

HOUSE BILL No. 5477

March 15, 2012, Introduced by Rep. Wayne Schmidt and referred to the Committee on Commerce.

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending sections 88f and 88q (MCL 125.2088f and 125.2088q),
section 88f as added by 2005 PA 225 and section 88q as amended by
2009 PA 144.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 88f. (1) When creating programs for 21st century
2 investments under this chapter, the fund shall create and operate
3 the venture capital investment program. The fund board shall
4 authorize investments that shall invest only in or alongside a
5 qualified venture capital fund that invests primarily in early
6 stage businesses. The venture capital investment program shall do
7 all of the following:

8 (a) Provide that the return on investment that is sought is
9 greater than the return on investment under the commercial loan

1 portion of the loan enhancement program to reflect the greater
2 risk.

3 (b) Provide that the qualified venture capital fund will have
4 an amount at risk greater than the fund's investment.

5 (c) Provide that a qualified venture capital fund is not
6 eligible to participate in a venture capital investment program
7 unless it operates a business development office in this state
8 staffed with at least 1 full-time equivalent employee who is
9 actively seeking opportunities for venture capital investments in
10 businesses located in this state unless the investment opportunity
11 requested by the qualified venture capital fund is targeted to a
12 specific transaction involving a competitive edge technology that
13 will not occur without the fund's investment as determined by the
14 fund board.

15 (d) Provide that a qualified venture capital fund is not
16 eligible to participate in a venture capital investment program
17 unless it agrees to make venture capital investments in this state
18 at a percentage rate that is not less than the percentage rate that
19 the fund's investment in the qualified venture capital fund bears
20 to the total amount in the qualified venture capital fund.

21 (e) Provide that a qualified venture capital fund is not
22 eligible to participate in a venture capital investment program if
23 its investment strategy provides for the breakup and liquidation of
24 businesses. The fund board shall make sure that the agreements with
25 a venture capital fund have the appropriate provisions to prohibit
26 the actions described in this subdivision.

27 (f) Coordinate with the Michigan early stage venture

1 investment fund as defined in section 3 of the Michigan early stage
2 venture investment act of 2003, 2003 PA 296, MCL 125.2233, to
3 ensure that a continuum of venture capital is available in this
4 state.

5 (g) Provide that 80% of the funds allocated to a venture
6 capital investment program shall focus on competitive edge
7 technologies.

8 (h) Provide that a qualified venture capital fund may make
9 follow-up investments that were eligible for investment at the time
10 of initial investment but that subsequently may not be
11 characterized as an investment in an early stage business.

12 **(2) THE FUND BOARD MAY LIMIT OVERHEAD RATES FOR RECIPIENTS OF**
13 **AWARDS TO REFLECT ACTUAL OVERHEAD, ADMINISTRATIVE FEES, AND**
14 **MANAGEMENT FEES, TO AN AMOUNT AS DETERMINED BY THE FUND BOARD.**
15 **START-UP COSTS MAY BE REIMBURSED AS DETERMINED BY THE FUND BOARD.**

16 Sec. 88q. (1) The fund may create and operate a ~~centers~~**CENTER**
17 of ~~energy-excellence~~**INNOVATION** program to promote the development,
18 acceleration, and sustainability of ~~energy-excellence~~**COMPETITIVE**
19 **EDGE TECHNOLOGY** sectors in this state. The fund may enter into
20 agreements with 1 or more qualified entities for the designation
21 and operation of a center of ~~energy-excellence~~**INNOVATION** as
22 provided in subsection (5). Prior to entering into an agreement
23 under this section, 1 or more qualified entities may apply to the
24 fund for an agreement for designation and operation of a center of
25 ~~energy-excellence~~**INNOVATION**. The application shall be in a form
26 determined by the fund and shall include information the fund
27 determines necessary and appropriate.

1 ~~(2) The fund board shall not expend more than \$45,000,000.00~~
2 ~~through fiscal year 2008-2009 and not more than \$30,000,000.00 for~~
3 ~~fiscal year 2009-2010 through fiscal year 2010-2011 of the money~~
4 ~~appropriated for programs authorized under this chapter from the~~
5 ~~21st century jobs trust fund created in the Michigan trust fund~~
6 ~~act, 2000 PA 489, MCL 12.251 to 12.260, for the centers of energy~~
7 ~~excellence program.~~ **Grants, LOANS, OR OTHER ECONOMIC ASSISTANCE**
8 ~~given for the centers of energy excellence~~ **INNOVATION** ~~program shall~~
9 ~~only~~ **MAY** ~~be awarded to for-profit companies, NONPROFIT COMPANIES,
10 **UNIVERSITIES, AND NATIONAL LABORATORIES** ~~for all of the following~~
11 ~~purposes:~~~~

12 (a) Providing up to a 1-for-1 match for federal, **COLLABORATIVE**
13 **PARTNERS, OR THIRD PARTY** funding of up to 50% of the total project
14 costs.

15 (b) Supplementing in-kind contributions provided by a person
16 or entity other than this state.

17 (c) Accelerating the commercialization of an innovative ~~energy~~
18 technology or process that will be ready to market within ~~3-5~~ years
19 of the effective date of the agreement.

20 (d) Activities of the center, including, but not limited to,
21 workforce development and technology demonstration.

22 (3) All of the funds allocated to the centers for ~~energy~~
23 ~~excellence~~ **INNOVATION** program shall be used to match federal,
24 **COLLABORATIVE PARTNERS, OR THIRD PARTY** funding. The fund board may
25 authorize investment terms in qualified entities as part of any
26 agreement as provided in subsection (5). ~~Not more than 15% of any~~
27 **AN AMOUNT OF THE** grant, **LOAN, OR OTHER ECONOMIC ASSISTANCE** awarded,

1 **AS DETERMINED BY THE FUND BOARD**, can be used for administrative
 2 costs or overhead by the ~~grantee~~**-AWARDEE** or any subcontractor hired
 3 to implement any portion of the centers for ~~energy excellence~~
 4 **INNOVATION** agreement. Grants, **LOANS, OR OTHER ECONOMIC ASSISTANCE**
 5 authorized by this section shall be disbursed pursuant to a
 6 timeline and progress disbursement schedule included as part of an
 7 agreement under this section.

8 (4) The fund board shall establish a standard process to
 9 evaluate applications for an agreement under this section and shall
 10 appoint a committee ~~of members of the fund board~~ to assist in the
 11 review of applications. The fund or the fund board shall not
 12 appoint or designate any person paid or unpaid to a committee to
 13 review applications if that person has a conflict of interest with
 14 any potential applicants as determined by the office of the chief
 15 compliance officer established in section 88i. When determining
 16 whether to enter into an agreement under this section, the fund
 17 board shall consider all of the following:

18 (a) The potential that in the absence of an agreement the
 19 development, acceleration, and sustainability of ~~energy excellence~~
 20 **COMPETITIVE EDGE TECHNOLOGY** sectors addressed by the proposed
 21 center of ~~energy excellence~~**-INNOVATION** will occur in a location
 22 other than this state.

23 (b) The extent to which the proposed center of ~~energy~~
 24 ~~excellence~~**-INNOVATION** will promote the development of ~~energy~~
 25 ~~excellence~~**-COMPETITIVE EDGE TECHNOLOGY** sectors in this state.

26 (c) The extent to which the proposed center of ~~energy~~
 27 ~~excellence~~**-INNOVATION** will promote economic development or job

1 creation in this state.

2 (d) The extent to which the proposed center of ~~energy~~
3 ~~excellence~~**INNOVATION** could attract private investment or encourage
4 commercialization in ~~energy-excellence~~**COMPETITIVE EDGE TECHNOLOGY**
5 sectors in this state.

6 (e) The extent to which the proposed center of ~~energy~~
7 ~~excellence~~**INNOVATION** may leverage skills or resources in which
8 this state possesses a competitive advantage, including, but not
9 limited to, skills of workers, intellectual property, and natural
10 resources.

11 (f) The extent to which the proposed center of ~~energy~~
12 ~~excellence~~**INNOVATION** may encourage collaboration on
13 commercialization and technology transfer among qualified entities
14 in this state.

15 (g) The extent to which the proposed center of ~~energy~~
16 ~~excellence~~**INNOVATION** may attract additional federal funding to
17 this state or persons or entities within this state.

18 (h) The financial viability of the proposed center of ~~energy~~
19 ~~excellence~~**INNOVATION** and the proposed business plan for the center
20 of ~~energy-excellence~~**INNOVATION**, including, but not limited to,
21 commitments of financial and other support for the proposed center
22 and the potential availability of federal funding for the proposed
23 center.

24 (i) The financial resources available to the fund board for
25 operation of the centers of ~~energy-excellence~~**INNOVATION** program
26 under this section.

27 (j) Any recommendations from the centers manager selected

1 under subsection (6).

2 (5) If the fund board enters into an agreement with 1 or more
3 qualified entities for the operation of a center of ~~energy~~
4 ~~excellence~~**INNOVATION**, the agreement shall include participation by
5 at least 1 qualified business and at least 1 institution of higher
6 education or a national laboratory. An agreement shall include, but
7 is not limited to, all of the following:

8 (a) The roles and responsibilities of the fund and the
9 qualified entities participating in the agreement.

10 (b) A governance structure for the center of ~~energy excellence~~
11 **INNOVATION**. The agreement may provide for representation of the
12 fund in the governance of the center.

13 (c) The responsibilities of the fund and the qualified
14 entities participating in the agreement, including, but not limited
15 to, financial resources, technology, real property, personal
16 property, or other resources contributed by the parties to the
17 agreement.

18 (d) A commitment by the qualified entities participating in
19 the agreement to collaborate on commercialization and technology
20 transfer opportunities in ~~energy excellence~~**COMPETITIVE EDGE**
21 **TECHNOLOGY** sectors in this state.

22 (e) A commitment by qualified entities that are institutions
23 of higher education to provide incentives for faculty who
24 participate in technology transfer and commercialization activities
25 in ~~energy excellence~~**COMPETITIVE EDGE TECHNOLOGY** sectors and
26 expansion of business formation efforts related to ~~energy~~
27 ~~excellence~~**COMPETITIVE EDGE TECHNOLOGY** sectors to increase the

1 number of institution of higher education related start-up
2 companies.

3 (f) A commitment to locate and retain commercialization
4 opportunities resulting from the agreement or center of ~~energy~~
5 ~~excellence~~**INNOVATION** within this state.

6 (g) A business plan for the center of ~~energy excellence~~
7 **INNOVATION** that identifies clear and measurable objectives,
8 timelines, and deliverables for the center.

9 (h) The duration of the agreement and a mechanism for the
10 dissolution of the center of ~~energy excellence~~**INNOVATION** and the
11 disposition of any assets. The fund board may revoke an agreement
12 for the designation and operation of a center of ~~energy excellence~~
13 **INNOVATION** if a qualified entity that is a party to the agreement
14 does not comply with the agreement.

15 (i) Provision for repayment of grants, **LOANS, OR OTHER**
16 **ECONOMIC ASSISTANCE** from the fund in the event a qualified entity
17 fails to comply with the agreement.

18 (6) The fund board may select a person or entity as a centers
19 manager to assist the fund in the administration of the centers of
20 ~~energy excellence~~**INNOVATION** program authorized by this section.
21 Costs associated with the administration of the centers of ~~energy~~
22 ~~excellence~~**INNOVATION** program are subject to section 88b(5). The
23 centers manager shall do all of the following as determined by the
24 fund board:

25 (a) Provide administrative services related to the centers of
26 ~~energy excellence~~**INNOVATION** program.

27 (b) Act as contract manager on behalf of the fund for any

1 agreement establishing a center of ~~energy excellence~~ **INNOVATION**
2 under this section.

3 (c) Recommend to the fund board a plan for managing the
4 centers of ~~energy excellence~~ **INNOVATION** program and implement any
5 plan authorized by the fund board.

6 (d) Assist centers of ~~energy excellence~~ **INNOVATION** in
7 developing a supply chain for ~~energy excellence~~ **COMPETITIVE EDGE**
8 **TECHNOLOGY** sectors.

9 (e) Evaluate and report to the fund board on the centers of
10 ~~energy excellence~~ **INNOVATION** program and progress made toward
11 commercialization of technology in ~~energy excellence~~ **COMPETITIVE**
12 **EDGE TECHNOLOGY** sectors in this state.

13 (f) Review applications submitted under subsection (1) and
14 make recommendations to the fund board on the applications for
15 approval of applications.

16 (g) Perform other functions related to the centers for ~~energy~~
17 ~~excellence~~ **INNOVATION** program authorized by this section as deemed
18 necessary and appropriate by the fund board.

19 (7) As used in this section:

20 (a) "Centers manager" means a centers manager selected under
21 subsection (6).

22 ~~—— (b) "Energy excellence sectors" means new and developing~~
23 ~~industry sectors in the energy field in this state where the fund~~
24 ~~has determined the state has a competitive advantage and there are~~
25 ~~barriers to the commercialization of technology within the new and~~
26 ~~developing industry sector.~~

27 ~~—— (c) "Energy field" means alternative energy technology, energy~~

1 ~~efficiency technology, technologies that contribute to energy~~
2 ~~security and independence, other advanced energy technologies, or~~
3 ~~water technology related to the development of energy excellence~~
4 ~~sectors.~~

5 **(B) "COMPETITIVE EDGE TECHNOLOGY SECTORS" MEANS SECTORS**
6 **INVOLVING COMPETITIVE EDGE TECHNOLOGY.**

7 **(C)** ~~(d)~~-"Qualified entity" means a qualified business, an
8 institution of higher education, a Michigan nonprofit corporation,
9 a national laboratory, or a political subdivision of this state.