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BILL ANALYSIS

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Senate Bills 1223 and 1224 (as enacted) **PUBLIC ACTS 98 & 99 of 2008**
House Bills 5865, 5866, and 5867 (as enacted) **PUBLIC ACTS 100, 101, & 102 of 2008**
Sponsor: Senator Jason E. Allen (S.B. 1223)
Senator Tony Stamas (S.B. 1224)
Representative Kate Ebli (H.B. 5865)
Representative Terry Brown (H.B. 5866)
Representative Kenneth Horn (H.B. 5867)
Senate Committee: Commerce and Tourism
House Committee: Tourism, Outdoor Recreation and Natural Resources

Date Completed: 1-6-09

## CONTENT

**Senate Bill 1223 and House Bill 5865 added Chapter 8B to the Michigan Strategic Fund (MSF) Act to do all of the following:**

**-- Require the MSF board to establish a Michigan Promotion Program to promote tourism and business development.**
**-- Appropriate and transfer $60.0 million from the General Fund to the 21st Century Jobs Trust Fund.**
**-- Appropriate $50.0 million from the 21st Century Jobs Trust Fund to the MSF Fund.**
**-- Specify that funding provided under Chapter 8B for tourism promotion is to enhance annual appropriations for Travel Michigan.**
**-- Require up to 25% of the total amount appropriated from the net proceeds of the sale of residual interests in the State's tobacco receipts authorized by House Bill 5866 to be used to promote business development in Michigan.**
**-- Require the MSF board to choose vendors for Michigan Promotion Program expenditures that exceed $250,000 through a request for proposal (RFP).**
**-- Require that at least 75% of funds appropriated in Chapter 8B target out-of-State people or entities.**
**-- Establish reporting requirements.**
**-- Specify legislative declarations, findings, and intent.**

**Senate Bill 1224 and House Bill 5867 amended the Michigan Trust Fund Act to include in the 21st Century Jobs Trust Fund amounts appropriated under Senate Bill 1223, and require the State Treasurer to transfer and disburse the funds as required in that bill.**

**House Bill 5866 amended the Michigan Tobacco Settlement Finance Authority Act to authorize the refunding, refinancing, and sale of residual interests in the State's tobacco receipts sufficient to raise $60.0 million for the State.**

The bills took effect on April 18, 2008.

### House Bill 5865

Michigan Promotion Program

The bill requires the MSF board to establish a Michigan Promotion Program to promote tourism in Michigan and pay business development and marketing costs to promote business development in Michigan. Tourism promotion must include cultural, vacation, recreational, leisure, hunting-related, motor sports entertainment-related, and agriculture-related travel across Michigan that includes activities that promote tourism in all four seasons.

The bill states, "The funding provided under this chapter for tourism promotion is intended to enhance funding beyond that included in the annual appropriation for travel Michigan to attract additional tourism expenditures and development of the tourism industry in this state."

Not more than 4% of the annual appropriation provided by law from the 21st Century Jobs Trust Fund may be used for the purpose of administering the Michigan Promotion Program.

Legislative Declarations, Findings, & Intent

The bill states: "The legislature finds and declares that the activities authorized under this chapter to promote this state and the creation of jobs in this state are a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of this state. It is the intent of the legislature that the economic benefits and the creation of jobs resulting from this chapter shall accrue substantially within this state."

The bill also specifies that activities authorized under Chapter 8B may not be considered a project, an economic development project, or a product assisted by the MSF for purposes of Chapter 1 or 2 of the MSF Act. (Chapter 1 provides for the creation of the Michigan Strategic Fund and contains general provisions of the Act. Chapter 2 pertains to acquisition of and succession by the MSF to existing rights, property, and obligations; and provides for financing and contracts.)

## Senate Bill 1223

Appropriations & Limitations

For the fiscal year ending September 30, 2008, the bill appropriated and transferred $60.0 million from the General Fund to the 21st Century Jobs Trust Fund, and appropriated $50.0 million from the 21st Century Jobs Trust Fund to the MSF for carrying out the purposes of Chapter 8B.

Upon the request of the MSF board, the State Treasurer must transfer appropriated funds from the 21st Century Jobs Trust Fund in the amounts designated by the board, at the time and as necessary to fund disbursements required for the Michigan Promotion Program.

The bill specifies that the appropriation authorized under it is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The bill states that the following are in compliance with Section 451a(1) of the Management and Budget Act (which governs work project appropriations):

-- "The purpose of the project is to provide economic benefits and job creation within this state through the promotion of tourism."
-- "The work project will be accomplished through the use of interagency agreements, grants, state employees, and contracts."
-- "The total estimated completion cost of the project is $50,000,000.00."
-- "The expected completion date is December 31, 2010."

At least 75% of the funds appropriated under Chapter 8B must be targeted to people or entities outside of Michigan. No funds may be used for any Michigan Promotion Program effort that includes a reference to or the image or voice of an elected official, appointed State employee, State employee governed by a senior executive service limited term employment agreement, or candidate for elective office, and that is targeted to a media market in Michigan.

Not more than one-quarter of the total amount appropriated from the net proceeds of the refunding, refinancing, and sale of residual interests in the State's tobacco receipts authorized by House Bill 5866 may be used to promote business development in Michigan.

Vendor Selection

The MSF board must select vendors for Michigan Promotion Program expenditures under Chapter 8B exceeding $250,000 by issuing an RFP. At a minimum, the RFP must require the responding entities to disclose the following: any conflict of interest, any criminal convictions, any investigations by the IRS or any other Federal or State taxing body or court, and any pertinent litigation regarding an entity's conduct. The RFP also must require the responding entities to maintain records and evidence pertaining to work performed for at least five years.

The MSF board must establish a standard process to evaluate proposals submitted as a result of an RFP and appoint a committee to review the proposals. Members of any committee or individuals working on behalf of the MSF, paid or unpaid, may not have a conflict of interest as determined by the Office of the Chief Compliance Officer established under the MSF Act. The RFP requirements do not apply to a contract that was in existence on March 25, 2008, or to the extension of a contract in which the right to extend was in existence on or before that date.

Reporting Requirements

Under the bill, by April 15, 2009, and each succeeding April 15, the MSF must report to the Senate and House Appropriations subcommittees that have jurisdiction over economic development issues, the Senate and House standing committees that have jurisdiction over economic development issues, and the Senate and House Fiscal Agencies regarding the programs established under Chapter 8B.

For tourism promotion efforts, the report must include the following information:

-- The amount spent for promotion outside of Michigan.
-- An itemized list by market of how much was spent, when the promotion occurred, the types of media purchased, and the type of tourism promoted, specifically cultural, vacation, recreational, leisure, hunting-related, or agriculture-related.
-- The return on investment analysis that uses existing baseline data and compares results with prior outcome evaluations funded by Travel Michigan.

For business development efforts, the report must include the following information:

-- The amount spent for business development outside of Michigan.
-- An itemized list by market of how much was spent, when the promotion occurred, and the types of media purchased.
-- A performance analysis that compares the program or campaign objectives and outcome of the campaign or program.

Outcome measures in this performance analysis may include businesses relocated to Michigan; impact on the business community's perception of the quality of life in Michigan; jobs created; increases in export sales; impact on the number of retailers carrying Michigan commodities, both within and outside of the State; and increased sales of Michigan products at chain grocers.

The MSF must work with the Michigan Department of Agriculture (MDA) to develop a mechanism to report the return on investment for agriculture-related tourism and compare results with earlier outcome evaluations conducted by the MDA, if applicable.

The MSF must ensure that data reported on or before April 15, 2009, can be used to establish a baseline for future comparison.

## Senate Bill 1224

The Michigan Trust Fund Act established the 21st Century Jobs Trust Fund in the Department of Treasury. That Fund consists of donations of money made to it from any source and, to the extent provided in the Michigan Tobacco Settlement Finance Authority Act, the net proceeds of the sale of tobacco settlement revenue to the Tobacco Settlement Finance Authority. The bill also includes in the 21st Century Jobs Trust Fund amounts appropriated from the General Fund in Chapter 8B of the MSF Act.

## House Bill 5867

Under the Michigan Trust Fund Act, upon request from the MSF board, the State Treasurer may transfer and disburse appropriated funds from the 21st Century Jobs Trust Fund only for the purpose of carrying out, and at the specified time and as necessary to implement, Chapter 8a of the MSF Act. The bill also requires the State Treasurer to transfer and disburse the amounts appropriated from the General Fund to the 21st Century Jobs Trust Fund in Chapter 8B of the MSF Act, for purposes described in Chapter 8B, as provided by an appropriation.

## House Bill 5866

Under the Michigan Tobacco Settlement Finance Authority Act, the State budget director, with the approval of the State Administrative Board, may sell to the Authority, and the Authority may purchase, all or a portion of the State's tobacco receipts. As an alternative, the budget director, with the Board's approval, may sell all or a portion of the State's tobacco receipts to a person or persons other than the Authority, if the terms of the sale are in the best interests of the State and the net proceeds of the sale will not be more than $400.0 million.

The bill specifies that a sale agreement or combined sale agreement also may provide for refunding, refinancing, and the sale by the State of residual interests sufficient to provide net proceeds to the State in the amount of $60.0 million. Any net proceeds resulting from a refunding or refinancing of bonds issued under the Act before the bill's effective date (April 18, 2008), or the sale of residual interests existing on or after that date, must be deposited in the General Fund.

(The Act defines "state's tobacco receipts" as all tobacco settlement revenue received by the State that is required to be made, under the terms of the master settlement agreement, by tobacco manufacturers to this State; and the State's right to receive the tobacco settlement revenue under the master settlement agreement (the agreement entered into between 46 states and the U.S. tobacco industry in November 1998).

"Residual interests" means one or more of the following as provided in any sale agreement:

-- The unencumbered tobacco revenue (the portion of tobacco settlement revenue sold to the Authority that is no pledged to the repayment of any bonds).
-- The net proceeds not previously paid to the State.
-- The income of the Authority that exceeds requirements to pay its operating expenses, debt service, sinking fund requirements, reserve fund or escrow fund requirements, and any other contractual obligations to the owners of the bonds or benefited parties or the execution or repayment of ancillary facilities (e.g., credit agreements).
-- Contractual rights, if any, as provided to the State in accordance with the terms of any sale agreements.

"Net proceeds" means the amount of proceeds remaining after the sale of bonds that are not required by the Authority to establish and fund reserve or escrow funds or termination or settlement payments under ancillary facilities and to provide the financing costs related to the issuance of bonds.)

MCL 125.2089b-125.2089d (S.B. 1223)
12.257 (S.B. 1224)
125.2089 & 125.2089a (H.B. 5865)
129.268 (H.B. 5866)
12.258 (H.B. 5867)

Legislative Analyst: Patrick Affholter

## FISCAL IMPACT

The bills provide $60.0 million in appropriations for tourism and business promotion to the Michigan Strategic Fund; of this, $50.0 million is allocated for expenditure in FY 2007-08 and FY 2008-09. Not more than 25% of the total amount may be used to promote business development. The appropriation is funded from the 21st Century Jobs Trust Fund which, under the legislation, receives an estimated $60.0 million in additional revenue from refinancing bonds previously issued by the Tobacco Settlement Finance Authority.

The Department of Treasury has estimated that $60.0 million can be realized by a combination of extending the term of the bonds and replacing bonds previously issued as taxable bonds with lower-cost tax-exempt bonds, now that it possible to segregate projects with tax-exempt purposes into separate bond issues. At the time of original issuance, the State authorized the sale of a portion of its tobacco settlement revenue to pay the debt service on these bonds. The State foregoes this revenue while the bonds are outstanding. Extending the term of the bonds will delay the return of this portion of the tobacco settlement revenue stream to the State. The Department of Treasury is estimating that of the total $60.0 million in tobacco settlement revenue bonding, $20.0 million will result from replacing taxable bonds with tax-exempt bonds and $40.0 million will result from extending the terms of the outstanding bonds. It is anticipated that the terms of the outstanding bonds will be extended by an additional four years.

In recent years, tourism promotion funding has been provided through annual appropriations in the Michigan Strategic Fund budget. The amount of GF/GP revenue appropriated for tourism promotion is shown in Table 1 below. Public Act 225 of 2005 appropriated $15.0 million from the 21st Century Jobs Trust Fund for tourism promotion. This funding was used during FY 2005-06 and FY 2006-07. In FY 2007-08, $11,417,500 was appropriated in the annual budget in the line item for tourism promotion. This consisted of $5,717,500 GF/GP and $5.7 million in one-time money from the Investment Fund – Returns to Fund, which consists primarily of repayments from prior life sciences and technology tri-corridor programs. The budget bill authorized the MSF board to allocate this $5.7 million between tourism promotion and business marketing. In January 2008, the board authorized $4,282,500 for tourism and $1,417,500 for business marketing. This appropriation provides an additional $10.0 million in FY 2007-08 and $27.5 million in FY 2008-09 for tourism promotion. The tourism promotion appropriation history through FY 2008-09 and estimated funding for FY 2009-10 are shown in Table 1.

Funding for business marketing started as part of the 21st Century Jobs Program legislation, Public Act 225 of 2005, and included a "set-aside" from the annual appropriation of up to 5% for marketing Michigan to attract new businesses from out-of-State. For FY 2005-06 and FY 2006-07, the total appropriation for this program was $400.0 million; therefore, $19.7 million was allocated for business marketing over the two fiscal years. In FY 2007-08, the appropriation for the 21st Century Jobs Program was reduced to $75.0 million. This reduction lowered the annual allocation for business marketing to $3.75 million. Additional funding of $5.7 million was included for FY 2007-08 in the Michigan Promotion line of the annual budget from the Investment Fund – Returns to Fund, of which $1,417,500 was allocated for business marketing. The appropriation included in these bills will provide an additional $5.0 million, bringing the total appropriation for FY 2007-08 for business marketing to $10,167,500. For FY 2008-09, the leadership target agreement reduced the appropriation from the tobacco settlement revenue by $10.0 million to $65.0 million. Additionally, the Governor vetoed a $3.0 million allocation, further reducing the appropriation to $62.0 million. As a result of this reduced appropriation, the 5.0% allocation for business promotion was reduced to $3.1 million for FY 2008-09. These bills will provide additional funding of $7.5 million, bringing the total to $10.6 million for FY 2008-09. Table 2 shows the history of funding for business marketing and includes an estimate for FY 2009-10.

Under House Bill 5865, the Michigan Strategic Fund will be permitted to use up to 4% or $2.0 million of the appropriation for administration. Senate Bill 1223 requires that 75% of expenditures be targeted to people out of State and requires the Michigan Strategic Fund to complete a report to the Legislature detailing the expenditures under both programs. This requirement will increase the Fund's administrative responsibilities; however, any costs associated this requirement may be covered by the allocation from the appropriation for administration. The appropriations are established as work projects and will carry forward until December 31, 2010.

A private study commissioned by the Michigan Economic Development Corporation estimated the State revenue impact of State expenditures on tourism promotion. The study estimated that tourism promotion expenditures by the State over the last three years resulted in increased tax revenue at an average rate of $2.76 of additional State tax revenue for each State dollar spent on advertising. It is likely that the additional tourism expenditures will result in a positive return to the economy at large and to State revenue in particular. The actual impact on State revenue, however, will depend on many State and national economic factors and is not known.

Table 1
History of Tourism Promotion Funding Including Allocation Under Senate Bill 1223

| | GF/GP | 21st Century Jobs Trust Fund | Returns to Fund | Total |
|---|---|---|---|---|
| FY 2004-05 | $5,717,500 | | | $5,717,500 |
| FY 2005-06 | $5,817,500 [a)] | $7,500,000 | | $13,317,500 |
| FY 2006-07 | $5,717,500 | $7,500,000 | | $13,217,500 |
| FY 2007-08 | $5,717,500 | $10,000,000 [b)] | $4,282,500 [d)] | $20,000,000 |
| FY 2008-09 | $5,717,500 | $27,500,000 [b)] | | $33,217,500 |
| FY 2009-10 est. | $5,717,500 [c)] | [e)] | | $ 5,717,500 |

a) Included $100,000 provided in PA 345 of 2006, Article 19, for promotion for the Detroit Zoo.
b) Allocation reflects Michigan Strategic Fund board action on April 23, 2008.
c) Assumes that GF/GP funding continues at the current level.
d) Reflects the MSF board allocation of the $5.7 million between tourism promotion and business marketing.
e) The leadership target agreement of FY 2008-09 requires the remaining $10 million appropriated in Senate Bill 1223 to be deposited into the General Fund.

Table 2
History of Business Marketing Funding Including Allocation Under Senate Bill 1223

| | 21st Century Jobs Trust Fund | 21st Century Jobs Trust Fund Senate Bill 1223 | Investment Fund - Returns to Fund | Total |
|---|---|---|---|---|
| FY 2005-06 and FY 2006-07 | $19,700,000 | | | $19,700,000 |
| FY 2007-08 | $3,750,000 | $5,000,000 [c)] | $1,417,500 | $10,167,500 |
| FY 2008-09 | $3,100,000 [a)] | $7,500,000 [c)] | | $10,600,000 |
| FY 2009-10 est. | $3,750,000 [b)] | [d)] | | $ 3,750,000 |

a) 5% of $62.0 million appropriated from the 21st Century Jobs Trust Fund in P.A. 261 of 2008.
b) Assumes 5% of the $75.0 million allocated for the 21st Century Jobs Trust Fund under Senate Bill 1224.
c) Allocation reflects Michigan Strategic Fund board action on April 23, 2008.
d) The leadership target agreement of FY 2008-09 requires the remaining $10 million appropriated in Senate Bill 1223 to be deposited into the General Fund.

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