

SUBSTITUTE FOR
HOUSE BILL NO. 5375

A bill to authorize the creation of promise zones and implementation of promise zone development plans; to provide for the creation of promise zone authorities; to prescribe the powers and duties of promise zone authorities; to provide for the capture and disbursement of certain tax revenue; and to prescribe powers and duties of certain state and local officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan promise zone act".

3 Sec. 3. As used in this act:

4 (a) "Authority" means a promise zone authority created under
5 this act.

6 (b) "Board" means the governing body of an authority.

1 (c) "Eligible entity" means a city, township, county, local
2 school district, or intermediate school district, in which the
3 percentage of families with children under age 18 that are living
4 at or below the federal poverty level is greater than or equal to
5 the state average of families with children under age 18 living at
6 or below the federal poverty level, as determined by the department
7 of treasury.

8 (d) "Federal poverty level" means the poverty guidelines
9 published annually in the federal register by the United States
10 department of health and human services under its authority to
11 revise the poverty line under section 673(2) of subtitle B of title
12 VI of the omnibus budget reconciliation act of 1981, Public Law 97-
13 35, 42 USC 9902.

14 (e) "Governing body" means the elected body of an eligible
15 entity having legislative powers.

16 (f) "Nonpublic high school" means a high school operated by a
17 nonpublic school that includes grades 9 to 12 or 10 to 12 and that
18 awards a high school diploma. Nonpublic high school also includes a
19 general education development test.

20 (g) "Nonpublic school" means that term as defined in section 5
21 of the revised school code, 1976 PA 451, MCL 380.5.

22 (h) "Promise of financial assistance" means a commitment by an
23 eligible entity to provide financial resources for postsecondary
24 education to eligible students living in a promise zone and who
25 have graduated from a public high school or nonpublic high school
26 located within that promise zone.

27 (i) "Promise zone" means that area created by a governing body

1 under this act.

2 (j) "Promise zone development plan" means that plan developed
3 by an authority under this act that will ensure that the financial
4 resources are available to adequately fund the promise of financial
5 assistance.

6 (k) "Public high school" means a public school that includes
7 grades 9 to 12 or 10 to 12 and that awards a high school diploma.

8 (l) "Public school" means that term as defined in section 5 of
9 the revised school code, 1976 PA 451, MCL 380.5.

10 (m) "School district" means that term as defined in the
11 revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

12 (n) "State education tax" means the tax levied under the state
13 education tax act, 1993 PA 331, MCL 211.901 to 211.906.

14 Sec. 5. (1) If a governing body determines that it is
15 necessary for the best interests of the public to promote access to
16 postsecondary education, the governing body may, by resolution,
17 declare its intention to establish a promise zone.

18 (2) The governing body shall set a date for a public hearing
19 on the adoption of a proposed resolution establishing the promise
20 zone. Notice of the public hearing shall be published twice in a
21 newspaper of general circulation in the eligible entity, not less
22 than 20 or more than 40 days before the date of the hearing. Notice
23 of the hearing shall be posted in at least 20 conspicuous and
24 public places in the eligible entity not less than 20 days before
25 the hearing. The notice shall state the date, time, and place of
26 the hearing and shall describe the proposed promise zone, the
27 details of the promise of financial assistance, and the criteria

1 for eligibility to receive that financial assistance.

2 (3) Not less than 30 days after the public hearing, if the
3 governing body of the eligible entity intends to proceed with the
4 establishment of the promise zone, it shall submit an application
5 to the department of treasury seeking approval to establish a
6 promise zone.

7 (4) The department of treasury shall review the application
8 submitted under subsection (3) and shall certify that the governing
9 body of the eligible entity is eligible to establish a promise zone
10 under this act.

11 (5) If the department of treasury certifies that the governing
12 body of the eligible entity is eligible to create a promise zone,
13 the governing body shall, by resolution, establish a promise zone.

14 (6) Not more than 90 days after the governing body approves a
15 resolution to establish a promise zone, a local school district may
16 by resolution elect not to participate in the establishment of a
17 promise zone by the governing body of the eligible entity in which
18 the local school district is located. The resolution shall include
19 a provision that the local school district will establish a
20 separate promise zone under this act. If the local school district
21 does not establish a promise zone within a reasonable period of
22 time, the department of treasury may include that local school
23 district in the promise zone established by the eligible entity in
24 which the local school district is located.

25 Sec. 7. (1) If the department of treasury certifies the
26 eligibility of a governing body to establish a promise zone and the
27 governing body, by resolution, establishes a promise zone under

1 section 5, the governing body shall, by resolution, create a
2 promise zone authority.

3 (2) An authority is a public body corporate that may sue and
4 be sued in any court of this state. An authority possesses all the
5 powers necessary to carry out its purpose. The enumeration of a
6 power in this act shall not be construed as a limitation upon the
7 general powers of an authority.

8 (3) An authority shall be under the supervision and control of
9 a board consisting of 11 members appointed by the chief executive
10 officer of the eligible entity with the advice and consent of the
11 governing body. Not more than 5 members shall be government
12 officials. Of the members first appointed, an equal number of the
13 members, as near as is practicable, shall be appointed for 1 year,
14 2 years, 3 years, and 4 years. A member shall hold office until the
15 member's successor is appointed. After the initial appointment,
16 each member shall serve for a term of 4 years. An appointment to
17 fill a vacancy shall be made by the chief executive officer of the
18 eligible entity for the unexpired term only. Members of the board
19 shall serve without compensation, but may be reimbursed for actual
20 and necessary expenses. The chairperson of the board shall be
21 elected by the board. As used in this subsection, for a local
22 school district or an intermediate school district, "chief
23 executive officer" means the superintendent of the local school
24 district or intermediate school district.

25 (4) Before assuming the duties of office, a member shall
26 qualify by taking and subscribing to the constitutional oath of
27 office.

1 (5) The proceedings and rules of the board are subject to the
2 open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board
3 shall adopt rules governing its procedure and the holding of
4 regular meetings, subject to the approval of the governing body.
5 Special meetings may be held if called in the manner provided in
6 the rules of the board.

7 (6) After having been given notice and an opportunity to be
8 heard, a member of the board may be removed for cause by the
9 governing body.

10 (7) A writing prepared, owned, used, in the possession of, or
11 retained by the board in the performance of an official function is
12 subject to the freedom of information act, 1976 PA 442, MCL 15.231
13 to 15.246.

14 Sec. 9. (1) A promise zone authority created under section 7
15 shall prepare a promise zone development plan.

16 (2) The promise zone development plan shall include, but is
17 not limited to, all of the following:

18 (a) A complete description of the proposed promise of
19 financial assistance. The proposed promise of financial assistance
20 shall include, but is not limited to, a promise of financial
21 assistance to all students residing within the promise zone and who
22 graduate from a public high school or nonpublic high school located
23 within that promise zone. The proposed promise of financial
24 assistance shall, at a minimum, provide funding sufficient to
25 provide an eligible student the tuition necessary to obtain a
26 bachelor's degree or its equivalent at a public postsecondary
27 institution in this state or combination of public postsecondary

1 institutions in this state, subject to any limitations authorized
2 under this section. The proposed promise of financial assistance
3 may also authorize the expenditure of funds for educational
4 improvement activities designed to increase readiness for
5 postsecondary education at public schools located in the promise
6 zone.

7 (b) A complete description of any limitation on the promise of
8 financial assistance; if the promise of financial assistance will
9 be prorated based on the number of years the student has resided
10 within the promise zone; if the promise of financial assistance
11 will be restricted to students who have resided within or attended
12 a public high school or nonpublic high school within the promise
13 zone for a minimum number of years; if the promise of financial
14 assistance is predicated on the student maintaining a minimum
15 college grade point average and carrying a minimum college credit
16 hour classload; or if the promise of financial assistance is
17 restricted to attendance at 1 or more institutions of postsecondary
18 education in this state.

19 (c) Whether graduates of a public high school or nonpublic
20 high school will be required to exhaust all other available
21 publicly funded scholarships before receiving financial assistance
22 under this act. As used in this subdivision, "other available
23 publicly funded scholarships" includes any institutional aid from a
24 postsecondary institution in this state and grants for
25 postsecondary education provided by a federal, state, or local
26 governmental entity, but does not include loans.

27 (d) How the funds necessary to accomplish the promise of

1 financial assistance will be raised. Any amount received under the
2 state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772,
3 shall not be included as a method of raising the necessary funds.
4 The promise zone development plan shall be financed from 1 or more
5 of the following sources:

6 (i) Donations.

7 (ii) Revenues.

8 (iii) Money obtained from other sources approved by the
9 governing body or otherwise authorized by law.

10 (e) An actuarial model of how much the proposed plan is
11 estimated to cost, based on actuarial formulas developed by the
12 department of treasury.

13 (3) The proposed promise of financial assistance under
14 subsection (2) shall not include funding for attendance at a
15 postsecondary institution not located in this state.

16 (4) The board shall submit the promise zone development plan
17 to the department of treasury promptly after its adoption. The
18 promise zone development plan shall be published at least once in a
19 newspaper of general circulation in the eligible entity.

20 (5) The department of treasury shall review the promise zone
21 development plan submitted under subsection (4) and shall certify
22 that the proposed promise zone development plan meets all
23 requirements under this act and is sustainable.

24 (6) The department of treasury shall review any proposed
25 amendments to a promise zone development plan and certify that any
26 proposed amendments meet all requirements under this act.

27 Sec. 11. The establishment of a promise zone or a promise zone

1 development plan does not create a cause of action in law or in
2 equity against this state, an eligible entity, or a promise zone
3 authority, if the proposed promise of financial assistance set
4 forth in the promise zone development plan is not paid to an
5 eligible student.

6 Sec. 13. (1) The board may employ and fix the compensation of
7 a director. The director shall serve at the pleasure of the board.
8 A member of the board is not eligible to hold the position of
9 director. Before beginning his or her duties, the director shall
10 take and subscribe to the constitutional oath and furnish bond by
11 posting a bond in the sum determined in the resolution establishing
12 the authority payable to the authority for use and benefit of the
13 authority, approved by the board, and filed with the clerk of the
14 eligible entity. The premium on the bond shall be considered an
15 operating expense of the authority, payable from funds available to
16 the authority for expenses of operation. The director shall be the
17 chief executive officer of the authority.

18 (2) Subject to the approval of the board, the director shall
19 supervise and be responsible for implementing the promise zone
20 development plan and the performance of the functions of the
21 authority in the manner authorized by this act. The director shall
22 attend the meetings of the board and shall provide to the board,
23 the governing body, and the chief executive officer of the eligible
24 entity a regular report covering the activities and financial
25 condition of the authority. If the director is absent or disabled,
26 the board may designate a qualified person as acting director to
27 perform the duties of the office. Before beginning his or her

1 duties, the acting director shall take and subscribe to the oath,
2 and furnish bond, as required of the director. The director shall
3 furnish the board with information or reports governing the
4 operation of the authority as the board requires.

5 (3) The board may employ and fix the compensation of a
6 treasurer, who shall keep the financial records of the authority
7 and who, together with the director, shall approve all vouchers for
8 the expenditure of funds of the authority. The treasurer shall
9 perform all duties delegated to him or her by the board and shall
10 furnish a bond in an amount prescribed by the board.

11 (4) The board may employ and fix the compensation of a
12 secretary, who shall maintain custody of the official seal and of
13 records, books, documents, or other papers not required to be
14 maintained by the treasurer. The secretary shall attend meetings of
15 the board and keep a record of its proceedings and shall perform
16 other duties delegated by the board.

17 (5) The board may retain legal counsel to advise the board in
18 the proper performance of its duties.

19 (6) The board may employ other personnel considered necessary
20 by the board.

21 (7) Money received by the authority shall immediately be
22 deposited to the credit of the authority, subject to disbursement
23 under this act.

24 (8) The authority shall not expend more than 5% of the money
25 received for administrative costs.

26 Sec. 15. The board may do any of the following:

27 (a) Prepare an analysis of the postsecondary educational

1 opportunities for the residents of the promise zone.

2 (b) Study and analyze the need for financial resources to
3 provide postsecondary educational opportunities for residents of
4 the promise zone.

5 (c) Acquire by purchase or otherwise, on terms and conditions
6 and in a manner the authority considers proper, or own, convey, or
7 otherwise dispose of, or lease as lessor or lessee, land and other
8 property, real or personal, or rights or interests in the property,
9 that the authority determines is reasonably necessary to achieve
10 the purposes of this act, and grant or acquire licenses, easements,
11 and options.

12 (d) Fix, charge, and collect fees, rents, and charges for the
13 use of any facility, building, or property under its control or any
14 part of the facility, building, or property.

15 (e) Lease, in whole or in part, any facility, building, or
16 property under its control.

17 (f) Solicit and accept grants and donations of money,
18 property, labor, or other things of value from a public or private
19 source.

20 Sec. 17. The director of the authority shall submit a budget
21 to the board for the operation of the authority for each fiscal
22 year before the beginning of the fiscal year. The budget shall be
23 prepared in the manner and contain the information required of
24 municipal departments. After review by the board, the budget shall
25 be submitted to the governing body. The governing body must approve
26 the budget before the board may adopt the budget. Unless authorized
27 by the governing body, funds of the eligible entity shall not be

1 included in the budget of the authority.

2 Sec. 19. (1) The authority shall determine the base year for
3 calculating the amount of incremental growth for the capture of the
4 state education tax as provided in this section. The base year is
5 the amount of revenue received from the collection of the state
6 education tax in the promise zone in the year immediately preceding
7 the year in which an authority makes its initial tuition payment in
8 accordance with the promise of financial assistance or the amount
9 of revenue received from the collection of the state education tax
10 in the promise zone in any 1 of the 3 immediately succeeding years,
11 whichever is less.

12 (2) If the authority continues to make annual payments in
13 accordance with the promise of financial assistance, in the year
14 immediately succeeding the base year determined in subsection (1)
15 and each year thereafter, this state shall capture 1/2 of the
16 increase in revenue, if any, from the collection of the state
17 education tax. This state shall not capture any revenue from the
18 collection of the state education tax under this act if that
19 revenue is subject to capture under any other law of this state.
20 Proceeds from the capture of the state education tax under this
21 section shall be deposited in the state treasury and credited to a
22 restricted fund to be used solely for the purposes of this act.

23 (3) If the authority continues to make annual tuition payments
24 in accordance with the promise of financial assistance, 2 years
25 after the authority's initial payment of financial assistance and
26 each year thereafter, this state shall pay to the authority the
27 state education tax captured under subsection (2). If the

1 boundaries of 2 or more promise zones created under this act
2 overlap, payments under this section shall only be made to the
3 first authority eligible for payment under this subsection.

4 (4) If at any time the authority does not make annual tuition
5 payments in accordance with the promise for financial assistance,
6 any amount captured from that promise zone in the restricted fund
7 created under subsection (2) shall be paid into the school aid fund
8 established in section 11 of article IX of the state constitution
9 of 1963.

10 (5) For purposes of this section, payments under this section
11 shall not be included in determining payments for financial
12 assistance in the immediately preceding year.

13 Sec. 21. (1) The department of treasury shall oversee the
14 operations of any promise zone authority or board created under
15 this act. If the department of treasury determines that the actions
16 of a promise zone authority or board are not in accordance with the
17 promise zone development plan, the department of treasury may
18 assume operational control of that promise zone authority or board.

19 (2) An authority that has completed the purposes for which it
20 was organized shall be dissolved by resolution of the governing
21 body. The property and assets of the authority remaining after the
22 satisfaction of the obligations of the authority belong to the
23 eligible entity.

24 Sec. 23. (1) A city, township, county, local school district,
25 or intermediate school district that is not an eligible entity may
26 create a promise zone under this act, but shall not capture revenue
27 from the state education tax under section 19.

1 (2) This section shall not prevent an eligible entity located
2 within a city, township, county, local school district, or
3 intermediate school district that is not an eligible entity from
4 creating a promise zone under this act and capturing revenue from
5 the state education tax under section 19.