

SENATE BILL No. 1187

March 5, 2008, Introduced by Senators STAMAS, CLARKE, GILBERT and HUNTER and referred to the Committee on Commerce and Tourism.

A bill to amend 1995 PA 24, entitled "Michigan economic growth authority act," by amending sections 3 and 5 (MCL 207.803 and 207.805), section 3 as amended by 2007 PA 62 and section 5 as amended by 2003 PA 248.

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 ~~100% AT~~
3 **LEAST 50%** owned and controlled, **DIRECTLY OR INDIRECTLY**, by an
4 associated 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

1 identification number that has met the requirements of section 8
2 and with which the authority has entered into a written agreement
3 for a tax credit under section 9.

4 (ii) A single eligible business with a unique federal employer
5 identification number that has met the requirements of section 8,
6 except as provided in this subparagraph, and with which the
7 authority has entered into a written agreement for a tax credit
8 under section 9. An eligible business is not required to create
9 qualified new jobs or maintain retained jobs if qualified new jobs
10 are created or retained jobs are maintained by an associated or
11 affiliated business.

12 (iii) A single eligible business with a unique federal employer
13 identification number that has met the requirements of section 8,
14 except as provided in this subparagraph, and with which the
15 authority has entered into a written agreement for a tax credit
16 under section 9. An eligible business is not required to create
17 qualified new jobs or maintain retained jobs if qualified new jobs
18 are created or retained jobs are maintained by a subsidiary
19 business that withholds income and social security taxes, or an
20 employee leasing company or professional employer organization that
21 has entered into a contractual service agreement with the
22 authorized business in which the employee leasing company or
23 professional employer organization withholds income and social
24 security taxes on behalf of the authorized business.

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

27 (e) "Business" means proprietorship, joint venture,

1 partnership, limited liability partnership, trust, business trust,
2 syndicate, association, joint stock company, corporation,
3 cooperative, limited liability company, or any other organization.

4 (f) "Distressed business" means a business that meets all of
5 the following as verified by the Michigan economic growth
6 authority:

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

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

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

18 (g) "Eligible business" means a distressed business or
19 business that proposes to maintain retained jobs after December 31,
20 1999 or to create qualified new jobs in this state after April 18,
21 1995 in manufacturing, mining, research and development, wholesale
22 and trade, or office operations or a business that is a qualified
23 high-technology business **OR A BUSINESS THAT IS A TOURISM ATTRACTION**
24 **FACILITY OR A QUALIFIED LODGING FACILITY**. An eligible business does
25 not include retail establishments, professional sports stadiums, or
26 that portion of an eligible business used exclusively for retail
27 sales. Professional sports stadium does not include a sports

1 stadium in existence on June 6, 2000 that is not used by a
2 professional sports team on the date that an application related to
3 that professional sports stadium is filed under section 8.

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

7 (i) "Full-time job" means a job performed by an individual for
8 35 hours or more each week and whose income and social security
9 taxes are withheld by 1 or more of the following:

10 (i) An authorized business.

11 (ii) An employee leasing company.

12 (iii) A professional employer organization on behalf of the
13 authorized business.

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

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

17 (j) "Local governmental unit" means a county, city, village,
18 or township in this state.

19 (k) "High-technology activity" means 1 or more of the
20 following:

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

23 (A) Computer hardware and software.

24 (B) Data communications.

25 (C) Information technologies.

26 (ii) Advanced materials, which are materials with engineered
27 properties created through the development of specialized process

1 and synthesis technology.

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

6 Biotechnology does not include human cloning as defined in section
7 16274 of the public health code, 1978 PA 368, MCL 333.16274, or
8 stem cell research with embryonic tissue.

9 (iv) Electronic device technology, which is any technology that
10 involves microelectronics, semiconductors, electronic equipment,
11 and instrumentation, radio frequency, microwave, and millimeter
12 electronics, and optical and optic-electrical devices, or data and
13 digital communications and imaging devices.

14 (v) Engineering or laboratory testing related to the
15 development of a product.

16 (vi) Technology that assists in the assessment or prevention of
17 threats or damage to human health or the environment, including,
18 but not limited to, environmental cleanup technology, pollution
19 prevention technology, or development of alternative energy
20 sources.

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

24 (viii) Product research and development.

25 (ix) Advanced vehicles technology, which is any technology that
26 involves electric vehicles, hybrid vehicles, or alternative fuel
27 vehicles, or components used in the construction of electric

1 vehicles, hybrid vehicles, or alternative fuel vehicles. For
2 purposes of this act:

3 (A) "Electric vehicle" means a road vehicle that draws
4 propulsion energy only from an on-board source of electrical
5 energy.

6 (B) "Hybrid vehicle" means a road vehicle that can draw
7 propulsion energy from both a consumable fuel and a rechargeable
8 energy storage system.

9 (x) Tool and die manufacturing.

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

12 (l) "New capital investment" means 1 or more of the following:

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

14 (A) "New construction" means property not in existence on the
15 date the authorized business enters into a written agreement with
16 the authority and not replacement construction. New construction
17 includes the physical addition of equipment or furnishings, subject
18 to section 27(2)(a) to (o) of the general property tax act, 1893 PA
19 206, MCL 211.27.

20 (B) "Replacement construction" means that term as defined in
21 section 34d(1)(b)(v) of the general property tax act, 1893 PA 206,
22 MCL 211.34d.

23 (ii) The purchase of new personal property. As used in this
24 subparagraph, "new personal property" means personal property that
25 is not subject to or that is exempt from the collection of taxes
26 under the general property tax act, 1893 PA 206, MCL 211.1 to
27 211.155, on the date the authorized business enters into a written

1 agreement with the authority.

2 (m) "Qualified high-technology business" means a business or
3 facility ~~that is either of the following:~~

4 ~~—— (i) A business with not less than 25% of the total operating~~
5 ~~expenses of the business used for research and development in the~~
6 ~~tax year in which the business files an application under this act~~
7 ~~as determined under generally accepted accounting principles and~~
8 ~~verified by the authority.~~

9 ~~—— (ii) A business or facility whose primary business activity is~~
10 ~~high-technology activity~~ **OR A QUALIFIED HIGH-WAGE ACTIVITY.**

11 **(N) "QUALIFIED HIGH-WAGE ACTIVITY" MEANS A BUSINESS THAT HAS**
12 **AN AVERAGE WAGE OF 300% OR MORE OF THE FEDERAL MINIMUM WAGE.**

13 **(O) "QUALIFIED LODGING FACILITY" MEANS 1 OR MORE OF THE**
14 **FOLLOWING:**

15 **(i) LODGING FACILITIES THAT CONSTITUTE A PORTION OF A TOURISM**
16 **ATTRACTION FACILITY AND REPRESENT LESS THAN 50% OF THE TOTAL COST**
17 **OF THE TOURISM ATTRACTION FACILITY, OR THE LODGING FACILITIES ARE**
18 **TO BE LOCATED ON RECREATIONAL PROPERTY OWNED OR LEASED BY THE**
19 **MUNICIPAL, STATE, OR FEDERAL GOVERNMENT.**

20 **(ii) THE LODGING FACILITIES INVOLVE THE RESTORATION OR**
21 **REHABILITATION OF A STRUCTURE THAT IS LISTED INDIVIDUALLY IN THE**
22 **NATIONAL REGISTER OF HISTORIC PLACES OR ARE LOCATED IN A NATIONAL**
23 **REGISTER HISTORIC DISTRICT AND CERTIFIED BY THIS STATE AS**
24 **CONTRIBUTING TO THE HISTORIC SIGNIFICANCE OF THE DISTRICT, AND THE**
25 **REHABILITATION OR RESTORATION PROJECT HAS BEEN APPROVED IN ADVANCE**
26 **BY THIS STATE.**

27 **(P) ~~(n)~~"Qualified new job" means 1 of the following:**

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

5 (ii) For jobs created after July 1, 2000, a full-time job at a
6 facility created by an eligible business that is in excess of the
7 number of full-time jobs maintained by that eligible business in
8 this state up to ~~120~~90 days before the eligible business became an
9 authorized business, as determined by the authority.

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

14 (Q) ~~(e)~~ "Retained jobs" means the number of full-time jobs at
15 a facility of an authorized business maintained in this state on a
16 specific date as that date and number of jobs is determined by the
17 authority.

18 (R) ~~(p)~~ "Rural business" means an eligible business located in
19 a county with a population of 90,000 or less.

20 (S) ~~(q)~~ "Subsidiary business" means a business that is
21 directly or indirectly controlled or at least 80% owned by an
22 authorized business.

23 (T) "TOURISM ATTRACTION FACILITY" MEANS A CULTURAL OR
24 HISTORICAL SITE, A RECREATION OR ENTERTAINMENT FACILITY, AN AREA OF
25 NATURAL PHENOMENA OR SCENIC BEAUTY, OR AN ENTERTAINMENT DESTINATION
26 CENTER AS DETERMINED BY THE MICHIGAN ECONOMIC GROWTH AUTHORITY AS
27 FOLLOWS:

1 (i) IN MAKING A DETERMINATION, THE MICHIGAN ECONOMIC GROWTH
2 AUTHORITY SHALL CONSIDER ALL OF THE FOLLOWING:

3 (A) WHETHER THE FACILITY WILL ACTUALLY ATTRACT TOURISTS.

4 (B) WHETHER 25% OR MORE OF THE PERSONS USING THE FACILITY
5 RESIDE OUTSIDE A 100-MILE RADIUS.

6 (C) WHETHER 50% OR MORE OF THE GROSS RECEIPTS ARE FROM
7 ADMISSIONS, FOOD, OR NONALCOHOLIC DRINKS.

8 (D) WHETHER THE FACILITY OFFERS A UNIQUE EXPERIENCE.

9 (ii) THE MICHIGAN ECONOMIC GROWTH AUTHORITY SHALL NOT DETERMINE
10 ANY OF THE FOLLOWING AS A TOURISM ATTRACTION FACILITY:

11 (A) FACILITIES THAT ARE PRIMARILY DEVOTED TO THE RETAIL SALE
12 OF GOODS, OTHER THAN AN ENTERTAINMENT DESTINATION CENTER, A THEME
13 RESTAURANT DESTINATION ATTRACTION, OR A TOURISM ATTRACTION WHERE
14 THE SALE OF GOODS IS A SECONDARY AND SUBORDINATE COMPONENT OF THE
15 ATTRACTION.

16 (B) RECREATIONAL FACILITIES THAT DO NOT SERVE AS A LIKELY
17 DESTINATION WHERE INDIVIDUALS WHO ARE NOT RESIDENTS OF THE STATE
18 WOULD REMAIN OVERNIGHT IN COMMERCIAL LODGING AT OR NEAR THE
19 FACILITY.

20 (U) ~~(r)~~—"Written agreement" means a written agreement made
21 pursuant to section 8. A written agreement may address new jobs,
22 qualified new jobs, full-time jobs, retained jobs, or any
23 combination of new jobs, qualified new jobs, full-time jobs, or
24 retained jobs.

25 Sec. 5. (1) The powers of the authority are vested in the
26 authority members in office. Regardless of the existence of a
27 vacancy, a majority of the members of the authority constitutes a

1 quorum necessary for the transaction of business at a meeting or
2 the exercise of a power or function of the authority. Action may be
3 taken by the authority at a meeting upon a vote of the majority of
4 the members present. **MEMBERS OF THE AUTHORITY MAY BE PRESENT IN**
5 **PERSON AT A MEETING OF THE AUTHORITY OR, IF AUTHORIZED BY THE**
6 **BYLAWS OF THE AUTHORITY, BY USE OF TELECOMMUNICATIONS OR OTHER**
7 **ELECTRONIC EQUIPMENT.**

8 (2) The authority shall meet at the call of the chairperson or
9 as may be provided by the authority. Meetings of the authority may
10 be held anywhere within this state.

11 (3) The business of the authority shall be conducted at a
12 public meeting of the authority held in compliance with the open
13 meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of
14 the time, date, and place of the meeting shall be given as provided
15 by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A
16 record or portion of a record, material, or other data received,
17 prepared, used, or retained by the authority in connection with an
18 application for a tax credit under section 9 that relates to
19 financial or proprietary information submitted by the applicant
20 that is considered by the applicant and acknowledged by the
21 authority as confidential shall not be subject to the disclosure
22 requirements of the freedom of information act, 1976 PA 442, MCL
23 15.231 to 15.246. A designee of the authority shall make the
24 determination as to whether the authority acknowledges as
25 confidential any financial or proprietary information submitted by
26 the applicant and considered by the applicant as confidential.
27 Unless considered proprietary information, the authority shall not

1 acknowledge routine financial information as confidential. If the
2 designee of the authority determines that information submitted to
3 the authority is financial or proprietary information and is
4 confidential, the designee of the authority shall release a written
5 statement, subject to disclosure under the freedom of information
6 act, 1976 PA 442, MCL 15.231 to 15.246, which states all of the
7 following:

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

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

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

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

19 (5) As used in this section, "financial or proprietary
20 information" means information that has not been publicly
21 disseminated or is unavailable from other sources, the release of
22 which might cause the applicant significant competitive harm.
23 Financial or proprietary information does not include a written
24 agreement under this act.