⁷ <https://www.michiganbusiness.org/reports-data/good-jobs-for-michigan/>