

SENATE BILL No. 660

June 29, 2005, Introduced by Senators TOY, BISHOP, SANBORN, CROPSEY, KUIPERS, GILBERT, ALLEN, VAN WOERKOM, HARDIMAN, JELINEK, STAMAS, SIKKEMA, HAMMERSTROM, McMANUS, GARCIA, BIRKHOLZ, BROWN and GOSCHKA and referred to the Committee on Economic Development, Small Business and Regulatory Reform.

A bill to amend 1975 PA 228, entitled
 "Single business tax act,"
 by amending section 37f (MCL 208.37f), as added by 2004 PA 319.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 37f. (1) For tax years that begin after December 31, 2004
 2 and before January 1, ~~2006~~ **2008**, a taxpayer with gross receipts
 3 of \$10,000,000.00 or less for a tax year may claim a credit against
 4 the tax imposed by this act equal to the following percentages of
 5 compensation paid by the taxpayer to employees who perform created
 6 jobs, as determined under subsection (2), for that tax year in the
 7 following circumstances:

8 (a) If the taxpayer makes capital investment in this state of
 9 less than \$150,000.00 in the tax year, 0.50% **FOR TAX YEARS THAT**
 10 **BEGIN BEFORE JANUARY 1, 2006 AND 1.00% FOR TAX YEARS THAT BEGIN**

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1 AFTER DECEMBER 31, 2005.

2 (b) If the taxpayer makes capital investment in this state of
3 \$150,000.00 or more but less than \$750,000.00 **FOR TAX YEARS THAT**
4 **BEGIN BEFORE JANUARY 1, 2006 AND \$500,000.00 FOR TAX YEARS THAT**
5 **BEGIN AFTER DECEMBER 31, 2005, 1.5%.**

6 (c) If the taxpayer makes capital investment in this state of
7 \$750,000.00 **FOR TAX YEARS THAT BEGIN BEFORE JANUARY 1, 2006 AND**
8 **\$500,000.00 FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2005** or
9 more in the tax year, 2.0%.

10 (2) Compensation paid to employees who perform created jobs
11 for purposes of subsection (1) is determined as follows:

12 (a) For ~~tax years that begin in 2004 and 2005~~ **EACH TAX YEAR,**
13 determine for ~~each~~ **THAT** tax year the full-time equivalent job for
14 each employee, which shall be the lesser of the following:

15 (i) An employment period ratio, which is equal to the
16 employee's weeks worked in the tax year divided by 52.

17 (ii) An hours worked ratio, which is equal to the employee's
18 hours worked during the tax year divided by the full-time
19 equivalent annual hours of work set by the taxpayer. Each taxpayer
20 shall set a full-time equivalent annual hours of work standard
21 which shall be not less than 1,750 hours and not more than 2,080
22 hours.

23 (b) For the tax ~~year that begins in 2005~~ **YEARS THAT BEGIN**
24 **AFTER 2004,** determine the average compensation for full-time
25 equivalent new jobs that perform high-technology activity or
26 manufacturing jobs as follows:

27 (i) ~~For the tax year that begins in 2005, calculate~~ **CALCULATE**

1 the sum of full-time equivalent jobs calculated in subdivision (a)
2 **FOR THE TAX YEAR** for employees who perform high-technology activity
3 or manufacturing jobs and who were hired in the tax year.

4 (ii) Determine the total compensation, not to exceed \$85,000.00
5 per employee, paid for all jobs under subparagraph (i).

6 (iii) Divide the amount determined under subparagraph (ii) by the
7 number determined under subparagraph (i).

8 (c) Determine the number of created jobs, which shall be
9 determined as follows:

10 (i) For the tax year that begins in **AND AFTER** 2004, calculate
11 the sum of the number of full-time equivalent jobs calculated under
12 subdivision (a) **FOR THE IMMEDIATELY PRECEDING TAX YEAR** for all
13 employees.

14 (ii) For ~~the~~ **EACH** tax year that begins ~~in 2005~~ **AFTER 2004**,
15 calculate the sum of the number of full-time equivalent jobs
16 calculated under subdivision (a) for all employees.

17 (iii) Subtract the number under subparagraph (i) from the number
18 under subparagraph (ii).

19 (iv) Determine the lesser of (b) (i) and (c) (iii).

20 (d) Multiply the number under subdivision (c) (iv) by the 2005
21 average compensation under subdivision (b) (iii).

22 (3) If the credit allowed under this section for the tax year
23 and any unused carryforward of the credit allowed under this
24 section exceed the tax liability of the taxpayer for the tax year,
25 the excess shall not be refunded, but may be carried forward as an
26 offset to the tax liability in subsequent tax years for 10 tax
27 years or until the excess credit is used up, whichever occurs

1 first.

2 (4) A member of an affiliated group as defined in this act, a
3 controlled group of corporations as defined in section 1563 of the
4 internal revenue code and further described in 26 CFR 1.414(b)-1
5 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as
6 defined by the internal revenue code shall determine gross receipts
7 for purposes of this section on a consolidated basis.

8 (5) For purposes of determining compensation paid to
9 employees, the taxpayer shall not include compensation paid to a
10 spouse, parent, sibling, child, stepchild, adopted child, or
11 stepparent of an active shareholder or officer, a shareholder of an
12 S corporation, a partner of a partnership, a member of a limited
13 liability company, or an individual who is a sole proprietor.

14 (6) The capital investment threshold for purposes of
15 subsection (1) must be met at the principal place of employment of
16 any employee of the taxpayer who performs a created job.

17 (7) For purposes of the credit under this section, leased
18 employees are considered employees of the entity whose employment
19 operations are managed by a professional employer organization.

20 (8) As used in this section:

21 (a) "Active shareholder" and "officer" mean those terms as
22 defined in section 36.

23 (b) "Capital investment" means investment that can be used to
24 calculate a credit under section 35a.

25 (c) "Created jobs" means jobs that meet all of the following
26 criteria:

27 (i) Are jobs that perform high-technology activity or

1 manufacturing jobs.

2 (ii) Did not exist in this state in the immediately preceding
3 tax year.

4 (iii) Represent an overall increase in full-time equivalent jobs
5 of the taxpayer in this state for the tax year above the total
6 number of full-time equivalent jobs of the taxpayer in the
7 immediately preceding tax year.

8 (iv) Is not a job into which an employee transfers if the
9 employee worked in this state for the taxpayer, a related entity of
10 the taxpayer, or an entity with which the taxpayer files a
11 consolidated return under section 77 in another job prior to
12 beginning the created job.

13 (v) The benefits for the employee in the created job include
14 coverage under health and welfare and noninsured benefit plans,
15 including, but not limited to, prescription coverage, primary
16 health care coverage, and hospitalization that is not limited to
17 emergency room services or subject to dollar limits, deductibles,
18 and coinsurance provisions that are not less favorable than those
19 for physical illness generally.

20 (vi) Is not a qualified new job used to calculate a credit
21 under section 37c or 37d.

22 (d) "High-technology activity" means that term as defined in
23 section 3 of the Michigan economic growth authority act, 1995 PA
24 24, MCL 207.803.

25 (e) "Manufacturing jobs" are jobs for a company that has a
26 classification under sector 33, subsector 321, or subsector 322 of
27 the North American industrial classification system (NAICS).

1 (f) "Related entity" means an entity that meets any of the
2 following criteria:

3 (i) More than 1% is owned by 1 of the following:

4 (A) Another entity.

5 (B) An entity that owns more than 1% of another entity.

6 (ii) It owns more than 1% of another entity.

7 (iii) It markets itself under a common name or trademark with
8 any other entity or receives payroll, human resources,
9 administrative, or other similar services from a company that
10 provides those services to another entity.