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Senate Bill 556 (Substitute S-1)
Sponsor: Senator John Proos
Committee: Economic Development

Date Completed: 9-21-11

CONTENT

The bill would amend Chapter 8A (21st Century Investment Programs and Activities) of the Michigan Strategic Fund (MSF) Act to do the following:

- Require the MSF to create the Michigan Business Development Program to provide economic assistance to businesses making investments or providing jobs in Michigan.
- Require the Program to provide grants, loans, and other economic assistance to qualified businesses.
- Limit the amount a qualified business could receive for a project in a fiscal year to \$10.0 million.
- Require the Program to provide for a detailed application, approval, and compliance process and make it available on the MSF website.
- Specify requirements for a written agreement between the MSF and a qualified business.
- Require the posting of certain information regarding qualified businesses on the MSF or Michigan Economic Development Corporation (MEDC) website.
- Require the MSF, with assistance from the MEDC and chief compliance officer, to establish background check policies regarding qualified businesses applying for assistance.
- Require an annual report to the Legislature regarding activities authorized under the bill.
- Allow the MSF president to authorize grants, loans, or other economic assistance of up to \$1.0 million under the Michigan Business Development Program.
- Authorize the MSF to spend or invest 21st Century Jobs Trust Fund money for the Michigan Business Development Program and the community revitalization incentives proposed by Senate Bills 567 and 568.
- Delete percentage restrictions on expenditures from the 21st Century Jobs Trust Fund.
- Allow the MSF to take a security interest in real property.
- Authorize the MEDC to charge fees associated with loans under Chapter 8A.
- Include in the Jobs for Michigan Investment Fund any funds appropriated for programs under Chapter 8A.

Michigan Business Development Program

The bill would add Section 88r to Chapter 8A to require the MSF to create and operate the Michigan Business Development Program to provide grants, loans, and other economic assistance to qualified businesses that made qualified investments in Michigan or provided qualified new jobs in the State. Preference would have to be given to qualified businesses that needed additional assistance for deal-closing and for second stage company gap financing.

The bill also would amend the Act to:

The Program would have to provide that, in any fiscal year, a qualified business could not receive more than \$10.0 million for a project funded under Section 88r.

"Other economic assistance" would mean any other form of assistance allowed under the MSF Act that is not a grant or a loan.

"Qualified business" would mean a business that is located in or operates in Michigan or will locate or will operate in Michigan, as determined by the MSF. "Qualified investment" would mean investment in Michigan related to a project subject to a written agreement under Section 88r. "Qualified new job" would mean a job performed by an individual who is a resident of Michigan whose Michigan income taxes are withheld by an employer, or an employee leasing company or professional employer organization on behalf of the employer, that is in excess of the number of jobs maintained by the qualified business in Michigan before the expansion or location, as determined and verified by the MSF.

Application, Approval, & Compliance

The Program would have to provide a detailed application, approval, and compliance process published and available on the MSF website. The application, approval, and compliance process, at a minimum, would have to contain the following:

- A qualified business could apply for a grant, loan, or other economic assistance in a form and manner determined by the MSF.
- After receiving an application, the Fund could enter into a written agreement with the qualified business, if the business agreed to make certain qualified investments or create a certain number of new jobs in Michigan.
- The written agreement would have to provide, in a clear and concise manner, all of the conditions imposed on the qualified business to receive a grant, loan, or other economic assistance under Section 88r, including specific time frames.
- The written agreement would have to provide for the repayment of any grants, loans, or other economic assistance if the qualified business failed to comply with the agreement.

- The written agreement would have to include an audit provision requiring the MSF to verify that established project milestones were met.

With assistance from the MEDC and the Office of the Chief Compliance Officer, the MSF would have to establish policies and procedures to conduct background checks on each qualified business applying for a grant, loan, or other economic assistance under Section 88r.

Written Agreement Requirements

The MSF could not enter into a written agreement with a qualified business unless all of the following were met:

- The municipality made a staff, financial, or economic commitment to the project, as determined by the MSF.
- The qualified business provided a business plan or demonstrated the need for the grant, loan, or other economic assistance.
- The qualified business agreed to provide the data described in the agreement necessary for the MSF to report to the Legislature under the Act.

Website Postings

The MSF would have to post on its website or on the MEDC website, the name and location of each qualified business that received a grant, loan, or other economic assistance awarded under Section 88r, and the amount of the grant, loan, or other economic assistance.

Beginning February 1, 2012, and at least every three months after that, the MSF would have to post on its website the name and location of a qualified business that received approval of a grant, loan, or other economic assistance under Section 88r in the preceding three-month period.

Report to the Legislature

Beginning November 1, 2012, and each year after that, the MSF would have to report to the Senate and the House of Representatives on the activities of the MSF under Section 88r that occurred in the previous fiscal year. The report would have to be made available in an electronic format and include at least all of the following:

- The total proposed amount of qualified investment attracted under Section 88r.
- The total actual amount of qualified investment attracted under Section 88r and verified by the MSF.
- The total committed number of new jobs created under Section 88r.
- The total actual number of new jobs created under Section 88r verified by the MSF.
- The total number of new written agreements.
- The amount of the grant, loan, or other economic assistance awarded under Section 88r, separately for each qualified business.
- The actual amount of the grant, loan, or other economic assistance made under Section 88r, separately for each qualified business verified by the MSF.
- For each qualified business, whether it was a new business, whether it was an expansion of an existing business, or whether it relocated from outside of Michigan.
- An evaluation of the aggregate return on investment that Michigan realized on the actual qualified new jobs and actual qualified investment made by qualified businesses.
- A report on the individuals hired by the qualified business that included the number of individuals hired, their educational attainment, and the number who relocated to Michigan.

Legislative Finding & Declaration

The bill states, "The legislature finds and declares that funding authorized under...[Section 88r] to encourage diversification of the economy, to encourage capital investment in this state, and to promote the creation of qualified new jobs in this state is a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state."

Authorization of Economic Assistance

The Act allows the MSF board to delegate certain functions to its president, vice-president, staff, or others, but responsibilities specifically vested in the board under Chapter 8A must be performed by the board and may not be transferred to the MEDC. The bill, however, would allow the MSF president to authorize grants,

loans, or other economic assistance under Section 88r of \$1.0 million or less.

21st Century Fund Expenditures

The Act requires the MSF to spend or invest money transferred or appropriated to the MSF for the purpose of carrying out Chapter 8A, as authorized by law for certain purposes. The bill would include spending or investing for the purposes of carrying out Chapter 8C (proposed by Senate Bills 567 and 568) in that provision. In addition, the bill would add to the specific purposes spending or investing for grants, loans, or other economic assistance under the proposed Michigan Business Development Program and the proposed community revitalization incentives under Chapter 8C.

The Act generally restricts the MSF board from spending more than the following amounts each year from the 21st Century Jobs Trust Fund for the following purposes:

- 25% for the loan enhancement program.
- 40% for the private equity investment program, the venture capital investment program, and the mezzanine investment program combined.
- 70% for competitive edge technology grants and loans, with not more than \$100.0 million of that amount authorized for basic research over the life of the program.

The bill would delete those restrictions.

The Act prohibits the MSF from using any money appropriated or transferred for purposes authorized under Chapter 8A to acquire interest in or improve real property. The bill specifies that this restriction would not prohibit the MSF from taking a security interest in real property.

Loan Fees

The bill would allow the MEDC to charge actual and reasonable fees for costs associated with loans under Chapter 8A. The fees would be in addition to an amount of the annual appropriation used for administering the programs and activities authorized under Chapter 8A.

Jobs for Michigan Investment Fund

The Jobs for Michigan Investment Fund (Investment Fund) is a permanent fund within the MSF. The Investment Fund must be invested as authorized under Chapter 8A for purposes specified in that chapter. The Investment Fund consists of funds, assets, property, and earnings described in Chapter 8A.

Under the bill, the Investment Fund also would include any other funds appropriated for programs under Chapter 8A.

MCL 125.2005 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would expand the allowable 21st Century Jobs Trust Fund programs by establishing the Michigan Business Development program to replace the Michigan Economic Growth Authority (MEGA) credits that will no longer be awarded after December 31, 2011. The bill also would increase the flexibility of the Michigan Strategic Fund (MSF) board to allocate appropriations among the allowable programs.

Under current law, the MSF board is authorized to allocate appropriations from the 21st Century Jobs Trust Fund among programs subject to conditions and earmarks included in statute and the annual budget. The statute limits allocations to various programs to not more than 25% for loan enhancements, not more than 40% for investment programs, and not more than 70% for competitive edge technology grants and loans. The bill would eliminate these constraints. It would allow the MSF board to determine the allocation of funds from the 21st Century Jobs Trust Fund among those programs, tourism promotion, other programs authorized under Chapter 8A, the Michigan Business Development Program that would be created by the bill, and the Michigan Community Revitalization Program that would be created in Chapter 8C of the MSF Act by Senate Bills 566, 567, and 568.

The FY 2011-12 budget for the MSF (in the General Government budget within Article VIII of Public Act 63 of 2011), includes \$100.0 million in FY 2011-12 for business

attraction and economic gardening. This total funding consists of several sources: \$25.0 million from the 21st Century Jobs Trust Fund and \$25.0 million GF/GP appropriated in a traditional line item, and \$50.0 million GF/GP appropriated in Section 1201 and characterized as one-time funding. These funds are available in FY 2011-12 for allocation by the MSF board between the Michigan Community Revitalization Program and the Michigan Business Development Program. Section 1024 of Public Act 63 of 2011 requires that at least \$20.0 million be used for brownfield and historical preservation grants, which would be funded under the proposed Michigan Community Revitalization program.

Appropriations for any 21st Century program under Chapter 8A, including the proposed Michigan Business Development Program, would be redirected by the bill from the 21st Century Jobs Trust Fund, or the General Fund, as applicable, for deposit into the Jobs for Michigan Investment Fund, a permanent fund under the control of the MSF board. Interest earnings on the Investment Fund remain in that Fund, in contrast to the 21st Century Jobs Trust Fund for which interest earnings accrue to the General Fund; thus, there would be a small revenue loss to the General Fund due to foregone interest earnings. The amount would depend on the share of appropriations allocated to programs under Chapter 8A (as opposed to the Community Revitalization Program under Chapter 8C) and the interest earned on the State's common cash fund. The current interest rate on common cash is quite low, approximately 0.1%. If interest rates increase, the loss to the General Fund would become more significant. If the balance in the Investment Fund were increased, the interest earnings on the balance would increase and those earnings would be available for appropriation.

The Michigan Business Development Program would be established by the bill. It would provide financial assistance in the form of grants, loans, or other economic assistance to businesses that make investments or create jobs in the state. Assistance to a business would be limited to a maximum of \$10.0 million in any fiscal year. Eligible businesses would be those that operate within Michigan or will locate and operate in Michigan. A written agreement would be required to include a

repayment provision that would apply if the business did not comply with the agreement. Awards of more than \$1.0 million would be subject to approval by the MSF board Authority to approve awards of \$1.0 million or less would be delegated under the bill to the president of the MSF. The MSF board adopted program guidelines for the Michigan Business Development Program at its meeting on August 24, 2011.

The Michigan Strategic Fund would have additional administrative responsibilities under the bill that would increase costs. The MSF would be required to establish and conduct the Business Development Program, verify compliance of businesses with the terms of the written agreements on investment and job creation requirements, fulfill reporting and internet posting requirements, complete background checks, and verify the creation of qualified new jobs. Resources available for paying for these additional costs would include the allocation of up to 4% of the annual appropriations from the 21st Century Jobs Trust Fund, fee revenue paid by program participants, and the MSF's annual appropriation for Job Creation Services which funds the classified staff of the agency.

The Michigan Business Development Program would continue State support for selected local economic development projects after MEGA credits are no longer issued. Local governments with projects in their communities would be required to provide a local match such as in-kind staff support, financial, or economic commitments.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.