

Act No. 210
Public Acts of 2013
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Senator Hansen

ENROLLED SENATE BILL No. 312

AN ACT to amend 2008 PA 549, entitled “An act to authorize the creation of promise authorities and the implementation of promise zone development plans; to prescribe the powers and duties of promise zone authorities; to provide for the capture and disbursement of certain tax revenue; and to prescribe powers and duties of certain state and local officials,” by amending sections 3, 5, 7, 11, 15, and 17 (MCL 390.1663, 390.1665, 390.1667, 390.1671, 390.1675, and 390.1677).

The People of the State of Michigan enact:

Sec. 3. As used in this act:

- (a) “Authority” means a promise zone authority created under this act.
- (b) “Board” means the governing body of an authority.
- (c) “Eligible entity” means a city, township, county, local school district, or intermediate school district, in which the percentage of families with children under age 18 that are living at or below the federal poverty level is greater than or equal to the state average of families with children under age 18 living at or below the federal poverty level, as determined by the department of treasury.
- (d) “Federal poverty level” means the poverty guidelines published annually in the federal register by the United States department of health and human services under its authority to revise the poverty line under section 673(2) of subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 USC 9902.
- (e) “Governing body” means the elected body of an eligible entity that has legislative powers.
- (f) “Nonpublic high school” means a high school operated by a nonpublic school that includes grades 9 to 12 or 10 to 12 and that awards a high school diploma. Nonpublic high school also includes a general education development test.
- (g) “Nonpublic school” means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.
- (h) “Promise of financial assistance” means a commitment by an eligible entity to provide financial resources for public or private postsecondary education, including a vocational program, to eligible students living in a promise zone and who have graduated from a public high school or nonpublic high school located within that promise zone.
- (i) “Promise zone” means that area created by a governing body under this act.
- (j) “Promise zone development plan” means that plan developed by an authority under this act that will ensure that the financial resources are available to adequately fund the promise of financial assistance.
- (k) “Public high school” means a public school that includes grades 9 to 12 or 10 to 12 and that awards a high school diploma.

(l) "Public school" means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(m) "Qualified educational expenses" means tuition and fees required for the enrollment or attendance of a student at an educational institution and expenses for fees, books, supplies, and equipment required for courses of instruction at that educational institution.

(n) "School district" means that term as defined in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(o) "State education tax" means the tax levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(p) "Vocational program" means an education or training program intended to teach a trade, occupation, or vocation and offered by a public or private postsecondary institution in this state.

Sec. 5. (1) If the department of treasury certifies the eligibility of a governing body to establish a promise zone and the governing body, by resolution, establishes a promise zone under the Michigan promise zone act, 2008 PA 550, MCL 390.1641 to 390.1649, the governing body shall, by resolution, create a promise zone authority.

(2) An authority is a public body corporate that may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out its purpose. The enumeration of a power in this act shall not be construed as a limitation on the general powers of an authority.

(3) An authority shall be under the supervision and control of a board. All of the following apply to the board of an authority:

(a) The board shall consist of 11 members, as follows:

(i) Nine locally appointed members. The chief executive officer of the eligible entity, with the advice and consent of the governing body, shall appoint the 9 initial locally appointed members of the board described in this subparagraph. If a vacancy occurs in an office of a locally appointed member appointed under this subparagraph, the board shall appoint a new member to fill that vacancy. As used in this subparagraph, for a local school district or an intermediate school district, "chief executive officer" means the superintendent of that local school district or intermediate school district.

(ii) One member appointed by the senate majority leader.

(iii) One member appointed by the speaker of the house of representatives.

(b) Not more than 3 members of the board shall be government officials.

(c) One member of the board shall be a representative of the public school community.

(d) The term of office of a member of the board is 4 years. However, of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years.

(e) A member of the board shall hold office until the member's successor is appointed.

(f) Members of the board shall serve without compensation, but may be reimbursed for actual and necessary expenses.

(g) The chairperson of the board shall be elected by the board.

(4) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(5) The proceedings and rules of the board are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(6) After having been given notice and an opportunity to be heard, a member of the board may be removed for cause by the governing body.

(7) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 7. (1) A promise zone authority created under section 5 shall prepare a promise zone development plan.

(2) A promise zone development plan shall include, but is not limited to, all of the following:

(a) A complete description of the proposed promise of financial assistance. The proposed promise of financial assistance shall include, but is not limited to, a promise of financial assistance to all eligible students residing within the promise zone and who graduate from a public high school or nonpublic high school located within that promise zone, in an amount established by the board to reflect the amount available for disbursement to eligible students and included in the annual budget under section 15. The amount of proposed promise of financial assistance shall, at a minimum, equal or exceed the amount the board determines is sufficient to pay for the qualified educational expenses for an eligible student to obtain an associate degree at a community or junior college in this state, and shall not exceed the amount the board determines is sufficient to pay for the qualified educational expenses for an eligible student to obtain a bachelor's

degree or its equivalent at a public postsecondary institution in this state or combination of public postsecondary institutions in this state, subject to any limitations authorized under this section. The proposed promise of financial assistance may also, at most, provide funding for an eligible student to attend a private college in this state in an amount that does not exceed the average amount of qualified educational expenses to obtain a bachelor's degree at all public universities in this state. The proposed promise of financial assistance may also authorize the expenditure of funds for educational improvement activities designed to increase readiness for postsecondary education at public schools located in the promise zone.

(b) A complete description of any limitation on the promise of financial assistance, including, but not limited to, any of the following:

(i) If the promise of financial assistance will be prorated based on the number of years the student has resided within the promise zone.

(ii) If the promise of financial assistance will be restricted to students who have resided within or attended a public high school or nonpublic high school within the promise zone for a minimum number of years.

(iii) If the promise of financial assistance is predicated on the student maintaining a minimum college grade point average and carrying a minimum college credit hour classload.

(iv) If the promise of financial assistance is restricted to attendance at 1 or more public or private postsecondary institutions in this state.

(v) If the promise of financial assistance is limited to students whose cumulative high school grade point average exceeds a specified minimum. However, a board may revise, establish, or eliminate a high school grade point average requirement for students after it submits a promise zone development plan to the department of treasury and is not required to amend the plan or obtain approval from the department of treasury for that change.

(vi) If the promise of financial assistance is limited to students who comply with requirements established by the board in order to improve student progress toward degree completion.

(vii) If the promise of financial assistance in a promise zone that encompasses more than 2 school districts is limited to students who reside in and graduate from high schools located within the boundaries of fewer than all of its constituent school districts.

(c) A requirement that graduates of a public high school or nonpublic high school exhaust all other known and available restricted grants for qualified educational expenses for postsecondary education provided by a federal, state, or local governmental entity, as determined by the board.

(d) How the funds necessary to accomplish the promise of financial assistance will be raised. Any amount received under the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896, shall not be included as a method of raising the necessary funds. The promise zone development plan shall be financed from 1 or more of the following sources:

(i) Donations.

(ii) Revenues.

(iii) Money obtained from other sources approved by the governing body or otherwise authorized by law.

(e) An actuarial model of how much the proposed plan is estimated to cost, based on actuarial formulas developed by the department of treasury.

(3) The proposed promise of financial assistance under subsection (2) shall not include funding for attendance at a public or private postsecondary institution not located in this state.

(4) The board shall submit the promise zone development plan to the department of treasury promptly after its adoption. The promise zone development plan shall be published on the website of the eligible entity that established the promise zone.

(5) The department of treasury shall review the promise zone development plan submitted under subsection (4). Not more than 60 days after receipt of a promise zone development plan submitted under subsection (4), the department of treasury shall either approve the promise zone development plan or provide a written notice of deficiencies. If the department of treasury does not approve a promise zone development plan submitted under subsection (4) or provide a written notice of deficiencies within 60 days, the promise zone development plan shall be considered approved. If a promise zone development plan is approved, the department of treasury shall certify that the promise zone development plan meets all requirements under this act and is sustainable.

(6) The department of treasury shall review any proposed amendments to a promise zone development plan. Not more than 60 days after receipt of proposed amendments to a promise zone development plan, the department of treasury shall either approve the proposed amendments or provide a written notice of deficiencies. If the department of treasury does not approve proposed amendments or provide a written notice of deficiencies within 60 days, the proposed amendments shall be considered approved. If proposed amendments are approved, the department of treasury shall certify that the amendments meet all requirements under this act.

Sec. 11. (1) The board may employ a director. All of the following apply to a director employed by a board under this subsection:

- (a) The board shall establish the director's compensation.
- (b) The director serves at the pleasure of the board.
- (c) A member of the board is not eligible to hold the position of director.

(d) Before beginning his or her duties, the director shall take and subscribe to the constitutional oath and furnish a bond in an amount determined in the resolution establishing the authority, payable to the authority for use and benefit of the authority, approved by the board, and filed with the clerk of the eligible entity. The premium on the bond shall be considered an operating expense of the authority, payable from money available to the authority for expenses of operation.

- (e) The director is the chief executive officer of the authority.

(2) Subject to the approval of the board, the director shall supervise and is responsible for implementing the promise zone development plan and the performance of the functions of the authority in the manner authorized under this act. The director shall attend the meetings of the board and shall provide to the board, the governing body, and the chief executive officer of the eligible entity a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before beginning his or her duties, the acting director shall take and subscribe to the oath, and furnish a bond, as required of the director under subsection (1)(d). The director shall furnish the board with any information or reports governing the operation of the authority that the board requires.

(3) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of money of the authority. The treasurer shall perform all duties delegated to him or her by the board and shall furnish a bond in an amount prescribed by the board.

(4) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers the treasurer is not required to maintain. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties delegated by the board.

- (5) The board may retain legal counsel to advise the board in the proper performance of its duties.

- (6) The board may employ any other personnel that the board considers necessary.

(7) The authority shall immediately deposit any money it receives to the credit of the authority, subject to disbursement under this act.

(8) Beginning in the first fiscal year in which it receives revenue from the state from the capture of state education tax revenue under section 17, the authority may use not more than 15% of the amount of that revenue to pay for administrative costs.

(9) Within 120 days after the end of each fiscal year, the board shall submit audited financial statements of the authority for that fiscal year to the department of education. The board shall include with the financial statements a certification by the board that the board and authority are in compliance with this act, with the requirements of the Michigan promise zone act, 2008 PA 550, MCL 390.1641 to 390.1649, and with the authority's approved promise zone development plan.

Sec. 15. (1) The board shall adopt a budget for the operation of the authority for each fiscal year, before the beginning of that fiscal year, based on a budget submitted to it by the director. The budget shall be prepared in the manner and contain the information required of municipal departments. Unless authorized by the governing body, the budget of an authority shall not include any money of the eligible entity.

(2) The budget described in subsection (1) shall include the amount the authority intends to disburse to each eligible student in the fiscal year covered by the budget. Subject to the maximum amounts described in section 7(2)(a), the board shall establish the amount of the annual payment to eligible students and, in making that determination, shall consider the financial resources available to the authority for disbursement to those students.

Sec. 17. (1) The authority shall determine the base year for calculating the amount of incremental growth for the capture of the state education tax as provided in this section. The base year is the amount of revenue received from the collection of the state education tax in the promise zone in the year immediately preceding the year in which an authority makes its initial payment of qualified educational expenses in accordance with the promise of financial assistance or the amount of revenue received from the collection of the state education tax in the promise zone in any 1 of the 5 immediately succeeding years, whichever is less.

(2) If the authority continues to make annual payments in accordance with the promise of financial assistance, in the year immediately succeeding the base year determined in subsection (1) and each year thereafter, this state shall capture 1/2 of the increase in revenue, if any, from the collection of the state education tax. This state shall not capture

any revenue from the collection of the state education tax under this act if that revenue is subject to capture under any other law of this state. Proceeds from the capture of the state education tax under this section shall be deposited in the state treasury and credited to a restricted fund to be used solely for the purposes of this act.

(3) If the authority continues to make annual payments of qualified educational expenses in accordance with the promise of financial assistance, 2 years after the authority's initial payment of financial assistance and each year thereafter, this state shall pay to the authority the state education tax captured under subsection (2). If the boundaries of 2 or more promise zones created under this act overlap, payments under this section shall only be made to the first authority eligible for payment under this subsection.

(4) If at any time the authority does not make annual payments of qualified educational expenses in accordance with the promise for financial assistance, any amount captured from that promise zone in the restricted fund created under subsection (2) shall be paid into the school aid fund established in section 11 of article IX of the state constitution of 1963.

(5) For purposes of this section, payments under this section shall not be included in determining payments for financial assistance in the immediately preceding year.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor