

Act No. 549
Public Acts of 2008
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**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senators Van Woerkom, Jelinek, Richardville, Birkholz, Whitmer, Gleason, Cherry, Thomas and Barcia

ENROLLED SENATE BILL No. 861

AN ACT to authorize the creation of promise authorities and the implementation of promise zone development plans; 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:

Sec. 1. This act shall be known and may be cited as the “Michigan promise zone authority act”.

Sec. 3. As used in this act:

(a) “Authority” means a promise zone authority created under this act.

(b) “Board” means the governing body of an authority.

(c) “Eligible entity” means a city, township, county, local school district, or intermediate school district, in which the percentage of families with children under age 18 that are living at or below the federal poverty level is greater than or equal to the state average of families with children under age 18 living at or below the federal poverty level, as determined by the department of treasury.

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

(e) “Governing body” means the elected body of an eligible entity having legislative powers.

(f) “Nonpublic high school” means a high school operated by a nonpublic school that includes grades 9 to 12 or 10 to 12 and that awards a high school diploma. Nonpublic high school also includes a general education development test.

(g) “Nonpublic school” means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(h) "Promise of financial assistance" means a commitment by an eligible entity to provide financial resources for public or private postsecondary education to eligible students living in a promise zone and who have graduated from a public high school or nonpublic high school located within that promise zone.

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

(j) "Promise zone development plan" means that plan developed by an authority under this act that will ensure that the financial resources are available to adequately fund the promise of financial assistance.

(k) "Public high school" means a public school that includes grades 9 to 12 or 10 to 12 and that awards a high school diploma.

(l) "Public school" means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

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

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

Sec. 5. (1) If the department of treasury certifies the eligibility of a governing body to establish a promise zone and the governing body, by resolution, establishes a promise zone under the Michigan promise zone act, the governing body shall, by resolution, create a promise zone authority.

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

(3) An authority shall be under the supervision and control of a board consisting of 11 members. Nine members shall be appointed by the chief executive officer of the eligible entity with the advice and consent of the governing body. One member shall be appointed by the senate majority leader. One member shall be appointed by the speaker of the house of representatives. Not more than 3 members shall be government officials. One member shall be a representative of the public school community. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. After the initial appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the eligible entity for the unexpired term only. Members of the board shall serve without compensation, but may be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board. As used in this subsection, for a local school district or an intermediate school district, "chief executive officer" means the superintendent of the local school district or intermediate school district.

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

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

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

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

Sec. 7. (1) A promise zone authority created under section 5 shall prepare a promise zone development plan.

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

(a) A complete description of the proposed promise of financial assistance. The proposed promise of financial assistance shall include, but is not limited to, a promise of financial assistance to all students residing within the promise zone and who graduate from a public high school or nonpublic high school located within that promise zone. The proposed promise of financial assistance shall, at a minimum, provide funding sufficient to provide an eligible student the tuition necessary to obtain an associate degree or its equivalent at a community or junior college in this state or combination of community or junior colleges in this state and, at most, provide funding sufficient to provide an eligible student the tuition necessary to obtain a bachelor's degree or its equivalent at a public postsecondary institution in this state or combination of public postsecondary institutions in this state, subject to any limitations authorized under this section. The proposed promise of financial assistance may also, at most, provide funding for an eligible student to attend a private college in this state in an amount not to exceed the average tuition necessary to obtain a bachelor's degree at all public universities in this state. The proposed promise of financial assistance may also authorize the expenditure of funds for educational improvement activities designed to increase readiness for postsecondary education at public schools located in the promise zone.

(b) A complete description of any limitation on the promise of financial assistance; if the promise of financial assistance will be prorated based on the number of years the student has resided within the promise zone; if the promise

of financial assistance will be restricted to students who have resided within or attended a public high school or nonpublic high school within the promise zone for a minimum number of years; if the promise of financial assistance is predicated on the student maintaining a minimum college grade point average and carrying a minimum college credit hour classload; or if the promise of financial assistance is restricted to attendance at 1 or more public or private postsecondary institutions in this state.

(c) A requirement that graduates of a public high school or nonpublic high school exhaust all other known and available restricted grants for tuition and fees for postsecondary education provided by a federal, state, or local governmental entity, as determined by the board.

(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.

(3) The proposed promise of financial assistance under subsection (2) shall not include funding for attendance at a public or private postsecondary institution not located in this state.

(4) The board shall submit the promise zone development plan to the department of treasury promptly after its adoption. The promise zone development plan shall be published on the website of the eligible entity that established the promise zone.

(5) The department of treasury shall review the promise zone development plan submitted under subsection (4). Not more than 60 days after receipt of a promise zone development plan submitted under subsection (4), the department of treasury shall either approve the promise zone development plan or provide a written notice of deficiencies. If the department of treasury does not approve a promise zone development plan submitted under subsection (4) or provide a written notice of deficiencies within 60 days, the promise zone development plan shall be considered approved. If a promise zone development plan is approved, the department of treasury shall certify that the promise zone development plan meets all requirements under this act and is sustainable.

(6) The department of treasury shall review any proposed amendments to a promise zone development plan. Not more than 60 days after receipt of proposed amendments to a promise zone development plan, the department of treasury shall either approve the proposed amendments or provide a written notice of deficiencies. If the department of treasury does not approve proposed amendments or provide a written notice of deficiencies within 60 days, the proposed amendments shall be considered approved. If proposed amendments are approved, the department of treasury shall certify that the amendments meet all requirements under this act.

Sec. 9. The establishment of a promise zone development plan does not create a cause of action in law or in equity against this state, an eligible entity, or a promise zone authority, if the proposed promise of financial assistance set forth in the promise zone development plan is not paid to an eligible student.

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

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

(3) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform all duties delegated to him or her by the board and shall furnish a bond in an amount prescribed by the board.

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

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

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

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

(8) The authority shall not expend more than 15% of the proposed annual budget for administrative costs.

Sec. 13. The board may do any of the following:

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

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

(c) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper, or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines is reasonably necessary to achieve the purposes of this act, and grant or acquire licenses, easements, and options.

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

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

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

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

Sec. 17. (1) The authority shall determine the base year for calculating the amount of incremental growth for the capture of the state education tax as provided in this section. The base year is the amount of revenue received from the collection of the state education tax in the promise zone in the year immediately preceding the year in which an authority makes its initial tuition payment in accordance with the promise of financial assistance or the amount of revenue received from the collection of the state education tax in the promise zone in any 1 of the 3 immediately succeeding years, whichever is less.

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

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

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

(5) For purposes of this section, payments under this section shall not be included in determining payments for financial assistance in the immediately preceding year.

Sec. 19. (1) The department of treasury shall oversee the operations of any promise zone authority or board created under this act. If the department of treasury determines that the actions of a promise zone authority or board are not in accordance with the promise zone development plan, the department of treasury may assume operational control of that promise zone authority or board.

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

Enacting section 1. This act does not take effect unless House Bill No. 5375 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor