

# HOUSE BILL NO. 5458

February 04, 2020, Introduced by Reps. Yancey, Hornberger, Rabhi, Miller, Reilly, Eisen, Paquette, Steven Johnson, Yaroeh, Hammoud, Sowerby, Bollin, Schroeder, Meerman, Hoitenga, Kuppa, Afendoulis, Berman, Hall and Brann and referred to the Committee on Tax Policy.

A bill to amend 1984 PA 270, entitled  
"Michigan strategic fund act,"  
by amending section 5 (MCL 125.2005), as amended by 2014 PA 507.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5. (1) There is created by this act a public body  
2 corporate and politic to be known as the Michigan strategic fund.  
3 The fund shall be within the department of ~~treasury~~**labor and**  
4 **economic opportunity** and shall exercise its prescribed statutory  
5 powers, duties, and functions independently of the ~~state treasurer.~~  
6 **director of the department of labor and economic opportunity.** The



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1 statutory authority, powers, duties, functions, records, personnel,  
2 property, unexpended balances of appropriations, allocations, and  
3 other funds of the fund, including the functions of budgeting,  
4 procurement, personnel, and management-related functions, shall be  
5 retained by the fund, and the fund shall be an autonomous entity  
6 within the department of ~~treasury~~ **labor and economic opportunity** in  
7 the same manner as the Michigan employment security commission was  
8 designated an autonomous entity within the Michigan department of  
9 labor under section 379 of the executive organization act of 1965,  
10 1965 PA 380, MCL 16.479.

11 (2) Except as otherwise provided in this act, the purposes,  
12 powers, and duties of the Michigan strategic fund are vested in and  
13 shall be exercised by a board of directors.

14 (3) Except as provided in subsection (4), the board shall  
15 consist of the director of the department of ~~licensing and~~  
16 ~~regulatory affairs~~ **labor and economic opportunity** or his or her  
17 designee from within the department of ~~licensing and regulatory~~  
18 ~~affairs~~, **labor and economic opportunity**, the state treasurer or his  
19 or her designee from within the department of treasury, the chief  
20 executive officer of the MEDC or his or her designee, and 6 other  
21 members with knowledge, skill, and experience in the academic,  
22 business, or financial field, who shall be appointed by the  
23 governor with the advice and consent of the senate. None of the 6  
24 members appointed under this section shall be employees of this  
25 state. Not less than 5 members of the board appointed under this  
26 subsection shall be members of the private sector. Five of the 6  
27 members appointed under this subsection shall serve for fixed  
28 terms. Upon completion of each fixed term expiring after December  
29 30, 2005, a member shall be appointed for a term of 4 years. Of the



1 private sector members appointed by the governor for a fixed term,  
2 1 shall be appointed from a list of 3 or more nominees of the  
3 speaker of the house of representatives representing persons within  
4 the private sector with experience in private equity or venture  
5 capital investments, commercial lending, or commercialization of  
6 technology and 1 shall be appointed from a list of 3 or more  
7 nominees of the senate majority leader representing persons within  
8 the private sector with experience in private equity or venture  
9 capital investments, commercial lending, or commercialization of  
10 technology. A member appointed under this subsection or subsection  
11 (4) shall serve until a successor is appointed, and a vacancy shall  
12 be filled for the balance of the unexpired term in the same manner  
13 as the original appointment. The member appointed under this  
14 subsection and serving without a fixed term shall serve at the  
15 pleasure of the governor. Of the members appointed under this  
16 subsection and subsection (4), there shall be minority, female, and  
17 small business representation. After December 31, 2005, at least 2  
18 of the members of the board shall have experience in private equity  
19 or venture capital investments, at least 1 of the members shall  
20 have experience in commercial lending, and at least 1 of the  
21 members of the board shall have experience in commercialization of  
22 technology.

23 (4) In addition to the 9 members of the board under subsection  
24 (3), not later than December 15, 2005, the governor shall appoint,  
25 with the advice and consent of the senate, 2 additional members to  
26 the board for terms expiring December 31, 2007. After the initial  
27 appointments under this subsection, members appointed under this  
28 subsection shall be appointed for a term of 4 years. The members  
29 appointed under this subsection shall be from the private sector



1 and shall have experience in private equity or venture capital  
2 investments, commercial lending, or commercialization of  
3 technology. From the date of the appointment of the members under  
4 this subsection until December 31, 2015, the board shall have 11  
5 members. After December 31, 2015, the board shall have 9 members  
6 and no members shall be appointed under this subsection.

7 (5) The governor shall designate 1 member of the board to  
8 serve as its chairperson. The governor shall designate 1 member of  
9 the board to serve as president of the fund and may designate 1  
10 member to serve as vice-president of the fund. The chairperson,  
11 president, and vice-president, if a vice-president is designated,  
12 shall serve as those officers at the pleasure of the governor.

13 (6) Members of the board shall serve without compensation for  
14 their membership on the board, except that members of the board may  
15 receive reasonable reimbursement for necessary travel and expenses.

16 (7) The board may delegate to its president, vice-president,  
17 staff, or others, including the MEDC, those functions and authority  
18 that the board deems necessary or appropriate, which may include  
19 the oversight and supervision of employees of the fund. However,  
20 responsibilities specifically vested in the board under chapter 8A  
21 shall be performed by the board and shall not be transferred to the  
22 MEDC, except that Michigan business development program incentives  
23 under section 88r, and community revitalization incentives under  
24 chapter 8C, of \$1,000,000.00 or less can be authorized by the  
25 president of the fund.

26 (8) A majority of the members of the board appointed and  
27 serving constitutes a quorum for the transaction of business at a  
28 meeting, or the exercise of a power or function of the fund,  
29 notwithstanding the existence of 1 or more vacancies. The board may



1 act only by resolution approved by a majority of board members  
2 appointed and serving. Voting upon action taken by the board shall  
3 be conducted by majority vote of the members appointed and serving.  
4 Members of the board may be present in person at a meeting of the  
5 board or, if authorized by the bylaws of the board, by use of  
6 telecommunications or other electronic equipment. The fund shall  
7 meet at the call of the chair and as may be provided in the bylaws  
8 of the fund. Meetings of the fund may be held anywhere within the  
9 state of Michigan.

10 (9) The business of the board shall be conducted at a public  
11 meeting of the board held in compliance with the open meetings act,  
12 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date,  
13 and place of the meeting shall be given in the manner required by  
14 the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and shall  
15 also be provided on an internet website operated by the fund. A  
16 record or portion of a record, material, or other data received,  
17 prepared, used, or retained by the fund or any of its centers in  
18 connection with an application to or with a project or product  
19 assisted by the fund or any of its centers or with an award, grant,  
20 loan, or investment that relates to financial or proprietary  
21 information submitted by the applicant that is considered by the  
22 applicant and acknowledged by the board or a designee of the board  
23 as confidential shall not be subject to the disclosure requirements  
24 of the freedom of information act, 1976 PA 442, MCL 15.231 to  
25 15.246. The disclosure of a record concerning investment  
26 information described in section 88c under the freedom of  
27 information act, 1976 PA 442, MCL 15.231 to 15.246, is subject to  
28 the limitations provided in section 88c. The board may also meet in  
29 closed session pursuant to the open meetings act, 1976 PA 267, MCL



1 15.261 to 15.275, to make a determination of whether it  
2 acknowledges as confidential any financial or proprietary  
3 information submitted by the applicant and considered by the  
4 applicant as confidential. Unless considered proprietary  
5 information, the board shall not acknowledge routine financial  
6 information as confidential. If the board determines that  
7 information submitted to the fund is financial or proprietary  
8 information and is confidential, the board shall release a written  
9 statement, subject to disclosure under the freedom of information  
10 act, 1976 PA 442, MCL 15.231 to 15.246, that states all of the  
11 following:

12 (a) The name and business location of the person requesting  
13 that the information submitted be confidential as financial or  
14 proprietary information.

15 (b) That the information submitted was determined by the board  
16 to be confidential as financial or proprietary information.

17 (c) A broad nonspecific overview of the financial or  
18 proprietary information determined to be confidential.

19 (10) The fund shall not disclose financial or proprietary  
20 information not subject to disclosure pursuant to subsection (9)  
21 without consent of the applicant submitting the information.

22 (11) Any document to which the fund is a party evidencing a  
23 loan, insurance, mortgage, lease, venture, or other type of  
24 agreement the fund is authorized to enter into shall not be  
25 considered financial or proprietary information that may be exempt  
26 from disclosure under subsection (9).

27 (12) For purposes of subsections (9), (10), and (11),  
28 "financial or proprietary information" means information that has  
29 not been publicly disseminated or which is unavailable from other



1 sources, the release of which might cause the applicant significant  
2 competitive harm.

3       (13) The board or its delegate shall not approve a grant,  
4 loan, award, tax credit, or other economic assistance under this  
5 act without posting proposed draft contract approval agreements,  
6 and, if produced for the specific project, briefing memoranda and  
7 term sheets on its website not less than 10 business days prior to  
8 approval. If the board or its delegate fails to post the proposed  
9 draft contract approval agreement and briefing memoranda and term  
10 sheets, if any, as provided under this subsection, then the  
11 decision of the board or its delegate is invalid and is not  
12 effective.

