

SENATE BILL No. 272

March 19, 2013, Introduced by Senator KOWALL and referred to the Committee on Economic Development.

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending sections 4 and 23 (MCL 125.2004 and 125.2023), section 4 as amended by 2012 PA 145 and section 23 as amended by 2009 PA 85, and by adding section 7b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. As used in this act:

2 (a) "Board" means the board of directors of the Michigan
3 strategic fund, except where the context clearly requires a
4 different definition.

5 (b) "Economic development project" means an endeavor related
6 to industrial, commercial, or agricultural enterprise. Economic
7 development project includes, but is not limited to, a theme or
8 recreation park; agricultural or forestry production, harvesting,
9 storage, or processing facilities or equipment; **PORT FACILITIES;**

1 and the use of equipment or facilities designed to produce energy
2 from renewable resources. Economic development project does not
3 include that portion of an endeavor devoted to the sale of goods at
4 retail, except that, as used in relation to the fund insuring a
5 transaction entered into by a depository institution, and as used
6 in relation to a loan by the fund to a minority owned business, an
7 economic development project may include that portion of an
8 endeavor devoted to the sale of goods at retail. Economic
9 development project does not include that portion of an endeavor
10 devoted to housing or a program or activity authorized under
11 chapter 8A.

12 (c) "Financial institution" means a state or nationally
13 chartered bank or a state or federally chartered savings and loan
14 association, savings bank, or credit union whose deposits are
15 insured by an agency of the United States government and that
16 maintains a principal office or branch office in this state under
17 the laws of this state or the United States.

18 (d) "Fund" means the Michigan strategic fund created under
19 section 5, except where the context clearly requires a different
20 definition.

21 (e) "Green chemistry" means chemistry and chemical engineering
22 to design chemical products or processes that reduce or eliminate
23 the use or generation of hazardous substances, while producing
24 high-quality products through safe and efficient manufacturing
25 processes. Green chemistry is guided by the following 12
26 principles:

27 (i) Prevent waste: Design chemical syntheses to prevent waste,

1 leaving no waste to treat or clean up.

2 (ii) Design safer chemicals and products: Design chemical
3 products to be fully effective, yet have little or no toxicity.

4 (iii) Design less hazardous chemical syntheses: Design syntheses
5 to use and generate substances with little or no toxicity to humans
6 and the environment.

7 (iv) Use renewable feedstocks: Use raw materials and feedstocks
8 that are renewable rather than depleting. Renewable feedstocks are
9 often made from agricultural products or are the wastes of other
10 processes; depleting feedstocks are made from fossil fuels,
11 including petroleum, natural gas, or coal, or are mined.

12 (v) Use catalysts, not stoichiometric reagents: Minimize waste
13 by using catalytic reactions. Catalysts are used in small amounts
14 and can carry out a single reaction many times. They are preferable
15 to stoichiometric reagents, which are used in excess and work only
16 once.

17 (vi) Avoid chemical derivatives: Avoid using blocking or
18 protecting groups or any temporary modifications if possible.
19 Derivatives use additional reagents and generate waste.

20 (vii) Maximize atom economy: Design syntheses so that the final
21 product contains the maximum proportion of the starting materials.
22 There should be few, if any, wasted atoms.

23 (viii) Use safer solvents and reaction conditions: Avoid using
24 solvents, separation agents, or other auxiliary chemicals. If these
25 chemicals are necessary, use innocuous chemicals.

26 (ix) Increase energy efficiency: Run chemical reactions at
27 ambient temperature and pressure whenever possible.

1 (x) Design chemicals and products to degrade after use: Design
2 chemical products to break down to innocuous substances after use
3 so that they do not accumulate in the environment.

4 (xi) Analyze in real-time to prevent pollution: Include in-
5 process real-time monitoring and control during syntheses to
6 minimize or eliminate the formation of by-products.

7 (xii) Minimize the potential for accidents: Design chemicals
8 and their forms, including solid, liquid, or gas, to minimize the
9 potential for chemical accidents, including explosions, fires, and
10 releases to the environment.

11 (f) "Michigan economic development corporation" or "MEDC"
12 means the Michigan economic development corporation, the public
13 body corporate created under section 28 of article VII of the state
14 constitution of 1963 and the urban cooperation act of 1967, 1967
15 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal
16 agreement effective April 5, 1999, and subsequently amended,
17 between local participating economic development corporations
18 formed under the economic development corporations act, 1974 PA
19 338, MCL 125.1601 to 125.1636, and the fund.

20 (g) "Municipality" means a county, city, village, township,
21 port district, development organization, institution of higher
22 education, community or junior college, or subdivision or
23 instrumentality of any of the legal entities listed in this
24 subdivision.

25 (h) "Person" means an individual, sole proprietorship,
26 partnership, limited partnership, limited liability partnership,
27 limited liability company, joint venture, profit or nonprofit

1 corporation including a public or private college or university,
2 public utility, municipality, local industrial development
3 corporation, economic development corporation, ~~or~~ other association
4 of persons organized for agricultural, commercial, or industrial
5 purposes, A LENDER, OR ANY OTHER ENTITY APPROVED BY THE BOARD.

6 (I) "PORT FACILITIES" MEANS SEAWALL JETTIES; PIERS; WHARVES;
7 DOCKS; BOAT LANDINGS; MARINAS; WAREHOUSES; STOREHOUSES; ELEVATORS;
8 GRAIN BINS; COLD STORAGE PLANTS; TERMINAL ICING PLANTS; BUNKERS;
9 OIL TANKS; FERRIES; CANALS; LOCKS; BRIDGES; TUNNELS; SEAWAYS;
10 CONVEYORS; MODERN APPLIANCES FOR THE ECONOMICAL HANDLING, STORAGE,
11 AND TRANSPORTATION OF FREIGHT AND HANDLING OF PASSENGER TRAFFIC;
12 TRANSFER AND TERMINAL FACILITIES REQUIRED FOR THE EFFICIENT
13 OPERATION AND DEVELOPMENT OF PORTS AND HARBORS; OTHER HARBOR
14 IMPROVEMENTS; OR IMPROVEMENTS, ENLARGEMENTS, REMODELING, OR
15 EXTENSIONS OF ANY OF THESE BUILDINGS OR STRUCTURES.

16 (J) ~~(i)~~ "Project" means an economic development project and,
17 in addition, means the acquisition, construction, reconstruction,
18 conversion, or leasing of an industrial, commercial, retail,
19 agricultural, or forestry enterprise, or any part of these, to
20 carry out the purposes and objectives of this act and of the fund,
21 including, but not limited to, acquisition of land or interest in
22 land, buildings, structures, or other planned or existing planned
23 improvements to land including leasehold improvements, machinery,
24 equipment, or furnishings which include, but are not limited to,
25 the following: research parks; office facilities; engineering
26 facilities; research and development laboratories; warehousing
27 facilities; parts distribution facilities; depots or storage

1 facilities; port facilities; railroad facilities, including
2 trackage, right of way, and appurtenances; airports; water and air
3 pollution control equipment or waste disposal facilities; theme or
4 recreational parks; equipment or facilities designed to produce
5 energy from renewable resources; farms, ranches, forests, and other
6 agricultural or forestry commodity producers; agricultural
7 harvesting, storage, transportation, or processing facilities or
8 equipment; grain elevators; shipping heads and livestock pens;
9 livestock; warehouses; wharves and dock facilities; **DREDGING OF**
10 **RECREATIONAL OR COMMERCIAL HARBORS**; water, electricity, hydro
11 electric, coal, petroleum, or natural gas provision facilities;
12 dams and irrigation facilities; sewage, liquid, and solid waste
13 collection, disposal treatment, and drainage services and
14 facilities. Project does not include a program or activity
15 authorized under chapter 8A.

16 (K) ~~(j)~~—"Private sector" means other than the fund, a state or
17 federal source, or an agency of a state or the federal government.

18 **SEC. 7B. THE BOARD SHALL ESTABLISH AN ADVISORY COMMITTEE TO**
19 **MAKE RECOMMENDATIONS TO THE BOARD REGARDING PROJECTS RELATING TO**
20 **PORT FACILITIES.**

21 Sec. 23. (1) The fund may borrow money and issue bonds or
22 notes for the following purposes:

23 (a) To provide sufficient funds for achieving the fund's
24 purposes and objectives including, but not limited to, amounts
25 necessary to pay the costs of acquiring a project or part of a
26 project; to make loans for the costs of a project or part of a
27 project; to make loans pursuant to section 7(r) for an export

1 related transaction; for making grants; for providing money to
2 guarantee or insure loans, leases, bonds, notes, or other
3 indebtedness; for making working capital loans; for all other
4 expenditures of the fund incident to and necessary or convenient to
5 carry out the fund's purposes, objectives, and powers; and for any
6 combination of the foregoing. The cost of a project may include
7 administrative costs including, but not limited to, engineering,
8 architectural, legal, and accounting fees that are necessary for
9 the project.

10 (b) To refund bonds or notes of the fund issued under this
11 act, of the job development authority issued under former 1975 PA
12 301, of the Michigan economic development authority issued under
13 former 1982 PA 70, of an economic development corporation issued
14 under the economic development corporations act, 1974 PA 338, MCL
15 125.1601 to 125.1636, or of a municipality issued under the
16 industrial development revenue bond act of 1963, 1963 PA 62, MCL
17 125.1251 to 125.1267, by the issuance of new bonds, whether or not
18 the bonds or notes to be refunded have matured or are subject to
19 prior redemption or are to be paid, redeemed, or surrendered at the
20 time of the issuance of the refunding bonds or notes; and to issue
21 bonds or notes partly to refund the bonds or notes and partly for
22 any other purpose provided for by this section.

23 (c) To pay the costs of issuance of bonds or notes under this
24 act; to pay interest on bonds or notes becoming payable prior to
25 the receipt of the first revenues available for payment of that
26 interest as determined by the board; and to establish, in full or
27 in part, a reserve for the payment of the principal and interest on

1 the bonds or notes in the amount determined by the board.

2 (2) The bonds and notes, including, but not limited to,
3 commercial paper, shall be authorized by resolution adopted by the
4 board, shall bear the date or dates, and shall mature at the time
5 or times not exceeding 50 years from the date of issuance, as the
6 resolution may provide. The bonds and notes shall bear interest at
7 the rate or rates as may be set, reset, or calculated from time to
8 time, or may bear no interest, as provided in the resolution. The
9 bonds and notes shall be in the denominations, be in the form,
10 either coupon or registered, carry the registration privileges, be
11 transferable, be executed in the manner, be payable in the medium
12 of payment, at the place or places, and be subject to the terms of
13 prior redemption at the option of the fund or the holders of the
14 bonds and notes as the resolution or resolutions may provide. The
15 bonds and notes of the fund may be sold at public or private sale
16 at the price or prices determined by the fund. For purposes of 1966
17 PA 326, MCL 438.31 to 438.33, this act and other acts applicable to
18 the fund shall regulate the rate of interest payable or charged by
19 the fund, and 1966 PA 326, MCL 438.31 to 438.33, does not apply.
20 Bonds and notes may be sold at a discount.

21 (3) Bonds or notes may be 1 or more of the following:

22 (a) Made the subject of a put or agreement to repurchase by
23 the fund or others.

24 (b) Secured by a letter of credit or by any other collateral
25 that the resolution may authorize.

26 (c) Reissued by the fund once reacquired by the fund pursuant
27 to any put or repurchase agreement.

1 (4) The fund may authorize by resolution any member of the
2 board to do 1 or more of the following:

3 (a) Sell and deliver, and receive payment for notes or bonds.

4 (b) Refund notes or bonds by the delivery of new notes or
5 bonds whether or not the notes or bonds to be refunded have
6 matured, are subject to prior redemption, or are to be paid,
7 redeemed, or surrendered at the time of the issuance of refunding
8 bonds or notes.

9 (c) Deliver notes or bonds, partly to refund notes or bonds
10 and partly for any other authorized purposes.

11 (d) Buy notes or bonds so issued at not more than the face
12 value of the notes or bonds.

13 (e) Approve interest rates or methods for fixing interest
14 rates, prices, discounts, maturities, principal amounts,
15 denominations, dates of issuance, interest payment dates,
16 redemption rights at the option of the fund or the holder, the
17 place of delivery and payment, and other matters and procedures
18 necessary to complete the transactions authorized.

19 (5) Except as may otherwise be expressly provided by the fund,
20 every issue of its notes or bonds shall be general obligations of
21 the fund payable out of revenues, properties, or money of the fund,
22 subject only to agreements with the holders of particular notes or
23 bonds pledging particular receipts, revenues, properties, or money
24 as security for the notes or bonds.

25 (6) The notes or bonds of the fund are negotiable instruments
26 within the meaning of and for all the purposes of the uniform
27 commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, subject

1 only to the provisions of the notes or bonds for registration.

2 (7) Bonds or notes issued by the fund are not subject to the
3 terms of the revised municipal finance act, 2001 PA 34, MCL
4 141.2101 to 141.2821. The bonds or notes issued by the fund are not
5 required to be registered. A filing of a bond or note of the fund
6 is not required under ~~the uniform securities act, 1964 PA 265, MCL~~
7 ~~451.501 to 451.818, or the uniform securities act (2002), 2008 PA~~
8 551, MCL 451.2101 to 451.2703.

9 (8) A resolution authorizing notes or bonds may contain any or
10 all of the following covenants, which shall be a part of the
11 contract with the holders of the notes or bonds:

12 (a) A pledge of all or a part of the fees, charges, and
13 revenues made or received by the fund, or all or a part of the
14 money received in payment of lease rentals, or loans and interest
15 on the loans, and other money received or to be received to secure
16 the payment of the notes or bonds or of an issue of the notes or
17 bonds, subject to agreements with bondholders or noteholders as may
18 then exist.

19 (b) A pledge of all or a part of the assets of the fund,
20 including leases, or notes or mortgages and obligations securing
21 the same to secure the payment of the notes or bonds or of an issue
22 of notes or bonds, subject to agreements with noteholders or
23 bondholders as may then exist.

24 (c) A pledge of a loan, grant, or contribution from the
25 federal, state, or local government, or source in aid of a project
26 as provided for in this act.

27 (d) A pledge of money directly derived from payments from the

1 heritage trust fund created by the heritage trust fund act of 1982,
2 former 1982 PA 327.

3 (e) The use and disposition of the revenues and income from
4 leases, or from loans, notes, and mortgages owned by the fund.

5 (f) The establishment and setting aside of reserves or sinking
6 funds and the regulation and disposition of reserves or sinking
7 funds subject to this act.

8 (g) Limitations on the purpose to which the proceeds of sale
9 of the notes or bonds may be applied and limitations on pledging
10 those proceeds to secure the payment of other bonds or notes.

11 (h) Authority for and limitations on the issuance of
12 additional notes or bonds for the purposes provided for in the
13 resolution and the terms upon which additional notes or bonds may
14 be issued and secured. Additional bonds pledging money derived from
15 the heritage trust fund as provided in subdivision (d) may only be
16 issued if the issuance meets the requirements of section 204 of the
17 resolution adopted by the Michigan economic development authority
18 authorizing issuance of its bonds dated December 1, 1982, and any
19 requirement of former 1982 PA 70, provided that these requirements
20 do not apply if those bonds have been defeased.

21 (i) The procedure, if any, by which the terms of a contract
22 with noteholders or bondholders may be amended or abrogated, the
23 number of noteholders or bondholders who are required to consent to
24 an amendment or abrogation, and the manner in which the consent may
25 be given.

26 (j) Vest in a trustee or a secured party the property, income,
27 revenues, receipts, rights, remedies, powers, and duties in trust

1 or otherwise as the fund may determine necessary or appropriate to
2 adequately secure and protect noteholders and bondholders or to
3 limit or abrogate the rights of the noteholders and bondholders. A
4 trust agreement may be executed by the fund with any trustee who
5 may be located inside or outside this state to accomplish any of
6 the foregoing.

7 (k) Pay maintenance and repair costs of a project.

8 (l) The insurance to be carried on a project and the use and
9 disposition of insurance money and condemnation awards.

10 (m) The terms, conditions, and agreements upon which the
11 holder of the bonds, or a portion of the bonds, is entitled to the
12 appointment of a receiver by the circuit court. A receiver who is
13 appointed may enter and take possession of the project and maintain
14 it or lease or sell the project for cash or on an installment sales
15 contract and prescribe rentals and payments therefor and collect,
16 receive, and apply all income and revenues thereafter arising in
17 the same manner and to the same extent as the fund.

18 (n) Any other matters, of like or different character, which
19 in any way affect the security or protection of the notes or bonds.

20 (9) A pledge made by the fund is valid and binding from the
21 time the pledge is made. The money or property so pledged and
22 thereafter received by the fund is immediately subject to the lien
23 of the pledge without a physical delivery or further act. The lien
24 of a pledge is valid and binding as against parties having claims
25 of any kind in tort, contract, or otherwise against the fund and is
26 valid and binding as against the transfer of the money or property
27 pledged, irrespective of whether the parties have notice. Neither

1 the resolution, the trust agreement, nor any other instrument by
2 which a pledge is created need be recorded.

3 (10) A member of the board or a person executing the notes or
4 bonds is not liable personally on the notes or bonds and is not
5 subject to personal liability of accountability by reason of the
6 issuance of the notes or bonds.

7 (11) This state is not liable on notes or bonds of the fund,
8 and the notes or bonds shall not be considered a debt of this
9 state. The notes and bonds shall contain on their face a statement
10 indicating this fact.

11 (12) The notes and bonds of the fund are securities in which
12 the public officers and bodies of this state; municipalities and
13 municipal subdivisions; insurance companies, associations, and
14 other persons carrying on an insurance business; banks, trust
15 companies, savings banks, savings associations, and savings and
16 loan associations; investment companies; administrators, guardians,
17 executors, trustees, and other fiduciaries; and all other persons
18 who are authorized to invest in bonds or other obligations of this
19 state may properly and legally invest funds.

20 (13) The property of the fund and its income and operation is
21 exempt from all taxation by this state or any of its political
22 subdivisions, and all bonds and notes of the fund, the interest on
23 the bonds and notes, and their transfer are exempt from all
24 taxation by this state or any of its political subdivisions, except
25 for estate, gift, and inheritance taxes. The state covenants with
26 the purchasers and all subsequent holders and transferees of notes
27 and bonds issued by the fund under this act, in consideration of

1 the acceptance of and payment for the notes and bonds, that the
2 notes and bonds of the fund, issued pursuant to this act, the
3 interest on the notes and bonds, the transfer of the notes and
4 bonds, and all its fees, charges, gifts, grants, revenues,
5 receipts, and other money received or to be received and pledged to
6 pay or secure the payment of the notes or bonds shall at all times
7 be free and exempt from all state or local taxation provided by the
8 laws of this state, except for estate, gift, and inheritance taxes.

9 (14) The issuance of bonds and notes under this act is subject
10 to the agency financing reporting act, 2002 PA 470, MCL 129.171 to
11 129.177.

12 (15) For the purpose of more effectively managing its debt
13 service, the fund may enter into an interest rate exchange or swap,
14 hedge, or similar agreement with respect to its bonds or notes on
15 the terms and payable from the sources and with the security, if
16 any, as determined by a ~~THE BOARD BY~~ resolution. ~~of the board.~~