

MICHIGAN STRATEGIC FUND ACT (EXCERPT)
Act 270 of 1984

125.2005 Michigan strategic fund; creation; purposes, powers, duties, and functions generally; appointment, qualifications, and terms of members; chairperson, president, and vice-president; compensation and expenses; delegation of functions and authority; quorum; voting; meetings; conducting business at public meeting; notice; confidentiality; closed sessions; "financial or proprietary information" defined.

Sec. 5. (1) There is created by this act a public body corporate and politic to be known as the Michigan strategic fund. The fund is within the department of labor and economic opportunity and shall exercise its prescribed statutory powers, duties, and functions independently of the director of the department of labor and economic opportunity. The statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds of the fund, including the functions of budgeting, procurement, personnel, and management-related functions, are retained by the fund, and the fund is an autonomous entity within the department of labor and economic opportunity in the same manner as the Michigan employment security commission was designated an autonomous entity within the department of labor under section 379 of the executive organization act of 1965, 1965 PA 380, MCL 16.479.

(2) Except as otherwise provided in this act, the purposes, powers, and duties of the Michigan strategic fund are vested in and shall be exercised by a board of directors.

(3) Except as provided in subsection (4), the board shall consist of the following members:

(a) The director of the department of labor and economic opportunity or the director's designee from within the department of labor and economic opportunity.

(b) The state treasurer or the state treasurer's designee from within the department of treasury.

(c) The director of the state transportation department or the director's designee from within the state transportation department.

(d) The chief executive officer of the MEDC or the chief executive officer's designee.

(e) Seven other members with knowledge, skill, and experience in the academic, business, or financial field, who shall be appointed by the governor with the advice and consent of the senate, subject to all of the following requirements:

(i) The 7 members appointed under this subdivision must be residents of this state and must not be employees of this state.

(ii) Not less than 6 members appointed under this subdivision must be members of the private sector.

(iii) One of the 7 members appointed under this subdivision must be appointed from a list of 3 or more nominees of the speaker of the house of representatives representing persons within the private sector with experience in private equity or venture capital investments, commercial lending, or commercialization of technology.

(iv) One of the 7 members appointed under this subdivision must be appointed from a list of 3 or more nominees of the senate majority leader representing persons within the private sector with experience in private equity or venture capital investments, commercial lending, or commercialization of technology.

(v) Members appointed under this subdivision must include minority, female, and small business representation.

(vi) Of the members appointed under this subdivision, at least 2 must have experience in private equity or venture capital investments, at least 1 must have experience in commercial lending, and at least 1 must have experience in commercialization of technology.

(vii) Except as otherwise provided in this subparagraph, members appointed under this subdivision must be appointed for a term of 4 years. Members described in this subdivision that were appointed under Executive Reorganization Order No. 2019-3, MCL 125.1998, shall serve the terms provided in Executive Reorganization Order No. 2019-3, MCL 125.1998.

(4) In addition to the 11 members of the board under subsection (3), not later than December 31, 2023, the governor shall appoint, with the advice and consent of the senate, 2 additional members to the board for terms expiring December 31, 2027. After the initial appointments under this subsection, members appointed under this subsection must be appointed for a term of 4 years. The members appointed under this subsection shall be from the private sector and shall have experience in private equity or venture capital investments, commercial lending, or commercialization of technology. One of the members appointed under this subsection must be appointed from a list of 3 or more nominees of the senate minority leader, and the other member appointed under this subsection must be appointed from a list of 3 or more nominees of the house minority leader.

(5) A member appointed under subsection (3) or (4) shall serve until a successor is appointed, and a vacancy must be filled for the balance of the unexpired term in the same manner as the original appointment.

(6) The governor shall designate 1 member of the board, other than the director of the department of labor and economic opportunity, to serve as president of the fund and may designate 1 member to serve as vice-president of the fund. The president and vice-president, if a vice-president is designated, shall serve as those officers at the pleasure of the governor. The member of the board who is designated to serve as president of the fund is the chairperson of the board. The members of the board may elect a vice-chairperson from among their members.

(7) Members of the board shall serve without compensation for their membership on the board, except that members of the board may receive reasonable reimbursement for necessary travel and expenses.

(8) The board may delegate to its president, vice-president, staff, or others, including the MEDC, those functions and authority that the board considers necessary or appropriate, which may include the oversight and supervision of employees of the fund. However, responsibilities specifically vested in the board under chapter 8A shall be performed by the board and shall not be transferred to the MEDC, except that Michigan business development program incentives under section 88r, and community revitalization incentives under chapter 8C, of \$1,000,000.00 or less may be authorized by the president of the fund.

(9) A majority of the members of the board appointed and serving constitutes a quorum for the transaction of business at a meeting, or the exercise of a power or function of the fund, notwithstanding the existence of 1 or more vacancies. The board may act only by resolution approved by a majority of board members appointed and serving. Voting on action taken by the board must be conducted by majority vote of the members appointed and serving. Members of the board may be present in person at a meeting of the board or, if authorized by the bylaws of the board, by use of telecommunications or other electronic equipment. The fund shall meet at the call of the chair and as may be provided in the bylaws of the fund. Meetings of the fund may be held anywhere within this state.

(10) The business of the board must be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting must be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and must also be provided on an internet website operated by the fund. A record or portion of a record, material, or other data received, prepared, used, or retained by the fund or any of its centers in connection with an application to or with a project or product assisted by the fund or any of its centers or with an award, grant, loan, or investment that relates to financial or proprietary information submitted by the applicant that is considered by the applicant and acknowledged by the board or a designee of the board as confidential is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The disclosure of a record concerning investment information described in section 88c under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is subject to the limitations provided in section 88c. The board may also meet in closed session pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, to determine whether it acknowledges as confidential any financial or proprietary information submitted by the applicant and considered by the applicant as confidential. Unless considered proprietary information, the board shall not acknowledge routine financial information as confidential. If the board determines that information submitted to the fund is financial or proprietary information and is confidential, the board shall release a written statement, subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, that states all of the following:

(a) The name and business location of the person requesting that the information submitted be confidential as financial or proprietary information.

(b) That the information submitted was determined by the board to be confidential as financial or proprietary information.

(c) A broad nonspecific overview of the financial or proprietary information determined to be confidential.

(11) The fund shall not disclose financial or proprietary information not subject to disclosure pursuant to subsection (10) without consent of the applicant submitting the information.

(12) Any document to which the fund is a party evidencing a loan, insurance, mortgage, lease, venture, or other type of agreement the fund is authorized to enter into is not considered financial or proprietary information that may be exempt from disclosure under subsection (10).

(13) For purposes of subsections (10), (11), and (12), "financial or proprietary information" means information that has not been publicly disseminated or that is unavailable from other sources, the release of which might cause the applicant significant competitive harm.

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2005, Act 225, Imd. Eff. Nov. 21, 2005;—Am. 2008, Act 224, Imd. Eff. July 16, 2008;—Am. 2011, Act 251, Imd. Eff. Dec. 13, 2011;—Am. 2014, Act 507, Imd. Eff. Jan. 14, 2015;—Am. 2023, Act 24, Imd. Eff. Apr. 26, 2023.

Compiler's note: For transfer of the Michigan strategic fund, and its powers and duties, to the Michigan jobs commission, see E.R.O. No. 1994-10, compiled at MCL 408.48 of the Michigan Compiled Laws.

For transfer of powers and duties of the Michigan strategic fund from the director of the Michigan jobs commission to the Michigan strategic fund housed within the Michigan jobs commission, see E.R.O. No. 1995-4, compiled at MCL 408.50 of the Michigan Compiled Laws.

For transfer of the Michigan strategic fund from department of treasury to department of talent and economic development, and transfer of powers and duties of board of directors of Michigan strategic fund to new board of directors, see E.R.O. No. 2014-6, compiled at MCL 125.1995.

For transfer of the Michigan strategic fund from the department of talent and economic development to the department of labor and economic opportunity, and abolishment and transfer of powers and duties of board of directors to new board of directors, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

Popular name: Strategic Fund