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Senate Bill 929 (as introduced 2-7-12)
Sponsor: Senator Mike Kowall
Committee: Economic Development

Date Completed: 2-8-12

CONTENT

The bill would amend the Michigan Strategic Fund (MSF) Act to do the following:

- **Delete a requirement that the MSF board select all vendors for all marketing expenditures under Chapter 8A (21st Century Investment Programs and Activities) by issuing a request for proposal (RFP).**
- **Allow the MSF board to select all vendors for all expenditures and for program awards under Chapter 8A by issuing an RFP or an alternative competitive process.**
- **Extend certain restrictions on the use of money awarded under the Act to recipients of money for Centers of Energy Excellence.**
- **Exclude money invested for Centers of Energy Excellence from the funds that may be managed as part of the State's Common Cash Fund.**
- **Require the competitive process under Chapter 8A for the Commercialization Board to award grants and make loans for competitive edge technologies, to include review by a joint-evaluation committee, rather than be peer reviewed by independent experts.**
- **Require the competitive process to limit overhead rates for award recipients to an amount determined by the MSF board, rather than a maximum of 15% of a grant or loan.**
- **Revise notice and hearing provisions for resolutions establishing or changing 21st Century investment programs or programs operated by the Commercialization Board.**
- **Require the MSF to transmit to the Legislature an annual, rather than quarterly, status report of its activities.**

Selection of Vendors

The Act requires the MSF board to select all vendors for all marketing expenditures under Chapter 8A by issuing a request for proposal. At a minimum, the RFP must require the responding entities to disclose any conflict of interest, any criminal convictions, any investigations by the IRS or any other Federal or State taxing body or court, and any pertinent litigation regarding the conduct of the entity, and maintain records and evidence pertaining to work performed. The MSF board must establish a standard process to evaluate proposals submitted and appoint a committee to review them. The MSF or its board may not appoint or designate any person to a committee to review proposals if that person has a conflict of interest with any potential vendors. The bill would delete those provisions.

Under the bill, instead, the MSF board could select all vendors for all expenditures and for program awards under Chapter 8A by issuing an RFP or an alternative competitive process as determined by the board. The other requirements described above with respect to marketing expenditures would apply under the bill to the selection process for all expenditures and for program awards under Chapter 8A.

Restrictions on Use of 21st Century Funds

The Act requires the MSF board to ensure that a recipient of money under certain provisions of Chapter 8A and Chapter 8C (Community Revitalization) agrees as a condition of receiving the money not to use it for the development of a stadium or arena for use by a professional sports team or for the development of a casino regulated under the Michigan Gaming Control and Revenue Act or the Federal Indian Gaming Regulatory Act. In addition, the MSF board must establish requirements to ensure that money spent under those provisions is not used for certain other purposes (such as providing money to a person who has been convicted of a particular crime, or to a business to induce other businesses to leave Michigan).

Under the bill, those restrictions also would apply to a recipient of money for Centers of Energy Excellence.

Resolutions Establishing or Changing 21st Century Investment Programs

Under Chapter 8A, before adopting a resolution establishing or substantially changing a 21st Century investment program, the MSF board must notify the Governor, the Secretary of the Senate, the Clerk of the House of Representatives, and others. The notice and proposed resolution must be published on the MSF website. The MSF board must hold a public hearing not sooner than 14 days and not longer than 30 days from the date notice of a proposed resolution is given. The bill, instead, would require the notice and proposed resolution to be published on the website not sooner than 10 days before the date the resolution was considered by the board. The board still would have to hold a public hearing.

Currently, the MSF board may act on the proposed resolution not sooner than 14 days after the public hearing. Under the bill, the board could act on the proposed resolution on the day of the public hearing.

Management of Investment Fund

Chapter 8A created the Jobs for Michigan Investment Fund within the MSF as a permanent fund as authorized by the State Constitution. The MSF board may contract with the State Treasurer to assist it in administering the Investment Fund. Except for money invested under certain provisions of Chapter 8A, the board may authorize money in the Fund to be managed by the State Treasurer as part of the State's Common Cash Fund.

The bill would exclude money invested for Centers of Energy Excellence from the funds that the Treasurer may manage as part of the Common Cash Fund.

Commercialization Board

Chapter 8A created the Strategic Economic Investment and Commercialization Board within the MSF. The Commercialization Board must establish a competitive process to award grants and make loans for competitive edge technologies, subject to certain requirements for that competitive process. (Executive Reorganization Order 2010-4 abolished the Commercialization Board and transferred all of its authority, powers, and responsibilities to the MSF board.)

The competitive process must include a requirement that the applications be peer reviewed by independent peer review experts based on the scientific and technical merit, personnel expertise, commercial merit, and the ability to leverage additional funding of the application. Those factors must be given equal weight in the review and scoring process.

The bill instead would require the competitive process to require the applications to be reviewed by a joint-evaluation committee. Scientific and technical merit, personnel expertise, commercial merit, and the ability to leverage additional funding could be given equal weight in the review and scoring process as determined by the MSF board.

Chapter 8A also requires the competitive process to limit overhead rates for recipients of grants and loans to reflect actual overhead, but not greater than 15% of the grant or loan. The bill instead would require the competitive process to limit overhead rates for recipients of awards to reflect actual overhead, administrative fees, and management fees, to an amount determined by the MSF board.

Under Chapter 8A, before adopting a resolution establishing or substantially changing a program operated by the MSF board, the board must notify the Governor, the Secretary of the Senate, the Clerk of the House, and others, and hold a public hearing. The notice and proposed resolution must be published on the MSF website. The bill would require the notice and proposed resolution to be published on the website not sooner than 10 days before the date the resolution was considered by the board.

Currently, the MSF board may act on the proposed resolution not sooner than 14 days after the public hearing. Under the bill, the board could act on the proposed resolution on the day of the public hearing.

MCL 125.2009 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would make a series of changes to give the Michigan Strategic Fund board greater flexibility in the administration of 21st Century Investment and other programs, including tourism promotion and business marketing, competitive edge technology grants and loans, loan enhancement programs, business incubators, and the recently enacted Michigan Business Development Program (Public Act 250 of 2011). These changes would tend to reduce the MSF's administrative costs and would have an unknown impact on the overall costs and uses of funds available to the program, which include annual appropriations and the Jobs for Michigan Investment Fund, the permanent fund that receives earnings and repayments from 21st Century programs and predecessor programs.

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.