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Senate Bills 1177 and 1183 (as enacted)
Sponsor: Senator Jason E. Allen (S.B. 1177)
Senator Tony Stamas (S.B. 1183)
Senate Committee: Commerce and Tourism
House Committee: Commerce

PUBLIC ACTS 75 & 85 of 2008

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CONTENT

Senate Bill 1177 adds Chapter 2a to the Michigan Strategic Fund (MSF) Act to do all of the following:

- Create the Michigan Film Office, headed by the Michigan Film Commissioner, and the Michigan Film Office Advisory Council within the MSF.
- Create the "Michigan Film Promotion Fund".
- Repeal sections of the History, Arts, and Libraries (HAL) Act that created the Michigan Film Office, headed by the Michigan Film Commissioner, and the Michigan Film Advisory Commission within the Department of History, Arts, and Libraries.
- Prohibit and prescribe a criminal penalty for false representation as an agent or employee of the Office, Commissioner, or Council.
- Provide for the transfer of all records, personnel, property, grants, and unspent balances of appropriations and other funds to the new Office.

Senate Bill 1183 amends the HAL Act to delete definitions of "commission" and "office".

The bills will take effect May 4, 2008. Senate Bill 1183 is tie-barred to Senate Bill 1177.

Senate Bill 1177Michigan Film Office

The bill creates the Office in the MSF as the successor to any authority, powers, duties, functions, or responsibilities of the Michigan Film Office under Section 21 of the HAL Act, which the bill repeals. The Office may do all of the following:

- Promote and market locations, talent, crews, facilities, and technical production and other services related to film, digital media, and television production in Michigan.
- Provide to interested parties descriptive and pertinent information on locations, talent, crews, facilities, and technical production and other services related to film, digital media, and television production in Michigan.
- Provide technical assistance to the film, television, and digital media industry in locating and securing the use of locations, talent, crews, facilities, and services in Michigan.
- Encourage community and Michigan film, digital media, and television production industry participation in, and coordination with, State and local efforts to attract film, digital media, and television production in Michigan.
- Serve as the State's chief liaison with the film, digital media, and television production industry and with other governmental units and agencies for the

purpose of promoting, encouraging, and facilitating film, digital media, and television production in Michigan.

- Explain the benefits and advantages of producing films, digital media, and television productions in Michigan.
- Assist film, digital media, and television producers with securing location authorization and other appropriate services connected with film, digital media, and television production in Michigan.
- Scout potential film locations for national and international film, digital media, and television prospects.
- Escort film, digital media, and television producers on location scouting trips.
- Serve as a liaison between film, digital media, and television producers, State agencies, local agencies, Federal agencies, community organizations and leaders, and the film, digital media, and television industry in Michigan.
- Assist film, digital media, and television producers in securing permits to film at specific locations in Michigan and obtaining needed services related to the production of a film, digital media, or television program.
- Represent Michigan at film, digital media, and television industry trade shows and film festivals.
- Sponsor workshops or conferences on topics relating to film-making, including screenwriting, film financing, and the preparation of communities to attract and assist film, digital media, and television productions in Michigan.
- Encourage cooperation between local, State, and Federal government agencies and local film offices in the location and production of films, digital media, and television programming in Michigan.
- Coordinate activities with local film offices.
- Facilitate cooperation from State departments and agencies, local governments, local film offices, Federal agencies, and private sector entities in the location and production of films, digital media, and television programming in Michigan.
- Prepare, maintain, and distribute a directory of people, firms, and governmental agencies available to assist in the production of films, digital media, and television programming in Michigan.
- Prepare, maintain, and distribute a digital library depicting the variety and extent of

the locations within Michigan for film, digital media, and television productions.

- Solicit and accept gifts, grants, labor, loans, and other aid from any person, government, or entity.
- Employ permanent or temporary technical experts, other officers, agents, or employees, paid from the Office's funds, and determine the qualifications, duties, and compensation of those employees.
- Contract for goods and services and engage personnel as necessary to perform the duties of the Office.
- Study, develop, and prepare reports or plans the Office considers necessary to assist in the exercise of its powers and to monitor and evaluate its progress.
- Exercise the duties and responsibilities vested in the Office under other sections of the MSF Act, the General Sales Tax Act, and the Michigan Business Tax Act.
- Do all other things necessary or convenient to achieve the objectives and purposes of the Office, Chapter 2a, or other laws that relate to the Office's purposes and responsibilities.

The Office also may prepare and distribute appropriate promotional and informational materials that describe desirable locations in Michigan for film, digital media, and television production; explain the benefits and advantages of producing films, digital media, and television productions in this State; and detail services and assistance available from State government, local film offices, and the film, digital media, and television industry in the State.

The enumeration of powers under Chapter 2a may not be construed to limit the Office's general powers. The powers granted under Chapter 2a are in addition to those granted by any other law.

The Commissioner and the MSF president must cooperate in administering the budget, procurement, and related management functions of the Film Office. The MSF may provide the Film Office with staff support and other services to assist the Office in performing its functions and duties.

State departments, agencies, boards, commissions, and officers, and local film offices, must cooperate with the Office in the performance of its duties under Chapter 2a.

Michigan Film Commissioner

The head of the Office is to be the Michigan Film Commissioner, appointed by the Governor. The Commissioner must be a member of the State classified service. The terms and conditions of the Commissioner's employment must be governed by a senior executive service limited term employment agreement and the Civil Service Commission rules and regulations governing the senior executive service. The term of the agreement may not exceed two years and must end on December 31 of an even-numbered year, consistent with Civil Service Commission rules and regulations.

The Commissioner must serve as an advisor to the Governor on matters relating to films and other digital media. The Commissioner may report directly to the Governor and the MSF president on matters relating to the Office, the Council, and films and digital media generally. The Commissioner must supervise and be responsible for the performance of the functions of the Office, and perform all duties vested in the Commissioner under Michigan law. The Commissioner must consult with the MSF president on Office activities affecting the MSF.

The Commissioner must attend the meetings of the Michigan Film Office Advisory Council and provide it and the MSF president with regular reports and other information describing the Office's activities.

Except as otherwise provide in Chapter 2a, the Commissioner must exercise his or her powers, duties, functions, and responsibilities under Chapter 2a independently of the MSF. The Commissioner may promulgate rules as he or she considers necessary to execute the Office's duties and responsibilities.

Michigan Film Office Advisory Council

The bill creates the Council in the Film Office. The Council is to include 14 individuals appointed by the Governor as follows:

- Five members associated with broad areas of film, digital media, and motion picture making, production of television programs and commercials, and related industries in Michigan.

- Two members from film, television, digital media, or related industry unions.
- One member representing theater owners based in Michigan.
- One member representing local film offices or local units of government.
- One individual selected from a list of three or more nominees submitted by the Speaker of the House.
- One individual selected from a list of three or more nominees submitted by the Senate Majority Leader.
- Four other residents of Michigan, including at least two residents not active in the film, television, digital media, and related industries.

The MSF president also is to be a member of the Council, and the Commissioner is to serve as an ex officio nonvoting member of the Council.

The Governor must designate one member of the Council to serve as chairperson at the pleasure of the Governor. Council members may elect a member to serve as vice-chairperson and elect other members as officers, as the Council considers appropriate.

Members will serve four-year, staggered terms. A vacancy occurring other than by expiration of a term must be filled in the same manner as the original appointment for the remainder of the term. Members of the Council are to serve without compensation but, subject to available appropriations, may receive reimbursement for their actual and necessary expenses while attending meetings or performing other authorized official Council business.

The Council may do one or more of the following:

- Advise the Office, the MSF, the Governor, and the Legislature on how to promote and market Michigan's locations, crews, facilities, and technical production facilities and other services used by film, television, digital media, and related industries.
- Encourage community and Michigan film, digital media, and television production industry participation in, and coordination with, State efforts to attract film, digital media, television, and related production to Michigan.

- Assist the Office and the MSF in promoting, encouraging, and facilitating film, digital media, television, and related production in Michigan.
- Develop strategies and methods to attract film digital media, television, and related business to Michigan.
- Under direction of the Office, assist film, digital media, television, and related service personnel who use Michigan as a business location.
- Sponsor and support official functions for film, digital media, television, and related industries.
- Assist in the establishment of film, digital media, and television ventures and related matters that the Office considers appropriate.
- Make inquiries, studies, and investigations and hold hearings and receive comments from the public.
- Provide other assistance or advice relating to the duties of the Council under Chapter 2a, as requested by the Commissioner.

The Council also may consult with outside experts in order to perform its duties, including experts in the private sector, organized labor, government agencies, and at institutions of higher education.

The Council must meet at least three times per year and at the call of its chairperson. A majority of Council members serving will constitute a quorum. The Council must act by majority vote of its serving members.

The Council will be subject to the Open Meetings Act and the Freedom of Information Act. A writing prepared, owned, used, in the possession of, or retained by the Council when performing its business may be kept confidential, however, for up to six months after the date a request to inspect, obtain, or copy it is received if, in the Council chairperson's judgment, disclosure would compromise or otherwise undermine the ability of Michigan industry to compete in the promotion and marketing of Michigan's locations, crews, facilities, and technical production and other services.

A member of the Council may not use for personal gain information he or she obtains while performing Council business, or disclose confidential information obtained while conducting Council business, except as necessary to perform that business. The

Council must adopt a code of ethics for its members and establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The Council must require that any member with a direct or indirect interest in any matter before the Council disclose his or her interest to the Council before it takes any action on the matter.

Michigan Film Promotion Fund

The bill creates the Fund within the State Treasury. The State Treasurer may receive money or other assets from any source for deposit into the Fund, including Federal funds, other State revenue, gifts, bequests, and other donations, including all of the following:

- Fees deposited in the Fund under Sections 455 to 459 of the Michigan Business Tax (MBT) Act.
- Fees deposited in the Fund under Section 367 of the Income Tax Act.
- Proceeds deposited in the Fund under Section 88d of the MSF Act.

(House Bill 5841 added Section 455 to the MBT Act to allow a credit for certain production expenditures and qualified personnel expenditures. Senate Bill 1173 added Section 457 to the MBT Act to allow a credit for investment in a qualified film and digital infrastructure project. Senate Bill 1176 added Section 459 to the MBT Act to allow a credit for job training expenditures of an eligible production company. House Bill 5844 added Section 367 to the Income Tax Act to allow a credit for direct production expenditures of an eligible production company. Those bills require application fees and credit application and redemption fees, which must be deposited into the Film Promotion Fund. House Bill 5848 amended Section 88d of the MSF Act to provide for loans to eligible production companies, and require a portion of the earnings to be deposited into the Fund.)

The State Treasurer must direct the investment of the Film Promotion Fund and credit to it interest and earnings from Fund investments. Money in the Fund at the close of the fiscal year must remain in it and may not lapse to the General Fund.

Money in the Film Promotion Fund may be spent, upon appropriation, to support the

functions of the Office under Chapter 2a and other applicable law, and for purposes authorized under Chapter 2a.

Joint Exercise of Power

The powers and duties of the MSF under Chapter 2a may be exercised and performed by the Michigan Economic Development Corporation as a joint exercise of power authorized under the Urban Cooperation Act, pursuant to the Contractual Interlocal Agreement effective April 5, 1999, as amended, between local participating economic development corporations formed under the Economic Development Corporations Act and the MSF, or under an intergovernmental agreement with local film offices or other governmental entities. This does not authorize the Office to exercise the powers and duties of the MSF.

Repealer

The bill repeals Sections 21 and 22 of the HAL Act.

Section 21 created the Michigan Film Office, headed by the Michigan Film Commissioner, within the Department of History, Arts, and Libraries. The Commissioner is appointed by the HAL Director. Section 22 created the Michigan Film Advisory Commission within the Department. The Commission consists of 13 members appointed by the Governor, one member appointed by the Senate Majority Leader, and one member appointed by the Speaker of the House. The Michigan Film Commissioner serves as an ex officio nonvoting member.

Film Office Transfer

The bill transfers to the Michigan Film Office all records, personnel, property, grants, and unspent balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to any entity for the activities, powers, duties, functions, and responsibilities vested in the Office under Chapter 2a. The State Budget Director must determine and authorize the most efficient manner possible for handling financial transactions and records in the State's financial management system for the remainder of fiscal year (FY) 2007-08.

The unspent balances of appropriations transferred to the Office must include any funds appropriated in FY 2005-06 from the 21st Century Jobs Trust Fund to the MSF for the Michigan Film Office created under the HAL Act to promote the filming of motion pictures in Michigan, as provided under Section 88j of the MSF Act, that remain in a work project on the bill's effective date.

(Section 88j appropriated \$400.0 million in FY 2005-06 from the 21st Century Jobs Trust Fund to the MSF and provided for the disbursement of \$2.0 million of that money to the Michigan Film Office to promote the filming of motion pictures in Michigan. The Office must use those funds to do the following:

- Hire an independent firm to conduct a baseline study that will accurately demonstrate Michigan's status within the film industry and include recommendations of necessary improvements for Michigan to attract motion pictures.
- Market and promote Michigan as a premier location for filming motion pictures, commercials, and documentaries, including website development, promotional and research expenses, event and festival sponsorship, and advertising.
- Assist in workforce development within the film industry by supporting on-the-job training of qualified crew members, including technical training, practical training, and internship opportunities.)

False Representation

The bill prohibits a person who is not an agent or employee of the Office, Commissioner, or Council from representing himself or herself in that capacity without the express authorization of the Commissioner. A person who violates that prohibition will be guilty of a misdemeanor, may be imprisoned for up to 93 days, and must be fined not more than \$5,000.

Senate Bill 1183

The bill deletes the definitions of "commission" and "office" from the HAL Act. "Commission" means the Michigan Film Advisory Commission created in Section 22 of the Act, and "office" means the Michigan Film Office created in Section 21.

MCL 125.2029-125.2029g (S.B. 1177)
MCL 399.702 (S.B. 1183)

Film Office could be eliminated, saving the
\$180,000 GF.

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FISCAL IMPACT

These bills return the Michigan Film Office to the Michigan Strategic Fund from the Department of History, Arts and Libraries, where it has been housed since 2002. The bills create the Office as an independent entity within the MSF, with the exception of centralized administrative responsibilities.

The appropriation for FY 2007-08 for the Film Office is \$180,300 GF/GP to support the 1.0 FTE and one part-time student on staff. In addition, the legislation creating the 21st Century Jobs Trust Fund package that was enacted in 2005, contained a \$2.0 million earmark for the Office. These funds were placed into a work project account and are available to carried forward until FY 2009-10. The balance of this account as of January 31, 2008, was \$1.9 million. The cost of the new Office depends on the size of the staff beyond this level and the compensation level determined by the Commissioner for the employees hired outside of the civil service system.

The bills also create the Michigan Film Promotion Fund, which will receive revenue from various sources, including application fees paid by production companies to the Film Office for the tax credits created under Senate Bills 1173 and 1176, 0.5% of any income tax and MBT credits awarded, and 50% of any returns from the Michigan Film and Digital Media Investment Loan Program and the Choose Michigan Film and Digital Media Loan Fund under House Bill 5848. According to the Michigan Film Office, eight motion pictures were filmed in Michigan in 2007. If all eight of the production companies had applied for and been granted credits under the two programs, then annual revenue to the Fund from these fees would have been \$1,600. The remaining revenue streams will vary depending on the size of the projects, the credits awarded, and the amount of the loans that are granted. These funds will be subject to appropriation contained each year in the MSF budget bill. Should the revenue in the Film Production Fund reach a sustainable level, the GF/GP appropriation for the administration of the

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.