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BILL ANALYSIS

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House Bill 5477 (Substitute H-1 as passed by the House)
Sponsor: Representative Wayne Schmidt
House Committee: Commerce
Senate Committee: Economic Development

Date Completed: 5-23-12

CONTENT

The bill would amend Chapter 8A (21st Century Investment Programs and Activities) of the Michigan Strategic Fund Act to do the following:

- **Allow the Michigan Strategic Fund (MSF) to create and operate a Center of Innovation Program to promote competitive edge technology sectors, rather than a Centers of Energy Excellence Program to promote the development, acceleration, and sustainability of energy excellence sectors.**
- **Allow grants, loans, or other economic assistance under the Innovation Program to be awarded to for-profit companies, benefit companies, nonprofit companies, universities, and national laboratories.**
- **Require funds provided for the Innovation Program to be used to match Federal, collaborative partner, or third-party funding.**
- **Allow up to 25% of any grant, loan, or other economic assistance for the Innovation Program to be used for administrative costs or overhead.**
- **Require an Innovation Program agreement with the MSF to include negotiation of payback provisions for failure to meet contract performance requirements.**
- **Require the MSF to establish the Michigan Micro-Enterprise Loan Program as a separate and distinct part of the loan enhancement program under Chapter 8A.**
- **Require the Venture Capital Investment Program under Chapter 8A to track actual return on investment performance comparisons between venture capital investment and commercial loan enhancement investments.**
- **Limit overhead rates, administrative fees, and management fees for recipients of Venture Capital Investment Program awards to 25% of the award, as determined by the MSF board.**

Center of Innovation Program

Chapter 8A allows the MSF to create and operate a Centers of Energy Excellence Program to promote the development, acceleration, and sustainability of energy excellence sectors in Michigan. The bill, instead, would allow the MSF to create and operate a Center of Innovation Program to promote the development, acceleration, and sustainability of competitive edge technology sectors in the State.

Chapter 8A defines "competitive edge technology" as one or more of the following:

- Life sciences technology.

-- Advanced automotive, manufacturing, materials, information, and agricultural processing technology.
-- Homeland security and defense technology.
-- Alternative energy technology.
-- Any other innovative technology as determined by the MSF board.

Currently, grants given for the Centers of Energy Excellence Program may be awarded only to for-profit companies for certain purposes. Under the bill, grants, loans, or other economic assistance given for the Center of Innovation Program could be awarded to for-profit companies, benefit companies, nonprofit companies, universities, and national laboratories.

One of the purposes for which Centers of Energy Excellence grants may be used is to make awards providing up to a one-for-one match for Federal funding of up to 50% of the total project costs. For the Center of Innovation Program, the bill would allow awards providing up to a one-for-one match for Federal, collaborative partners, or third-party funding of up to 50% of the total project costs.

Centers of Energy Excellence awards also may be made for the purpose of accelerating the commercialization of an innovative energy technology or process that will be ready to market within three years of the effective date of the agreement. The bill would refer to accelerating the commercialization of an innovative technology or process that would be ready to market within five years of the effective date of the agreement.

Chapter 8A requires that all of the funds allocated to the Centers of Energy Excellence Program be used to match Federal funding. The bill would require all of the funds allocated to the Center of Innovation Program to be used to match Federal, collaborative partners, or third-party funding.

The MSF board may authorize investment terms in qualified entities as part of any agreement with one or more qualified entities for the operation of a Center of Energy Excellence. Not more than 15% of any grant awarded may be used for administrative costs or overhead by the grantee or any subcontractor hired to implement any portion of the Centers for Energy Excellence agreement. The bill instead would allow up to 25% of any grant, loan, or other economic assistance, as determined by the MSF board, to be used for administrative costs or overhead by the awardee or any subcontractor hired to implement any portion of the Center of Innovation agreement.

Chapter 8A requires an MSF agreement with one or more entities for the operation of a Center of Energy Excellence to include a provision for repayment of grants from the MSF in the event a qualified entity fails to comply with the agreement. For entities operating a Center of Innovation, the bill would require the agreement with the MSF to include negotiation of specific claw back and repayment provisions if performance to contract related to job creation, commercialization, or other metrics did not comply with the agreement. This provision would have to be part of the public record and would be subject to the Freedom of Information Act.

Michigan Micro-Enterprise Loan Program

Chapter 8A requires the MSF to create and operate a loan enhancement program. The bill would require the MSF to operate the Michigan Micro-Enterprise Loan Program, as a separate and distinct part of the loan enhancement program. The proposed program would have to invest in or make loans to qualified micro-enterprise lenders.

"Qualified micro-enterprise lender" would mean an organization that currently administers a successful micro-enterprise loan program, making micro-enterprise loans to qualified micro-enterprise businesses, as determined by the MSF.

The MSF would have to establish guidelines for the Michigan Micro-Enterprise Loan Program that included all of the following:

-- A provision that the person who borrowed funds from the qualified micro-enterprise lender would act as a personal guarantor, or provide a surety agreement for the loan.
-- A provision that the amount of a loan could not exceed Small Business Administration (SBA) guidelines.
-- A provision requiring a position of security on assets that were purchased through the proposed loan program.
-- A provision requiring consideration of the default rate of the qualified lender before approving loans under the loan program.
-- A provision prohibiting the qualified lender from using funds from the loan program as a match for SBA loans.
-- A provision that the qualified lender would not be eligible to receive funds under the loan program if the lender had a loan loss reserve of 15% or less for the portfolio of loans under the loan program.

Venture Capital Investment Program

Under Chapter 8A, when creating programs for 21st century investments, the MSF must create and operate the venture capital investment program. Among other responsibilities, the program must provide that the return on investment (ROI) that is sought is greater than the ROI under the commercial loan portion of the loan enhancement program to reflect the greater risk. Under the bill, the program also would have to track actual ROI performance comparison between venture capital investment and commercial loan enhancement investments on an ongoing basis in the MSF's annual report.

The bill also specifies that the MSF board could limit overhead rates for recipients of awards to reflect actual overhead, administrative fees, and management fees, to an amount the board determined, but not more than 25% of the award. Start-up costs could be reimbursed as determined by the board.

MCL 125.2088d et al. Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would establish an additional loan enhancement program that the Michigan Strategic Fund would be required to operate. The level of funding would be at the discretion of the MSF board from its available resources, which include unallocated appropriations from the 21st Century Jobs Trust Fund and the Jobs for Michigan Investment Fund, the permanent fund that receives refunds from 21st Century loans and investments and revenue from one Indian gaming compact.

The percentage of funds that recipients could use for administrative costs or overhead would increase from 15% under the Centers for Energy Excellence Program (which would be eliminated by the bill) to 25% under the proposed Centers for Innovation Program.

Fiscal Analyst: Elizabeth Pratt

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