Legislative Analysis

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21ST CENTURY JOBS FUND AUTHORITY

House Bill 5005
Sponsor: Rep. Bill Huizenga
Committee: Commerce

Complete to 6-27-05

A SUMMARY OF HOUSE BILL 5005 AS INTRODUCED 6-23-05

The bill would create the 21st Century Jobs Fund Authority Act, under which a new independent authority would be charged with creating and operating:

• a commercial loan guarantee program to guarantee loans made by financial institutions to businesses located in the state that have documented growth opportunities;

• a private equity investment program to allow the authority to invest in or alongside a qualified private equity fund that is engaged in investing in or acquiring businesses with annual revenues greater than $10 million;

• a venture capital investment program to allow the authority to invest in or alongside a venture capital fund that is engaged in investing in or acquiring early stage businesses with annual revenues of $10 million or less and that have not yet demonstrated consistent profitability or a proven business model; and

• a grants and loan program to make grants and loans for the commercialization of competitive edge technology.

The authority would be required to establish standards to ensure that all 21st Century investments made under the new act will result in economic benefit to Michigan and ensure that a major share of the business activity resulting from the investments occurs in Michigan.

The bill also would create a new 21st Century Investment Fund within the state treasury out of which to make the guarantees, investments, grants, and loans; and would allow the authority to provide tax vouchers and tax credits, as provided by law, to businesses selected by qualified venture capital firms or to businesses receiving loans or grants for the commercialization of competitive edge technology.

The Authority. The 21st Century Jobs Fund Authority would exercise its duties independently of the state treasurer, although its budgeting, procurement, and related administrative functions would be performed under the direction and supervision of the state treasurer. The authority would be run by a nine-member board of directors that would include the state treasurer and the director of the Department of Labor and Economic Growth as ex officio voting members, along with seven members appointed by the governor. One member would appointed from a list of two or more individuals selected by the Speaker of the House of Representatives and one from a similar list provided by the Senate Majority Leader. The other five members, who would be subject to the advise and consent of the Senate, would include one member with knowledge, skill, or experience in commercial lending; one member with knowledge, skill, or experience in private equity investments; one member with knowledge, skill, or experience in venture capital investments; and two members with business, technological, or financial experience related to "21st century investments." Members of the board would serve without compensation but could be reimbursed for actual and necessary expenses.

The board could act only by resolution approved by a majority of those appointed and serving. It would have to comply with the Open Meetings Act and, with certain exceptions for confidential financial and proprietary information, the Freedom of Information Act.

<u>Executive Director</u>. The board would be authorized to hire an executive director who would be exempt from the classified state civil service and would have to be paid a salary and bonus comparable to what an individual in a comparable position with similar responsibilities would be paid in the private sector. To be the executive director, an individual would need at least 10 years of experience in commercial lending, private equity, or venture capital.

<u>Commercial Loan Guarantee Program</u>. Under this program, the authority would provide guarantees to Michigan financial institutions providing commercial loans to qualified businesses. Businesses would only be eligible if it had documented growth opportunity. The guarantee could not exceed 40 percent of the amount of all outstanding loans from the financial institution to the business immediately preceding the making of a loan under the program. A financial institution would have to charge a higher rate of interest for a loan covered by a guarantee. The financial institution would also have to pay the authority a closing fee of up to one percent on the amount guaranteed, plus an annual percentage rate of interest up to two percent paid to the authority on the same terms and conditions as the borrower pays to the financial institution.

A business engaging primarily in retail sales would not be eligible for a loan guaranteed unless the authority board made a specific finding that the loan supported a new concept with significant growth potential.

<u>Capital Access Program</u>. The bill would require the authority to re-establish, as a separate and distinct part of the commercial loan guarantee program, the capital access program previously operated for small businesses by the Michigan Strategic Fund. A "small business" would be an independently owned and operated business with fewer than 250 full-time employees or with gross annual sales of less than $6 million.

<u>Private Equity Investment Program</u>. Under this program, the return of investment sought would have to be greater than the return of investment under the commercial loan

guarantee program. The private equity fund involved would need to have a greater amount at risk than the authority. A private equity fund would not be eligible to participate unless it opens a marketing office in the state with at least one full-time employee actively seeking opportunities for investments in businesses in the state, unless the investment opportunity requested was targeted to a specific transaction that would save jobs and would not occur without the investment. The fund also would have to agree to make investments in the state at a percentage rate not less than the percentage the authority's investment in the private fund bears to the total amount in the fund. Also, a private fund could not participate if its investment strategy involves the break-up and liquidation of businesses.

Venture Capital Investment Program. Under this program, the return on investment sought would have to be greater than the return on investment under the commercial loan guarantee program. The venture capital fund would need to have more at risk than the authority. A private venture capital fund would not be eligible to participate unless it opens a marketing office in the state with at least one full-time employee actively seeking opportunities for investments in businesses in the state, unless the investment opportunity was targeted to a specific transaction involving a competitive edge technology that would not occur without the investment. The fund also would have to agree to make investments in the state at a percentage rate not less than the percentage the authority's investment in the private fund bears to the total amount in the fund. Also, a private fund could not participate if its investment strategy involves the break-up and liquidation of businesses.

Commercialization of Competitive Edge Technology. From the money received from investment returns, the authority would have to give priority to funding grants and loans for the commercialization of competitive edge technology as provided in the Michigan Strategic Fund Act.

21st Century Jobs Fund Allocations. For the initial allocations from the Fund, no more than 30 percent of the total could be spent on any of the four programs: the commercial loan guarantee program, the private equity investment program, the venture capital investment program, and the commercialization of competitive edge technology.

Audits and Reports. No later than May 15, 2007, and each May thereafter, the auditor general would have to conduct a performance post audit of the board and fund and a post audit of financial transactions and accounts of the board and fund. The results would have to be posted on the Internet and disseminated by other means determined by the board to advise the citizens of the state of the results. Copies of the audit would have to be provided to the Governor, the Clerk of the House of Representatives, and the Secretary of the Senate

Not later than March 1 of each year, the board and fund would have to report to the Governor, the Clerk of the House of Representatives, and the Secretary of the Senate, with the report to contain, for the previous fiscal year, a list of entities that received funding, the amount received, and the type of funding; the number of new start-up businesses operating in the state; and the number of new jobs created and projected new job growth.

FISCAL IMPACT:

The annual cost to operate the authority would consist of the non-Civil Service salary and benefits paid to the Executive Director, similar costs for at least one administrative assistant, and the costs of leasing office space and maintaining the office operation. This amount is expected to total $200,000.00 to $250,000.00 annually, depending primarily on the salary paid to the Executive Director. Annual costs also would include expense reimbursement to uncompensated Board members. Since the Authority will not be part of State of Michigan government, there should be no fiscal impact on the State. The Authority's costs can be paid from the Authority's fee revenue. This fee revenue is generated primarily from closing and interest fees charged to financial institutions making guaranteed loans under the commercial loan program. Initially, a portion of the bond proceeds may be necessary to fund the Authority's expenses until sufficient fees are collected.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.