

HOUSE BILL No. 5375

October 25, 2007, Introduced by Reps. Melton, Johnson, Constan, Hammel, LeBlanc, Clack, Hammon, Polidori, Condino, Lemmons, Nofs, Coulouris, Clemente, Brown, Valentine, Robert Jones, Griffin, Gonzales, Leland, Espinoza, Ward, Farrah, Mayes, Sheltroun, Brandenburg, Bauer, Dean, Young, Alma Smith, Simpson, Meisner, Schuitmaker, Gaffney, Sak, Hune, Jackson, Miller, Ebli and Angerer and referred to the Committee on Education.

A bill to authorize the creation of promise zones and implementation of promise zone development plans; to provide for the creation of promise zone authorities; to prescribe the powers and duties of promise zone authorities; to provide for the capture and disbursement of certain tax revenue; and to prescribe powers and duties of certain state and local officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan promise zone act".

3 Sec. 3. As used in this act:

4 (a) "Authority" means a promise zone authority created under
5 this act.

6 (b) "Board" means the governing body of an authority.

7 (c) "Eligible entity" means a city, township, county, local

1 school district, or intermediate school district, in which the
2 percentage of children under age 18 that are living at or below the
3 federal poverty level is greater than the state average of children
4 under age 18 living at or below the federal poverty level, as
5 determined by the department of treasury.

6 (d) "Federal poverty level" means the poverty guidelines
7 published annually in the federal register by the United States
8 department of health and human services under its authority to
9 revise the poverty line under section 673(2) of subtitle B of title
10 VI of the omnibus budget reconciliation act of 1981, Public Law 97-
11 35, 42 USC 9902.

12 (e) "Governing body" means the elected body of an eligible
13 entity having legislative powers.

14 (f) "Promise of financial assistance" means a commitment by an
15 eligible entity to provide financial resources for postsecondary
16 education to eligible students living in a promise zone who have
17 graduated from a public high school.

18 (g) "Promise zone" means that area created by a governing body
19 under this act.

20 (h) "Promise zone development plan" means that plan developed
21 by a governing body under this act that will ensure that the
22 financial resources are available to adequately fund the promise of
23 financial assistance.

24 (i) "Public high school" means a high school operated by a
25 school district.

26 (j) "Public school" means a school operated by a school
27 district.

1 (k) "School district" means that term as defined in the
2 revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

3 (l) "State education tax" means the tax levied under the state
4 education tax act, 1993 PA 331, MCL 211.901 to 211.906.

5 Sec. 5. (1) If a governing body determines that it is
6 necessary for the best interests of the public to promote access to
7 postsecondary education, the governing body may, by resolution,
8 declare its intention to establish a promise zone.

9 (2) The governing body shall set a date for a public hearing
10 on the adoption of a proposed resolution establishing the promise
11 zone. Notice of the public hearing shall be published twice in a
12 newspaper of general circulation in the eligible entity, not less
13 than 20 or more than 40 days before the date of the hearing. Notice
14 of the hearing shall be posted in at least 20 conspicuous and
15 public places in the eligible entity not less than 20 days before
16 the hearing. The notice shall state the date, time, and place of
17 the hearing and shall describe the proposed promise zone, the
18 details of the promise of financial assistance, and the criteria
19 for eligibility to receive that financial assistance.

20 (3) Not less than 30 days after the public hearing, if the
21 governing body of the eligible entity intends to proceed with the
22 establishment of the promise zone, it shall establish by resolution
23 a promise zone and a promise zone development plan.

24 (4) The promise zone development plan shall include, but is
25 not limited to, all of the following:

26 (a) A complete description of the proposed promise of
27 financial assistance. The proposed promise of financial assistance

1 shall include, but is not limited to, a promise of financial
2 assistance to all students residing within the promise zone who
3 graduate from a public high school. The proposed promise of
4 financial assistance shall, at a minimum, provide funding
5 sufficient to provide an eligible student the tuition necessary to
6 obtain a bachelor's degree or its equivalent at a public
7 postsecondary institution in this state or combination of public
8 postsecondary institutions in this state, subject to any
9 limitations authorized under this section. The proposed promise of
10 financial assistance may also authorize the expenditure of funds
11 for educational improvement activities designed to increase
12 readiness for postsecondary education at public schools located in
13 the promise zone.

14 (b) A complete description of any limitation on the promise of
15 financial assistance if the promise of financial assistance will be
16 prorated based on the number of years the student has resided
17 within the promise zone; if the promise of financial assistance
18 will be restricted to students who have resided within or attended
19 a public high school within the promise zone for a minimum number
20 of years; if the promise of financial assistance is predicated on
21 the student maintaining a minimum college grade point average and
22 carrying a minimum college credit hour classload; or if the promise
23 of financial assistance is restricted to attendance at 1 or more
24 institutions of postsecondary education.

25 (c) Whether graduates of a public high school will be required
26 to exhaust all other available publicly funded scholarships before
27 receiving financial assistance under this act. As used in this

subdivision, "other available publicly funded scholarships" includes any institutional aid from a postsecondary institution in this state and grants for postsecondary education provided by a federal, state, or local governmental entity, but does not include loans.

(d) How the funds necessary to accomplish the promise of financial assistance will be raised. Any amount received under the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, shall not be included as a method of raising the necessary funds. The promise zone development plan shall be financed from 1 or more of the following sources:

(i) Donations.

(ii) Revenues.

(iii) Money obtained from other sources approved by the governing body or otherwise authorized by law.

(e) An actuarial model of how much the proposed plan is estimated to cost, based on actuarial formulas developed by the department of treasury.

(5) The clerk for the governing body of the eligible entity shall file the resolution adopted under subsection (3) with the department of treasury promptly after its adoption. The resolution shall be published at least once in a newspaper of general circulation in the eligible entity.

(6) The department of treasury shall review the resolution submitted under subsection (3) establishing a promise zone and a promise zone development plan and shall certify that the proposed promise zone development plan meets all requirements under this

1 act.

2 (7) The department of treasury shall review any proposed
3 amendments to a promise zone or promise zone development plan and
4 certify that any proposed amendments meet all requirements under
5 this act.

6 (8) The establishment of a promise zone or a promise zone
7 development plan does not create a cause of action in law or in
8 equity against this state, an eligible entity, or a promise zone
9 authority created under section 7, if the proposed promise of
10 financial assistance set forth in the promise zone development plan
11 is not paid to an eligible student.

12 Sec. 7. (1) If the department of treasury certifies the
13 establishment of a promise zone and a promise zone development plan
14 submitted under section 5, the governing body shall, by resolution,
15 create a promise zone authority.

16 (2) An authority is a public body corporate that may sue and
17 be sued in any court of this state. An authority possesses all the
18 powers necessary to carry out its purpose. The enumeration of a
19 power in this act shall not be construed as a limitation upon the
20 general powers of an authority.

21 (3) An authority shall be under the supervision and control of
22 a board consisting of 11 members appointed by the chief executive
23 officer of the eligible entity with the advice and consent of the
24 governing body. Not more than 5 members shall be government
25 officials. Of the members first appointed, an equal number of the
26 members, as near as is practicable, shall be appointed for 1 year,
27 2 years, 3 years, and 4 years. A member shall hold office until the

1 member's successor is appointed. After the initial appointment,
2 each member shall serve for a term of 4 years. An appointment to
3 fill a vacancy shall be made by the chief executive officer of the
4 eligible entity for the unexpired term only. Members of the board
5 shall serve without compensation, but may be reimbursed for actual
6 and necessary expenses. The chairperson of the board shall be
7 elected by the board. As used in this subsection, for a local
8 school district or an intermediate school district, "chief
9 executive officer" means the superintendent of the local school
10 district or intermediate school district.

11 (4) Before assuming the duties of office, a member shall
12 qualify by taking and subscribing to the constitutional oath of
13 office.

14 (5) The proceedings and rules of the board are subject to the
15 open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board
16 shall adopt rules governing its procedure and the holding of
17 regular meetings, subject to the approval of the governing body.
18 Special meetings may be held if called in the manner provided in
19 the rules of the board.

20 (6) After having been given notice and an opportunity to be
21 heard, a member of the board may be removed for cause by the
22 governing body.

23 (7) A writing prepared, owned, used, in the possession of, or
24 retained by the board in the performance of an official function is
25 subject to the freedom of information act, 1976 PA 442, MCL 15.231
26 to 15.246.

27 Sec. 9. (1) The board may employ and fix the compensation of a

1 director. The director shall serve at the pleasure of the board. A
2 member of the board is not eligible to hold the position of
3 director. Before beginning his or her duties, the director shall
4 take and subscribe to the constitutional oath and furnish bond by
5 posting a bond in the sum determined in the resolution establishing
6 the authority payable to the authority for use and benefit of the
7 authority, approved by the board, and filed with the clerk of the
8 eligible entity. The premium on the bond shall be considered an
9 operating expense of the authority, payable from funds available to
10 the authority for expenses of operation. The director shall be the
11 chief executive officer of the authority.

12 (2) Subject to the approval of the board, the director shall
13 supervise and be responsible for implementing the promise zone
14 development plan and the performance of the functions of the
15 authority in the manner authorized by this act. The director shall
16 attend the meetings of the board and shall provide to the board,
17 the governing body, and the chief executive officer of the eligible
18 entity a regular report covering the activities and financial
19 condition of the authority. If the director is absent or disabled,
20 the board may designate a qualified person as acting director to
21 perform the duties of the office. Before beginning his or her
22 duties, the acting director shall take and subscribe to the oath,
23 and furnish bond, as required of the director. The director shall
24 furnish the board with information or reports governing the
25 operation of the authority as the board requires.

26 (3) The board may employ and fix the compensation of a
27 treasurer, who shall keep the financial records of the authority

1 and who, together with the director, shall approve all vouchers for
2 the expenditure of funds of the authority. The treasurer shall
3 perform all duties delegated to him or her by the board and shall
4 furnish a bond in an amount prescribed by the board.

5 (4) The board may employ and fix the compensation of a
6 secretary, who shall maintain custody of the official seal and of
7 records, books, documents, or other papers not required to be
8 maintained by the treasurer. The secretary shall attend meetings of
9 the board and keep a record of its proceedings and shall perform
10 other duties delegated by the board.

11 (5) The board may retain legal counsel to advise the board in
12 the proper performance of its duties.

13 (6) The board may employ other personnel considered necessary
14 by the board.

15 (7) Money received by the authority shall immediately be
16 deposited to the credit of the authority, subject to disbursement
17 under this act.

18 Sec. 11. The board may do any of the following:

19 (a) Prepare an analysis of the postsecondary educational
20 opportunities for the residents of the promise zone.

21 (b) Study and analyze the need for financial resources to
22 provide postsecondary educational opportunities for residents of
23 the promise zone.

24 (c) Acquire by purchase or otherwise, on terms and conditions
25 and in a manner the authority considers proper, or own, convey, or
26 otherwise dispose of, or lease as lessor or lessee, land and other
27 property, real or personal, or rights or interests in the property,

1 that the authority determines is reasonably necessary to achieve
2 the purposes of this act, and grant or acquire licenses, easements,
3 and options.

4 (d) Fix, charge, and collect fees, rents, and charges for the
5 use of any facility, building, or property under its control or any
6 part of the facility, building, or property.

7 (e) Lease, in whole or in part, any facility, building, or
8 property under its control.

9 (f) Solicit and accept grants and donations of money,
10 property, labor, or other things of value from a public or private
11 source.

12 Sec. 13. The director of the authority shall submit a budget
13 to the board for the operation of the authority for each fiscal
14 year before the beginning of the fiscal year. The budget shall be
15 prepared in the manner and contain the information required of
16 municipal departments. After review by the board, the budget shall
17 be submitted to the governing body. The governing body must approve
18 the budget before the board may adopt the budget. Unless authorized
19 by the governing body, funds of the eligible entity shall not be
20 included in the budget of the authority.

21 Sec. 15. (1) The year immediately preceding the year in which
22 an authority makes its initial tuition payment in accordance with
23 the promise of financial assistance is the base year for
24 determining the amount of incremental growth for the capture of the
25 state education tax as provided in this section. The base year is
26 the amount of revenue received from the collection of the state
27 education tax in the promise zone.

1 (2) If the authority continues to make annual payments in
2 accordance with the promise of financial assistance, in the year
3 immediately succeeding the base year determined in subsection (1)
4 and each year thereafter, this state shall capture 1/2 of the
5 increase in revenue, if any, from the collection of the state
6 education tax. This state shall not capture any revenue from the
7 collection of the state education tax under this act if that
8 revenue is subject to capture under any other law of this state.
9 Proceeds from the capture of the state education tax under this
10 section shall be deposited in the state treasury and credited to a
11 restricted fund to be used solely for the purposes of this act.

12 (3) If the authority continues to make annual tuition payments
13 in accordance with the promise of financial assistance, 2 years
14 after the authority's initial payment of financial assistance and
15 each year thereafter, this state shall pay to the authority the
16 state education tax captured under subsection (2). If the
17 boundaries of 2 or more promise zones created under this act
18 overlap, payments under this section shall only be made to the
19 first authority eligible for payment under this subsection.

20 (4) If at any time the authority does not make annual tuition
21 payments in accordance with the promise for financial assistance,
22 any amount captured from that promise zone in the restricted fund
23 created under subsection (2) shall be paid into the school aid fund
24 established in section 11 of article IX of the state constitution
25 of 1963.

26 (5) For purposes of this section, payments under this section
27 shall not be included in determining payments for financial

1 assistance in the immediately preceding year.

2 Sec. 17. (1) The department of treasury shall oversee the
3 operations of any promise zone authority or board created under
4 this act. If the department of treasury determines that the actions
5 of a promise zone authority or board are not in accordance with the
6 promise zone development plan, the department of treasury may
7 assume operational control of that promise zone authority or board.

8 (2) An authority that has completed the purposes for which it
9 was organized shall be dissolved by resolution of the governing
10 body. The property and assets of the authority remaining after the
11 satisfaction of the obligations of the authority belong to the
12 eligible entity.