

**SUBSTITUTE FOR
SENATE BILL NO. 861**

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; to prescribe powers and duties of certain state and local officials; and to repeal acts and parts of acts.

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

1 this act.

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

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

10 (d) "Federal poverty level" means the poverty guidelines
11 published annually in the federal register by the United States
12 department of health and human services under its authority to
13 revise the poverty line under section 673(2) of subtitle B of title
14 VI of the omnibus budget reconciliation act of 1981, Public Law 97-
15 35, 42 USC 9902.

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

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

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

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

1 nonpublic high school located within that promise zone.

2 (i) "Promise zone" means that area created by a governing body
3 under this act.

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

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

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

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

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

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

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

1 the hearing and shall describe the proposed promise zone, the
2 details of the promise of financial assistance, and the criteria
3 for eligibility to receive that financial assistance.

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

9 (4) The department of treasury shall review the application
10 submitted under subsection (3) and shall certify that the governing
11 body of the eligible entity is eligible to establish a promise zone
12 under this act. The department of treasury shall not certify more
13 than 10 governing bodies of eligible entities as eligible to
14 establish a promise zone under this act.

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

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

1 which the local school district is located.

2 Sec. 7. (1) If the department of treasury certifies the
3 eligibility of a governing body to establish a promise zone and the
4 governing body, by resolution, establishes a promise zone under
5 section 5, the governing body shall, by resolution, create a
6 promise zone authority.

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

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

1 district, "chief executive officer" means the superintendent of the
2 local school district or intermediate school district.

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

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

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

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

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

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

23 (a) A complete description of the proposed promise of
24 financial assistance. The proposed promise of financial assistance
25 shall include, but is not limited to, a promise of financial
26 assistance to all students residing within the promise zone and who
27 graduate from a public high school or nonpublic high school located

1 within that promise zone. The proposed promise of financial
2 assistance shall meet but not exceed funding sufficient to provide
3 an eligible student the tuition necessary to obtain an associate's
4 degree or its equivalent at a community or junior college in this
5 state or combination of community or junior colleges in this state,
6 subject to any limitations authorized under this section. The
7 proposed promise of financial assistance may also authorize the
8 expenditure of funds for educational improvement activities
9 designed to increase readiness for postsecondary education at
10 public schools located in the promise zone.

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

23 (c) A requirement that graduates of a public high school or
24 nonpublic high school exhaust all other available publicly funded
25 scholarships before receiving financial assistance under this act.
26 As used in this subdivision, "other available publicly funded
27 scholarships" includes any institutional aid from a community or

1 junior college in this state and grants for postsecondary education
2 provided by a federal, state, or local governmental entity, but
3 does not include loans.

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

10 (i) Donations.

11 (ii) Revenues.

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

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

17 (3) The proposed promise of financial assistance under
18 subsection (2) shall not include funding for attendance at a public
19 or private postsecondary institution not located in this state.

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

24 (5) The department of treasury shall review the promise zone
25 development plan submitted under subsection (4) and shall certify
26 that the proposed promise zone development plan meets all
27 requirements under this act and is sustainable.

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

4 Sec. 11. The establishment of a promise zone or a promise zone
5 development plan does not create a cause of action in law or in
6 equity against this state, an eligible entity, or a promise zone
7 authority, if the proposed promise of financial assistance set
8 forth in the promise zone development plan is not paid to an
9 eligible student.

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

22 (2) Subject to the approval of the board, the director shall
23 supervise and be responsible for implementing the promise zone
24 development plan and the performance of the functions of the
25 authority in the manner authorized by this act. The director shall
26 attend the meetings of the board and shall provide to the board,
27 the governing body, and the chief executive officer of the eligible

1 entity a regular report covering the activities and financial
2 condition of the authority. If the director is absent or disabled,
3 the board may designate a qualified person as acting director to
4 perform the duties of the office. Before beginning his or her
5 duties, the acting director shall take and subscribe to the oath,
6 and furnish bond, as required of the director. The director shall
7 furnish the board with information or reports governing the
8 operation of the authority as the board requires.

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

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

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

23 (6) The board may employ other personnel considered necessary
24 by the board.

25 (7) Money received by the authority shall immediately be
26 deposited to the credit of the authority, subject to disbursement
27 under this act.

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

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

4 (a) Prepare an analysis of the postsecondary educational
5 opportunities for the residents of the promise zone.

6 (b) Study and analyze the need for financial resources to
7 provide postsecondary educational opportunities for residents of
8 the promise zone.

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

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

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

21 (f) Solicit and accept grants and donations of money,
22 property, labor, or other things of value from a public or private
23 source.

24 Sec. 17. The director of the authority shall submit a budget
25 to the board for the operation of the authority for each fiscal
26 year before the beginning of the fiscal year. The budget shall be
27 prepared in the manner and contain the information required of

1 municipal departments. After review by the board, the budget shall
2 be submitted to the governing body. The governing body must approve
3 the budget before the board may adopt the budget. Unless authorized
4 by the governing body, funds of the eligible entity shall not be
5 included in the budget of the authority.

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

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

27 (3) If the authority continues to make annual tuition payments

1 in accordance with the promise of financial assistance, 2 years
2 after the authority's initial payment of financial assistance and
3 each year thereafter, this state shall pay to the authority the
4 state education tax captured under subsection (2). If the
5 boundaries of 2 or more promise zones created under this act
6 overlap, payments under this section shall only be made to the
7 first authority eligible for payment under this subsection.

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

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

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

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

Senate Bill No. 861 as amended December 10, 2008

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

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

10 Enacting section 1. Enacting section 1 of 2008 PA 1 is
11 repealed.

<<Enacting section 2. This amendatory act does not take effect
unless House Bill No. 5375 of the 94th Legislature is enacted into law.>>