

Act No. 250
Public Acts of 2011
Approved by the Governor
December 13, 2011
Filed with the Secretary of State
December 13, 2011
EFFECTIVE DATE: December 13, 2011

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Senators Proos, Hansen, Kowall, Pappageorge, Nofs and Emmons

ENROLLED SENATE BILL No. 556

AN ACT to amend 1984 PA 270, entitled "An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts," by amending section 88b (MCL 125.2088b), as amended by 2011 PA 3, and by adding section 88r.

The People of the State of Michigan enact:

Sec. 88b. (1) The fund shall create and operate programs authorized under this chapter. The fund board shall determine the annual allocation of money for programs authorized under this chapter and make authorized expenditures or investments from the investment fund of the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, as authorized under this chapter for programs and activities authorized under this chapter.

(2) Money transferred or appropriated by law to the fund for the purposes of carrying out this chapter or chapter 8C shall be expended or invested by the fund as authorized by law for the following purposes:

(a) 21st century investments.

(b) Grants and loans approved by the commercialization board under section 88k.

(c) Other programs or activities authorized under this chapter.

(d) For promotion of tourism in this state. For fiscal year 2010-2011 only, \$20,000,000.00 for the promotion of tourism in this state from funds appropriated in the jobs for Michigan investment program - 21st century jobs fund line in section 109 of 2010 PA 191 with not less than \$1,500,000.00 to be used for the 2010-2011 winter advertisement buy. For all funds used for promotion of tourism in this state under this subdivision, the fund shall report to the legislature at the same time and in the same manner as provided in section 89d.

(e) Grants, loans, or other economic assistance under section 88r and community revitalization incentives under chapter 8C.

(3) Not more than 4% of the annual appropriation as provided by law from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be used for the purposes of administering the programs and activities authorized under this chapter. However, the fund and the fund board shall not use more than

3% of the annual appropriation for administering the programs and activities authorized under this chapter unless the fund board by a 2/3 vote authorizes the additional 1% for administration. The MEDC may charge actual and reasonable fees for costs associated with loans under this chapter. These fees are in addition to an amount of the appropriation used for administering the programs and activities authorized under this chapter.

(4) Not more than 5% of the annual appropriation as provided by law from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be used for business development and business marketing costs. Not less than 80% of the funds committed for business development and business marketing costs shall be targeted to persons or entities outside of this state. No funds may be used for any business development and business marketing effort that includes a reference to or the image or voice of an elected state officer or a candidate for elective state office and that is targeted to a media market in Michigan. The fund board shall select all vendors for all marketing expenditures under this chapter by issuing a request for proposal. At a minimum, the request for proposal shall require the responding entities to disclose any conflict of interest, disclose any criminal convictions, disclose any investigations by the internal revenue service or any other federal or state taxing body or court, disclose any pertinent litigation regarding the conduct of the entity, and maintain records and evidence pertaining to work performed. The fund board shall establish a standard process to evaluate proposals submitted as a result of a request for proposal and appoint a committee to review the proposals. The fund or the fund board shall not appoint or designate any person paid or unpaid to a committee to review proposals if that person has a conflict of interest with any potential vendors as determined by the office of the chief compliance officer established in section 88i.

(5) The fund shall not use any money appropriated or transferred for purposes authorized under this chapter to acquire interests in or improve real property. The restriction under this subsection does not prohibit the fund from taking a security interest in real property. The restriction under this subsection applies only to the fund and not to recipients of expenditures or investments under this chapter.

Sec. 88r. (1) The fund shall create and operate the Michigan business development program to provide grants, loans, and other economic assistance to qualified businesses that make qualified investments in this state or provide qualified new jobs in this state.

(2) The Michigan business development program shall provide for all of the following:

(a) Grants, loans, and other economic assistance to assist qualified businesses in making qualified investments and providing new jobs in this state, with preference given to qualified businesses that need additional assistance for deal-closing and for second stage company gap financing.

(b) A detailed application, approval, and compliance process published and available on the fund's website. The detailed application, approval, and compliance process shall, at a minimum, contain the following:

(i) A qualified business may apply for a grant, loan, or other economic assistance in a form and manner determined by the fund.

(ii) After receipt of an application, the fund may enter into a written agreement with the qualified business if the qualified business agrees to make certain qualified investments or create a certain number of new jobs in this state.

(iii) The written agreement shall provide in a clear and concise manner all of the conditions imposed, including specific time frames, on the qualified business to receive a grant, loan, or other economic assistance under this section.

(iv) The written agreement shall provide for a repayment provision of any grants, loans, or other economic assistance if the qualified business fails to comply with the provisions of the written agreement.

(v) The written agreement shall provide for an audit provision that requires the fund to verify that established milestones for the project have been met.

(c) In any fiscal year, a qualified business shall not receive more than \$10,000,000.00 for a project funded under this section.

(3) The fund shall not enter into a written agreement with a qualified business unless all of the following are met:

(a) The municipality makes a staff, financial, or economic commitment to the project as determined by the fund.

(b) The qualified business provides a business plan or demonstrates the need for the grant, loan, or other economic assistance.

(c) The qualified business agrees to provide the data described in the written agreement necessary for the fund to report to the legislature under this act.

(4) The fund shall post on its website or post on the website of the Michigan economic development corporation the name and location of each qualified business that received a grant, loan, or other economic assistance awarded under this section and the amount of the grant, loan, or other economic assistance.

(5) The fund, with assistance from the Michigan economic development corporation and the office of the chief compliance officer, shall establish policies and procedures to conduct background checks on each qualified business applying for a grant, loan, or other economic assistance under this section.

(6) Beginning November 1, 2012 and each year thereafter, the fund shall report to each house of the legislature on the activities of the fund under this section that occurred in the previous fiscal year. The report shall be made available in an electronic format. The report shall include, but is not limited to, all of the following:

- (a) The total proposed amount of qualified investment attracted under this section.
- (b) The total actual amount of qualified investment attracted under this section as reported to the fund.
- (c) The total committed number of new jobs created under this section.
- (d) The total actual number of new jobs created under this section as reported to the fund.
- (e) The total number of new written agreements.
- (f) The amount of the grant, loan, or other economic assistance awarded under this section separately for each qualified business.
- (g) The actual amount of the grant, loan, or other economic assistance made under this section separately for each qualified business verified by the fund.
- (h) For each qualified business, whether it is a new business, whether it is an expansion of an existing business, or whether it relocated from outside of this state.
- (i) An evaluation of the aggregate return on investment that this state realizes on the actual qualified new jobs and actual qualified investment made by qualified businesses.

(j) A report on the individuals hired by the qualified business that includes the number of individuals hired by the qualified business, their educational attainment, including, but not limited to, high school diploma or equivalent, higher education certificate or degree, or advanced degree or training, and the number of individuals hired by the qualified business who relocated to this state as reported to the fund.

(7) Beginning February 1, 2012 and not less than every 3 months thereafter, the fund shall post on its internet website the name and location of a qualified business that received approval of a grant, loan, or other economic assistance under this section in the immediately preceding 3-month period.

(8) The legislature finds and declares that funding authorized under this section 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.

(9) As used in this section:

- (a) "Other economic assistance" means any other form of assistance allowed under this act that is not a grant or a loan.
- (b) "Qualified business" means a business that is located in or operates in this state or will locate or will operate in this state as determined by the fund.
- (c) "Qualified investment" means investment in this state related to a project subject to a written agreement under this section.
- (d) "Qualified new job" means a job performed by an individual who is a resident of this state 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 maintained in this state prior to the expansion or location, as determined and verified by the fund.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor