

# SENATE BILL No. 1240

May 2, 2006, Introduced by Senators PRUSI, BASHAM, SCOTT, CHERRY, OLSHOVE, BRATER, THOMAS, CLARK-COLEMAN, SWITALSKI, WHITMER, LELAND, SCHAUER, JACOBS and EMERSON and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

A bill to amend 1995 PA 24, entitled  
"Michigan economic growth authority act,"  
by amending section 8 (MCL 207.808), as amended by 2006 PA 21.

**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  
7 expansion or location as determined by the authority:

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

1           (ii) A minimum of 150 qualified new jobs at the facility if  
2 locating in this state.

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

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

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

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

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

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

21           (iii) A minimum of 25 qualified new jobs at the facility if the  
22 facility is located in a neighborhood enterprise zone as determined  
23 under the neighborhood enterprise zone act, 1992 PA 147, MCL  
24 207.771 to 207.786, is located in a renaissance zone under the  
25 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
26 125.2696, or is located in a federally designated empowerment zone,  
27 rural enterprise community, or 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. However,  
24 if the eligible business is a qualified high-technology business,  
25 then the average wage paid for all qualified new jobs is equal to  
26 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 not  
2 occur in this state without the tax credits offered under this act.

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

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

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

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

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

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

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

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

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

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

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

22           (c) The total capital investment or new capital investment the  
23 eligible business will make.

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

27           (e) The potential impact of the expansion, retention, or

1 location on the economy of Michigan.

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

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

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

11 (b) Conditions upon which the authorized business designation  
12 is made.

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

17 (d) A statement by the eligible business that a  
18 misrepresentation in the application may result in the revocation  
19 of the designation as an authorized business and the refund of  
20 credits received under section 9.

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

24 (f) A written certification from the eligible business  
25 regarding all of the following:

26 (i) The eligible business will follow a competitive bid process  
27 for the construction, rehabilitation, development, or renovation of

1 the facility, and that this process will be open to all Michigan  
2 residents and firms. The eligible business may not discriminate  
3 against any contractor on the basis of its affiliation or  
4 nonaffiliation with any collective bargaining organization.

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

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

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

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

18 (H) BEGINNING ON OR AFTER OCTOBER 1, 2006, A PROVISION  
19 REQUIRING THE PAYMENT OF A PENALTY IF THE AUTHORIZED BUSINESS  
20 RELOCATES A FACILITY FOR WHICH IT WAS GIVEN A CREDIT UNDER THIS ACT  
21 OUTSIDE OF THIS STATE. THE PENALTY IS EQUAL TO THE AMOUNT OF ALL  
22 TAX CREDITS DESCRIBED IN SECTION 9 THAT WERE UTILIZED BY THE  
23 AUTHORIZED BUSINESS ATTRIBUTABLE TO THAT FACILITY UNDER THIS ACT.

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

26 (5) After receipt of an application, the authority may enter  
27 into a written agreement, which shall include a repayment provision

1 of all or a portion of the credits under section 9 for a violation  
2 of the written agreement, with an eligible business that meets 1 or  
3 more of the following criteria:

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

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

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

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

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

21 (iv) Maintains 300 retained jobs at a facility; is a rural  
22 business; the facility is at risk of being closed and if it were to  
23 close, the work would go to a location outside this state, as  
24 determined by the authority; new management or new ownership is  
25 proposed for the facility that is committed to improve the  
26 viability of the facility; and the tax credits offered under this  
27 act are necessary for the facility to maintain operations. The



1 authority may not enter into a written agreement under this  
2 subparagraph after December 31, 2006. Of the written agreements  
3 entered into under this subparagraph, the authority may enter into  
4 1 written agreement under this subparagraph that is excluded from  
5 the requirements of subsection (1)(e), (f), (g), (h), (j), and (k)  
6 if the authority considers it in the public interest and if the  
7 eligible business would have met the requirements of subsection  
8 (1)(e), (i), (j), and (k) within the immediately preceding 6 months  
9 from the signing of the written agreement for a tax credit.

10 (c) Is a distressed business.

11 (6) The authority shall not execute more than 25 new written  
12 agreements each year for eligible businesses that are not qualified  
13 high-technology businesses, distressed businesses, or rural  
14 businesses. If the authority executes less than 25 new written  
15 agreements in a year, the authority may carry forward for 1 year  
16 only the difference between 25 and the number of new agreements  
17 executed in the immediately preceding year.

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

24 (8) The authority shall not execute more than 20 new written  
25 agreements each year for eligible businesses that are distressed  
26 businesses. The authority shall not execute more than 5 of the  
27 written agreements described in this subsection each year for

1 distressed businesses that had 1,000 or more full-time jobs at a  
2 facility 4 years immediately preceding the application to the  
3 authority under this act.

4           Enacting section 1. This amendatory act does not take effect  
5 unless Senate Bill No. 1235  
6           of the 93rd Legislature is enacted into law.