

HOUSE BILL No. 6052

May 22, 2018, Introduced by Rep. Albert and referred to the Committee on Financial Liability Reform.

A bill to evaluate certain economic development incentives; to report those evaluations and make certain recommendations; and to impose certain powers and duties on certain state employees and officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "economic development incentive evaluation act".

3 Sec. 3. As used in this act:

4 (a) "Contractor" means the private entity, nonprofit entity,
5 or academic institution selected by the department under section 5
6 to evaluate certain economic development incentives.

7 (b) "Department" means the department of technology,
8 management, and budget.

9 (c) "Economic development incentive" means the abatements, tax

1 credits, exemptions, grants, loans, or loan guarantees related to
2 economic development activities in this state as determined by the
3 Michigan strategic fund provided under the following acts:

4 (i) The Michigan business tax act, 2007 PA 36, MCL 208.1101 to
5 208.1601.

6 (ii) The income tax act of 1967, 1967 PA 281, MCL 206.1 to
7 206.713.

8 (iii) 1974 PA 198, MCL 207.551 to 207.572.

9 (iv) The commercial redevelopment act, 1978 PA 255, MCL
10 207.651 to 207.668.

11 (v) The enterprise zone act, 1985 PA 224, MCL 125.2101 to
12 125.2123.

13 (vi) 1953 PA 189, MCL 211.181 to 211.182.

14 (vii) The technology park development act, 1984 PA 385, MCL
15 207.701 to 207.718.

16 (viii) Part 511 of the natural resources and environmental
17 protection act, 1994 PA 451, MCL 324.51101 to 324.51120.

18 (ix) The neighborhood enterprise zone act, 1992 PA 147, MCL
19 207.771 to 207.786.

20 (x) The city utility users tax act, 1990 PA 100, MCL 141.1151
21 to 141.1177.

22 (xi) The city income tax act, 1964 PA 284, MCL 141.501 to
23 141.787.

24 (xii) The general property tax act, 1893 PA 206, MCL 211.1 to
25 211.155.

26 (xiii) The Michigan economic growth authority act, 1995 PA 24,
27 MCL 207.801 to 207.810.

1 (xiv) The Michigan renaissance zone act, 1996 PA 376, MCL
2 125.2681 to 125.2696.

3 (xv) The obsolete property rehabilitation act, 2000 PA 146,
4 MCL 125.2781 to 125.2797.

5 (xvi) The brownfield redevelopment financing act, 1996 PA 381,
6 MCL 125.2651 to 125.2670.

7 (xvii) The Michigan strategic fund act, 1984 PA 270, MCL
8 125.2001 to 125.2094.

9 (xviii) Any new economic development programs as determined by
10 the Michigan strategic fund.

11 (d) "Exclusive economic development incentive" means an
12 economic development incentive that is intended to encourage a
13 single specific entity, project, or associated projects to locate,
14 expand, invest, or remain in this state or to hire or retain
15 employees in this state as determined by the strategic fund.

16 (e) "The strategic fund" means the fund under the Michigan
17 strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

18 Sec. 5. (1) The department shall contract with 1 or more
19 contractors for the periodic evaluation of economic development
20 incentives. The department along with the department of treasury
21 and the Michigan strategic fund shall develop a scope of services
22 for a request for proposals for professional services necessary to
23 complete the economic development incentive evaluations under this
24 act. When selecting a contractor, the department shall consider the
25 ability for economic development incentive evaluations to be done
26 in an objective manner.

27 (2) The contractor will complete the economic development

1 incentive evaluations within 270 days of entering into the
2 contract. The department shall provide the economic development
3 incentive evaluation with any additional information to the house
4 and senate appropriations committees no more than 30 days after the
5 completion of the evaluation.

6 (3) The department shall enter into contracts with contractors
7 for economic development incentive evaluations as follows:

8 (a) At least once every 6 years for economic development
9 incentives funded with state appropriations of \$15,000,000.00 or
10 less each year.

11 (b) At least once every 4 years for all other economic
12 development incentives, excluding programs that have entered into
13 legacy status. A program is considered to be in legacy status if
14 the Michigan strategic fund board or other governing body has not
15 approved, authorized, or originated any new abatement, tax credit,
16 or exemption, or distributed funds under a grant, loan, or loan
17 guarantee within the immediately preceding fiscal year period.

18 (c) Upon the conclusion of an economic development incentive,
19 a 1-time final analysis.

20 (4) At the request of the department, state agencies shall
21 provide to the contractor, to the extent permitted by law, any
22 records, information, data, or data analysis necessary for the
23 contractors to effectively evaluate the economic development
24 incentives. The contractor shall not disclose or release any data
25 received from state agencies, except as permitted by law. A record
26 or portion of a record, material, or other data that relates to
27 financial, commercial, or proprietary information of any entity

1 that received an economic development incentive provided by another
2 department, agency, municipality, or political subdivision of this
3 state to the department or a contractor in connection with review
4 of an economic development incentive under this act shall not be
5 subject to the disclosure requirements of the freedom of
6 information act, 1976 PA 442, MCL 15.231 to 15.246. The department
7 and contractor may only use the financial or commercial information
8 for carrying out the purposes of this act and shall not disclose or
9 release any data received from a department, agency, municipality,
10 or political subdivision of this state.

11 (5) Economic development incentive evaluations shall be
12 published on the department's website. The department shall also
13 publish the name of each contractor who is awarded a contract under
14 this act and a schedule of economic development incentives and when
15 they shall be evaluated.

16 Sec. 7. The department, in conjunction with the strategic fund
17 and the department of treasury, shall, not later than February 28,
18 2019, develop a multiyear schedule that lists all economic
19 development incentives and indicates the year when an economic
20 development incentive evaluation will be published for each
21 economic development incentive. The department shall consider
22 economic development incentive sunset dates and program inactivity
23 when creating the schedule and may group economic development
24 incentives for review by objective or policy rationale of each
25 economic development incentive. The department shall update the
26 schedule annually and include any new economic development programs
27 as determined by the Michigan strategic fund. The department shall

1 also list all economic development incentives that are exclusive
2 economic development incentives.

3 Sec. 9. (1) Evaluations of economic development incentives
4 shall include, to the extent practicable, all of the following:

5 (a) A description of the history of the economic development
6 incentive and its goals.

7 (b) A literature review of the effectiveness of this type of
8 incentive, including an inventory of similar incentives in other
9 states.

10 (c) An estimate of the economic and fiscal impact of the
11 economic development incentive. This estimate shall take into
12 account all of the following considerations in addition to other
13 relevant factors:

14 (i) The extent to which the economic development incentive
15 influences business behavior.

16 (ii) The results of the economic development incentive for the
17 economy of this state as a whole. This consideration includes both
18 positive direct and indirect impacts and any negative effects on
19 other businesses located in this state.

20 (iii) A comparison to the results of other economic
21 development incentives or other economic development strategies
22 with similar goals.

23 (iv) An evaluation of the loss of potential gains from other
24 alternatives or programs enacted by the legislature or existing
25 economic development incentives that have been extended.

26 (d) An assessment of whether adequate protections are in place
27 to ensure that the fiscal impact of the economic development

1 incentive does not increase substantially beyond the state's means
2 or expectations in future years.

3 (e) An assessment of whether the economic development
4 incentive is being administered effectively, including a review of
5 auditor general reports.

6 (f) An assessment of whether the economic development
7 incentive is achieving its goals.

8 (g) Recommendations for how this state can most effectively
9 achieve the economic development incentive's goals, including
10 recommendations on whether the economic development incentive
11 should be retained, reconfigured, or repealed.

12 (h) Recommendations for any changes to state policy, rules, or
13 statutes that would allow the economic development incentive to be
14 more easily or conclusively evaluated in the future. These
15 recommendations may include changes to collection, reporting and
16 sharing of data, and revisions or clarifications to the goal of the
17 economic development incentive.

18 (i) Any other information the contractor considers necessary
19 to assess the effectiveness of the economic development incentive
20 and whether it is achieving its goals.

21 (2) Each evaluation for exclusive economic development
22 incentives shall include all of the following based on a program-
23 wide basis:

24 (a) Aggregate information and a description of trends related
25 to this state's exclusive economic development incentives, which
26 may include analysis of their structure, performance standards, and
27 economic and fiscal impact.

1 (b) Recommendations for how exclusive economic development
2 incentives should be structured or in what circumstances they
3 should be offered to ensure they successfully change business
4 behavior.

5 (c) Recommendations for how exclusive economic development
6 incentives should be structured or in what circumstances they
7 should be offered to maximize positive direct and indirect impacts
8 on this state's economy and minimize negative effects on other
9 businesses located in this state.

10 (d) Recommendations for how exclusive economic development
11 incentives should be structured or in what circumstances they
12 should be offered to ensure that they represent a cost-effective
13 approach compared to other economic development incentive programs
14 or other economic development strategies.

15 (e) Recommendations for what protections exclusive economic
16 development incentives should include ensuring their costs do not
17 substantially exceed this state's expectations.

18 (f) Recommendations for how exclusive economic development
19 incentives should be structured or in what circumstances they
20 should be offered to avoid adverse impacts on the fiscal stability
21 of local units of government.

22 (g) Recommendations for the types of performance standards
23 that should be included in exclusive economic development
24 incentives, how these standards should be structured, and how they
25 should be monitored.