

ECONOMIC DEVELOPMENT INCENTIVE EVALUATION ACT

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House Bill 6052 as enacted

Public Act 540 of 2018

Sponsor: Rep. Thomas A. Albert

House Committee: Financial Liability Reform

Senate Committee: Economic Development and International Investment

Complete to 7-11-19

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 6052 creates a new act, the Economic Development Incentive Evaluation Act, to require the Department of Technology, Management, and Budget (DTMB) to contract with a private entity, nonprofit entity, or academic institution for the evaluation of economic development incentives.

The Economic Development Incentive Evaluation Act requires DTMB to contract with one or more *contractors* for the periodic evaluation of *economic development incentives*.

Contractor means the private entity, nonprofit entity, or academic institution selected by DTMB to evaluate certain economic development incentives.

Economic development incentive means the abatements, tax credits, exemptions, grants, loans, or loan guarantees related to economic development activities as determined by the Michigan Strategic Fund (MSF) provided under the following acts:

- The Michigan Business Tax Act
- The Income Tax Act
- Public Act 198 of 1974 (plant rehabilitation and industrial development)
- The Commercial Redevelopment Act
- Public Act 189 of 1953 (taxation of lessees or users of tax-exempt property, and exemption for a “qualified start-up business”)
- The Technology Park Development Act
- Part 511 of the Natural Resources and Environmental Protection Act (specific tax for commercial forests)
- The Neighborhood Enterprise Zone Act
- The City Utility Users Tax Act
- The City Income Tax Act
- The General Property Tax Act
- The Michigan Economic Growth Authority Act
- The Michigan Renaissance Zone Act
- The Obsolete Property Rehabilitation Act
- The Brownfield Redevelopment Financing Act
- The Michigan Strategic Fund Act
- Any new economic development programs as determined by MSF

Request for Proposals and Schedule for Evaluations

The act requires DTMB, along with the Department of Treasury (“Treasury”) and MSF, to develop a scope of services for a request for proposals for professional services necessary to complete the economic development incentive evaluations. In developing the scope of services, DTMB may solicit input from a local governmental unit, one or more public agencies, or a Michigan Economic Development Corporation (MEDC) corporate partner. When selecting a contractor, DTMB must consider whether the evaluations can be done in an objective manner.

The contractor must complete the evaluation within 270 days of entering into the contract. DTMB must provide the evaluation, and any additional information, to the House and Senate appropriations committees within 30 days of completion.

DTMB must enter into contracts for evaluations according to the following schedule:

- For economic development incentives funded with state appropriations of up to \$15.0 million annually, at least once every six years.
- For all other incentives, at least once every four years, excluding programs that have entered legacy status (programs in which in the MSF or other governing body has not approved any new abatement, credit, or exemption or distributed funds within the immediately preceding fiscal year).
- Upon conclusion of an economic development incentive, a one-time final analysis.

DTMB, along with Treasury and MSF, must, by February 28, 2019, develop a multiyear schedule that lists all economic development incentives and the year when an evaluation will be published for each incentive. DTMB must consider incentive sunset dates and program inactivity when creating the schedule, and may group incentives for review by objective or policy rationale of each incentive. DTMB must update the schedule annually and include any new economic development programs as determined by MSF. DTMB must also list the economic development incentives that are *exclusive economic development incentives* (see below).

Content of Evaluations

Evaluations of incentives must include, to the extent practicable, all of the following:

- A description of the history of the incentive and its goals.
- A literature review of the effectiveness of the type of incentive, including an inventory of similar incentives in other states.
- An estimate of the economic and fiscal impact of the incentive. This estimate must take into account all of the following considerations:
 - The extent to which the incentive influences business behavior.
 - The results of the incentive for the state economy, including both positive direct and indirect impacts and any negative effects on other businesses.
 - A comparison to the results of other incentives or strategies with similar goals.
 - An evaluation of the loss of potential gains from other alternatives or programs enacted by the legislature or existing incentives that have been extended.
- An assessment of whether adequate protections are in place to ensure that the fiscal impact of the incentive does not increase substantially beyond the state’s means or expectations in future years.
- An assessment of whether the incentive is being administered effectively, including a review of auditor general reports.

- An assessment of whether the incentive is achieving its goals.
- Recommendations for how the state can most effectively achieve the incentive's goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed.
- Recommendations for any changes to state policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future, including recommended changes to collection, reporting, and sharing of data and revisions or clarifications to the goal of the incentive.
- Any other information the contractor considers necessary to assess the effectiveness of the incentive and whether it is achieving its goals.

A contractor must disclose a summary of its methodology and source materials in how it arrived at its evaluation under this act.

Content of Exclusive Economic Development Incentive Evaluations

Exclusive economic development incentive means an economic development incentive that is intended to encourage a single specific entity, project, or associated projects to locate, expand, invest, or remain in Michigan or hire or retain employees in Michigan as determined by MSF.

The evaluation for ***exclusive economic development incentives*** must include all of the following on a programwide basis:

- Aggregate information and a description of trends related to the state's exclusive incentives, which may include analysis of their structure, standards, and economic and fiscal impact.
- Recommendations for how exclusive incentives should be structured or in what circumstances they should be offered to ensure that they successfully change business behavior; to maximize positive direct and indirect impacts on the state economy and minimize negative effects on other businesses; to avoid adverse impacts on the fiscal stability of local governments; and to ensure that they represent a cost-effective approach compared to other incentive programs or strategies.
- Recommendations for what protections exclusive incentives should include to ensure that their costs do not substantially exceed the state's expectations.
- Recommendations for the types of performance standards that should be included in exclusive incentives, how these standards should be structured, and how they should be monitored.

Information Sharing, FOIA Exemption, Website

At the request of DTMB, state agencies must provide to the contractor, to the extent permitted by law, any records, information, data or analysis necessary for the contractor to effectively evaluate the incentives. The contractor may not disclose or release any data received from state agencies, except as provided by law. A record or portion of any record, material, or other data related to financial, commercial, or proprietary information of any entity that received an incentive provided by another department, agency, municipality, or political subdivision to DTMB or the contractor in connection with an evaluation is not subject to the Freedom of Information Act (FOIA). DTMB and the contractor may use the financial or commercial information only for carrying out the purposes of the act and may not disclose or release any data received from a department, agency, municipality, or political subdivision.

Evaluations must be published on DTMB's website, along with the name of each contractor who is awarded a contract and a schedule of economic development incentives and their evaluations.

Response to Evaluations

At least 30 days before releasing an evaluation or publishing it on its website, DTMB must provide a copy of the evaluation to MSF, MEDC, the state agency overseeing the incentive, and the entity receiving the incentive, and any of these entities may issue a response to the evaluation.

The bill took effect December 28, 2018.

MCL 18.1751 to 18.1759

FISCAL IMPACT:

The bill would increase costs for DTMB by an unknown amount as a result of its requirement that DTMB enter into one or more contracts for the periodic review of economic development incentives. However, the scope and cost of future contracts cannot be determined. Additionally, the bill would increase administrative costs for state agencies required to comply with records and data requests from DTMB. Departmental costs would depend on the scope of the requests and method of dissemination (e.g., copying and printing or electronic).

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.