

# HOUSE BILL No. 5346

September 10, 2009, Introduced by Reps. Geiss, Polidori, Constan, Kandrevas, Walsh, Leland, Byrnes, Johnson, Jackson, LeBlanc, Bledsoe and Angerer and referred to the Committee on Transportation.

A bill to encourage the creation of next Michigan development corporations by interlocal agreement and to prescribe their powers and duties; to foster economic opportunities in this state and prevent conditions of unemployment and underemployment and to promote economic growth; to provide for the designation of next Michigan development districts and next Michigan development businesses; and to prescribe the powers and duties of certain state and local departments, entities, and officials.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

3           Sec. 2. The legislature of this state finds and declares that  
4 there exists in this state the continuing need for programs to  
5 encourage economic development and investment, job creation and job

1 retention, and ancillary economic growth in this state. To achieve  
2 these purposes, it is necessary to assist and encourage the  
3 creation and implementation of intergovernmental development  
4 corporations and to enable those corporations to foster economic  
5 opportunities in this state, prevent conditions of unemployment and  
6 underemployment, and promote economic growth.

7 Sec. 3. As used in this act:

8 (a) "Eligible act 7 entity" means a separate legal and  
9 administrative entity formed by interlocal agreement under the  
10 urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to  
11 124.512, among 2 or more local governmental units, at least 1 of  
12 which shall be a county, for the purpose of jointly exercising  
13 economic development powers and attracting business.

14 (b) "Eligible business" means that term as defined in section  
15 3 of the Michigan economic growth authority act, 1995 PA 24, MCL  
16 207.803.

17 (c) "Local governmental unit" means a county, city, village,  
18 township, or charter township.

19 (d) "Next Michigan development corporation" means an eligible  
20 act 7 entity that meets the requirements of section 4 of this act  
21 and has been so designated by the board of the Michigan strategic  
22 fund.

23 (e) "Michigan strategic fund" means the Michigan strategic  
24 fund as described in the Michigan strategic fund act, 1984 PA 270,  
25 MCL 125.2001 to 125.2094.

26 (f) "Next Michigan development district" or "district" means  
27 the territory of a next Michigan development corporation.

1           Sec. 4. (1) An eligible act 7 entity may apply to the board of  
2 the Michigan strategic fund for designation as a next Michigan  
3 development corporation under this act.

4           (2) The territory of a next Michigan development corporation  
5 shall be composed of the area within the boundaries of the cities,  
6 villages, and townships which are parties to the interlocal  
7 agreement, as the same may be amended to add or remove parties from  
8 time to time. The interlocal agreement may include a division of  
9 rights, responsibilities, and duties between and among the local  
10 government unit parties as may be determined appropriate by the  
11 local government unit parties to implement the purposes of this act  
12 and otherwise shall conform to law.

13           (3) The application for next Michigan development corporation  
14 status under this act shall be accompanied by a copy of the  
15 interlocal agreement creating the eligible act 7 entity and the  
16 approval of the governor of the interlocal agreement pursuant to  
17 section 10 of the urban cooperation act of 1967, 1967 (Ex Sess) PA  
18 7, MCL 124.510.

19           Sec. 5. (1) The board of the Michigan strategic fund, upon the  
20 filing of an application under section 4 of this act, may designate  
21 the applicant as a next Michigan development corporation. No more  
22 than 10 next Michigan development corporations may be designated in  
23 this state. The president of the Michigan strategic fund shall  
24 develop the form of application for designation as a next Michigan  
25 development corporation within 90 days of the effective date of  
26 this act provided that an application from an eligible act 7 entity  
27 which otherwise meets the requirements of this act may be filed

1 with the board of the Michigan strategic fund prior to the  
2 promulgation of the application form, and any such application  
3 shall be considered by the board of the Michigan strategic fund  
4 under subsections (2) and (3).

5 (2) The board of the Michigan strategic fund shall apply the  
6 following criteria in determining to designate a next Michigan  
7 development corporation:

8 (a) The nominal level of unemployed workers within an  
9 applicant's county parties as publicly reported by the state  
10 department of energy, labor, and economic growth as of the month  
11 preceding the filing of the application on an adjusted or  
12 unadjusted basis, whichever is greater.

13 (b) The number of local governmental unit parties to the  
14 applicant's interlocal agreement.

15 (c) Whether the application demonstrates evidence of  
16 significant job creation potential of a regional or state asset,  
17 enterprise, facility, or obsolete facility within the territory of  
18 the applicant, as documented by a comprehensive business plan and a  
19 third-party study or studies quantifying the job creation  
20 potential, and the degree of the job creation potential.

21 (d) Whether the application is supported by public and private  
22 commitment and the degree of the commitment.

23 (3) The board of the Michigan strategic fund shall grant or  
24 deny designation to an applicant within 40 days of receipt of the  
25 application. If the board of the Michigan strategic fund does not  
26 grant or deny the designation within 40 days of receipt of the  
27 application, the application shall be considered approved. If the

1 application is denied, the board shall provide the applicant with  
2 the specific reasons for the denial by reference to the criteria  
3 set forth in subsection (2). An eligible act 7 entity may amend the  
4 application to take into account the reasons for the denial and  
5 thereafter may resubmit the application to the board of the  
6 Michigan strategic fund.

7       Sec. 6. (1) A next Michigan development corporation shall seek  
8 to attract eligible businesses to its next Michigan development  
9 district and may exercise all of the powers, privileges, and  
10 responsibilities granted to it under state law, including, but not  
11 limited to, the powers, privileges, and responsibilities granted in  
12 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
13 125.2696, the local development financing act, 1986 PA 281, MCL  
14 125.2151 to 125.2174, section 9f of the general property tax act,  
15 1893 PA 206, MCL 211.9f, 1974 PA 198, MCL 207.551 to 207.572, and  
16 other relevant law as the same may be amended from time to time.

17       (2) The Michigan economic development corporation shall market  
18 the next Michigan development corporations.

19       Sec. 7. (1) The business of a next Michigan development  
20 corporation shall be conducted at public meetings held in  
21 compliance with the open meetings act, 1976 PA 267, MCL 15.261 to  
22 15.275. Public notice of the time, date, and place of a meeting  
23 shall be given as provided by the open meetings act, 1976 PA 267,  
24 MCL 15.261 to 15.275.

25       (2) Except as expressly provided otherwise in this section, a  
26 writing prepared, owned, used, in the possession of, or retained by  
27 the next Michigan development corporation in the performance of an

1 official function shall be a public record and shall be made  
2 available to the public in compliance with the freedom of  
3 information act, 1976 PA 442, MCL 15.231 to 15.246. A record or  
4 portion of a record, material, or other data received, prepared,  
5 used, or retained by the next Michigan development corporation in  
6 connection with an application by an eligible business for  
7 renaissance zone status or other tax or development incentive that  
8 relates to financial or proprietary information or site selection  
9 where more than 1 site is under consideration submitted by the  
10 eligible business applicant that is considered by the applicant and  
11 acknowledged by the next Michigan development corporation as  
12 confidential shall not be subject to the disclosure requirements of  
13 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.  
14 A designee of the next Michigan development corporation shall make  
15 the determination as to whether the next Michigan development  
16 corporation acknowledges as confidential any financial or  
17 proprietary information submitted by the eligible business  
18 applicant and considered by the applicant as confidential. Unless  
19 considered proprietary information, the next Michigan development  
20 corporation shall not acknowledge routine financial information as  
21 confidential. If the designee of the next Michigan development  
22 corporation determines that information submitted to the next  
23 Michigan development corporation is financial or proprietary  
24 information and is confidential, the designee of the next Michigan  
25 development corporation shall prepare a written statement, subject  
26 to disclosure under the freedom of information act, 1976 PA 442,  
27 MCL 15.231 to 15.246, which states all of the following:

1 (a) That the information submitted was determined by the  
2 designee of the next Michigan development corporation to be  
3 confidential as financial or proprietary information or site  
4 selection information.

5 (b) A broad nonspecific overview of the financial or  
6 proprietary information determined to be confidential.

7 (3) The next Michigan development corporation shall not  
8 disclose financial or proprietary information or site selection  
9 information not subject to disclosure pursuant to subsection (2)  
10 without the consent of the eligible business applicant, in the  
11 applicant's judgment, submitting the information.

12 (4) As used in this section, "financial or proprietary  
13 information" means information that has not been publicly  
14 disseminated or is unavailable from other sources, the release of  
15 which might cause the eligible business applicant, in the  
16 applicant's judgment, material competitive harm. Financial or  
17 proprietary information does not include a written agreement under  
18 the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to  
19 125.2696.

20 Sec. 8. In the event that a next Michigan development  
21 corporation dissolves or is terminated, all incentives previously  
22 granted by the next Michigan development corporation, shall be  
23 unaffected by the dissolution and shall remain valid and in full  
24 force and effect in accordance with their respective terms.  
25 Incentives previously granted by the next Michigan development  
26 corporation shall be administered by the city, village, township,  
27 or charter township in which the eligible business to which the

1 incentives were granted is located unless otherwise provided in the  
2 interlocal agreement.

3       Sec. 9. This act shall be construed liberally to effectuate  
4 the legislative intent and purposes of this act as found and stated  
5 in section 2 of this act. This act constitutes complete and  
6 independent authority for the performance of each and every act and  
7 thing authorized by this act, and all powers granted by this act  
8 shall be broadly interpreted to include any power reasonable and  
9 convenient to effectuate the intent and purposes of this act, and  
10 the language used in this act shall be read as grants of authority  
11 and not as limitations of powers to those expressed or necessarily  
12 implied.