

SUBSTITUTE FOR  
HOUSE BILL NO. 6606

A bill to amend 1995 PA 24, entitled  
"Michigan economic growth authority act,"  
by amending section 8 (MCL 207.808), as amended by 2008 PA 257.

**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 as determined by the  
7 authority and provided with written agreement:

8       (i) A minimum of 50 qualified new jobs at the facility if  
9 expanding in this state.

10       (ii) A minimum of 50 qualified new jobs at the facility if  
11 locating in this state.

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

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

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

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

15           (i) A minimum of 50 qualified new jobs at the facility if  
16 expanding in this state.

17           (ii) A minimum of 50 qualified new jobs at the facility if  
18 locating in this state.

19           (iii) A minimum of 25 qualified new jobs at the facility if the  
20 facility is located in a neighborhood enterprise zone as determined  
21 under the neighborhood enterprise zone act, 1992 PA 147, MCL  
22 207.771 to 207.786, is located in a renaissance zone under the  
23 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
24 125.2696, or is located in a federally designated empowerment zone,  
25 rural enterprise community, or enterprise community.

26           (iv) If the eligible business is a qualified high-technology  
27 business, all of the following apply:

1 (A) A minimum of 5 qualified new jobs at the facility.

2 (B) A minimum of 25 qualified new jobs at the facility within  
3 5 years after the date of the expansion or location as determined  
4 by the authority and a minimum of 25 qualified new jobs at the  
5 facility each year thereafter for which a credit is authorized  
6 under this act.

7 (v) If the eligible business is a rural business, all of the  
8 following apply:

9 (A) A minimum of 5 qualified new jobs at the facility.

10 (B) A minimum of 25 qualified new jobs at the facility within  
11 5 years after the date of the expansion or location as determined  
12 by the authority.

13 (c) Except as provided in subsection (5) and as otherwise  
14 provided in this subdivision, in addition to the jobs specified in  
15 subdivision (b), the eligible business, if already located within  
16 this state, agrees to maintain a number of full-time jobs equal to  
17 or greater than the number of full-time jobs it maintained in this  
18 state prior to the expansion, as determined by the authority. After  
19 an eligible business has entered into a written agreement as  
20 provided in subsection (2), the authority may adjust the number of  
21 full-time jobs required to be maintained by the authorized business  
22 under this subdivision, in order to adjust for decreases in full-  
23 time jobs in the authorized business in this state due to the  
24 divestiture of operations, provided a single other person continues  
25 to maintain those full-time jobs in this state. The authority shall  
26 not approve a reduction in the number of full-time jobs to be  
27 maintained unless the authority has determined that it can monitor

1 the maintenance of the full-time jobs in this state by the other  
2 person, and the authorized business agrees in writing that the  
3 continued maintenance of the full-time jobs in this state by the  
4 other person, as determined by the authority, is a condition of  
5 receiving tax credits under the written agreement. A full-time job  
6 maintained by another person under this subdivision, that otherwise  
7 meets the requirements of section ~~3(i)~~ **3(J)**, shall be considered a  
8 full-time job, notwithstanding the requirement that a full-time job  
9 be performed by an individual employed by an authorized business,  
10 or an employee leasing company or professional employer  
11 organization on behalf of an authorized business.

12 (d) Except as otherwise provided in this subdivision, the wage  
13 paid for each retained job and qualified new job is equal to or  
14 greater than 150% of the federal minimum wage. However, if the  
15 eligible business is a qualified high-wage activity, then the wage  
16 paid for each qualified new job is equal to or greater than 300% of  
17 the federal minimum wage. However, beginning on ~~the effective date~~  
18 ~~of the amendatory act that added this sentence~~ **AUGUST 4, 2008**, the  
19 authority may include the value of the health care benefit in  
20 determining the wage paid for each retained job or qualified new  
21 job for an eligible business under this act.

22 (e) The plans for the expansion, retention, or location are  
23 economically sound.

24 (f) Except for an eligible business described in subsection  
25 (5)(c), the eligible business has not begun construction of the  
26 facility.

27 (g) The expansion, retention, or location of the eligible

1 business will benefit the people of this state by increasing  
2 opportunities for employment and by strengthening the economy of  
3 this state.

4 (h) The tax credits offered under this act are an incentive to  
5 expand, retain, or locate the eligible business in Michigan and  
6 address the competitive disadvantages with sites outside this  
7 state.

8 (i) A cost/benefit analysis reveals that authorizing the  
9 eligible business to receive tax credits under this act will result  
10 in an overall positive fiscal impact to the state.

11 ~~—— (j) If the eligible business is a qualified high technology  
12 business described in section 3(m)(i), the eligible business agrees  
13 that not less than 25% of the total operating expenses of the  
14 business will be maintained for research and development for the  
15 first 3 years of the written agreement.~~

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

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

27 (b) The average wage and health care benefit level of the

1 qualified new jobs or retained jobs relative to the average wage  
2 and health care benefit paid by private entities in the county in  
3 which the facility is located.

4 (c) The total capital investment or new capital investment the  
5 eligible business will make.

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

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

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

15 (g) Whether the expansion, retention, or location will occur  
16 in this state without the tax credits offered under this act.

17 (h) Whether the authorized business reuses or redevelops  
18 property that was previously used for an industrial or commercial  
19 purpose in locating the facility.

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

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

25 (b) Conditions upon which the authorized business designation  
26 is made.

27 (c) A statement by the eligible business that a violation of

1 the written agreement may result in the revocation of the  
2 designation as an authorized business and the loss or reduction of  
3 future credits under section 9.

4 (d) A statement by the eligible business that a  
5 misrepresentation in the application may result in the revocation  
6 of the designation as an authorized business and the refund of  
7 credits received under section 9.

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

11 (f) A written certification from the eligible business  
12 regarding all of the following:

13 (i) The eligible business will follow a competitive bid process  
14 for the construction, rehabilitation, development, or renovation of  
15 the facility, and that this process will be open to all Michigan  
16 residents and firms. The eligible business may not discriminate  
17 against any contractor on the basis of its affiliation or  
18 nonaffiliation with any collective bargaining organization.

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

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

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

27 (g) A condition that if the eligible business qualified under

1 subsection (5) (b) (ii) and met the subsection (1) (e) requirement by  
2 filing a chapter 11 plan of reorganization, the plan must be  
3 confirmed by the bankruptcy court within 6 years of the date of the  
4 agreement or the agreement is rescinded.

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

7 (5) Through December 31, 2007, after receipt of an  
8 application, the authority may enter into a written agreement with  
9 an eligible business that meets 1 or more of the following  
10 criteria:

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

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

15 (i) Relocates production of a product to this state after the  
16 date of the application, makes capital investment of  
17 \$500,000,000.00 in this state, and maintains 500 retained jobs, as  
18 determined by the authority.

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

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



1           (iv) Maintains 300 retained jobs at a facility; the facility is  
2 at risk of being closed and if it were to close, the work would go  
3 to a location outside this state, as determined by the authority;  
4 new management or new ownership is proposed for the facility that  
5 is committed to improve the viability of the facility, unless  
6 otherwise provided in this subparagraph; and the tax credits  
7 offered under this act are necessary for the facility to maintain  
8 operations. The authority may not enter into a written agreement  
9 under this subparagraph after December 31, 2007. Of the written  
10 agreements entered into under this subparagraph, the authority may  
11 enter into 3 written agreements under this subparagraph that are  
12 excluded from the requirements of subsection (1)(e), (f), **AND** (h) ~~7~~  
13 ~~and (i)~~ if the authority considers it in the public interest and if  
14 the eligible business would have met the requirements of subsection  
15 (1)(g) ~~7~~ **AND** (h) ~~7~~ ~~and (k)~~ within the immediately preceding 6  
16 months from the signing of the written agreement for a tax credit.  
17 Of the 3 written agreements described in this subparagraph, the  
18 authority may also waive the requirement for new management if the  
19 existing management and labor make a commitment to improve the  
20 viability and productivity of the facility to better meet  
21 international competition as determined by the authority.

22           (v) Maintains 100 retained jobs at a facility; is a rural  
23 business, unless otherwise provided in this subparagraph; the  
24 facility is at risk of being closed and if it were to close, the  
25 work would go to a location outside this state, as determined by  
26 the authority; new management or new ownership is proposed for the  
27 facility that is committed to improve the viability of the

1 facility; and the tax credits offered under this act are necessary  
2 for the facility to maintain operations. The authority may not  
3 enter into a written agreement under this subparagraph after  
4 December 31, 2007. Of the written agreements entered into under  
5 this subparagraph, the authority may enter into 3 written  
6 agreements under this subparagraph that are excluded from the  
7 requirements of subsection (1)(e), (f), and (h) if the authority  
8 considers it in the public interest and if the eligible business  
9 would have met the requirements of subsection (1)(**E**), (g), **AND** (h)  
10 ~~, and (e)~~ within the immediately preceding 6 months from the  
11 signing of the written agreement for a tax credit. Of the 3 written  
12 agreements described in this subparagraph, the authority may also  
13 waive the requirement that the business be a rural business if the  
14 business is located in a county with a population of 500,000 or  
15 more and 600,000 or less.

16 (vi) Maintains 175 retained jobs and makes new capital  
17 investment at a facility in a county with a population of not less  
18 than 7,500 but not greater than 8,000.

19 (vii) Is located in this state on the date of the application,  
20 maintains at least 675 retained jobs at a facility, agrees to  
21 create 400 new jobs, and agrees to make a new capital investment of  
22 at least \$45,000,000.00 to be completed or contracted for not later  
23 than December 31, 2007. Of the written agreements entered into  
24 under this subparagraph, the authority may enter into 1 written  
25 agreement under this subparagraph that is excluded from the  
26 requirements of subsection (1)(f) if the authority considers it in  
27 the public interest.

1           (viii) Is located in this state on the date of the application,  
2 makes new capital investment of \$250,000,000.00 or more in this  
3 state, and makes that capital investment at a facility located  
4 north of the 45th parallel.

5           (c) Is a distressed business.

6           (6) Each year, the authority shall not execute new written  
7 agreements that in total provide for more than ~~400~~500 yearly  
8 credits over the terms of those agreements entered into that year  
9 for eligible businesses that are not qualified high-technology  
10 businesses, distressed businesses, rural businesses, or an eligible  
11 business described in subsection (11).

12           (7) The authority shall not execute more than ~~50~~60 new  
13 written agreements each year for eligible businesses that are  
14 qualified high-technology businesses or rural business. Only ~~25~~30  
15 of the ~~50~~60 written agreements for businesses that are qualified  
16 high-technology businesses or rural business may be executed each  
17 year for qualified rural businesses.

18           (8) The authority shall not execute more than 20 new written  
19 agreements each year for eligible businesses that are distressed  
20 businesses. The authority shall not execute more than 5 of the  
21 written agreements described in this subsection each year for  
22 distressed businesses that had 1,000 or more full-time jobs at a  
23 facility 4 years immediately preceding the application to the  
24 authority under this act. The authority shall not execute more than  
25 5 new written agreements each year for eligible businesses  
26 described in subsection (11). The authority shall not execute more  
27 than 4 new written agreements each year for eligible businesses

1 described in subsection (11) in local governmental units that have  
2 a population greater than 16,000.

3 (9) Beginning January 1, 2008, after receipt of an  
4 application, the authority may enter into a written agreement with  
5 an eligible business that does not meet the criteria described in  
6 subsection (1), if the eligible business meets all of the  
7 following:

8 (a) Agrees to retain not fewer than 50 jobs.

9 (b) Agrees to invest, through construction, acquisition,  
10 transfer, purchase, contract, or any other method as determined by  
11 the authority, at a facility equal to \$50,000.00 or more per  
12 retained job maintained at the facility.

13 (c) Certifies to the authority that, without the credits under  
14 this act and without the new capital investment, the facility is at  
15 risk of closing and the work and jobs would be removed to a  
16 location outside of this state.

17 (d) Certifies to the authority that the management or  
18 ownership is committed to improving the long-term viability of the  
19 facility in meeting the national and international competition  
20 facing the facility through better management techniques, best  
21 practices, including state of the art lean manufacturing practices,  
22 and market diversification.

23 (e) Certifies to the authority that it will make best efforts  
24 to keep jobs in Michigan when making plant location and closing  
25 decisions.

26 (f) Certifies to the authority that the workforce at the  
27 facility demonstrates its commitment to improving productivity and

1 profitability at the facility through various means.

2 (10) Beginning on ~~the effective date of the amendatory act~~  
3 ~~that added this subsection~~ **APRIL 28, 2008**, if the authority enters  
4 into a written agreement with an eligible business, the written  
5 agreement shall include a repayment provision of all or a portion  
6 of the credits received by the eligible business for a facility if  
7 the eligible business moves full-time jobs outside this state  
8 during the term of the written agreement and for a period of years  
9 after the term of the written agreement, as determined by the  
10 authority.

11 (11) Beginning January 1, 2008, after receipt of an  
12 application, the authority may enter into a written agreement with  
13 an eligible business that does not meet the criteria described in  
14 subsection (1), if the eligible business meets all of the  
15 following:

16 (a) Agrees to create or retain not fewer than 15 jobs.

17 (b) Agrees to occupy property that is a historic resource as  
18 that term is defined in section 435 of the Michigan business tax  
19 act, 2007 PA 36, MCL 208.1435, and that is located in a downtown  
20 district as defined in section 1 of 1975 PA 197, MCL 125.1651.

21 (c) The average wage paid for each retained job and full-time  
22 job is equal to or greater than 150% of the federal minimum wage.