NEXT MICHIGAN DEVELOPMENT ACT

Act 275 of 2010

AN ACT 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.

History: 2010, Act 275, Imd. Eff. Dec. 15, 2010

The People of the State of Michigan enact:

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125.2951 Short title.

Sec. 1.

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

History: 2010, Act 275, Imd. Eff. Dec. 15, 2010

125.2952 Legislative findings; declaration.

Sec. 2.

The legislature of this state finds and declares that there exists in this state the continuing need for programs to encourage economic development and investment, job creation and job retention, and ancillary economic growth in this state. To achieve these purposes, it is necessary to assist and encourage the creation and implementation of intergovernmental development corporations and to enable those corporations to foster economic opportunities in this state, prevent conditions of unemployment and underemployment, and promote economic growth.

History: 2010, Act 275, Imd. Eff. Dec. 15, 2010

125.2953 Definitions.

Sec. 3.

As used in this act:

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

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

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

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

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

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

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

History: 2010, Act 275, Imd. Eff. Dec. 15, 2010

125.2954 Next Michigan development corporation; designation; eligibility; composition of territory; parties to interlocal agreement; application; preference.

Sec. 4.

(1) An eligible act 7 entity may apply to the board of the Michigan strategic fund for designation as a next Michigan development corporation under this act. An eligible urban entity may apply to the board of the Michigan strategic fund for designation as a next Michigan development corporation under this act. An eligible urban entity may expressly designate an instrumentality of an eligible urban entity or a nonprofit corporation to file the application and act as the next Michigan development corporation on behalf of the eligible urban entity.

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

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

(4) In determining whether to designate a next Michigan development corporation, the Michigan strategic fund shall give preference to each of the following:

(a) An eligible act 7 entity that is made up of not fewer than 2 contiguous counties that combined have a population of more than 103,000 but less than 106,000 according to the most recent decennial census and the population of the largest city of 1 of those counties when combined with the largest city of the other county is more than 32,500 but less than 35,500.

(b) An eligible urban entity that is the largest city in a county with a population of 1,500,000 or more.

History: 2010, Act 275, Imd. Eff. Dec. 15, 2010 ;-- Am. 2013, Act 239, Imd. Eff. Dec. 26, 2013 ;-- Am. 2014, Act 446, Imd. Eff. Jan. 2, 2015

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125.2955 Next Michigan development corporation; designation by board of Michigan strategic fund; limitation on number designated; development of application form and process; criteria; grant or denial of designation within certain time period; limitation.

Sec. 5.

(1) The board of the Michigan strategic fund, upon the filing of an application under section 4, may designate the applicant as a next Michigan development corporation. No more than 7 next Michigan development corporations may be designated in this state. The president of the Michigan strategic fund shall develop the form of application for designation as a next Michigan development corporation within 49 days of the effective date of this act provided that an application from an eligible act 7 entity or an eligible urban entity which otherwise meets the requirements of this act may be filed with the board of the Michigan strategic fund at any time after December 15, 2010, and any such application shall be considered by the board of the Michigan strategic fund under subsections (2) and (3). The Michigan strategic fund shall use its best efforts to develop the application process jointly with eligible act 7 entities and eligible urban entities.

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

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

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

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

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

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

(3) The board of the Michigan strategic fund shall grant or deny designation to an applicant within 49 days of receipt of the application. If the board of the Michigan strategic fund does not grant or deny the designation within 49 days of receipt of the application, the application shall be considered approved. If the application is denied, the board shall provide the applicant with the specific reasons for the denial by reference to the criteria set forth in subsection (2). An applicant may amend the application to take into account the reasons for the denial and thereafter may resubmit the application to the board of the Michigan strategic fund.

(4) The board of the Michigan strategic fund shall not designate more than 2 next Michigan development corporations in a calendar year. However, the board of the Michigan strategic fund may designate 3 next Michigan development corporations in a calendar year if 1 or more of the next Michigan development corporations designated is located entirely north of 43° 49' in this state.

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History: 2010, Act 275, Imd. Eff. Dec. 15, 2010 ;-- Am. 2013, Act 238, Imd. Eff. Dec. 26, 2013 ;-- Am. 2014, Act 447, Imd. Eff. Jan. 2, 2015

125.2956 Next Michigan development corporation; powers, duties, and responsibilities.

Sec. 6.

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

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

History: 2010, Act 275, Imd. Eff. Dec. 15, 2010

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125.2957 Business conducted at public meetings; public record; confidentiality; "financial or proprietary information" defined.

Sec. 7.

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

(2) Except as expressly provided otherwise in this section, a writing prepared, owned, used, in the possession of, or retained by the next Michigan development corporation in the performance of an official function shall be a public record and shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. A record or portion of a record, material, or other data received, prepared, used, or retained by the next Michigan development corporation in connection with an application by an eligible business for renaissance zone status or other tax or development incentive that relates to financial or proprietary information or site selection where more than 1 site is under consideration submitted by the eligible business applicant that is considered by the applicant and acknowledged by the next Michigan development corporation as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. A designee of the next Michigan development corporation shall make the determination as to whether the next Michigan development corporation acknowledges as confidential any financial or proprietary information submitted by the eligible business applicant and considered by the applicant as confidential. Unless considered proprietary information, the next Michigan development corporation shall not acknowledge routine financial information as confidential. If the designee of the next Michigan development corporation determines that information submitted to the next Michigan development corporation is financial or proprietary information and is confidential, the designee of the next Michigan development corporation shall prepare a written statement, subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, which states all of the following:

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

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

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

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

History: 2010, Act 275, Imd. Eff. Dec. 15, 2010

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125.2958 Dissolution or termination; validity of incentives previously granted.

Sec. 8.

In the event that a next Michigan development corporation dissolves or is terminated, all incentives previously granted by the next Michigan development corporation shall be unaffected by the dissolution and shall remain valid and in full force and effect in accordance with their respective terms. Incentives previously granted by the next Michigan development corporation shall be administered by the city, village, township, or charter township in which the eligible business to which the incentives were granted is located unless otherwise provided in the interlocal agreement.

History: 2010, Act 275, Imd. Eff. Dec. 15, 2010

125.2959 Construction and interpretation of act.

Sec. 9.

This act shall be construed liberally to effectuate the legislative intent and purposes of this act as found and stated in section 2. This act constitutes complete and independent authority for the performance of each and every act and thing authorized by this act, and all powers granted by this act shall be broadly interpreted to include any power reasonable and convenient to effectuate the intent and purposes of this act, and the language used in this act shall be read as grants of authority and not as limitations of powers to those expressed or necessarily implied.

History: 2010, Act 275, Imd. Eff. Dec. 15, 2010