



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bill 6052 (Substitute H-1 as passed by the House)  
Sponsor: Representative Thomas A. Albert  
House Committee: Financial Liability Reform  
Senate Committee: Economic Development and International Investment

Date Completed: 11-29-18

**CONTENT**

**The bill would enact the "Economic Development Incentive Evaluation Act" to do the following:**

- **Require the Department of Technology, Management, and Budget (DTMB) to contract with one or more contractors for the periodic evaluation of economic development incentives.**
- **Require a contractor to complete an evaluation within 270 days of entering into a contract.**
- **Prescribe the frequency with which the DTMB would have to enter into a contract for an economic development incentive.**
- **Require, at the request of the DTMB, State agencies to provide to the contractor, to the extent permitted by law, any records, information, data, or data analysis necessary for the contractors to effectively evaluate the economic development incentives.**
- **Require the economic development incentive evaluations to be published on the Department's website**
- **Prescribe the information that an evaluation would have to include.**

**Definitions**

Under the Act, "contractor" would mean the private entity, nonprofit entity, or academic institution selected by the Department to evaluate certain economic development incentives.

"Economic development incentive" would mean the abatements, tax credits, exemptions, grants, loans, or loan guarantees related to economic development activities in the State as determined by the Michigan Strategic Fund provided under the following acts:

- The Michigan Business Tax Act.
- The Income Tax Act.
- The Commercial Redevelopment Act.
- The Enterprise Zone Act.
- The Technology Park Development Act.
- Part 511 (Commercial Forests) of the Natural Resources and Environmental Protection Act.
- 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 the Michigan Strategic Fund (MSF).

"Exclusive economic development incentive" would mean an economic development incentive that is intended to encourage a single specific entity, project, or associated projects to locate, expand, invest, or remain in the State or to hire or retain employees in the State as determined by the strategic fund.

#### Periodic Evaluation of Economic Development Incentives

The Act would require the DTMB to contract with one or more contractors for the periodic evaluation of economic development incentives. The DTMB along with the Department of Treasury and the MSF would have to develop a scope of services for a request for proposals for professional services necessary to complete the economic development incentive evaluations under the Act. The DTMB could solicit input from a unit of local government or one or more public agencies, as those terms are defined in the Urban Cooperation Act, or a Michigan Economic Development Corporation corporate partner, in developing the scope of services for a request for proposal for professional services necessary to complete an economic development incentive evaluation under the Act.

When selecting a contractor, the Department would have to consider the ability for economic development incentive evaluations to be done in an objective manner. (The Urban Cooperation Act defines "public agency" as a political subdivision of the State or of another state of the United States or of Canada, including a state government; a county, city, village, township, charter township, school district, single or multipurpose special district, or single or multipurpose public authority; a provincial government, metropolitan government, borough, or other political subdivision of Canada; an agency of the United States government; or a similar entity of any other states of the United States and of Canada. "Public agency" includes an Indian tribe recognized by the Federal government before 2000 that exercises governmental authority over land within the State.)

The contractor would have to complete the economic development incentive evaluations within 270 days of entering into the contract. The DTMB would have to provide the evaluation with any additional information to the House and Senate Appropriations Committees within 30 days after the completion of the evaluation.

#### Frequency of Evaluations

The Department would have to enter into contracts with contractors for economic development incentive evaluations as follows:

- At least once every six years for economic development incentives funded with State appropriations of \$15.0 million or less each year.
- At least once every four years for all other economic development incentives, excluding programs that have entered into legacy status.
- Upon the conclusion of an economic development incentive, a one-time final analysis.

A program would be considered to be in legacy status if the MSF Board or other governing body had not approved, authorized, or originated any new abatement, tax credit, or exemption, or distributed funds under a grant, loan, or loan guarantee within the immediately preceding fiscal year period.

## Provision & Confidentiality of Information

At the request of the Department, State agencies would have to provide to the contractor, to the extent permitted by law, any records, information, data, or data analysis necessary for the contractors to effectively evaluate the incentives. The Department and contractor could only use the financial or commercial information for carrying out the purposes of the Act and could not disclose or release any data received from a department, agency, municipality, or political subdivision of the State. A contractor could not disclose or release any data received from State agencies, except as permitted by law.

A record or portion of a record, material, or other data that related to financial, commercial, or proprietary information of any entity that received an economic development incentive provided by another department, agency, municipality, or political subdivision of the State to the Department or a contractor in connection with review of an economic development incentive under the Act would not be subject to the Freedom of Information Act.

Economic development incentive evaluations would have to be published on the DTMB website. The Department also would have to publish the name of each contractor who was awarded a contract under the Act and a schedule of economic development incentives and when they would have to be evaluated.

## Multiyear Schedule

The Department, in conjunction with the MSF and the Department of Treasury, by February 28, 2019, would have to develop a multiyear schedule that listed all economic development incentives and indicated the year when an evaluation would be published for each incentive. The Department would have to consider incentive sunset dates and program inactivity when creating the schedule and could group economic development incentives for review by objective or policy rationale of each incentive. The Department would have to update the schedule annually and include any new economic development programs as determined by the MSF. The DTMB also would have to list all economic development incentives that were exclusive incentives.

## Information to be Included in Evaluation

An evaluation of an economic development incentive would have to 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 that type of incentive, including an inventory of similar incentives in other states.
- An assessment of whether adequate protections were in place to ensure that the fiscal impact of the incentive did not increase substantially beyond the State's means or expectations in future years.
- An assessment of whether the incentive was being administered effectively, including a review of Auditor General reports.
- An assessment of whether the economic development incentive was achieving its goals.
- Recommendations for how the State could 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 changes to collection, reporting and sharing of data, and revisions or clarifications to the goal of the incentive.

- Any other information the contractor considered necessary to assess the effectiveness of the incentive and whether it was achieving its goals.

An evaluation of an economic development incentives also would have to include, to the extent practicable, an estimate of the economic and fiscal impact of the incentive. This estimate would have to take into account all of the following considerations in addition to other relevant factors:

- The extent to which the incentive influenced business behavior.
- The results of the economic development incentive for the economy of the State as a whole, including positive direct and indirect impacts and any negative effects on other businesses located in the State.
- A comparison to the results of other incentives or other economic development strategies with similar goals.
- An evaluation of the loss of potential gains from other alternatives or programs enacted by the Legislature or existing economic development incentives that had been extended.

Each evaluation for an exclusive economic development incentive would have to include all of the following based on a program-wide basis:

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

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

Legislative Analyst: Nathan Leaman

### **FISCAL IMPACT**

The bill would have a negligible fiscal impact on the Department of Technology, Management and Budget associated with the requirement that DTMB contract with one or more entities for the periodic review of economic development incentives. The costs are indeterminate and would depend on the number of contracts that were entered into; however, the Department has stated that it anticipates any costs could be absorbed within the Department's annual

appropriations. Additionally, there could be some negligible costs to other State departments to comply with the bill's requirements to provide DTMB with requests for records and data; however these costs are indeterminate and would depend on the actual number of requests made by the DTMB.

Fiscal Analyst: Joe Carrasco

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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.