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Senate Bill 566 (Substitute S-2)
Senate Bill 567 (Substitute S-2)
Senate Bill 568 (Substitute S-2)
Sponsor: Senator John Pappageorge (S.B. 566)
 Senator Mike Kowall (S.B. 567)
 Senator Goeff Hansen (S.B. 568)
Committee: Economic Development

Date Completed: 9-13-11

CONTENT

Senate Bills 567 (S-2) and 568 (S-2) would add Chapter 8C to the Michigan Strategic Fund (MSF) Act to do the following:

- Require the MSF to create and operate the Michigan Community Revitalization Program to provide community revitalization incentives, in the form of grants and loans, for eligible investments in Michigan.
- Require funds appropriated for the program to be placed in the 21st Century Jobs Trust Fund.
- Specify criteria for the MSF to consider when approving an application for community revitalization incentives.
- Prohibit the MSF board from approving more than 25% of a project's eligible investment up to \$10.0 million for a single project, and prohibit a grant of more than \$1.0 million.
- Require the MSF board to enter into a written agreement with an approved applicant for community revitalization incentives, and specify agreement requirements.
- Require a written agreement to provide for repayment and penalties if the applicant failed to comply with the agreement.
- Prohibit the use of more than 4% of the annual appropriation from the 21st Century Jobs Trust Fund for

- administration of the Michigan Community Revitalization Program.
- Allow the Michigan Economic Development Corporation (MEDC) to charge for costs associated with a community revitalization loan.
- Specify procedures for the application for, approval of, and payment of community revitalization grants and loans, and allow grant and loan proceeds to be assigned.
- Require the MSF board to submit an annual report to the Legislature.
- Require the posting of certain information on the MSF website.

Senate Bill 566 (S-2) would amend the MSF Act to do the following:

- Allow the MSF president to authorize community revitalization incentives, and incentives under the Michigan Business Development Program (proposed by Senate Bill 556), of up to \$1.0 million.
- Impose certain restrictions on funding under the Michigan Community Revitalization Program and under the Michigan Business Development Program.
- Allow the Jobs for Michigan Investment Fund (Investment Fund) to be used for revitalizing Michigan communities.

The bills are tie-barred.

Senate Bill 567 (S-2)

Michigan Community Revitalization Program

The bill would require the MSF to create and operate the Michigan Community Revitalization Program to provide community revitalization incentives for eligible investments in Michigan.

The MSF would have to develop and use a detailed application, approval, and compliance process adopted by resolution of the MSF board and published and available on the MSF website. Program standards, guidelines, templates, or any other forms used by the MSF to implement the Program would have to be approved by the board.

"Community revitalization incentive" would mean a community revitalization grant, a community revitalization loan, or other economic assistance. "Community revitalization grant" would mean a grant approved under Chapter 8C and subject to requirements in Section 90c (proposed by Senate Bill 568 (S-2)). "Community revitalization loan" would mean a loan approved under Chapter 8C and subject to the requirements of Section 90d (proposed by Senate Bill 568 (S-2)). "Other economic assistance" would mean any form of assistance allowed under the MSF Act other than a community revitalization loan or community revitalization grant.

"Eligible investment" would mean one or more of the following, subject to a written agreement, including investment that occurred before the application's approval, to the extent that it had not been reimbursed to or been paid for on behalf of the person requesting a community revitalization incentive:

- Any demolition, construction, alteration, rehabilitation, or improvement of buildings.
- Site improvements.
- The addition of machinery, equipment, or fixtures to the approved project.
- Architectural, engineering, surveying, and similar professional fees, but not certain soft costs of the investment, as determined by the MSF board, including fees and costs specified in the bill.

Funds appropriated for the Michigan Community Revitalization Program would

have to be placed in the 21st Century Jobs Trust Fund.

Application for Incentives

A person could apply to the MSF for approval of community revitalization incentives associated with a project. The MSF would have to review all applications for community revitalization incentives. As part of the application, the applicant would have to submit a project description that included a project pro-forma.

When approving a community revitalization incentive, the MSF would have to consider the following criteria to the extent reasonably applicable to the type of project proposed:

- The importance of the project to the community in which it was located.
- If the project would act as a catalyst for additional revitalization of the community in which it was located.
- The amount of local community and financial support for the project.
- The taxpayer's financial need for a community revitalization incentive.
- The extent of reuse of vacant buildings, reuse of historical buildings, and redevelopment of blighted property.
- Creation of jobs.
- The level of private sector and other contributions, including Federal funds and Federal tax credits.
- Whether the project was financially and economically sound.
- The level and extent of environmental contamination.

The MSF also would have to consider whether the project did the following:

- Increased the density of the area.
- Promoted mixed-use development and walkable communities.
- Promoted sustainable development.
- Involved the rehabilitation of a historic resource.
- Addressed areawide redevelopment.
- Addressed underserved markets of commerce.

In addition, the MSF would have to consider any other criteria approved by the MSF board that were specific to each individual project and were consistent with the findings and intent of Chapter 8C.

Approval & Awarding of Incentives

An application would have to be approved or denied within 90 days after receipt of an application that was considered administratively complete by the MSF board or its designee. If the application were neither approved nor denied within that time, it would have to be considered by the MSF board, or the MSF president if delegated, for action at or by the next regularly scheduled board meeting. If an application were approved, the MSF would have to determine the amount of community revitalization incentives for the project based on its review of the application and the criteria described above.

The amount of community revitalization incentives that the MSF board could approve for a single project could not exceed 25% of a project's eligible investment up to \$10.0 million. A community revitalization loan could not exceed \$10.0 million, and a community revitalization grant could not exceed \$1.0 million. A combination of loans, grants, and other economic assistance under Chapter 8C could not exceed \$10.0 million per project.

Written Agreement

When the MSF board approved an application and determined the amount of community revitalization incentives, the MSF board would have to enter into a written agreement with the applicant. In a clear and concise manner, the agreement would have to provide all of the conditions imposed on the applicant to receive the community revitalization incentive, including specific time frames. The agreement would have to provide for repayment and penalties if the applicant failed to comply with the agreement as determined by the MSF board. The applicant would have to agree to provide the data described in the agreement that were necessary for the MSF to report to the Legislature.

Limit on Administrative Costs & Loan Fees

Not more than 4% of the annual appropriation from the 21st Century Jobs Trust Fund could be used for the purposes of administering the programs and activities authorized under Chapter 8C. The MSF and the MSF board, however, could not use more than 3% of the annual appropriation for

administering those programs and activities unless the MSF board authorized the additional 1% for administration, by a two-thirds vote.

The MEDC could charge actual and reasonable fees for costs associated with a community revitalization loan. The fees would be in addition to an amount of the appropriation used for administering the programs and activities authorized under Chapter 8C.

Legislative Finding & Intent

The bill states, "The legislature finds and declares that any activity under this chapter to promote community revitalization will accelerate private investment in areas of historical disinvestment, contribute to Michigan's reinvention as a vital, job-generating state, foster redevelopment of functionally obsolete properties, reduce blight, support the rehabilitation of historic resources, and protect the natural resources of this state and is a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state."

The bill also states, "It is the intent of the legislature that the economic benefits resulting from this chapter occur substantially within this state."

Senate Bill 568 (S-2)

Community Revitalization Grants

Upon completion of a project for which the MSF board had approved a community revitalization grant, the applicant could apply to the Fund for the grant and could assign a grant by submitting written notice of the assignment to the MSF. The board would have to develop and implement the use of an application form and assignment form. Within 90 days of receiving an application, the MSF or its designee would have to determine whether the project had complied with the terms of the agreement. If the MSF or its designee determined that the project had complied with the agreement, the MSF would have to issue the grant proceeds to the applicant or, if the grant had been assigned, to the assignee.

Community Revitalization Loans

Upon completion of a project for which the MSF board had approved a community revitalization loan, the applicant could apply to the MSF for the loan proceeds and could assign some or all of the loan proceeds by submitting written notice of the assignment to the MSF. The MSF board would have to develop and implement the use of an application for disbursement form and assignment form. Within 90 days of receipt or disbursement of an application for disbursement, the MSF or its designee would have to determine whether the project had complied with the agreement. If the project had complied, the MSF would have to distribute the loan proceeds to the applicant or, if the loan proceeds had been assigned, to the assignee.

The MSF board would have to develop criteria for repayment of community revitalization loans. The proceeds from repayment would have to be paid into the Investment Fund and spent exclusively for community revitalization incentives under Chapter 8C.

Report to the Legislature

Beginning November 1, 2012, and each year after that, the MSF would have to report to the Senate and the House of Representatives on the activities of the MSF under Chapter 8C that occurred in the previous fiscal year. The report would have to be made available in an electronic format and include at least all of the following:

- The total proposed amount of qualified investment attracted under Chapter 8C.
- The total actual amount of qualified investment attracted under Chapter 8C as reported to the MSF.
- The total number of new written agreements.
- The amount of the community revitalization incentives awarded under Chapter 8C, separately for each project.
- The actual amount of the community revitalization incentives made under Chapter 8C, separately for each project.
- For each project approved, the total actual amount of square footage revitalized or added as reported to the MSF, reported by category, including commercial, residential, or retail.

- The aggregate increase in taxable value of all property subject to a written agreement under Chapter 8C when established and recorded by the local units of government and as reported to the MSF.
- An evaluation of the aggregate return on investment that the State realized on the actual eligible investments made.
- The total actual number of residential units revitalized or added for each project approved as reported to the MSF.
- The identity of people who received a community revitalization incentive outside the program standards and guidelines and why the variance was given.
- The amount of administrative costs used to administer the programs and activities authorized under Chapter 8C.

Website Posting

Beginning February 1, 2012, and at least every three months after that, the MSF would have to post on its website the name and location of a person who received approval of community revitalization investment under Chapter 8C in the preceding two-month period.

Senate Bill 566 (S-2)

Authorization of Economic Assistance

The Act allows the MSF board to delegate certain functions to its president, vice-president, staff, or others, but responsibilities specifically vested in the board under Chapter 8A (21st Century Investment Programs and Activities) must be performed by the board and may not be transferred to the Michigan Economic Development Corporation. Under the bill, the MSF president could authorize community revitalization incentives under Chapter 8C, and Michigan Business Development Program incentives (proposed by Senate Bill 556), of \$1.0 million or less.

Restricted Use of Funds

The Act requires the MSF board to ensure that a recipient of money under certain programs in Chapter 8A agrees that the money not be used for the development of a stadium or arena for use by a professional sports team, or for the development of a casino or property associated or affiliated

with the operation of a casino. The MSF board also must ensure that money spent for those programs in Chapter 8A not be used for various other purposes.

Under the bill, the board would have to ensure the same restrictions on money awarded under the proposed Michigan Business Development Program and the proposed Michigan Community Revitalization Program.

Jobs for Michigan Investment Fund

The Investment Fund is a permanent fund within the MSF. The Investment Fund consists of funds, assets, property, and earnings specified in Chapter 8A. The Investment Fund must be invested as authorized under Chapter 8A for purposes specified in that chapter. Under the bill, the Investment Fund also could be used for revitalizing Michigan communities.

MCL 125.2005 et al. (S.B. 566)
Proposed MCL 125.2090-125.2090b (S.B. 567)
Proposed MCL 125.2090c & 125.2090d (S.B. 568)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would create the Michigan Community Revitalization Program, providing a statutory framework for a program to replace brownfield and historic preservation tax credits, which will no longer be awarded after December 31, 2011. The Community Revitalization Program would be authorized within the Michigan Strategic Fund (MSF), an independent agency within the Department of Treasury. The proposed program would provide investment incentives in the form of loans, grants, or other economic assistance to a person with an approved application. Under MCL 125.2004 of the MSF Act, "person" is defined as "...an individual, sole proprietorship, partnership, limited partnership, limited liability partnership, limited liability company joint venture, profit or nonprofit corporation including a public or private college or university, public utility, local industrial development corporation, economic development corporation, or another association of persons organized for

agricultural, commercial, or industrial purposes".

The MSF budget (part of the General Government budget, Article VIII of Public Act 63 of 2011) includes \$100.0 million in FY 2011-12 in a line item for Business Attraction and Economic Gardening. This money is available to fund the Michigan Community Revitalization Program as well as the Michigan Business Development Program, a related program that would be created by Senate Bill 556 to replace the Michigan Economic Growth Authority (MEGA) tax credits. The MSF board approved program guidelines for both the Michigan Community Revitalization Program and the Michigan Business Development Program at its meeting on August 24, 2011.

The bills would require that all funds appropriated for Community Revitalization Incentives be deposited into the 21st Century Jobs Trust Fund. This would increase the balance in the 21st Century Jobs Trust Fund by \$75.0 million in FY 2011-12. Interest earnings on the 21st Century Jobs Trust Fund remain in the General Fund pursuant to MCL 12.257(4).

The MSF board would be authorized to allocate up to 4% of the annual appropriation for administrative costs. This would permit up to \$4.0 million of the \$100.0 million appropriation to be available for administrative costs. Currently, only the funds appropriated directly from the 21st Century Jobs Trust Fund are subject to the administrative allocation.

The MSF board would have authority to allocate the \$100.0 million appropriation between the two new programs and allowable administrative costs. The amount that would be allocated to the Michigan Community Revitalization Incentives would be determined by the board subject to boilerplate and statutory constraints. Section 1024 of the General Government budget requires that at least \$20.0 million in FY 2011-12 from the line item for Business Attraction and Economic Gardening be granted for brownfield redevelopment incentives and historic preservation incentives. An additional limitation arises from the fund sources of the appropriation. The \$100.0 million appropriated is from two fund sources, \$25.0 million from the 21st Century Jobs Trust Fund and \$75.0 million

from the General Fund. Under the Michigan Trust Fund Act, funds appropriated from the 21st Century Jobs Trust Fund can be used only for programs under Chapter 8A of the MSF Act and this program would be created in Chapter 8C. Senate Bill 644 would amend the Michigan Trust Fund Act to resolve this issue.

The MSF board would have considerable flexibility in determining the types of assistance that would be available. As noted above, the bills would provide for assistance in the form of loans, grants, and other economic assistance, which would be defined as any form of assistance allowed under the MSF Act. The incentive payment could not support more than 25% of a project's eligible investment. There would be a cap of the \$10.0 million on the incentives awarded to any one project, and a limit of \$1.0 million on the amount of any grant awarded within that amount. A recipient could assign the proceeds of any grant or loan. Awards of up to \$1.0 million could be approved by the president of the Michigan Strategic Fund under explicit delegated authority.

Repayments of Community Revitalization Incentive loans would be deposited into the Jobs for Michigan Investment Fund, a permanent fund created as part of the 21st Century Jobs Trust Fund. These repayments would be available only for additional Community Revitalization Incentives. Community Revitalization Incentives would become a permissible use of the Investment Fund.

The common cash earnings on the body of the Investment Fund are available for appropriation by the Legislature. To the extent that the repayments increased any balance in the Fund, the earnings would increase.

The MSF would incur administrative costs for this program to process applications within the allowable timelines, monitor compliance by recipients, post required information on the internet, and prepare required reports. The administration of the program would be funded from the administrative allocation of up to \$4.0 million in FY 2011-12 as discussed above, fees paid by applicants (similar to the fees paid currently for MEGA credit applicants), and the line item for Job Creation Services.

The bills would continue State support for brownfield and historic preservation projects in local areas. Local financial and community support of projects would be an item evaluated in the selection of projects. The program guidelines adopted by the MSF board describe the local support as staff, financial, or economic support from the municipality where the project is located.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.