

# SENATE BILL No. 861

October 29, 2007, Introduced by Senators VAN WOERKOM, JELINEK, RICHARDVILLE, BIRKHOLZ, WHITMER, GLEASON, CHERRY, THOMAS and BARCIA 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

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

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

12 (i) Donations.

13 (ii) Revenues.

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

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

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

24 (6) The department of treasury shall review the resolution  
25 submitted under subsection (3) establishing a promise zone and a  
26 promise zone development plan and shall certify that the proposed  
27 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.