

# MICHIGAN MANUFACTURING AUTHORITY ACT<sup>1</sup>

## I. Short Title

This act shall be known as the “Michigan Manufacturing Authority Act” and may be cited as “MMAA.”

## II. Statement of Legislative Findings and Purposes

It is hereby found and declared that there exists in this state a condition of substantial and persistent unemployment and underemployment due to the decline of manufacturing in our state. Many of manufacturing facilities are underutilized or in the process of being vacated, creating additional unemployment. Investment to revitalized and build new manufacturing facilities is required to reduce unemployment.

It is hereby declared to be the policy of the state to promote economic growth and employment through manufacturing in order to create employment opportunities, increase revenues to the state and to its local governments, to achieve a sustainable and vibrant growth economy, and optimize our quality of life.

In furtherance of this policy, our state needs to retain and attract investment for manufacturing in a diversity of sectors including without limitation engineering, technology, water, energy, transportation, healthcare and logistics and related research and development. Our community, legal, educational and other resources is the foundation to advance our manufacturing capabilities in this state. Accordingly, one of the essential purposes of this act is to promote through innovation the stabilization, restoration and betterment of these resources. Finally, the guiding principles of this act will be that it promotes manufacturing by entities that endorse a “Triple Bottom Line” of being socially, environmentally and economically balanced.

For these purposes, there should be created a corporate governmental agency to be known as the “Michigan Manufacturing Authority” or “MMA” to establish throughout the state investment zones within the state in accordance with this act.

## III. Michigan Manufacturing Authority

(1) There is hereby created the Michigan Manufacturing Authority or MMA. The Michigan Manufacturing Authority shall be a sovereign governmental entity of the state constituting a political subdivision and public benefit authority.

(2) The primary purpose of the MMA shall be to retain and attract investment and employment opportunities in order to promote sustainable and vibrant economic growth based upon manufacturing that is globally competitive in a diversity of sectors including without limitation technology, water, energy, transportation, environmental, healthcare, loss, dispute resolution, logistics and related research and development through the creation of manufacturing zones throughout the state. To accomplish this purpose, the stabilization, restoration, and advancement of community, legal, educational and other resources are required.

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(3) Its board of directors shall consist of nine (9) directors appointed by the governor with the advice and simple-majority consent of the Michigan Senate. The board of directors of the MMA shall reflect the various stakeholders in the state based upon their respective experience and expertise. To this end, a director shall be appointed with experience and expertise in each of the following seven areas: industry, organized labor, education, teaching, investment, government, finance, law and engineering professions.

(4) From the seven directors, the governor shall designate the chairperson of the MMA and two others who shall serve at the pleasure of the governor. Of the four remaining directors, one of such directors first appointed by the governor after the effective date of this act shall serve for a term ending January first next succeeding his/her appointment, one of such directors shall serve for a term ending one year from such date, one of such directors shall serve for a term ending two years from such date, and one of such directors shall serve for a term ending three years from such date. Their successors shall serve for terms of four years each. Directors shall continue in office until their successors have been appointed and qualified.

(5) In the event of a vacancy occurring in the office of a director by death, resignation or otherwise, the governor shall appoint a successor with the advice and simple-majority consent of the Michigan Senate to serve for the balance of the unexpired term.

(6) The board of directors by two-thirds affirmative vote shall appoint the president of the MMA who shall be the chief executive officer of the MMA and who shall serve at the pleasure of the board. Such president shall not be a member of the board of the MMA.

(7) No action shall be taken by the board of directors of the MMA without a two-thirds majority of the board of directors.

(8) The directors shall serve without salary or other compensation, but each director, including the chairperson, shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties. Anything to the contrary contained herein notwithstanding, the chief executive officer of the MMA shall be entitled to receive such salary as the directors may determine for his or her services as chief executive officer.

(9) The state and the MMA shall save harmless and indemnify any person who shall have served as a director, officer or employee of the MMA against financial loss or litigation expense arising in connection with any claim, demand, suit or judgment, or the defense thereof, based on a cause of action, whenever accrued, involving allegations that pecuniary harm was sustained by any person as a result of any transaction of the MMA taking place on or after the effective date of this act. In the event any such claim, demand, suit or judgment shall occur, a director, officer or employee of the MMA shall be saved harmless and indemnified by the state under this act unless such individual is found by a final judicial determination not to have acted in good faith, for a purpose which s/he reasonably believed to be in the best interests of the MMA or not to have had reasonable cause to believe that his conduct was lawful. In any suit described herein, any director, officer or employee made a party defendant to such suit shall be represented by the attorney general of the state.

(10) The board of directors shall appoint an advisory council for economic development, to advise and make recommendations to the MMA with respect to development policies and programs. Such council shall consist of not more than twenty-five members, who shall serve at the pleasure of the board of directors and who shall be broadly representative of commerce,

industry, organized labor, banking, investment, financial, natural resources, environment, engineering, scientific, construction and manufacturing communities. Such members shall serve without salary, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their duties.

(11) The governor may remove any director appointed for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him, and an opportunity to be heard, in person or by counsel, in his defense, upon not less than ten days' notice. If any such director shall be removed, the governor shall file a complete statement of charges made against such director and his findings thereon, together with a complete record of the proceeding.

(12) The MMA and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the MMA shall have bonds, notes and other obligations outstanding, unless adequate provision has been made for the payment thereof in the documents securing the same. Upon termination of the existence of the MMA, all its rights and properties shall pass to and be vested in the state.

(13) A two-thirds majority of the directors of the MMA then in office shall constitute a quorum for the transaction of any business or the exercise of any power or function of the MMA. The MMA may delegate to one or more of its directors, or its officers, agents and employees, such powers and duties as it may deem proper.

(14) The MMA shall take into account the needs of construction firms, contractors and subcontractors, labor unions and manufacturing and industrial firms, to the end that residents of areas in which a zone may be located shall be afforded an opportunity for participation in the construction and production work of the enterprises and activities within a zone.

#### **IV. Powers of the MMA**

Except as otherwise provided by the Michigan Constitution or the federal law of the United States, the powers of the MMA under this act shall supercede any and all legal requirements or laws of the state or any local governmental entity that might otherwise restrict or prohibit the exercise of the powers granted to the MMA as enumerated below. Except as otherwise limited by this act, the MMA shall have power:

- (1) To establish and amend as may from time to time be appropriate procedures for private and public sector entities of any kind to become or be removed as members of the MMA (Members);
- (2) To sue and be sued;
- (3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this act;
- (4) To make and alter by-laws for the MMA and its internal management;
- (5) To assess its Members for dues in order to maintain and advance the MMA's purpose;
- (6) To issue bonds or other debt instruments on behalf of the MMA;

- (7) To enter into such funding or other contracts for advancement of the MMA including without limitation social impact bonding arrangements or other public-private endeavors and collaboration that may legally bind the MMA;
- (8) To establish virtual manufacturing zones for economic growth throughout the state based upon either geographical, business or product sector optimization consistent with the purposes of the MMA as set forth in this act;
- (9) To provide the requirements relating to the location, administration, management, and duration of such zones;
- (10) To provide for the selection process and criteria by which an enterprise or activity may apply to operate within such zones;
- (11) To approve or not any application of an enterprise or activity to operate within such zones;
- (12) To acquire, hold and dispose of personal property for its corporate purposes;
- (13) To appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;
- (14) To acquire or contract leaseholds, real, personal or mixed property or any interest of or for the benefit of such zones;
- (15) To own, hold, clear, improve, remediate, rehabilitate, sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber any leaseholds, real, personal or mixed property or any interest of or for the benefit of such zones;
- (16) To create subsidiaries of the MMA;
- (17) To waive or alter the application of any state or local regulations for the benefit of such zones including without limitation any environmental or other requirements subject to applicable federal law;
- (18) To acquire, construct, reconstruct, rehabilitate, remediate, improve, alter or repair or provide for the construction, reconstruction, improvement, alteration or repair of facilities and services including without limitation factories, infrastructure and housing in connection with such zones;
- (19) To determine the permitting, planning, replanning, opening, grading or closing of streets, roads, roadways, alleys or other places, or for the furnishing of facilities or services in connection with such zones.
- (20) To waive or not any state or local tax otherwise applicable to any Member, its employees or residents within such zones;
- (21) To tax or not any enterprise or activity within such zones;
- (22) To sell, lease, assign, transfer, convey, exchange, mortgage, or otherwise dispose of or encumber any property within such zones;

- (23) To prepare or cause to be prepared plans, specifications, designs and estimates of cost for the construction, reconstruction, rehabilitation, remediation, improvement, alteration or repair of any zone, and from time to time to modify such plans, specifications, designs or estimates;
- (24) To provide advisory, consultative, training and educational services, technical assistance and advice to any person, firm, partnership or MMA, either public or private, in order to carry out the purposes of this act;
- (25) To create innovative training and educational systems designed to foster and enhance the skill level of the workforce available for employment;
- (26) To provide healthcare administrative and delivery services for any enterprise or activity within such zones;
- (27) To lend or donate monies, whether secured or unsecured, to any Member, and to purchase, sell or pledge the shares, bonds or other obligations or securities thereof, on such terms and conditions as the MMA may deem advisable.
- (28) To engage in banking and related activities, to make mortgage loans, secured by a first mortgage lien, including temporary loans or advances, relating to such zones;
- (29) To borrow money and to issue its negotiable bonds and notes and to provide for the rights of the holders thereof.
- (30) To secure or guarantee the debt or financial obligations of any enterprise or activity within such zones;
- (31) To solicit funding of capital guaranteed by the full faith and credit of the State of Michigan subject to the approval of the MMA's board and the Governor of the State of Michigan;
- (32) To invest any funds of the MMA as the board of directors may consider appropriate;
- (33) To issue stock with or without par value, with or without voting powers, full or limited, and such other qualifications, limitations or restrictions thereof, as may be adopted by the Board of Directors pursuant to its MMA under this Act;
- (34) To procure insurance of any kind for the MMA or any Member;
- (35) To procure insurance of any kind for any enterprise or activity within such zones;
- (36) To engage the services of consultants on a contract basis for rendering professional and technical assistance and advice;
- (37) To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source subject to the provisions of this act;

- (38) To make loans, whether secured or unsecured, or other financial arrangements with enterprises or activities within such zones;
- (39) To establish dispute resolution methods to address and minimize legal risk for the enterprises or activities and its employees within such zones;
- (40) To establish such educational curriculum and behavior practices as appropriate to optimize the availability of a qualified and ready workforce with skill proficiency including without limitation in the areas of reading, science, math, engineering, math and manufacturing interest for employment of our students to advance the interests and the purpose of the MMA to attract investment and jobs;
- (41) To implement the use of integrated restorative practices to reduce criminal behavior in cooperation with our court and police enforcement systems;
- (42) To enter into collective bargain or any other kind of agreements with any organized labor within such zone to advance global competitiveness;
- (43) To grant sovereign attributes relating to the scope and nature of the legal responsibility of enterprises or activities within such zones subject to applicable federal law;
- (44) To establish intellectual property rights and compensation-related matters for innovations generated by employees of enterprises or activities within such zones;
- (45) To waive the current state worker compensation system and to establish or not a new compensation system for employees of enterprises and activities within such zones to achieve optimization of care and cost efficiencies;
- (46) To furnish or not compensation, pension, health and disability benefits for employees of enterprises and activities within such zones through a unified loss system;
- (47) To provide directly or contract with the state and federal government or any third parties healthcare services, insurance and/or compensation in accordance with applicable federal law;
- (48) To create and require such dispute resolution systems that may be appropriate as a precondition to the commencement of any kind of litigation with a state court of any jurisdiction;
- (49) To establish and maintain a facilitative peer-to-peer community facilitation training certification program to advance conflict resolution and advancement of distressed communities in Michigan to achieve social, educational, political and economic advancement;
- (50) To enter into revenue sharing or other collaborative arrangements with local governmental entities of the state for the benefit of such zones;
- (51) To enter into intergovernmental arrangements for services with local governmental entities of the state for the benefit of such zones;

- (52) To exercise the power of eminent domain necessary to carry out its purposes;
- (53) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this act.

#### **V. Exemption from Taxation**

The exercise of the powers granted by this act will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and will constitute the performance of an essential governmental function. Except as otherwise determined by the MMA as set forth in this act, neither the MMA nor its Members shall be required to pay any taxes upon or in respect of a zone or of any property or moneys of the MMA or any of its Members, levied by local governmental entity within the state, nor shall the MMA or its Members be required to pay state taxes of any kind, and the MMA, its Members, projects, property and moneys and, except for estate and gift taxes and taxes on transfers, any bonds or notes issued under the provisions of this act and the income therefrom, shall at all times be free from taxation of every kind by the state and by local governmental entity within the state.

#### **VI. Agreement of the State**

The state does hereby pledge to and agree with the holders of any bonds or notes issued under this act, that the state will not limit or alter the rights hereby vested in the MMA to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such bonds or notes, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The MMA is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes.

#### **VII. Reporting**

(1) Annual fiscal report. The MMA shall submit to the governor within 6 months after the end of its fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments; (2) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the MMA for its operating and capital outlay purposes, including a listing of all private consultants engaged by the MMA on a contract basis and a statement of the total amount paid to each such private consultant; (3) its assets and liabilities at the end of its fiscal year, including a schedule of its leases and mortgages and the status of reserve, special or other funds; and (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

(2) Annual program report. The MMA shall report on an annual basis beginning October 1, 2010, and on each October 1 thereafter, to the governor a description of the activities and programs of the MMA.

#### **VIII. Court Proceedings; Preferences; Venue**

Any action or proceeding to which the MMA or the people of the state of Michigan may be parties, in which any question arises as to the validity of this act, shall be preferred over all other

civil causes except election causes in all courts of the state and shall be heard and determined in preference to all other civil actions pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the MMA in any action or proceeding questioning the validity of this act in which s/he may be allowed to intervene. For actions commenced by the MMA, the venue of first impression shall be the Michigan Supreme Court. For all other actions, the venue shall be determined by the applicable rules of procedure of the state.

#### **IX. Actions against MMA**

In any case founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the MMA, any of its Members, or any officer, appointee or employee thereof. No such action shall be commenced more than one year after the cause of action therefor shall have accrued.

#### **X. Special Provisions of the Act**

No state instrumentality, including any state agency, trust fund or public benefit MMA other than the MMA, may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any MMA, trust, association, partnership or other entity in which any director of the MMA or any member of the advisory council for economic development has a financial interest, direct or indirect, and the MMA may not engage in any such transaction with any other state instrumentality with which any director of the MMA is affiliated as a state officer or employee.

#### **XI. Construction of the Act**

This act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its purposes.

#### **XII. Separability of the Act**

If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.