



**House
Legislative
Analysis
Section**

Manufacturer's Bank Building, 12th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

**MICHIGAN STATE LAW LIBRARY
MI EXPORT DEVELOPMENT AUTHORITY ACT**

**Senate Bill 369 with House committee
amendments
First Analysis (12-5-90)**

**Sponsor: Sen. Phil Arthurhultz
Senate Committee: Economic Development
House Committee: Economic Development &
Energy**

THE APPARENT PROBLEM:

Public Act 157 of 1986 established the Michigan Export Development Authority (MEDA), whose purpose is to promote the increased export of Michigan goods and services by providing a source of guaranteed funding and insurance not otherwise available to support export development. The authority works to provide financial counseling to, and act as a clearinghouse for, potential and existing exporters. The act authorizes MEDA to issue up to \$50 million in bonds in order to finance its creation and operation. Some people, however, feel the act does not clearly authorize MEDA to perform certain functions and, thus, prevents it from being fully able to meet the exporting needs of the state's business community. For instance, MEDA apparently is not allowed to participate in trade missions and shows, activities which some consider crucial to the authority's success as an export promoter. Some also believe MEDA should be allowed to sponsor a foreign sales corporation and establish export trading companies that would enable small and mid-sized companies to utilize federal corporate income tax breaks for exporters and work together to set prices and facilitate export transactions without fear of antitrust charges. Further, as recent changes in federal law apparently have made the short-term bonds MEDA is currently allowed to issue less attractive, some feel that by extending their maturity and giving MEDA greater flexibility in determining the bonds' interest rates and terms, the authority could make them more marketable. Other amendments have also been requested which would update the way in which MEDA's governing board of directors votes to approve the issuance of export development bonds and guarantees of funds.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Export Development Act (MCL 447.152 et al) to allow the authority to provide guarantees and grants, locate sources of loans and export insurance, increase the maturity date of bonds issued by the authority, exempt bond proceeds from local taxes, add to the authority's powers, and make general amendments to provisions which govern voting procedures of the authority's board of directors.

Guarantee, Export Insurance. Currently, the act permits MEDA to provide guaranteed funding for eligible export loans used to finance eligible export transactions through participating financial institutions. "Guaranteed funding" means a guarantee against complete or partial loss of principal or interest on an eligible export loan, including insurance against loss up to the maximum amount payable under guaranteed funding. Eligible export loans include those made to participating financial institutions in the state whose proceeds are used only to finance eligible export transactions. To qualify for financing, at least 51 percent of the value of goods and services sold or developed for

sale outside the U.S. must have been created within Michigan, and the sale or development of the goods must create or maintain employment in the state.

Under the bill, rather than guaranteed funding the authority could provide guarantees or locate sources of export insurance for eligible export transactions where current provisions concerning guaranteed funding would apply to the guarantees and insurance. In addition, the bill would specify that the authority could provide a guarantee only if the guarantee was needed to stimulate or facilitate the making of an eligible export transaction, or if it was needed to stimulate or facilitate the resale of an eligible export loan to a holder that otherwise would not purchase the loan and documentation was provided by the financial institution indicating refusal to provide a loan sufficient for the eligible export transaction. The authority could provide grants to nonprofit organizations whose activities included the following:

- conducting market research to determine the state's potential for increasing export of its goods and services;
- encouraging growth in business related to exports that could create or maintain state employment levels; and
- researching industrial and commercial innovations that were likely to increase exports from Michigan.

Qualifying for financing under the bill would require that a "substantial portion" of the value of the goods and services were created in Michigan.

The act now requires a participating financial institution to investigate an exporter's line of credit before financing can be provided, prohibits an exporter — as a condition for receiving authority funding — from having received more than \$1.5 million in guaranteed funding in the 12 months prior to when the guaranteed funding agreement was executed, and specifies that authority-backed loans made to qualified exporters must bear a fixed interest rate and term as determined by the authority. The bill would delete all of these provisions. In addition, the bill would amend the term "participating financial institution" to include state savings and loan associations and state or federal savings banks.

New Authority Powers. In addition to its current powers, the authority could do the following:

- charge and collect fees for its services and enter into contracts or agreements with the U.S. Export-Import Bank, the Federal Credit Insurance Association, or other federal agencies or instrumentalities;
- lead, participate in, support, or otherwise cooperate in trade missions, trade shows, and related efforts to encourage the export of state goods and services; and

- sponsor or foster a foreign sales corporation and secure federal approval for an export trading company under the Federal Export Trading Company Act of 1982 or equivalent entities under similar federal legislation. In connection with such entities, the authority could acquire and transfer title to goods and corporate or partnership ownership interest, and enter into joint ventures with other export trading companies.

Bonding Authority. The bill would increase from five to 30 years the maximum life of a bond issued by the authority and would allow the bonds' interest rates to be set, reset, or calculated from time to time. Also, bonds could bear no interest rate. Except as provided by the act, bonds or notes issued by the authority would not be subject to the Municipal Finance Act nor would they have to be registered; also, a filing of an authority bond would not be required under the Uniform Securities Act. The Department of Treasury would have to approve the bonds prior to their issuance, and would have to determine that the amount of the proposed issue was sufficient, but not excessive, that revenues and properties pledged for payment were sufficient, and that the issues and proceedings authorizing them complied with the bill and other applicable law. Provisions which now require the filing of resolutions or ordinances authorizing the sale of obligations that do not need prior approval and which govern the issuance of obligations not requiring approval would apply to bonds and notes issued by the authority.

Currently, bonds and income from bonds are exempt from all state taxes except for inheritance, estate, or transfer taxes, while property of the authority is exempt from all state, franchise, corporate, business, and income taxes. Under the bill, not only the bonds but also the interest on, and transfer of, bonds would be exempt from all state and local taxation except inheritance, estate, and gift taxes. Also, the authority's property, income, and operation would be exempt from all state and local taxes. The bill would delete a provision which exempts security and financing agreements made under the act from the state stamp and transfer taxes.

Administration of the Authority. The authority's board of directors currently consists of the directors of the Departments of Agriculture and Commerce, the state treasurer, and nine other members appointed by the governor. The bill would do the following:

- allow board members to appoint representatives to serve as voting members in their absence, and delete language which allows members to vote by proxy or designee;
- require the board to elect a vice-chairperson annually;
- delete a requirement that at least six members approve resolutions authorizing guaranteed funding;
- require the authority to indemnify staff officers appointed by board resolution;
- allow the board to appoint up to two employees to unclassified positions not included in the state civil service to serve for terms at the pleasure of the board; and
- delete language which provides that an action taken by the board takes effect when the resolution authorizing the action is signed by the chairperson. The bill provides that the action, instead, would become effective upon board approval of the resolution.

Annual Report. In addition to information now required to be submitted annually to the legislature, the authority would have to include data showing the number, value, type of product, and

destination of export transactions assisted, the type of assistance rendered for each by the authority, grants made under the bill and their results, trade shows attended and trade missions led, and any other information necessary for a competent evaluation of the effectiveness of the authority.

HOUSE COMMITTEE ACTION:

The House Committee on Economic Development and Energy amended the bill to clarify the powers and responsibilities of the authority and to clarify certain terms in the act to ensure that the liability of the authority would be limited.

FISCAL IMPLICATIONS:

According to the Department of Agriculture, the bill would have no fiscal implications for the state. (12-4-90)

ARGUMENTS:

For:

The bill will amend the enabling legislation for the Michigan Export Development Authority to permit the authority to become more involved in promoting the export of Michigan products and to facilitate more effectively export transactions. The bill will also help ensure that the authority's bonds are more marketable and will provide additional means for the authority to generate operating revenue. Further, the bill will grant the governing board of the authority greater flexibility to fulfill its responsibilities.

POSITIONS:

The Department of Agriculture supports the bill. (12-4-90)