Legislative Analysis

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MICHIGAN PROMISE ZONES

House Bill 5375 as enrolled
Public Act 550 of 2008
Sponsor: Rep. Tim Melton

Senate Bill 861 as enrolled
Public Act 549 of 2008
Sponsor: Sen. Gerald Van Woerkom

House Committee: Education
Senate Committee: Education

Second Analysis (1-27-09)

BRIEF SUMMARY: Together, the bills would provide for the creation of "promise zones," to allow communities with areas of higher than average poverty to create special authorities whose purpose would be to raise funds to provide tuition for postsecondary education to high school graduates who both live and go to school within the zone's boundaries. Authorities that can successfully raise money privately to fund tuition assistance would then be eligible to capture of a portion of the incremental growth in revenue within the zone from the State Education Tax (SET). There would be a cap of ten such authorities.

FISCAL IMPACT: The bills would have an indeterminate fiscal impact on state and local government. The bills could reduce the amount of revenue available to the state School Aid Fund from the State Education Tax depending on a number of factors. See Background Information.

THE APPARENT PROBLEM:

In the City of Kalamazoo, anonymous philanthropists have promised a free college education, at a Michigan public college or university, to all public school students who live within the city's geographic boundaries. The gift, known as the Kalamazoo Promise, was begun two years ago.

Already, according to a senior economist with the Upjohn Institute (who also serves on the local board of education), Kalamazoo has seen an increase in enrollment among its urban schools of 11 percent (900 students in the 2006-07 school year, and an additional 300 students in the year following). Its high school graduation rate is up 16 percent overall, and 40 percent among African American students. And, the number of graduates applying for college is up 7 percent, so total college attendees have increased an estimated 25 percent. Further, out-of-state college attendance is down from 8 percent to 3 percent, while enrollment at the University of Michigan and Michigan State has doubled. Retention rates in college also appear to be above average, as the "Promise" takes effect.

As the Kalamazoo Promise unfolds, other cities—Grand Rapids and Muskegon among them—have explored creating a similar program. Unlike the Kalamazoo Promise, these communities seek to fund their programs by garnering widespread financial support throughout their communities. The programs' advocates note that their programs spur economic development, since a more highly educated population is better equipped to compete successfully in the new, often global, economy. Indeed, Kalamazoo officials report early positive developments in housing, as property values rise modestly, and professionals relocate to Kalamazoo from other regions in the country.

In order to make college tuition free for students who live in the poorest areas of the state (See Background Information), legislation has been introduced to allow communities to establish economic development "promise zones." Then, a portion of the annual growth in the State Education Tax within the zone could be captured, to augment the work of Promise Zone Authorities who successfully raise the millions of dollars necessary to fund a locally designed college promise for their students.

THE CONTENT OF THE BILLS:

House Bill 5375 and Senate Bill 861 would create two new acts to be known as the Michigan Promise Zone Act, and the Michigan Promise Zone Authority Act, respectively. They would allow the governing bodies of certain local units of governments (called "eligible entities") to create promise zone authorities. Those authorities could identify "promise zones," and then create a "promise zone development plan" whose purpose would be to ensure financial assistance for postsecondary education to high school graduates who both live and go to school within the zone's boundaries. The promise would be made to both public and non-public school students. The program would be administered by the Department of Treasury. There could be ten such authorities approved by the department on a first-come-first-served basis.

[The bills define "eligible entities" to mean a city, township, county, local school district, or intermediate school district, in which the percentage of children under age 18 living at or below the federal poverty level is greater than the state average of children under age 18 living at or below the federal poverty level, as determined by the Department of Treasury.]

The package also provides under certain conditions for the capture of a portion of the incremental growth in revenue from the State Education Tax (SET) in a zone, with the captured amount returned to the promise zone for use in funding tuition payments. A zone must have raised money and paid out tuition assistance before any captured tax revenue would be available. (This is described more fully later.)

The two bills work together as a single plan. A more detailed explanation of the bills follows.

House Bill 5375

Creating a Promise Zone

If the governing body of an eligible local entity determined that it was necessary in the best interest of the public to promote access to postsecondary education, then the governing body could, by resolution, declare its intention to establish a promise zone. The governing body would set a date for a public hearing on the proposal, and properly give notice of that hearing. Within 30 days following the hearing, the governing body could submit an application to the Department of Treasury seeking approval to establish the promise zone. If the department certified the eligibility of a governing body to establish a promise zone, then a governing body could create, by resolution, a promise zone. The department would review applications on a first-come-first-served basis and could certify no more than 10 local units as eligible to establish promise zones.

Within 90 days following the resolution's approval, a local school district could, by resolution elect *not* to participate in the creation of the promise zone, and the resolution would indicate that the local school district would establish a separate promise zone under the act. (If the local school district failed to create the zone, then the Department of Treasury could include that local school district in the promise zone where the district was located.)

The bill specifies that the establishment of a promise zone would not create a cause of action in law or in equity against the state of Michigan or an eligible entity.

Also, the bill would allow a *non-eligible entity* to create a promise zone, but that entity would be prohibited from capturing revenue from the state education tax. Those promise zones would not be counted in the cap.

<u>Senate Bill 861</u>

Promise Zone Development Plan

If the Department of Treasury certified the eligibility of a governing body to create a promise zone and the governing body did so, then it would have to create a promise zone authority, by resolution. That authority would develop a promise zone development plan.

The promise zone development plan would have to include at least all of the following:

- A complete description of the proposed promise of financial assistance (which, at a minimum, would have to provide sufficient funding to cover tuition necessary to obtain an associate's degree at a community college, and at most, sufficient funding to obtain a bachelor's degree or its equivalent at a public or private state institution--capped at the cost in a public institution--and could also be used for education improvement activities designed to increase college readiness).

- A complete description of any limitation on the promise of financial assistance (including whether the assistance would be prorated based on residency length; would require public or non-public high school attendance in the zone; would be predicated on a minimum college grade point average and class load; or would be restricted to attendance at one or more institutions of post-secondary education).

- Whether graduates of a public or non-public high school would be required to exhaust all other available publicly funded scholarship before receiving finance assistance.

- How funds necessary to accomplish the promise of financial assistance would be raised.

- An actuarial model of how much the proposed plan was estimated to cost (based on actuarial formulas developed by the Department of Treasury).

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The plan would have to prohibit financial assistance for attendance at a postsecondary institution outside of Michigan.

The authority board would submit the promise zone development plan to the Department of Treasury promptly after its adoption, and that plan would have to be published at least once in a local newspaper. The department would review the plan and certify that it met all requirements under this legislation, and that the plan was sustainable. Further, the department would review any proposed amendments to the plan.

The bill specifies that the creation of a zone or plan would not create a cause of action in law or in equity against the state, an eligible entity, or a promise zone authority, if the proposed promise of the financial assistance set forth in the plan were not paid to an eligible student.

Promise Zone Authority

If the Department of Treasury certified the creation of a promise zone and development plan, then the governing body would, by resolution, create a promise zone authority. The authority would be under the control of an 11-member board. Nine of those members would be appointed by the chief executive officer of the eligible entity, with the advice and consent of the governing body. One member would be appointed by the Senate Majority Leader, and one member by the Speaker of the House. Not more than three members could be government officials. And one member would have to be a representative of the public school community. Of the first members appointed, an equal number (as near as is practicable) would be appointed for one year, two-year, three-year, and four-year terms; after the initial appointment, each member would serve a four-year term. Members would serve without compensation but could be reimbursed for actual and necessary expenses. The chair would be elected by the board.

The proceedings and rules of the board would be subject to the Open Meetings Act, and the board would be required to adopt rules governing its procedure, subject to the approval of the governing body (which could remove authority members for cause). A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function would be subject to the Freedom of Information Act.

The authority's board could employ and compensate a director who would serve at its pleasure. The director would be required to take the constitutional oath of office and furnish bond, the premium on which would be considered an operating expense of the authority. The director would be responsible for implementing the zone development plan. The director also would attend the board's meetings, and provide regular reports concerning the activities and financial condition of the authority.

The board could also employ and compensate a treasurer, who together with the director would approve all vouchers for the expenditure of authority funds. The board also could employ and compensate a secretary who would maintain custody of the records, as well as keep a record of all the board's proceedings when attending the board's meetings. The board could retain legal counsel, and employ other personnel.

The bill specifies that the promise zone authority board could not expend more than 15 percent of the money received for administrative costs.

Duties of the Promise Zone Authority Board
The promise zone authority board could do any of the following:

- Prepare an analysis of the postsecondary educational opportunities for the residents of the zone.
- Study and analyze the need for financial resources to provide postsecondary educational opportunities for residents of the zone.
- Acquire, by purchase or lease, land and other property.
- Collect fees, rents, and charges for the use of any facility or property under its control.
- Lease, in whole or in part, any facility, building, or property under its control.
- Solicit and accept grants and donations of money, property, labor, or other things of value from a public or private source.

Authority Budget
The bill specifies that the director of an authority must submit an operating budget to the board each fiscal year. The budget must be prepared in the manner and contain the information required of municipal departments. After review by the board, the budget would be submitted to the governing body, which must approve the budget before the board can adopt it. Unless authorized by the governing body, funds of the eligible entity could <u>not</u> be included in the authority's budget.

Capture of State Education Tax Incremental Growth
The year preceding that in which an authority makes its initial tuition payment would be the base year for determining the amount of incremental growth for the capture of the State Education Tax. The base would be the amount of revenue received from the collection of the State Education Tax in the promise zone. However, in the three years immediately succeeding the base year, if the amount of revenue received from the collection of the state education tax in the promise zone is less than the amount collected in the base year, then the base year would be the amount collected in that year.

If the authority continued to make annual payments in accord with its promise of financial assistance, in the year immediately succeeding the base year, and each year thereafter, the State of Michigan would be required to capture half of the increase in revenue, if any, from the collection of the State Education Tax. (The state would not capture any revenue if that revenue were subject to capture under any other law.) The proceeds from the capture of the SET would be deposited in the state treasury, and credited to a restricted fund to be used solely for the purposes of the new acts.

If the authority continued to make annual tuition payments in accord with the promise of financial assistance, then <u>two years after the initial payment</u> and each year thereafter, the state would pay to the authority the captured SET amounts.

If the authority did not make annual tuition payments, any amount captured from the promise zone in the restricted fund would be paid into the School Aid Fund. The bill specifies that payments under this section would not be included in determining payments for financial assistance in the immediately preceding year.

Treasury Oversight

The Department of Treasury would be required to oversee the operations of any promise zone authority or board created under this act. If the department determined that the actions of an authority or board were not in accord with the development plan, then the department could assume operational control of the authority or board.

Dissolution

An authority that had completed the purposes for which it was organized would be dissolved by resolution of the governing body, while the property and assets remaining after the satisfaction of authority obligations would belong to the eligible entity.

Federal Poverty Level

The bill would define "federal poverty level" to mean 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.

BACKGROUND INFORMATION:

According to committee testimony, there are more than 125 communities in 41 of Michigan's 83 counties that meet the federal poverty level test contained in the bill, making citizens in them eligible to set-up promise zones. The cities are:

Durand	Alpena	Standish
Owosso	Grayling	Buchanan
Lansing	Harrisville	Dowagiac
Muskegon	Onaway	Niles
Muskegon Heights	Flint	Albion
Big Rapids	Jackson	Battle Creek
Cadillac	Mount Morris	Springfield
Evart	Fremont	Alma
Manton	Grant	St. Louis
Reed City	Hart	Ludington
Bad Axe	Newaygo	Scottville
Harbor Beach	White Cloud	Cedar Springs
Lansing	Dearborn	Rockford
Escanaba	Romulus	Dearborn
Iron Mountain	Taylor	Benton Harbor
Kingsford	Hamtramck	Grand Rapids
Menominee	Highland Park	Bangor
Norway	Lansing	Gobles
Stephenson	Olivet	Hartford
Bronson	Kalamazoo	Sturgis

Clare
Coleman
Mount Pleasant
Detroit
Flint
Ecorse
Melvindale
River Rouge
Inkster
Saginaw
Detroit
Grand Rapids
Luna Pier
Monroe
Boyne City
Cheboygan
East Jordan
Belding
Carson City
Greenville
Ionia
Stanton
Brown City
Crosswell
Marlette
Port Huron
Bessemer
Caspian
Crystal Falls
Gaastra
Houghton
Iron River
Ironwood
Stambaugh
Wakefield
Flat Rock
Ishpeming
Manistique
Marquette
Negaunee
Bay City
Sault Ste. Marie
East Lansing
Hazel Park
Pontiac
Mount Clemens
Au Gres
Beaverton
Clare
Harrison
Omer
Pinconning
Three Rivers
Allegan
Fennville
Saugatuck
South Haven
East Tawas
Lake City
Rose City
West Branch
Whittemore
Ypsilanti
Adrian
Morenci
Lapeer
Gladwin
Galesburg
Centerline
Corunna

FISCAL INFORMATION:

The bills would have an indeterminate fiscal impact on state and local government. The bills could reduce the amount of revenue available to the state School Aid Fund from the State Education Tax depending on a number of factors, including (1) the number of eligible communities that chose and were approved to establish promise zones; and (2) the resulting impact on property values and economic activity (if any).

The reduction in state revenue would be equal to one-half of the increase in revenue from the State Education Tax within the promise zone, compared to the year immediately preceding the first year that tuition payments were made for that zone; those revenues would be shifted to the local promise zone authority. The bills would increase administrative costs for the Department of Treasury to implement its provisions by an indeterminate amount.

The bills could increase local revenue, to the extent that the incentive of the tax increment financing encouraged private contributions for tuition payments. The bills would create local costs for communities establishing promise zones by creating an obligation to make tuition payments for eligible students.

The magnitudes and net impact of these impacts is indeterminate. The bills would require communities choosing to establish promise zones to develop an actuarial model of how much the proposed plan is estimated to cost.

ARGUMENTS:

For:

Proponents of this legislation say that it is the spark that can light a candle of hope in the hearts of able yet financially strapped students throughout Michigan. They point to the early effects of the Kalamazoo Promise as evidence of their claim. Proponents also note that the legislation is voluntary, offering entrepreneurial opportunities to communities where citizens step forward to embrace the economic development challenges of a highly competitive global economy that values brains over brawn. Under the legislation, each community's Promise Program would differ, as members of the local authorities crafted "promise plans" that met both student need and the level of financial resources at hand. After two years of successful local fundraising to establish a Promise Program, a community would then be eligible to augment their local contribution with a portion of the increment of annual growth in the State Education Tax that is collected in their community.

Against:

Opponents of this legislation worry that the high level of community fundraising necessary to sustain a Promise Program indefinitely—millions of dollars each year—is unrealistic. Consequently, a program could create false hope, and devastate the dreams of students. Others note that the real social problem that this legislation does not address is the extraordinarily high cost of a college education. And yet others oppose the legislation because it places a burden on the School Aid Fund, since the annual growth in the State Education Tax would be earmarked for post-secondary education, rather than K-12 education.

Response:

Under the legislation, the number of Promise Zones that can be designated by the Department of Treasury is set at 10. However, according to testimony from the Department of Treasury, if all 141 districts currently eligible to create Promise Zones did so, the School Aid Fund would "lose" $14 million annually in the short-run, but gain twice that (or more) in local funds committed to post-secondary education in the long term.

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