



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 1108 (as introduced 5-1-12)
Sponsor: Senator Darwin L. Booher
Committee: Banking and Financial Institutions

Date Completed: 5-10-12

CONTENT

The bill would amend the Michigan BIDCO Act to do the following:

- **Include a business development enterprise as a BIDCO if it met proposed criteria.**
- **Authorize the board of the Michigan Strategic Fund (MSF) to designate a Michigan corporation or limited liability company as a qualified business development enterprise.**
- **Provide that a business development enterprise could not be licensed under the Act unless it received that designation.**
- **Require a business development enterprise to have a minimum net worth and firm financing commitments of at least \$25.0 million.**
- **Require the business plan of a business development enterprise to include the public policy objective of providing or facilitating the availability of capital to businesses in the State that have 750 or fewer employees.**
- **Require the board of a business development enterprise to have at least three members, and require one-third to be designated by the MSF board.**
- **Establish reporting requirements.**

Business Development Enterprise BIDCO

The Act provides for the licensure and regulation of business and industrial development companies (BIDCOs). Only a Michigan corporation or a Michigan limited liability company (LLC) may apply for a license, and the Commissioner of the Office of Financial and Insurance Regulation is responsible for licensure. A licensed BIDCO may provide managerial assistance to businesses; offer them financing assistance, including Small Business Administration loans and the extension of credit; and acquire and hold control of businesses, under certain conditions.

The bill would include in the term "BIDCO" a business development enterprise, and would define "business development enterprise" as a business and industrial development company that meets all of the following criteria:

- Has as part of its business plan the public policy objective of providing or facilitating the availability of capital to businesses in the State that have 750 or fewer employees, and may have one or more additional public policy objectives.
- Is licensed under the Act.
- Is designated as a qualified business development enterprise by the MSF.

MSF Designation

The bill would allow the board of the MSF to designate a Michigan corporation or a Michigan limited liability company as a qualified business development enterprise. The

Commissioner could not grant a license to an applicant for a license as a business development enterprise if the applicant had not applied for and received this designation from the MSF board.

An application for designation as a qualified business development enterprise would have to include all of the following:

- A copy of the application and supporting documentation submitted to the Commissioner for a license.
- A copy of the applicant's articles of incorporation and bylaws if the applicant were a corporation, or its articles of organization and operating agreement if it were an LLC.
- Documentation satisfactory to the MSF board that the applicant met the proposed net worth requirement.
- Information about the background and business experience of the applicant's directors, officers, managers, and controlling persons.
- A summary business plan, including at least three years of detailed financial projections and other relevant information.
- Any other information the MSF board considered relevant.

In determining whether to designate a corporation or LLC as a qualified business development enterprise, the board would have to apply the following criteria:

- Whether the size and composition of the applicant's board met the bill's requirements.
- Whether the business plan of the enterprise included a public policy objective or objectives acceptable to the MSF board.
- Whether the enterprise had demonstrated to the board's satisfaction that it would meet any transparency, reporting, and accountability requirements the board established by rule with respect to the enterprise's public policy objective or objectives.
- Whether the applicant's directors, officers, managers, and controlling persons had sufficient experience to demonstrate to the board's satisfaction that they had the ability to implement the proposed business plan of the enterprise.

The MSF board would have to notify the Commissioner if it designated a Michigan corporation or LLC a qualified business development enterprise.

Net Worth Requirement

Currently, the Commissioner must require an applicant for licensure to meet net worth requirements specified in the Act. Under the bill, the Commissioner would have to require an applicant to demonstrate that it would have the specified net worth when it began transacting business.

The Commissioner may require an applicant to have a minimum net worth of not less than \$1.0 million and not more than \$10.0 million, although the Commissioner may require a minimum net worth of less than \$1.0 million but not less than \$500,000 under certain circumstances.

Under the bill, if the applicant were applying for a license as a business development enterprise, it would have to demonstrate a minimum net worth and firm financing commitments of at least \$25.0 million.

Board of Directors

The Act requires a licensee to have a board of directors that consists of at least seven members.

The bill would require the board of a licensee that was a business development enterprise to have at least three members. At least one-third of the members would have to be individuals designated by the MSF board.

Reporting Requirements

The bill would require a business development enterprise to report to the MSF at least annually. The enterprise would have to report the following information for each business it supported, by providing or facilitating the securing of capital, in the preceding three-year period:

- The total amount of private capital secured by the business from its support.
- The estimated number of jobs the business created or retained.
- An estimate of the State and local tax collections attributable to its support of that business.

The bill also would require the Commissioner to give the MSF board an annual summary report containing its assessment of the financial condition of each business development enterprise. At a minimum, the report would have to include an assessment of the enterprise's ability to fund its operations in the future.

A business development enterprise would have to give the Commissioner any information he or she reasonably requested in connection with his or her assessment of the enterprise's financial condition and the preparation of the Commissioner's report to the board.

Licensee Name

The Act requires the name of each licensee to include the word "BIDCO". The bill would exempt a business development enterprise from this requirement.

MCL 487.1104 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would increase the responsibilities of the Michigan Strategic Fund, which would be authorized to designate an eligible company as a business development enterprise. This would entail evaluation of proposals, ongoing oversight, and appointment of at least one-third of the members of the business development enterprise board of directors. The Michigan Economic Development Corporation (MEDC), which provides the staff for the Michigan Strategic Fund, has indicated that a business development enterprise would act to improve the availability of credit for medium-size companies. The MEDC anticipates using money from the Jobs for Michigan Investment Fund (the permanent fund that receives returns from 21st Century Jobs Trust Fund projects and designated revenue from one Indian gaming compact) to provide a portion of the capital for a business development enterprise. The Michigan Strategic Fund board is authorized to allocate the net income of the Jobs for Michigan Investment Fund to 21st Century Programs permitted by statute, which include loan enhancements, investments, the Michigan Business Development Program, and the Community Revitalization Program. The MEDC estimates revenue to the Jobs for Michigan Investment Fund at about \$30.0 million in FY 2011-12 and projects a closing balance in that Fund of approximately \$20.0 million at the end of FY 2011-12.

Fiscal Analyst: Elizabeth Pratt

S1112\S1108sa.

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.