

HOUSE BILL No. 6473

November 7, 2018, Introduced by Reps. Howrylak, Reilly, Johnson, Robinson, LaGrand and Rabhi and referred to the Committee on Tax Policy.

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending section 90h (MCL 125.2090h), as added by 2017 PA 109.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 90h. (1) The fund shall create and operate the good jobs
2 for Michigan program to authorize the transfer of the dedicated
3 portion of withholding tax capture revenues to authorized
4 businesses that provide certified new jobs in this state. The fund
5 shall develop and use a detailed application, approval, and
6 compliance process published and available on the fund's website.

7 (2) An eligible business may apply to the fund to enter into a
8 written agreement ~~which~~**THAT** authorizes the payment of withholding
9 tax capture revenues under this chapter.

10 (3) The fund may request information, in addition to that

1 contained in an application, as may be needed to permit the fund to
2 discharge its responsibilities under this chapter.

3 (4) After receipt of an application, the fund may enter into
4 an agreement with an eligible business for withholding tax capture
5 revenues under this chapter if the fund determines that all of the
6 following are met:

7 (a) The eligible business proposes to create and maintain the
8 minimum number of certified new jobs at a facility in this state
9 and to pay an average annual wage that is described in section
10 90g(d).

11 (b) In addition to the jobs specified in subdivision (a), the
12 eligible business, if already located within this state, agrees to
13 maintain a number of full-time jobs equal to or greater than the
14 number of full-time jobs it maintained in this state ~~prior to~~
15 **BEFORE** the expansion, as determined by the fund.

16 (c) The plans for the expansion or location are economically
17 sound.

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

21 (e) The withholding tax capture revenues offered under this
22 chapter and paid from the good jobs for Michigan fund is an
23 incentive to expand or locate the eligible business in this state
24 and address the competitive disadvantages with sites outside this
25 state.

26 (f) An industry-recognized regional economic model cost-
27 benefit analysis reveals that the payment of withholding tax

1 capture revenues under this chapter to an eligible business will
2 result in an overall positive fiscal impact to the state.

3 (g) The eligible business will create the requisite number of
4 certified new jobs within not more than 5 years after entering into
5 the written agreement as determined by the fund.

6 (h) The eligible business will maintain the number of
7 certified new jobs throughout the duration of the period of time
8 that the authorized business receives withholding tax capture
9 revenues paid from the good jobs for Michigan fund. However, if the
10 authorized business fails to maintain the requisite number of
11 certified new jobs as provided in the written agreement, the
12 authorized business will forfeit the withholding tax capture
13 revenues for that calendar year.

14 (i) That the local governing body of the municipality in which
15 the facility is located approves the expansion or new location by
16 resolution.

17 (5) If the fund determines that the eligible business
18 satisfies all of the requirements of subsection (4), subject to
19 subsection (6), the fund shall determine the amount and duration of
20 the withholding tax capture revenues to be authorized under this
21 chapter and shall enter into a written agreement as provided in
22 this section. The duration of the withholding tax capture revenues
23 must not exceed 5 or 10 years, whichever is applicable based on the
24 average annual wage of the certified new jobs, from the date the
25 authorized business creates the certified new jobs as provided in
26 the written agreement. Subject to subsection (6), in determining
27 the maximum amount and maximum duration of the withholding tax

1 capture revenues authorized, the fund shall consider the following
2 factors, if applicable:

3 (a) The number of certified new jobs to be created.

4 (b) The degree to which the average annual wage of the
5 certified new jobs exceeds the prosperity region average wage.

6 (c) Whether there is a disadvantage to the eligible business
7 if it were to expand or locate in this state versus a site outside
8 this state.

9 (d) The potential impact of the expansion or location on the
10 economy of this state.

11 (e) The estimated cost of the reimbursement of withholding tax
12 capture revenues under this chapter, the staff, financial, or
13 economic assistance provided by the municipality, or local economic
14 development corporation or similar entity, and the value of
15 assistance otherwise provided by this state.

16 (f) Whether the expansion or location will occur in this state
17 without the payment of withholding tax capture revenues offered
18 under this chapter.

19 (g) Whether the eligible business has made a written
20 commitment to fund some portion of costs for applicable training of
21 the individuals who will perform the full-time jobs that leads to a
22 professional or technical certification for these individuals.

23 (h) That the eligible business will make a good-faith effort
24 to employ, if qualified, Michigan residents at the facility.

25 (6) The fund shall determine the duration and amount of the
26 withholding tax capture revenues. In determining the duration of
27 the withholding tax capture revenues, the fund shall provide a

1 duration of up to 5 years for eligible businesses described in
2 section 90g(d) (ii) and ~~up to~~ a duration of **UP TO** 10 years for
3 eligible businesses described in section 90g(d) (i) or (iii). In
4 determining the amount of the withholding tax capture revenue
5 payments, the fund may approve a payment of not more than 50% of
6 the withholding tax capture revenues for an eligible business
7 described in section 90g(d) (ii) and a payment of up to 100% of the
8 withholding tax capture revenues for an eligible business described
9 in section 90g(d) (i) or (iii). The amount of withholding tax
10 capture revenues certified to be paid to an authorized business
11 ~~shall~~**MUST** be reduced by 5%, which ~~shall~~**MUST** be retained by the
12 fund for additional administrative expenses under this chapter as
13 provided under section 90i.

14 (7) A written agreement between an eligible business and the
15 fund must include, but need not be limited to, all of the
16 following:

17 (a) A description of the business expansion or location that
18 is the subject of the written agreement.

19 (b) Conditions upon which the authorized business designation
20 is made.

21 (c) A statement from the eligible business that the eligible
22 business would not have added certified new jobs without the
23 withholding tax capture revenue payments authorized under this
24 chapter.

25 (d) An estimate of the amount of withholding tax capture
26 revenues expected to be generated for each calendar year of the
27 duration of the written agreement.

1 (e) A statement by the eligible business that a violation of
2 the written agreement may result in the revocation of the
3 designation as an authorized business, the loss or reduction of
4 future withholding tax capture revenue payments under this chapter,
5 or a repayment of withholding tax capture revenues received
6 pursuant to this chapter.

7 (f) A statement by the eligible business that a
8 misrepresentation in the application may result in the revocation
9 of the designation as an authorized business and the repayment of
10 withholding tax capture revenues received under this chapter plus a
11 penalty equal to 10% of the withholding tax capture revenue
12 payments received pursuant to this chapter.

13 (g) A method for measuring and verifying full-time jobs before
14 and after an expansion or location of an authorized business in
15 this state.

16 (h) A provision that the authorized business that is certified
17 under section 90i(2) for a payment from the good jobs for Michigan
18 fund shall file the required returns and reports under this chapter
19 and part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701
20 to 206.713, with the department of treasury, and shall provide any
21 other information reasonably requested by the fund or the
22 department of treasury.

23 (i) A maximum amount of withholding tax capture revenues that
24 the authorized business may claim before reduction of the 5%
25 payment described in section 90i for administrative expenses.

26 (8) Upon execution of a written agreement as provided in this
27 chapter, an eligible business is an authorized business. The fund

1 shall provide a copy of each written agreement to the department of
2 treasury. Upon execution of the written agreement, the transfer and
3 payment of withholding tax capture revenues as specified in this
4 chapter and in the written agreement is binding on this state. The
5 state treasurer shall calculate, based on the written agreements
6 received pursuant to this subsection, the amount of withholding tax
7 capture revenues collected as a result of the certified new jobs
8 created pursuant to those written agreements for each calendar year
9 and the percentage of that amount that needs to be transferred from
10 the general fund and deposited, in accordance with section 51f of
11 the income tax act of 1967, 1967 PA 281, MCL 206.51f, into the good
12 jobs for Michigan fund, where the fund shall issue payments to the
13 authorized business in the manner provided in section 90i.

14 (9) The fund shall not commit, and the department of treasury
15 shall not disburse, an amount of total withholding tax capture
16 revenues that exceeds \$200,000,000.00, which includes the 5%
17 payment for administrative expenses as provided in section 90i. The
18 fund shall not execute more than 15 new written agreements each
19 calendar year for authorized businesses. If the fund approves fewer
20 than 15 written agreements in a calendar year, then any unused
21 written agreements ~~shall~~ carry forward into future calendar years,
22 and ~~shall be~~ **ARE** in addition to the annual limit that is otherwise
23 applicable. For purposes of this subsection, "total withholding tax
24 capture revenues" means the aggregate amount of withholding tax
25 capture revenues that may be distributed to authorized businesses
26 under all written agreements.

27 (10) The fund shall not designate an authorized business or

1 enter into a new written agreement ~~on or after December 31,~~
2 ~~2019.~~ **THE EFFECTIVE DATE OF THE 2018 AMENDATORY ACT THAT AMENDED**
3 **THIS SECTION.**