

SENATE BILL No. 1083

January 21, 2010, Introduced by Senators BASHAM, ALLEN, HUNTER, JANSEN, HARDIMAN and CLARK-COLEMAN and referred to the Committee on Commerce and Tourism.

A bill to encourage the creation of next Michigan development corporations by interlocal agreement and to prescribe their powers and duties; to foster economic opportunities in this state and prevent conditions of unemployment and underemployment and to promote economic growth; to provide for the designation of next Michigan development districts and next Michigan development businesses; and to prescribe the powers and duties of certain state and local departments, entities, and officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "next
2 Michigan development act".

3 Sec. 2. The legislature of this state finds and declares that

1 there exists in this state the continuing need for programs to
2 encourage economic development and investment, job creation and job
3 retention, and ancillary economic growth in this state. To achieve
4 these purposes, it is necessary to assist and encourage the
5 creation and implementation of intergovernmental development
6 corporations and to enable those corporations to foster economic
7 opportunities in this state, prevent conditions of unemployment and
8 underemployment, and promote economic growth.

9 Sec. 3. As used in this act:

10 (a) "Eligible act 7 entity" means a separate legal and
11 administrative entity formed by interlocal agreement under the
12 urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
13 124.512, among 2 or more local governmental units, at least 1 of
14 which shall be a county, and at least 1 of which shall be a
15 qualified local government unit as defined in section 2 of the
16 obsolete property rehabilitation act, 2000 PA 146, MCL 125.2782,
17 for the purpose of jointly exercising economic development powers
18 and attracting business.

19 (b) "Eligible next Michigan business" means that term as
20 defined in section 3 of the Michigan economic growth authority act,
21 1995 PA 24, MCL 207.803.

22 (c) "Eligible urban entity" means a city with a population of
23 100,000 or more and is the largest city within a metropolitan
24 statistical area as defined by the United States office of
25 management and budget.

26 (d) "Local governmental unit" means a county, city, village,
27 township, or charter township.

1 (e) "Michigan strategic fund" means the Michigan strategic
2 fund as described in the Michigan strategic fund act, 1984 PA 270,
3 MCL 125.2001 to 125.2094.

4 (f) "Next Michigan development corporation" means an eligible
5 act 7 entity or eligible urban entity that meets the requirements
6 of section 4 and has been so designated by the board of the
7 Michigan strategic fund.

8 (g) "Next Michigan development district" or "district" means
9 the territory of a next Michigan development corporation.

10 Sec. 4. (1) An eligible act 7 entity may apply to the board of
11 the Michigan strategic fund for designation as a next Michigan
12 development corporation under this act. An eligible urban entity
13 may apply to the board of the Michigan strategic fund for
14 designation as a next Michigan development corporation under this
15 act. An eligible urban entity may expressly designate an
16 instrumentality of an eligible urban entity or a nonprofit
17 corporation to file the application and act as the next Michigan
18 development corporation on behalf of the eligible urban entity.

19 (2) The territory of a next Michigan development corporation
20 shall be composed of the area within the boundaries of the cities,
21 villages, and townships which are parties to the interlocal
22 agreement as the same may be amended to add or remove parties from
23 time to time or the area of the eligible urban entity. The
24 interlocal agreement may include a division of rights,
25 responsibilities, and duties between and among the local government
26 unit parties as may be determined appropriate by the local
27 government unit parties to implement the purposes of this act and

1 otherwise shall conform to law.

2 (3) Except for an application from or on behalf of an eligible
3 urban entity, the application for next Michigan development
4 corporation status under this act shall be accompanied by a copy of
5 the interlocal agreement creating the eligible act 7 entity and the
6 approval of the governor of the interlocal agreement pursuant to
7 section 10 of the urban cooperation act of 1967, 1967 (Ex Sess) PA
8 7, MCL 124.510.

9 Sec. 5. (1) The board of the Michigan strategic fund, upon the
10 filing of an application under section 4, may designate the
11 applicant as a next Michigan development corporation. No more than
12 5 next Michigan development corporations may be designated in this
13 state. The president of the Michigan strategic fund shall develop
14 the form of application for designation as a next Michigan
15 development corporation within 49 days of the effective date of
16 this act provided that an application from an eligible act 7 entity
17 or an eligible urban entity which otherwise meets the requirements
18 of this act may be filed with the board of the Michigan strategic
19 fund at any time following the effective date of this act, and any
20 such application shall be considered by the board of the Michigan
21 strategic fund under subsections (2) and (3). The Michigan
22 strategic fund shall use its best efforts to develop the
23 application process jointly with eligible act 7 entities and
24 eligible urban entities.

25 (2) The board of the Michigan strategic fund shall apply the
26 following criteria in determining to designate a next Michigan
27 development corporation:

1 (a) The nominal level of unemployed workers within the county
2 or counties which are parties to the interlocal agreement creating
3 the applicant eligible act 7 entity, if the applicant is an
4 eligible act 7 entity, or within the applicant eligible urban
5 entity, if the applicant is an eligible urban entity, in each case
6 as publicly reported by the state department of energy, labor, and
7 economic growth as of the month preceding the filing of the
8 application on an adjusted or unadjusted basis, whichever is
9 greater.

10 (b) The number of local governmental unit parties to the
11 applicant's interlocal agreement if the applicant is an eligible
12 act 7 entity.

13 (c) Whether the application demonstrates evidence of
14 significant job creation potential of a regional or state asset or
15 combinations of enterprises, facilities, or obsolete facilities
16 within the territory of the applicant, as documented by a
17 comprehensive business plan and a third-party study or studies
18 quantifying the job creation potential, and the degree of the job
19 creation potential.

20 (d) Whether the application is supported by public and private
21 commitment and the degree of the commitment.

22 (e) The extent to which the interlocal agreement or the
23 eligible urban entity creates the possibility of streamlined
24 permitting.

25 (3) The board of the Michigan strategic fund shall grant or
26 deny designation to an applicant within 42 days of receipt of the
27 application. If the board of the Michigan strategic fund does not

1 grant or deny the designation within 42 days of receipt of the
2 application, the application shall be considered approved. If the
3 application is denied, the board shall provide the applicant with
4 the specific reasons for the denial by reference to the criteria
5 set forth in subsection (2). An applicant may amend the application
6 to take into account the reasons for the denial and thereafter may
7 resubmit the application to the board of the Michigan strategic
8 fund.

9 Sec. 6. (1) A next Michigan development corporation shall seek
10 to attract eligible next Michigan businesses to its next Michigan
11 development district and may exercise all of the powers,
12 privileges, and responsibilities granted to it under state law,
13 including, but not limited to, the powers, privileges, and
14 responsibilities granted in the Michigan renaissance zone act, 1996
15 PA 376, MCL 125.2681 to 125.2696, the local development financing
16 act, 1986 PA 281, MCL 125.2151 to 125.2174, section 9f of the
17 general property tax act, 1893 PA 206, MCL 211.9f, 1974 PA 198, MCL
18 207.551 to 207.572, and other relevant law.

19 (2) The Michigan economic development corporation shall market
20 the next Michigan development corporations.

21 Sec. 7. (1) The business of a next Michigan development
22 corporation shall be conducted at public meetings held in
23 compliance with the open meetings act, 1976 PA 267, MCL 15.261 to
24 15.275. Public notice of the time, date, and place of a meeting
25 shall be given as provided by the open meetings act, 1976 PA 267,
26 MCL 15.261 to 15.275.

27 (2) Except as expressly provided otherwise in this section, a

1 writing prepared, owned, used, in the possession of, or retained by
2 the next Michigan development corporation in the performance of an
3 official function shall be a public record and shall be made
4 available to the public in compliance with the freedom of
5 information act, 1976 PA 442, MCL 15.231 to 15.246. A record or
6 portion of a record, material, or other data received, prepared,
7 used, or retained by the next Michigan development corporation in
8 connection with an application by an eligible business for
9 renaissance zone status or other tax or development incentive that
10 relates to financial or proprietary information or site selection
11 where more than 1 site is under consideration submitted by the
12 eligible business applicant that is considered by the applicant and
13 acknowledged by the next Michigan development corporation as
14 confidential shall not be subject to the disclosure requirements of
15 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
16 A designee of the next Michigan development corporation shall make
17 the determination as to whether the next Michigan development
18 corporation acknowledges as confidential any financial or
19 proprietary information submitted by the eligible business
20 applicant and considered by the applicant as confidential. Unless
21 considered proprietary information, the next Michigan development
22 corporation shall not acknowledge routine financial information as
23 confidential. If the designee of the next Michigan development
24 corporation determines that information submitted to the next
25 Michigan development corporation is financial or proprietary
26 information and is confidential, the designee of the next Michigan
27 development corporation shall prepare a written statement, subject

1 to disclosure under the freedom of information act, 1976 PA 442,
2 MCL 15.231 to 15.246, which states all of the following:

3 (a) That the information submitted was determined by the
4 designee of the next Michigan development corporation to be
5 confidential as financial or proprietary information or site
6 selection information.

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

9 (3) The next Michigan development corporation shall not
10 disclose financial or proprietary information or site selection
11 information not subject to disclosure pursuant to subsection (2)
12 without the consent of the eligible business applicant submitting
13 the information. However, nothing in this subsection shall preclude
14 the president of the Michigan strategic fund, members of the board
15 of the Michigan strategic fund, or their designees from reviewing
16 information otherwise exempt from disclosure under this section.

17 (4) As used in this section, "financial or proprietary
18 information" means information that has not been publicly
19 disseminated or is unavailable from other sources, the release of
20 which might cause the eligible business applicant, in the
21 applicant's judgment, material competitive harm. Financial or
22 proprietary information does not include a written agreement under
23 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
24 125.2696.

25 Sec. 8. In the event that a next Michigan development
26 corporation dissolves or is terminated, all incentives previously
27 granted by the next Michigan development corporation shall be

1 unaffected by the dissolution and shall remain valid and in full
2 force and effect in accordance with their respective terms.
3 Incentives previously granted by the next Michigan development
4 corporation shall be administered by the city, village, township,
5 or charter township in which the eligible business to which the
6 incentives were granted is located unless otherwise provided in the
7 interlocal agreement.

8 Sec. 9. (1) Upon application to and approval by the next
9 Michigan development corporation, an eligible next Michigan
10 business which has been awarded a tax credit by or upon the
11 recommendation of a next Michigan development corporation may sell
12 or assign, in whole or in part, the tax credit granted to the
13 eligible next Michigan business. This subsection does not apply to
14 tax exemptions from ad valorem taxes or specific taxes. The
15 application must be on the form required by the next Michigan
16 development corporation and must include or demonstrate all of the
17 following:

18 (a) The applicant's name and address.

19 (b) A copy of the tax credit certificate or documentation
20 establishing the tax credit previously issued to the applicant.

21 (c) A statement as to whether any part of the tax credit has
22 been applied to tax liability of the applicant and the amount so
23 applied.

24 (d) Any other information required by the next Michigan
25 development corporation.

26 (2) The next Michigan development corporation shall review the
27 application and, upon being satisfied that all requirements have

1 been met, may approve the application and shall notify the tax
2 collecting units to which the tax credit applies.

3 (3) The purchaser or assignee of all or a portion of a tax
4 credit under this section shall claim the credit in the taxable
5 year in which the purchase or assignment is made. The purchaser or
6 assignee of a tax credit may use the tax credit against any tax
7 liability of the purchaser or assignee under law in respect of the
8 tax to which the tax credit applies. The amount of the tax credit
9 so used may not exceed 80% of the purchaser's or assignee's tax in
10 respect of the tax to which the tax credit applies for the taxable
11 year. The purchaser or assignee may not carry over, carry back,
12 obtain a refund of, or assign the tax credit. Except as provided in
13 subsection (4), the purchaser or assignee shall satisfy the
14 documentary procedures established by the State Treasurer as
15 conditions of applying the tax credit against the purchaser's or
16 assignee's tax liability.

17 (4) A next Michigan development corporation from time to time
18 may purchase and thereafter may sell or assign, in whole or in
19 part, tax credits granted to eligible next Michigan businesses from
20 its revenues, assessments or other funds lawfully available for
21 such purpose.

22 Sec. 10. This act shall be construed liberally to effectuate
23 the legislative intent and purposes of this act as found and stated
24 in section 2. This act constitutes complete and independent
25 authority for the performance of each and every act and thing
26 authorized by this act, and all powers granted by this act shall be
27 broadly interpreted to include any power reasonable and convenient

1 to effectuate the intent and purposes of this act, and the language
2 used in this act shall be read as grants of authority and not as
3 limitations of powers to those expressed or necessarily implied.