

ECONOMIC DEVELOPMENT INCENTIVE EVALUATION ACT
Act 540 of 2018

AN ACT to evaluate certain economic development incentives; to report those evaluations and make certain recommendations; and to impose certain powers and duties on certain state employees and officials.

History: 2018, Act 540, Imd. Eff. Dec. 28, 2018.

The People of the State of Michigan enact:

18.1751 Short title.

Sec. 1. This act shall be known and may be cited as the "economic development incentive evaluation act".

History: 2018, Act 540, Imd. Eff. Dec. 28, 2018.

18.1753 Definitions.

Sec. 3. As used in this act:

(a) "Contractor" means the private entity, nonprofit entity, or academic institution selected by the department under section 5 to evaluate certain economic development incentives.

(b) "Department" means the department of technology, management, and budget.

(c) "Economic development incentive" means the abatements, tax credits, exemptions, grants, loans, or loan guarantees related to economic development activities in this state as determined by the Michigan strategic fund provided under the following acts:

(i) The Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(ii) The income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713.

(iii) 1974 PA 198, MCL 207.551 to 207.572.

(iv) The commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

(v) The enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123.

(vi) 1953 PA 189, MCL 211.181 to 211.182.

(vii) The technology park development act, 1984 PA 385, MCL 207.701 to 207.718.

(viii) Part 511 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51101 to 324.51120.

(ix) The neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786.

(x) The city utility users tax act, 1990 PA 100, MCL 141.1151 to 141.1177.

(xi) The city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

(xii) The general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(xiii) The Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(xiv) The Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(xv) The obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(xvi) The brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2670.

(xvii) The Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(xviii) Any new economic development programs as determined by the Michigan strategic fund.

(d) "Exclusive economic development incentive" means an economic development incentive that is intended to encourage a single specific entity, project, or associated projects to locate, expand, invest, or remain in this state or to hire or retain employees in this state as determined by the strategic fund.

(e) "The strategic fund" means the fund under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

History: 2018, Act 540, Imd. Eff. Dec. 28, 2018.

18.1755 Periodic evaluation of economic development incentives: contract; request for proposals; requirements; timeline; disclosure; evaluations published on website and to certain state agencies.

Sec. 5. (1) The department shall contract with 1 or more contractors for the periodic evaluation of economic development incentives. The department along with the department of treasury and the Michigan strategic fund shall develop a scope of services for a request for proposals for professional services necessary to complete the economic development incentive evaluations under this act. The department may solicit input from a local governmental unit or 1 or more public agencies, as those terms are defined in section 2 of the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.502, or a Michigan economic development corporation corporate partner, in developing the scope of services for a request for proposal for professional services necessary to complete an economic development incentive evaluation under this act. When selecting

a contractor, the department shall consider the ability for economic development incentive evaluations to be done in an objective manner.

(2) The contractor will complete the economic development incentive evaluations within 270 days of entering into the contract. The department shall provide the economic development incentive evaluation with any additional information to the house and senate appropriations committees no more than 30 days after the completion of the evaluation.

(3) The department shall enter into contracts with contractors for economic development incentive evaluations as follows:

(a) At least once every 6 years for economic development incentives funded with state appropriations of \$15,000,000.00 or less each year.

(b) At least once every 4 years for all other economic development incentives, excluding programs that have entered into legacy status. A program is considered to be in legacy status if the Michigan strategic fund board or other governing body has not approved, authorized, or originated any new abatement, tax credit, or exemption, or distributed funds under a grant, loan, or loan guarantee within the immediately preceding fiscal year period.

(c) Upon the conclusion of an economic development incentive, a 1-time final analysis.

(4) At the request of the department, state agencies shall provide to the contractor, to the extent permitted by law, any records, information, data, or data analysis necessary for the contractors to effectively evaluate the economic development incentives. The contractor shall not disclose or release any data received from state agencies, except as permitted by law. A record or portion of a record, material, or other data that relates to financial, commercial, or proprietary information of any entity that received an economic development incentive provided by another department, agency, municipality, or political subdivision of this state to the department or a contractor in connection with review of an economic development incentive under this act shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The department and contractor may only use the financial or commercial information for carrying out the purposes of this act and shall not disclose or release any data received from a department, agency, municipality, or political subdivision of this state.

(5) Economic development incentive evaluations shall be published on the department's website. The department shall also publish the name of each contractor who is awarded a contract under this act and a schedule of economic development incentives and when they shall be evaluated.

(6) Not less than 30 days prior to the department releasing the economic development incentive evaluation under subsection (2) or publishing it on the department's website under subsection (5), the department shall provide a copy of the economic development incentive evaluation to the Michigan strategic fund, the Michigan economic development corporation, the state agency that has oversight of the economic development incentive, and the entity that is the recipient of the economic development incentive. The Michigan strategic fund, the Michigan economic development corporation, the state agency that has oversight over the economic development incentive, and the entity that is the recipient of the economic development incentive may issue a response to the economic development incentive evaluation.

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18.1757 Multiyear schedule of evaluations; annual update.

Sec. 7. The department, in conjunction with the strategic fund and the department of treasury, shall, not later than February 28, 2019, develop a multiyear schedule that lists all economic development incentives and indicates the year when an economic development incentive evaluation will be published for each economic development incentive. The department shall consider economic development incentive sunset dates and program inactivity when creating the schedule and may group economic development incentives for review by objective or policy rationale of each economic development incentive. The department shall update the schedule annually and include any new economic development programs as determined by the Michigan strategic fund. The department shall also list all economic development incentives that are exclusive economic development incentives.

History: 2018, Act 540, Imd. Eff. Dec. 28, 2018.

18.1759 Periodic evaluation report requirements & recommendations; disclosure of methodology and sources.

Sec. 9. (1) Evaluations of economic development incentives shall include, to the extent practicable, all of the following:

(a) A description of the history of the economic development incentive and its goals.

(b) A literature review of the effectiveness of this type of incentive, including an inventory of similar

incentives in other states.

(c) An estimate of the economic and fiscal impact of the economic development incentive. This estimate shall take into account all of the following considerations in addition to other relevant factors:

(i) The extent to which the economic development incentive influences business behavior.

(ii) The results of the economic development incentive for the economy of this state as a whole. This consideration includes both positive direct and indirect impacts and any negative effects on other businesses located in this state.

(iii) A comparison to the results of other economic development incentives or other economic development strategies with similar goals.

(iv) An evaluation of the loss of potential gains from other alternatives or programs enacted by the legislature or existing economic development incentives that have been extended.

(d) An assessment of whether adequate protections are in place to ensure that the fiscal impact of the economic development incentive does not increase substantially beyond the state's means or expectations in future years.

(e) An assessment of whether the economic development incentive is being administered effectively, including a review of auditor general reports.

(f) An assessment of whether the economic development incentive is achieving its goals.

(g) Recommendations for how this state can most effectively achieve the economic development incentive's goals, including recommendations on whether the economic development incentive should be retained, reconfigured, or repealed.

(h) Recommendations for any changes to state policy, rules, or statutes that would allow the economic development incentive to be more easily or conclusively evaluated in the future. These recommendations may include changes to collection, reporting and sharing of data, and revisions or clarifications to the goal of the economic development incentive.

(i) Any other information the contractor considers necessary to assess the effectiveness of the economic development incentive and whether it is achieving its goals.

(2) Each evaluation for exclusive economic development incentives shall include all of the following based on a program-wide basis:

(a) Aggregate information and a description of trends related to this state's exclusive economic development incentives, which may include analysis of their structure, performance standards, and economic and fiscal impact.

(b) Recommendations for how exclusive economic development incentives should be structured or in what circumstances they should be offered to ensure they successfully change business behavior.

(c) Recommendations for how exclusive economic development incentives should be structured or in what circumstances they should be offered to maximize positive direct and indirect impacts on this state's economy and minimize negative effects on other businesses located in this state.

(d) Recommendations for how exclusive economic development incentives should be structured or in what circumstances they should be offered to ensure that they represent a cost-effective approach compared to other economic development incentive programs or other economic development strategies.

(e) Recommendations for what protections exclusive economic development incentives should include ensuring their costs do not substantially exceed this state's expectations.

(f) Recommendations for how exclusive economic development incentives should be structured or in what circumstances they should be offered to avoid adverse impacts on the fiscal stability of local units of government.

(g) Recommendations for the types of performance standards that should be included in exclusive economic development incentives, how these standards should be structured, and how they should be monitored.

(3) A contractor shall disclose a summary of its methodology and source materials in how it arrived at its evaluation under this act.

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