

HOUSE BILL NO. 4219

March 08, 2023, Introduced by Rep. Hall and referred to the Committee on Economic Development and Small Business.

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending section 5 (MCL 125.2005), as amended by 2014 PA 507.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) There is created by this act a public body
2 corporate and politic to be known as the Michigan strategic fund.
3 The fund ~~shall be~~**is** within the department of ~~treasury~~**labor and**
4 **economic opportunity** and shall exercise its prescribed statutory
5 powers, duties, and functions independently of the ~~state treasurer.~~
6 **director of the department of labor and economic opportunity.** The

1 statutory authority, powers, duties, functions, records, personnel,
 2 property, unexpended balances of appropriations, allocations, and
 3 other funds of the fund, including the functions of budgeting,
 4 procurement, personnel, and management-related functions, ~~shall be~~
 5 **are** retained by the fund, and the fund ~~shall be~~ **is** an autonomous
 6 entity within the department of ~~treasury~~ **labor and economic**
 7 **opportunity** in the same manner as the Michigan employment security
 8 commission was designated an autonomous entity within the ~~Michigan~~
 9 department of labor under section 379 of the executive organization
 10 act of 1965, 1965 PA 380, MCL 16.479.

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

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

16 (a) **The** director of the department of ~~licensing and regulatory~~
 17 ~~affairs or his or her~~ **labor and economic opportunity or the**
 18 **director's** designee from within the department of ~~licensing and~~
 19 ~~regulatory affairs, the~~ **labor and economic opportunity.**

20 (b) **The** state treasurer or ~~his or her~~ **the state treasurer's**
 21 designee from within the department of treasury. ~~the~~

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

25 (d) **The** chief executive officer of the MEDC or ~~his or her~~ **the**
 26 **chief executive officer's** designee. ~~and~~

27 (e) **Seven** other members with knowledge, skill, and experience
 28 in the academic, business, or financial field, who shall be
 29 appointed by the governor with the advice and consent of the

1 senate, ~~None of the 6 members appointed under this section shall~~
 2 **subject to all of the following requirements:**

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

5 **(ii)** Not less than ~~5-6~~ members ~~of the board~~ appointed under
 6 this ~~subsection shall~~ **subdivision must** be members of the private
 7 sector. ~~Five of the 6 members appointed under this subsection shall~~
 8 ~~serve for fixed terms. Upon completion of each fixed term expiring~~
 9 ~~after December 30, 2005, a member shall be appointed for a term of~~
 10 ~~4 years. Of the private sector members appointed by the governor~~
 11 ~~for a fixed term,~~

12 **(iii)** ~~1 shall~~ **One of the 7 members appointed under this**
 13 **subdivision must** be appointed from a list of 3 or more nominees of
 14 the speaker of the house of representatives representing persons
 15 within the private sector with experience in private equity or
 16 venture capital investments, commercial lending, or
 17 commercialization of technology. ~~and~~

18 **(iv)** ~~1 shall~~ **One of the 7 members appointed under this**
 19 **subdivision must** be appointed from a list of 3 or more nominees of
 20 the senate majority leader representing persons within the private
 21 sector with experience in private equity or venture capital
 22 investments, commercial lending, or commercialization of
 23 technology. ~~A member appointed under this subsection or subsection~~
 24 ~~(4) shall serve until a successor is appointed, and a vacancy shall~~
 25 ~~be filled for the balance of the unexpired term in the same manner~~
 26 ~~as the original appointment. The member appointed under this~~
 27 ~~subsection and serving without a fixed term shall serve at the~~
 28 ~~pleasure of the governor. Of the members appointed under this~~
 29 ~~subsection and subsection (4), there shall be~~

1 **(v) Members appointed under this subdivision must include**
 2 minority, female, and small business representation. ~~After December~~
 3 ~~31, 2005,~~

4 **(vi) Of the members appointed under this subdivision,** at least
 5 ~~2 of the members of the board shall~~ **must** have experience in private
 6 equity or venture capital investments, at least 1 ~~of the members~~
 7 ~~shall~~ **must** have experience in commercial lending, and at least 1 ~~of~~
 8 ~~the members of the board shall~~ **must** have experience in
 9 commercialization of technology.

10 **(vii) Except as otherwise provided in this subparagraph,**
 11 **members appointed under this subdivision must be appointed for a**
 12 **term of 4 years. Members described in this subdivision that were**
 13 **appointed under Executive Reorganization Order No. 2019-3, MCL**
 14 **125.1998, shall serve the terms provided in Executive**
 15 **Reorganization Order No. 2019-3, MCL 125.1998.**

16 (4) In addition to the ~~9-11~~ members of the board under
 17 subsection (3), not later than December ~~15, 2005,~~ **31, 2023,** the
 18 governor shall appoint, with the advice and consent of the senate,
 19 2 additional members to the board for terms expiring December 31,
 20 ~~2007-2027.~~ After the initial appointments under this subsection,
 21 members appointed under this subsection ~~shall~~ **must** be appointed for
 22 a term of 4 years. The members appointed under this subsection
 23 shall be from the private sector and shall have experience in
 24 private equity or venture capital investments, commercial lending,
 25 or commercialization of technology. ~~From the date of the~~
 26 ~~appointment of the members under this subsection until December 31,~~
 27 ~~2015, the board shall have 11 members. After December 31, 2015, the~~
 28 ~~board shall have 9 members and no members shall be appointed under~~
 29 ~~this subsection.~~ **One of the members appointed under this subsection**

1 must be appointed from a list of 3 or more nominees of the senate
 2 minority leader, and the other member appointed under this
 3 subsection must be appointed from a list of 3 or more nominees of
 4 the house minority leader.

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

9 (6) ~~(5) The governor shall designate 1 member of the board to~~
 10 ~~serve as its chairperson.~~ The governor shall designate 1 member of
 11 the board, **other than the director of the department of labor and**
 12 **economic opportunity**, to serve as president of the fund and may
 13 designate 1 member to serve as vice-president of the fund. The
 14 ~~chairperson, president,~~ and vice-president, if a vice-president is
 15 designated, shall serve as those officers at the pleasure of the
 16 governor. **The member of the board who is designated to serve as**
 17 **president of the fund is the chairperson of the board. The members**
 18 **of the board may elect a vice-chairperson from among their members.**

19 (7) ~~(6)~~ Members of the board shall serve without compensation
 20 for their membership on the board, except that members of the board
 21 may receive reasonable reimbursement for necessary travel and
 22 expenses.

23 (8) ~~(7)~~ The board may delegate to its president, vice-
 24 president, staff, or others, including the MEDC, those functions
 25 and authority that the board ~~deems~~ **considers** necessary or
 26 appropriate, which may include the oversight and supervision of
 27 employees of the fund. However, responsibilities specifically
 28 vested in the board under chapter 8A shall be performed by the
 29 board and shall not be transferred to the MEDC, except that

1 Michigan business development program incentives under section 88r,
2 and community revitalization incentives under chapter 8C, of
3 \$1,000,000.00 or less ~~can~~**may** be authorized by the president of the
4 fund.

5 **(9)** ~~(8)~~—A majority of the members of the board appointed and
6 serving constitutes a quorum for the transaction of business at a
7 meeting, or the exercise of a power or function of the fund,
8 notwithstanding the existence of 1 or more vacancies. The board may
9 act only by resolution approved by a majority of board members
10 appointed and serving. Voting ~~upon~~**on** action taken by the board
11 ~~shall~~**must** be conducted by majority vote of the members appointed
12 and serving. Members of the board may be present in person at a
13 meeting of the board or, if authorized by the bylaws of the board,
14 by use of telecommunications or other electronic equipment. The
15 fund shall meet at the call of the chair and as may be provided in
16 the bylaws of the fund. Meetings of the fund may be held anywhere
17 within ~~the~~**this** state. ~~of Michigan.~~

18 **(10)** ~~(9)~~—The business of the board ~~shall~~**must** be conducted at
19 a public meeting of the board held in compliance with the open
20 meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of
21 the time, date, and place of the meeting ~~shall~~**must** be given in the
22 manner required by the open meetings act, 1976 PA 267, MCL 15.261
23 to 15.275, and ~~shall~~**must** also be provided on an internet website
24 operated by the fund. A record or portion of a record, material, or
25 other data received, prepared, used, or retained by the fund or any
26 of its centers in connection with an application to or with a
27 project or product assisted by the fund or any of its centers or
28 with an award, grant, loan, or investment that relates to financial
29 or proprietary information submitted by the applicant that is

1 considered by the applicant and acknowledged by the board or a
2 designee of the board as confidential ~~shall-is~~ not ~~be~~ subject to
3 the disclosure requirements of the freedom of information act, 1976
4 PA 442, MCL 15.231 to 15.246. The disclosure of a record concerning
5 investment information described in section 88c under the freedom
6 of information act, 1976 PA 442, MCL 15.231 to 15.246, is subject
7 to the limitations provided in section 88c. The board may also meet
8 in closed session pursuant to the open meetings act, 1976 PA 267,
9 MCL 15.261 to 15.275, to ~~make a determination of~~ **determine** whether
10 it acknowledges as confidential any financial or proprietary
11 information submitted by the applicant and considered by the
12 applicant as confidential. Unless considered proprietary
13 information, the board shall not acknowledge routine financial
14 information as confidential. If the board determines that
15 information submitted to the fund is financial or proprietary
16 information and is confidential, the board shall release a written
17 statement, subject to disclosure under the freedom of information
18 act, 1976 PA 442, MCL 15.231 to 15.246, that states all of the
19 following:

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

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

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

27 **(11)** ~~(10)~~—The fund shall not disclose financial or proprietary
28 information not subject to disclosure pursuant to subsection ~~(9)~~
29 **(10)** without consent of the applicant submitting the information.

1 **(12)** ~~(11)~~ Any document to which the fund is a party evidencing
2 a loan, insurance, mortgage, lease, venture, or other type of
3 agreement the fund is authorized to enter into ~~shall~~**is** not be
4 considered financial or proprietary information that may be exempt
5 from disclosure under subsection ~~(9)~~**(10)**.

6 **(13)** ~~(12)~~ For purposes of subsections ~~(9)~~, (10), ~~and~~ (11), **and**
7 **(12)**, "financial or proprietary information" means information that
8 has not been publicly disseminated or ~~which~~**that** is unavailable
9 from other sources, the release of which might cause the applicant
10 significant competitive harm.