

HOUSE BILL NO. 5979

September 26, 2024, Introduced by Reps. Mentzer, McKinney and Wozniak and referred to the Committee on Tax Policy.

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending the title and sections 7 and 9 (MCL 125.2007 and 125.2009), the title as amended by 2005 PA 225, section 7 as amended by 2020 PA 358, and section 9 as amended by 2024 PA 117.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act relating to the economic development of this state; to
3 create the Michigan strategic fund and to prescribe its powers and

1 duties; to transfer and provide for the acquisition and succession
2 to the rights, properties, obligations, and duties of the job
3 development authority and the Michigan economic development
4 authority to the Michigan strategic fund; to provide for the
5 expenditure of proceeds in certain funds to which the Michigan
6 strategic fund succeeds in ownership; to provide for the issuance
7 of, and terms and conditions for, certain notes and bonds of the
8 Michigan strategic fund; to create certain boards and funds; to
9 create certain permanent funds; to exempt the property, income, and
10 operation of the fund and its bonds and notes, and the interest
11 thereon, from certain taxes; to provide for the creation of certain
12 centers within and for the purposes of the Michigan strategic fund;
13 to provide for the creation and funding of certain accounts for
14 certain purposes; to impose certain powers and duties upon certain
15 officials, departments, and authorities of this state; to make
16 certain loans, grants, and investments; **to provide qualifications**
17 **for and determine eligibility for income tax credits and other**
18 **incentives for certain persons;** to provide penalties; to make an
19 appropriation; and to repeal acts and parts of acts.

20 Sec. 7. The fund shall have the powers and duties provided in
21 this act, the powers delegated by other laws or executive orders,
22 including, but not limited to, the power to do 1 or more of the
23 following:

24 (a) Sue and be sued; to have a seal and alter the seal at
25 pleasure; to have perpetual succession; to make, execute, and
26 deliver contracts, conveyances, and other instruments necessary or
27 convenient to the exercise of its powers; and to make and amend
28 bylaws.

29 (b) Solicit and accept gifts, grants, loans, and other aids

1 from any person or the federal, state, or a local government or any
2 agency of the federal, state, or a local government, or to
3 participate in any other way in any federal, state, or local
4 government program.

5 (c) Make grants, loans, and investments; to guarantee and
6 insure loans, leases, bonds, notes, or other indebtedness, whether
7 public or private; and to issue letters of credit.

8 (d) Construct; acquire by gift, purchase, installment
9 purchase, or lease; and reconstruct, improve, repair, or equip a
10 project or any part of a project.

11 (e) Borrow money and issue bonds and notes to finance part or
12 all of the project costs of a project, including the Special
13 Purpose FWC Settlement Entity, or of a loan under subdivision (r)
14 for an export transaction, and to secure those bonds and notes by
15 mortgage, assignment, or pledge of any of its money, revenues,
16 income, and properties. The authority provided by this subdivision
17 includes, but is not limited to, issuing bonds and notes to acquire
18 and install machinery, equipment, furnishings, and other personal
19 property, notwithstanding that the fund does not own or propose to
20 own or finance the building or land in or near to which the
21 machinery, equipment, furnishings, and other personal property is
22 or is to be located.

23 (f) Acquire or contract to acquire from any person,
24 municipality, the federal or state government, or any agency of the
25 foregoing, or otherwise, leaseholds, real or personal property or
26 any interest in real or personal property; to own, hold, clear,
27 improve, and rehabilitate and to sell, assign, exchange, transfer,
28 convey, lease, mortgage, or otherwise dispose of or encumber
29 leaseholds, real or personal property or any interest in real or

1 personal property, as is convenient for the accomplishment of the
2 purposes of this act and of the fund.

3 (g) Procure insurance against any loss in connection with the
4 fund's property, assets, or activities.

5 (h) Invest any money of the fund at the fund's discretion, in
6 any obligations determined proper by the fund, and name and use
7 depositories for its money.

8 (i) Engage personnel as is necessary and engage the services
9 of private consultants, managers, counsel, auditors, engineers, and
10 scientists for rendering professional management and technical
11 assistance and advice, payable out of any money of the fund legally
12 available for this purpose.

13 (j) Charge, impose, and collect fees and charges in connection
14 with any transaction and provide for reasonable penalties for
15 delinquent payment of fees or charges.

16 (k) Indemnify and procure insurance indemnifying any members
17 of the board from personal loss or accountability from liability
18 asserted by a person on the bonds or notes of the fund or from any
19 personal liability or accountability by reason of the issuance of
20 the bonds, notes, insurance, or guarantees; by reason of
21 acquisition, construction, ownership, or operation of a project; or
22 by reason of any other action taken or the failure to act by the
23 fund.

24 (l) Enter into a lease for the use or sale of a project. The
25 lease may provide for options to purchase or renew.

26 (m) Mortgage or create security interests in a project or any
27 part of a project, or in a lease or loan, or in the rents,
28 revenues, or sums to be paid thereunder, in favor of the holders of
29 the bonds or notes issued by the fund.

1 (n) Convey or release a project or any part of a project to a
2 lessee, purchaser, or borrower under any agreement after provision
3 has been made for the retirement in full of the bonds or notes
4 issued for that project under terms and conditions provided in the
5 agreement or as may be agreed with the holders of the bonds or
6 notes, at any time where the obligation of the lessee, purchaser,
7 or borrower to make the payments prescribed shall remain fixed as
8 provided in the agreement notwithstanding the conveyance or
9 release, or as may otherwise be agreed with the holders of the
10 bonds or notes.

11 (o) Make loans, participate in the making of loans, undertake
12 commitments to make loans and mortgages, buy and sell loans and
13 mortgages at public or private sale, rewrite loans and mortgages,
14 discharge loans and mortgages, foreclose on a mortgage, commence an
15 action to protect or enforce a right conferred upon the fund by a
16 law, mortgage, loan, contract, or other agreement, bid for and
17 purchase property which was the subject of the mortgage at a
18 foreclosure or other sale, acquire or take possession of the
19 property and in that event complete, administer, pay the principal
20 and interest on obligations incurred in connection with that
21 property, and dispose of and otherwise deal with the property, in a
22 manner as may be necessary or desirable to protect the interests of
23 the fund.

24 (p) Certify, for the purpose of determining eligible
25 investments for the basis of a single business tax credit, minority
26 venture capital companies, as defined by law.

27 (q) Except as otherwise provided in this subdivision, to
28 create and operate centers, accounts, and funds as required or
29 permitted by law for the use and disbursement of assets of the

1 fund. The powers granted under this subdivision do not apply to
2 chapter 8A.

3 (r) Make loans to a financial institution to facilitate
4 financing of all or part of an export related transaction
5 including, but not limited to, pre-export working capital financing
6 and postexport receivable financing.

7 (s) Procure goods and services, purchase and sell real and
8 personal property, and lease property independent of any other
9 department or state agency.

10 (t) Appoint any individuals, including strategic fund
11 employees and MEDC employees, to boards to represent the interests
12 of the fund.

13 (u) Establish and operate a job training fund that will
14 support the training of workers for Michigan businesses as
15 determined by the fund.

16 (v) Establish and operate a brownfield historic investment
17 program that provides capital for projects as determined by the
18 fund.

19 (w) Take necessary and reasonable steps to pursue repayment of
20 funds disbursed for any grant or loan for failing to comply with
21 provisions of a written agreement as required under section
22 88r(2) (b) (iv) and section 90b(7).

23 (x) Borrow money and issue bonds or notes for financing a
24 Special Purpose FWC Settlement Entity, which entity may use the
25 financed proceeds only to pay the expenses, costs, and fees
26 associated with the Special Purpose FWC Settlement Entity, to
27 reimburse this state for its initial \$5,000,000.00 payment to the
28 FWC Qualified Settlement Fund, and to pay the FWC Qualified
29 Settlement Fund, and which shall be secured by a pledge of

1 repayment from anticipated state appropriations and from any other
2 sources.

3 **(y) To determine the eligibility of and issue certificates to**
4 **certain persons certified as qualified taxpayers for tax credits**
5 **allowed under sections 277 and 677 of the income tax act of 1967,**
6 **1967 PA 281, MCL 206.277 and 206.677.**

7 **(z) ~~(y)~~**—Do all other things necessary or convenient to achieve
8 the objectives and purposes of the fund, this act, or other laws
9 that relate to the purposes and responsibilities of the fund.

10 Sec. 9. (1) The fund shall transmit to each member of the
11 legislature, the governor, the clerk of the house of
12 representatives, the secretary of the senate, and the senate and
13 house fiscal agencies annually a report of its activities. The
14 report must be transmitted not later than April 10 of each year for
15 activities in the immediately preceding state fiscal year. The
16 report must not include information exempt from disclosure under
17 section 5. The report must include, but is not limited to, all of
18 the following for each program operated under this act:

19 (a) A list of entities that received financial assistance.

20 (b) The type of project or product being financed.

21 (c) The amount and type of financial assistance.

22 (d) For each separate form of financial assistance, all of the
23 following:

24 (i) The number of new jobs committed or projected when the
25 financial assistance was applied for.

26 (ii) The number of retained jobs committed or projected when
27 the financial assistance was applied for.

28 (iii) The actual number of new jobs created that are not
29 temporary employees.

1 (iv) The actual number of retained jobs that are not temporary
2 employees.

3 (v) The average annual salary of the new jobs created that are
4 not temporary employees.

5 (vi) The average annual salary of the retained jobs that are
6 not temporary employees.

7 (e) The duration of the financial assistance.

8 (f) The amount of financial support other than state
9 resources.

10 (g) Money or other revenue or property returned to the fund,
11 including any repayments through a clawback provision in the
12 agreement.

13 (h) The status of all loans of the fund.

14 (i) A list of all entities that are in bankruptcy, of which
15 the fund has received actual notice, filed by a direct recipient of
16 an active single incentive of not less than \$500,000.00. In
17 addition, the fund shall, within 120 days after the fund receives
18 notice, provide a report of the notice of bankruptcy on its website
19 and forward the report to each of the following:

20 (i) The senate majority leader and the senate minority leader.

21 (ii) The speaker of the house and the house minority leader.

22 (iii) The members of the house ~~commerce and tourism~~ **economic**
23 **development and small business** committee.

24 (iv) The members of the house appropriations subcommittee on
25 general government.

26 (v) The members of the senate economic and ~~small business~~
27 **community** development committee.

28 (vi) The members of the senate appropriations subcommittee on
29 general government.

1 (j) A summary of the approximate administrative costs used to
2 administer the programs and activities authorized under this act.

3 (k) Any other information as required by this section.

4 (2) The auditor general or a certified public accountant
5 appointed by the auditor general annually shall conduct and remit
6 to the legislature an audit of the fund and, in the conduct of the
7 audit, shall have access to all records of the fund at any time,
8 whether or not confidential. Each audit required by this section
9 must include a determination of whether the fund is likely to be
10 able to continue to meet its obligations, including a report on the
11 status of outstanding loans and agreements made by the fund.

12 (3) The fund shall also transmit the audit described in
13 subsection (2) to the chairperson and minority vice-chairperson of
14 the senate appropriations subcommittee on general government and
15 the house of representatives appropriations subcommittee on general
16 government. The fund shall make the report and audit available to
17 the public on the fund's website.

18 (4) The report described in subsection (1) must also contain
19 all of the following that are related to a 21st century investment
20 made by the fund board under chapter 8A:

21 (a) The amount of qualified venture capital fund investments,
22 qualified mezzanine fund investments, and qualified private equity
23 fund investments under management in this state, including year-to-
24 year growth.

25 (b) The value of loan enhancement program investments,
26 qualified private equity fund investments, qualified mezzanine fund
27 investments, and qualified venture capital investments in qualified
28 businesses, including year-to-year growth.

29 (c) A statement of the amount of money in each loan reserve

1 fund established under the small business capital access program
2 required under chapter 8A.

3 (5) The report described in subsection (1) must also include,
4 but is not limited to, all of the following for all actions under
5 section 88r:

6 (a) The total actual amount of qualified investment attracted
7 under section 88r as reported to the fund.

8 (b) The total actual number of new jobs created under section
9 88r as reported to the fund.

10 (c) The actual amount of the grant, loan, or other economic
11 assistance made under section 88r separately for each qualified
12 business verified by the fund.

13 (d) For each qualified business, whether it is a new business,
14 whether it is an expansion of an existing business, or whether it
15 relocated from outside of this state.

16 (e) An evaluation of the aggregate return on investment that
17 this state realizes on the actual qualified new jobs and actual
18 qualified investment made by qualified businesses.

19 (6) The report described in subsection (1) must also include,
20 but is not limited to, all of the following for all actions under
21 chapter 8B:

22 (a) For tourism promotion efforts, all of the following:

23 (i) An itemized list, by market, of how much was spent, types
24 of media purchased, and target of the tourism promotion campaign.

25 (ii) The return on investment analysis that utilizes existing
26 baseline data and compares results with prior outcome evaluations
27 funded by Travel Michigan.

28 (b) For business development efforts, all of the following:

29 (i) An itemized list, by market, of how much was spent, types

1 of media purchased, and target of the business promotion campaign.

2 (ii) A performance analysis that compares the program or
3 campaign objectives and outcome of the campaign or program.

4 (7) The report described in subsection (1) must also include,
5 but is not limited to, all of the following for all actions under
6 section 90d:

7 (a) The total actual amount of private investment attracted
8 under section 90d as reported to the fund.

9 (b) The actual amount of the community revitalization
10 incentives made under chapter 8C separately for each project.

11 (c) The total actual amount of square footage revitalized or
12 added for each project approved under section 90d as reported to
13 the fund. When reporting square footage, the person must report the
14 square footage by category, including, but not limited to,
15 commercial, residential, or retail.

16 (d) The aggregate increase in taxable value of all property
17 subject to a written agreement under chapter 8C when established
18 and recorded by the local units of government and as reported to
19 the fund.

20 (e) The total actual number of residential units revitalized
21 or added for each project approved under section 90d as reported to
22 the fund.

23 (f) Each project that received a community revitalization
24 incentive outside the fund program standards and guidelines and why
25 the variance was given.

26 (8) Beginning on and after January 1, 2012, on a monthly basis
27 the fund shall provide exact copies of all information regarding
28 all actions under chapter 8C that is provided to board members of
29 the fund for the purpose of monthly board meetings, subject to

1 confidentiality under section 5, to each of the following and post
2 that information on the fund's website:

3 (a) The chairperson and minority vice-chairperson of the house
4 ~~commerce and tourism~~ **economic development and small business**
5 committee.

6 (b) The chairperson and minority vice-chairperson of the house
7 appropriations subcommittee on general government.

8 (c) The chairperson and minority vice-chairperson of the
9 senate economic and ~~small business~~ **community** development committee.

10 (d) The chairperson and minority vice-chairperson of the
11 senate appropriations subcommittee on general government.

12 (9) The report described in subsection (1) must also include a
13 summary of the approximate administrative costs used to administer
14 the programs and activities authorized in the following sections:

15 (a) Section 88b.

16 (b) Section 88h.

17 (c) Section 90b.

18 (10) The report described in subsection (1) must also include,
19 but is not limited to, all of the following for all actions for
20 business incubators approved by the fund after January 14, 2015:

21 (a) The number of new jobs created and projected new job
22 growth by current clients of the business incubator.

23 (b) Amounts of other funds leveraged by current clients of the
24 business incubator.

25 (c) Increases in revenue for current clients of the business
26 incubator.

27 (11) The report described in subsection (1) must also include
28 the actual repayments received by the fund for failure to comply
29 with clawback provisions of the written agreement under all of the

1 following:

2 (a) Section 78.

3 (b) Section 88d.

4 (c) Section 88k.

5 (d) Section 88q.

6 (e) Section 88r.

7 (f) Section 90b.

8 (12) Beginning on July 1, 2015, the fund shall post on the
9 fund's website a list of each contract, agreement, or other written
10 loan or grant documentation for financial assistance under sections
11 88r and 90b that the fund entered into or modified in the
12 immediately preceding fiscal year.

13 (13) Beginning on July 1, 2015, the fund shall post and update
14 periodically all of the following on its website for all loans made
15 under sections 88r and 90b:

16 (a) A description of the project for which the loan was made.

17 (b) The total amount of the loan.

18 (c) Whether payments on the loan balance are current or
19 delinquent.

20 (d) The interest rate of the loan.

21 (14) Beginning July 1, 2015, the report described in
22 subsection (1) must also contain all of the following for each
23 program that provides financial assistance under this act that
24 requires a site visit:

25 (a) A copy of the site visit guidelines for that program.

26 (b) The number of site visits conducted under that program.

27 (c) The chief compliance officer shall review and evaluate
28 compliance with the site visit guidelines.

29 (15) The fund shall post on its website and update

1 periodically all of the information described in subsection (14).

2 (16) The report described in subsection (1) must also include,
3 but is not limited to, all of the following for all written
4 agreements related to the good jobs for Michigan program created
5 under chapter 8D:

6 (a) The name of the authorized business.

7 (b) The number of certified new jobs required to be
8 maintained.

9 (c) The amount and duration of the withholding tax capture
10 revenues.

11 (17) The report described in subsection (1) must also include
12 the activities of the critical industry program described in
13 section 88s.

14 (18) The report described in subsection (1) must also include
15 the activities of the Michigan strategic site readiness program
16 described in section 88t.

17 (19) The fund shall cooperate with the department of treasury
18 and assist in preparing the ~~report~~ **tax credit reports** required
19 under ~~section~~ **sections 677 and** 718 of the income tax act of 1967,
20 1967 PA 281, MCL **206.677 and** 206.718.

21 (20) As used in this section, "financial assistance" means
22 grants, loans, other economic assistance, and any other incentives
23 or assistance under this act.

24 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No. ____ or House Bill No. 5978 (request no.
26 05562'24) of the 102nd Legislature is enacted into law.