

# HOUSE BILL No. 5330

October 18, 2005, Introduced by Reps. Pastor, Brandenburg, Baxter, Taub, Stahl, Amos,  
Vander Veen, Hoogendyk and Gosselin and referred to the Committee on Commerce.

A bill to amend 1995 PA 24, entitled  
"Michigan economic growth authority act,"  
by amending section 8 (MCL 207.808), as amended by 2004 PA 398.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 8. (1) After receipt of an application, the authority  
2 ~~may~~ **SHALL** enter into an agreement with an eligible business for a  
3 tax credit under section 9 if the authority determines that all of  
4 the 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 (A) ~~—(e)~~ Except as provided in subsection (5), ~~—in addition~~  
16 ~~to the jobs specified in subdivision (b),~~ the eligible business,  
17 if already located within this state, agrees to maintain a number  
18 of 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 (B) ~~—(d)~~ Except as otherwise provided in this subdivision,  
22 the average wage paid for all retained jobs and qualified new jobs  
23 is equal to or greater than 150% of the federal minimum wage.  
24 However, if the eligible business is a qualified high-technology  
25 business, then the average wage paid for all qualified new jobs is  
26 equal to or greater than 400% of the federal minimum wage.

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

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

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

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

25 (I) ~~-(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           **(J)** ~~—(I)—~~ If feasible, as determined by the authority, in  
2 locating the facility, the authorized business reuses or redevelops  
3 property that was previously used for an industrial or commercial  
4 purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (i) The eligible business will follow a competitive bid process

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

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

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

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

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

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

21 (5) After receipt of an application, the authority may enter  
22 into a written agreement, which shall include a repayment provision  
23 of all or a portion of the credits under section 9 for a violation  
24 of the written agreement, with an eligible business that meets 1 or  
25 more of the following criteria:

26 (a) Is located in this state on the date of the application,  
27 makes new capital investment of \$250,000,000.00 in this state, and

1 maintains 500 retained jobs, as determined by the authority.

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

3 (i) Relocates production of a product to this state after the  
4 date of the application, makes capital investment of  
5 \$500,000,000.00 in this state, and maintains 500 retained jobs, as  
6 determined by the authority.

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

10 (iii) Is located in this state on the date of the application,  
11 maintains at least 100 retained jobs at a single facility, and  
12 agrees to make new capital investment at that facility equal to the  
13 greater of \$100,000.00 per retained job maintained at that facility  
14 or \$10,000,000.00 to be completed not later than December 31, 2006.

15 (c) Is a distressed business.

16 ~~—— (6) The authority shall not execute more than 25 new written~~  
17 ~~agreements each year for eligible businesses that are not qualified~~  
18 ~~high technology businesses, distressed businesses, or rural~~  
19 ~~businesses. If the authority executes less than 25 new written~~  
20 ~~agreements in a year, the authority may carry forward for 1 year~~  
21 ~~only the difference between 25 and the number of new agreements~~  
22 ~~executed in the immediately preceding year.~~

23 ~~—— (7) The authority shall not execute more than 50 new written~~  
24 ~~agreements each year for eligible businesses that are qualified~~  
25 ~~high technology businesses or rural business. Only 5 of the 50~~  
26 ~~written agreements for businesses that are qualified high-~~  
27 ~~technology businesses or rural business may be executed each year~~



1 ~~for qualified rural businesses.~~

2 ~~—— (8) The authority shall not execute more than 20 new written~~  
3 ~~agreements each year for eligible businesses that are distressed~~  
4 ~~businesses. The authority shall not execute more than 5 of the~~  
5 ~~written agreements described in this subsection each year for~~  
6 ~~distressed businesses that had 1,000 or more full-time jobs at a~~  
7 ~~facility 4 years immediately preceding the application to the~~  
8 ~~authority under this act.~~