

HOUSE BILL No. 5351

September 10, 2009, Introduced by Reps. Johnson, Polidori, Constan, Geiss, Kandrevas, Walsh, Leland, Byrnes, Jackson, Bledsoe, LeBlanc and Angerer and referred to the Committee on Transportation.

A bill to amend 1995 PA 24, entitled "Michigan economic growth authority act," by amending section 3 (MCL 207.803), as amended by 2008 PA 257.

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 at least
3 50% owned and controlled, directly or indirectly, by an associated
4 business.

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

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

9 (i) A single eligible business with a unique federal employer
10 identification number that has met the requirements of section 8

1 and with which the authority has entered into a written agreement
2 for a tax credit under section 9.

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

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

18 (e) "Business" means proprietorship, joint venture,
19 partnership, limited liability partnership, trust, business trust,
20 syndicate, association, joint stock company, corporation,
21 cooperative, limited liability company, or any other organization.

22 (f) "Distressed business" means a business that meets all of
23 the following as verified by the Michigan economic growth
24 authority:

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

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

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

9 (g) "Eligible business" means a distressed business or
10 business that proposes to maintain retained jobs after December 31,
11 1999 or to create qualified new jobs in this state after April 18,
12 1995 in manufacturing, mining, research and development, wholesale
13 and trade, film and digital media production, or office operations
14 or a business that is a qualified high-technology business or a
15 business that is a tourism attraction facility or a qualified
16 lodging facility; **A BUSINESS ENGAGED IN THE SHIPMENT OF TANGIBLE
17 PERSONAL PROPERTY VIA MULTIMODAL COMMERCE; A SUPPLY CHAIN BUSINESS
18 PROVIDING A MAJORITY OF SERVICES TO BUSINESSES ENGAGED IN THE
19 SHIPMENT OF TANGIBLE PERSONAL PROPERTY VIA MULTIMODAL COMMERCE; A
20 MANUFACTURING OR ASSEMBLY FACILITY RECEIVING A MAJORITY OF ITS
21 PRODUCTION COMPONENTS VIA MULTIMODAL COMMERCE; A MANUFACTURING OR
22 ASSEMBLY FACILITY SHIPPING A MAJORITY OF PRODUCTS VIA MULTIMODAL
23 COMMERCE; A BUSINESS THAT PROVIDES VALUE TO CUSTOMERS THROUGH
24 APPLYING AN INTEGRATED APPROACH TO PLANNING, IMPLEMENTING, AND
25 CONTROLLING THE FLOW OF INFORMATION, MATERIALS, AND SERVICES FROM
26 INITIATION OF PRODUCT CONCEPT AND DEVELOPMENT THROUGH AND INCLUDING
27 THE DISTRIBUTION OF THE FINISHED PRODUCT TO THE END CUSTOMER**

1 INCLUDING PROCUREMENT, MANUFACTURING, TECHNOLOGY, DISTRIBUTION,
2 WAREHOUSING, LOGISTICS, TRANSPORTATION, OR RELATED VALUE-ADDED
3 PROCESSES AND ACTIVITIES; AND INCLUDING RELATED CORPORATE OFFICES
4 AND HEADQUARTER FACILITIES FOR ANY OF THE BUSINESSES DESCRIBED IN
5 THIS SUBDIVISION. Except for a retail establishment that meets the
6 criteria in section 8(11), an eligible business does not include
7 retail establishments, professional sports stadiums, or that
8 portion of an eligible business used exclusively for retail sales.
9 Professional sports stadium does not include a sports stadium in
10 existence on June 6, 2000 that is not used by a professional sports
11 team on the date that an application related to that professional
12 sports stadium is filed under section 8.

13 (h) "Facility" means a site or sites within this state in
14 which an authorized business or subsidiary business maintains
15 retained jobs or creates qualified new jobs.

16 (i) "Film and digital media production" means the development,
17 preproduction, production, postproduction, and distribution of
18 single media or multimedia entertainment content for distribution
19 or exhibition to the general public in 2 or more states by any
20 means and media in any digital media format, film, or video tape,
21 including, but not limited to, a motion picture, a documentary, a
22 television series, a television miniseries, a television special,
23 interstitial television programming, long-form television,
24 interactive television, music videos, interactive games, video
25 games, internet programming, an internet video, a sound recording,
26 a video, digital animation, or an interactive website. Film and
27 digital media production also includes the development,

1 preproduction, production, postproduction, and distribution of a
2 trailer, pilot, video teaser, or demo created primarily to
3 stimulate the sale, marketing, promotion, or exploitation of future
4 investment in a film or digital media production. Film or digital
5 media production does not include the production of any of the
6 following:

7 (i) A production for which records are required to be
8 maintained with respect to any performer in the production under 18
9 USC 2257.

10 (ii) A production that includes obscene matter or an obscene
11 performance as described in 1984 PA 343, MCL 752.361 to 752.374.

12 (iii) A production that primarily consists of televised news or
13 current events.

14 (iv) A production that primarily consists of a live sporting
15 event.

16 (v) A production that primarily consists of political
17 advertising.

18 (vi) A radio program.

19 (vii) A weather show.

20 (viii) A financial market report.

21 (ix) A talk show.

22 (x) A game show.

23 (xi) A production that primarily markets a product or service.

24 (xii) An awards show or other gala event production.

25 (xiii) A production with the primary purpose of fund-raising.

26 (xiv) A production that primarily is for employee training or
27 in-house corporate advertising or other similar production.

1 (j) "Full-time job" means a job performed by an individual for
2 35 hours or more each week and whose income and social security
3 taxes are withheld by 1 or more of the following:

4 (i) An authorized business.

5 (ii) An employee leasing company.

6 (iii) A professional employer organization on behalf of the
7 authorized business.

8 (iv) Another person as provided in section 8(1)(c).

9 (v) A business that sells all or part of its assets to an
10 eligible business that receives a credit under section 8(1) or (5).

11 (k) "Local governmental unit" means a county, city, village,
12 or township in this state.

13 (l) "High-technology activity" means 1 or more of the
14 following:

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

17 (A) Computer hardware and software.

18 (B) Data communications.

19 (C) Information technologies.

20 (D) Film and digital media production.

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

24 (iii) Biotechnology, which is any technology that uses living
25 organisms, cells, macromolecules, microorganisms, or substances
26 from living organisms to make or modify a product, improve plants
27 or animals, or develop microorganisms for useful purposes.

1 Biotechnology does not include human cloning as defined in section
2 16274 of the public health code, 1978 PA 368, MCL 333.16274, or
3 stem cell research with embryonic tissue.

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

9 (v) Engineering or laboratory testing related to the
10 development of a product.

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

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

19 (viii) Product research and development.

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

25 (A) "Electric vehicle" means a road vehicle that draws
26 propulsion energy only from an on-board source of electrical
27 energy.

1 (B) "Hybrid vehicle" means a road vehicle that can draw
2 propulsion energy from both a consumable fuel and a rechargeable
3 energy storage system.

4 (x) Tool and die manufacturing.

5 (xi) Competitive edge technology as defined in section 88a of
6 the Michigan strategic fund act, 1984 PA 270, MCL 125.2088a.

7 (xii) Digital media, including internet publishing and
8 broadcasting, video gaming, web development, and entertainment
9 technology.

10 (xiii) Music production, including record production and
11 development, sound recording studios, and integrated high-
12 technology record production and distribution.

13 (xiv) Film and video, including motion picture and video
14 production and distribution, postproduction services, and
15 teleproduction and production services.

16 (M) **"MULTIMODAL COMMERCE" MEANS THE MOVEMENT OF PRODUCTS,**
17 **INFORMATION, AND SERVICES VIA AIR, ROADS, RAIL, OR WATER.**

18 (N) ~~(m)~~—"New capital investment" means 1 or more of the
19 following:

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

21 (A) "New construction" means property not in existence on the
22 date the authorized business enters into a written agreement with
23 the authority and not replacement construction. New construction
24 includes the physical addition of equipment or furnishings, subject
25 to section 27(2)(a) to (o) of the general property tax act, 1893 PA
26 206, MCL 211.27.

27 (B) "Replacement construction" means that term as defined in

1 section 34d(1)(b)(v) of the general property tax act, 1893 PA 206,
2 MCL 211.34d.

3 (ii) The purchase of new personal property. As used in this
4 subparagraph, "new personal property" means personal property that
5 is not subject to or that is exempt from the collection of taxes
6 under the general property tax act, 1893 PA 206, MCL 211.1 to
7 211.155, on the date the authorized business enters into a written
8 agreement with the authority.

9 (O) ~~(n)~~—"Qualified high-technology business" means a business
10 or facility whose primary business activity is high-technology
11 activity or a qualified high-wage activity.

12 (P) ~~(e)~~—"Qualified high-wage activity" means a business that
13 has an average wage of 300% or more of the federal minimum wage.
14 Qualified high-wage activity may also include, but is not limited
15 to, 1 or more of the following as long as they have an average wage
16 of 300% or more of the federal minimum wage:

17 (i) Architecture and design, including architectural design,
18 graphic design, interior design, fashion design, and industrial
19 design.

20 (ii) Advertising and marketing, including advertising and
21 marketing firms and agencies, public relations agencies, and
22 display advertising.

23 (Q) ~~(p)~~—"Qualified lodging facility" means 1 or more of the
24 following:

25 (i) Lodging facilities that constitute a portion of a tourism
26 attraction facility and represent less than 50% of the total cost
27 of the tourism attraction facility, or the lodging facilities are

1 to be located on recreational property owned or leased by the
2 municipal, state, or federal government.

3 (ii) The lodging facilities involve the restoration or
4 rehabilitation of a structure that is listed individually in the
5 national register of historic places or are located in a national
6 register historic district and certified by this state as
7 contributing to the historic significance of the district, and the
8 rehabilitation or restoration project has been approved in advance
9 by this state.

10 (R) ~~(q)~~—"Qualified new job" means 1 of the following:

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

15 (ii) For jobs created after July 1, 2000, a full-time job at a
16 facility created by an eligible business that is in excess of the
17 number of full-time jobs maintained by that eligible business in
18 this state up to 90 days before the eligible business became an
19 authorized business, as determined by the authority.

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

24 (S) ~~(r)~~—"Retained jobs" means the number of full-time jobs at
25 a facility of an authorized business maintained in this state on a
26 specific date as that date and number of jobs is determined by the
27 authority.

1 (T) ~~(s)~~—"Rural business" means an eligible business located in
2 a county with a population of 90,000 or less.

3 (U) ~~(t)~~—"Subsidiary business" means a business that is
4 directly or indirectly controlled or at least 80% owned by an
5 authorized business.

6 (V) ~~(u)~~—"Tourism attraction facility" means a cultural or
7 historical site, a recreation or entertainment facility, an area of
8 natural phenomena or scenic beauty, or an entertainment destination
9 center as determined by the Michigan economic growth authority as
10 follows:

11 (i) In making a determination, the Michigan economic growth
12 authority shall consider all of the following:

13 (A) Whether the facility will actually attract tourists.

14 (B) Whether 50% or more of the persons using the facility
15 reside outside a 100-mile radius.

16 (C) Whether 50% or more of the gross receipts are from
17 admissions, food, or nonalcoholic drinks.

18 (D) Whether the facility offers a unique experience.

19 (ii) The Michigan economic growth authority shall not determine
20 any of the following as a tourism attraction facility:

21 (A) Facilities, other than an entertainment destination
22 center, that are primarily devoted to the retail sale of goods, a
23 theme restaurant destination attraction, or a tourism attraction
24 where the attraction is a secondary and subordinate component to
25 the sale of goods.

26 (B) Recreational facilities that do not serve as a likely
27 destination where individuals who are not residents of the state

1 would remain overnight in commercial lodging at or near the
2 facility.

3 (W) ~~(v)~~—"Written agreement" means a written agreement made
4 pursuant to section 8. A written agreement may address new jobs,
5 qualified new jobs, full-time jobs, retained jobs, or any
6 combination of new jobs, qualified new jobs, full-time jobs, or
7 retained jobs.