

## RURAL JOBS AND CAPITAL INVESTMENT FUND

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House Bill 6064 as enacted

Public Act 423 of 2018

Sponsor: Rep. Jason Wentworth

House Committee: Michigan Competitiveness

Senate Committee: Economic Development and International Investment

Complete to 2-11-19

Analysis available at  
<http://www.legislature.mi.gov>

**BRIEF SUMMARY:** House Bill 6064 adds chapter 8E to the Michigan Strategic Fund Act to create the Rural Jobs and Capital Investment Program and provide for its operations. Generally speaking, the program involves the application and approval of rural jobs and capital investment funds (RJCIFs), which are to be financed through a 50-50 split of private contributions and repayable grants from the newly created Rural Jobs and Capital Investment Creation Fund within the state treasury. The RJCIFs are required to make growth investments in qualified businesses in qualified rural counties.

**FISCAL IMPACT:** The bill would have no direct fiscal impact on state or local government. (See *Fiscal Information*, below, for further discussion.)

### THE APPARENT PROBLEM:

Michigan has experienced economic growth in recent years, in part due to legislative policy and business investment. It might be said, however, that these efforts have been focused primarily on the state's urban areas. One need only to look at recent headlines about development in Detroit to see the connection between economic development policy and business investment.

Many believe that more needs to be done to help Michigan's rural areas. Legislation has been introduced to create an economic development program that would use public and private funds to attract capital investments to rural areas, thereby creating jobs and growing local economies.

### THE CONTENT OF THE BILL:

#### Application Process

Beginning March 20, 2019, and in each subsequent year through 2029, the Michigan Strategic Fund (MSF) must accept applications for approval as a *rural jobs and capital investment fund* (RJCIF).

*Rural jobs and capital investment fund* means an entity approved by the MSF that meets all of the following criteria:

- The entity or its "affiliate" (defined in the bill) is a "rural business investment company" or a "small business investment company" under

federal law; is registered as an investment adviser under federal law; and is regulated by the Securities and Exchange Commission.

- As of the date of the application, the entity or its affiliates had invested at least \$100.0 million in nonpublic companies located in counties throughout the U.S. with a population of less than 50,000.
- As of the date of the application, the entity or its affiliates had received equity investments from investors who are not affiliates of the applicant equal to at least \$100.0 million.

The application must include:

- The total investment authority sought by the applicant.
- A copy of the applicant's license showing that it is a rural business investment company or small business investment company.
- Evidence that the entity has met the \$100.0 million investment and \$100.0 million equity requirements (described above).
- A nonrefundable application fee of \$10,000.

The MSF must make application determinations within 60 business days from the receipt of a complete application, in the order in which the applications were received. The MSF may only approve \$30.0 million in *investment authority* in a calendar year, through 2029. If requests for investment authority are received on the same day and would result in the limitation being exceeded, the MSF must proportionally allot the investment authority and grants, loans, or other types of economic assistance among the approved applications.

*Investment authority* means the amount stated on the certificate certifying the RJCIF. An RJCIF's investment authority must be composed equally of grants, loans, or other types of economic assistance by the MSF and private contributions.

Upon approval of an application, the MSF and the RJCIF must execute a written agreement setting forth the terms and conditions of the grants, loans, or other types of economic assistance.

The MSF may deny an application only for the following reasons:

- The applicant does not satisfy the RJCIF criteria.
- The MSF has already approved the maximum amount of investment authority allowed.

If the MSF denies an application, the applicant may provide additional information to the MSF within five days of the denial. The MSF must review and reconsider the application and additional information within 30 days. The original date of receipt continues for a reconsidered application for purposes of priority.

#### Rural Jobs and Capital Investment Fund Requirements

Within 60 days after receiving approval, the RJCIF must collect *private contributions* equal to 50% of the RJCIF's investment authority. Within 65 days after receiving approval,

the RJCIF must send the MSF documentation sufficient to prove that this amount has been collected.

***Private contributions*** means an investment of cash in an RJCIF to match dollar-for-dollar the grants, loans, or other types of economic assistance up to the investment authority of the RJCIF. An RJCIF's private contributions must be composed of not less than 10% of equity investments.

If the RJCIF fails to meet either of these requirements, its approval is forfeited and the MSF must award the corresponding investment authority first to existing applicants who received investment authority lower than the amount requested and then to new applicants.

The MSF must disperse the grants, loans, or other types of economic assistance to the RJCIF upon receipt and approval of the documentation proving the amount collected within 21 business days.

#### Rural Jobs and Capital Investment Creation Fund

The bill creates the Rural Job and Capital Investment Creation Fund ("fund") within the state treasury.

The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer must direct the investment of the fund and credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year remains in the fund and does not lapse to the general fund. The MSF is the administrator of the fund for auditing purposes.

The MSF must expend money from the fund, upon appropriation, only to make grants, loans, or other types of economic assistance to RJCIFs in Michigan.

#### Demand of Repayment

The MSF must demand immediate repayment of the grants, loans, or other types of economic assistance issued under the program if any of the following occurs with respect to the RJCIF before it is certified to exit the program:

- The RJCIF does not invest all its investment authority in ***growth investments*** in Michigan within three years of the ***closing date*** with 100% of its investment authority invested in growth investments in ***qualified businesses*** with ***principal business operations*** located in ***qualified rural local governmental units***. (Definitions for the italicized terms are provided below.)
- The RJCIF, after doing the above, fails to maintain growth investments at the levels required above until the sixth anniversary of the closing date. (An investment is maintained even if the investment is sold or repaid so long as the RJCIF reinvests an amount equal to the capital returned or recovered by the RJCIF from the original investment, exclusive of any profits realized, in other growth investments in Michigan within 12 months of the receipt of that capital. Also, amounts received by an RJCIF pursuant to periodic repayments are treated as continually invested in certain circumstances. Finally, an RJCIF is not required to reinvest capital returned

from growth investments after the fifth anniversary of the closing date, and those investments are considered held continuously through the sixth anniversary of the closing date.)

- The RJCIF, before exiting the program, makes a distribution or payment that results in its having less than 100% of its investment authority invested in growth investments in Michigan or available for investment in growth investments and held in cash and other marketable securities.
- The RJCIF makes a growth investment in a qualified business that directly or indirectly through an affiliate owns, has the right to acquire an ownership interest in, makes a loan to, or makes an investment in the RJCIF, an affiliate of the RJCIF, or an investor in the RJCIF.
- The RJCIF invests in any industry assigned a North American Industry Classification System code within the information sector.<sup>1</sup>

***Growth investment*** means any capital or equity investment in a qualified business or any loan to a qualified business with a stated maturity at least one year after the date of issuance. A secured loan or the provision of a revolving line of credit is a growth investment only if the RJCIF obtains an affidavit from the president or CEO of the qualified business attesting that the business sought and was denied similar financing from a commercial bank.

***Closing date*** means the date on which an RJCIF received a grant, loan, or other type of economic assistance.

***Qualified business*** means an operating business that, at the time of the initial investment in the business by an RJCIF, has fewer than 150 employees and is engaged in industries assigned a certain sector code in the North American Industry Classification System<sup>2</sup> or, if not engaged in any of those industries, the MSF determines that the investment will be beneficial to the rural area and economic growth of the state and the industry is not in the information sector.

***Principal business operations*** means the operations of a business are located at the place or places where at least 60% of its employees work or where employees that are paid at least 60% of its payroll work. A business that has agreed to relocate or hire new employees using the proceeds of a growth investment is considered to have its principal business operations in this new location if it satisfies the above requirements within 180 days after receiving the investment (or a later date if agreed to by the MSF).

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<sup>1</sup> <https://www.bls.gov/iag/tgs/iag51.htm>

<sup>2</sup> The sectors listed in the bill are: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Construction; Manufacturing; Wholesale Trade; Transportation and Warehousing; Professional, Scientific, and Technical Services (with exceptions); Administrative and Support and Waste Management and Remediation Services; Health Care and Social Assistance; and Other Services (except public administration).

***Qualified rural local governmental unit*** means a county with a population of 225,000 or less.

No more than \$5.0 million in growth investments in a qualified business, including investments in affiliates of the qualified business, can count toward investment amounts and durations required of the RJCIF.

Before demanding a repayment, the MSF must notify the RJCIF of the reasons for the pending repayment. The RJCIF has 90 days from the date of the notice to correct any outlined violation to the satisfaction of the MSF and avoid repayment of the grants, loans, or other types of economic assistance.

#### Annual Report to the MSF

An RJCIF must submit an annual report to the MSF on or before the last day of February of each year until the RJCIF has exited the program. It must provide documentation as to the RJCIF's growth investments and include all the following:

- A bank statement evidencing each growth investment.
- The name, location, and industry of each qualified businesses receiving an investment, including the MSF determination letter or evidence that the business was a qualified business at the time of the investment.
- The number of new full-time equivalent employees and the corresponding earned job factor at the qualified business in Michigan.
- The number of full-time equivalent employees at the qualified business on the date of receipt of the initial growth investment.
- Any other information required by the MSF.

Within 60 days after receiving an annual report, the MSF must provide written confirmation to the RJCIF of the new full-time equivalent employees the RJCIF has been credited for that year.

By the fifth business day after the third anniversary of the closing date, an RJCIF must submit a report to the MSF evidencing its compliance with the investment requirements of the bill.

#### Annual Report to Legislature

The MSF must submit an annual report to each house of the legislature on or before April 1, 2020. The report must include all of the following:

- The name and number of all RJCIFs approved to participate in the program.
- The amount of investment authority awarded to each RJCIF.
- Any investments made by the RJCIFs, including the location.
- Whether the RJCIFs are in compliance with the act.
- Any other information required.

#### Annual Program Fee

The MSF must charge an annual fee of 0.5% of the investment authority authorized for that RJCIF. The initial annual fee is due and payable to the MSF within one business day of

receipt of a grant, loan, or other type of economic assistance. After the initial annual fee, the fee is due and payable on or before the last day of February of each year.

#### Program Exit

On or after the sixth anniversary of the closing date, an RJCIF may exit the program and no longer be subject to the provisions of the act. The MSF must respond to the application within 30 days of receipt and include a calculation of any ***repayment amount*** due.

***Repayment amount*** means an amount equal to 50% of an RJCIF's investment authority *minus* the *sum* of the product of new full-time equivalent employees reported to the MSF for each of the RJCIF's annual reports and the appropriate ***earned job factor*** rate.

***Earned job factor*** means an amount equal to \$7,500 for factor 1 jobs with an hourly wage rate of at least 125% of the federal minimum wage, \$15,000 for factor 2 jobs with an hourly wage rate of at least 150% of the federal minimum wage, \$25,000 for factor 3 jobs with an hourly wage rate of at least 200% of the federal minimum wage, and \$35,000 for factor 4 jobs with an hourly wage rate of at least 125% of the federal minimum wage that employ veterans, senior citizens, ex-offenders, citizens with disabilities, or any citizen concurrently in a Department of Health and Human Services assistance program.

Until the RJCIF has paid the MSF the repayment amount, no distributions other than those required by the act may be made with respect to the equity interests of the RJCIF more than the sum of the amount of equity capital invested into the RJCIF with respect to the equity interests and an amount equal to any projected increase in the federal or state tax liability of holder or those interests related to the ownership of the RJCIF.

#### Community Revitalization Incentives

Under section 90b of the Michigan Strategic Fund Act, the amount of community revitalization incentives that can be approved for a single project cannot exceed 25% of a project's eligible investment up to \$10.0 million. The bill adds language to provide that, in a city, village, or township with a population of 15,000 or less, the amount of such incentives cannot exceed 50% of a project's eligible investment up to \$10.0 million.

#### ***FISCAL INFORMATION:***

The bill would have no direct fiscal impact on state or local government. While the provisions of the bill create the statutory structure for the Rural Jobs and Capital Investment Program and Rural Jobs and Capital Investment Creation Fund, there is no identified revenue source or appropriation to the Rural Jobs and Capital Investment Creation Fund. Any program funding would be subject to legislative appropriation. If program funding were made available, the Michigan Strategic Fund (MSF) share would be capped at \$15.0 million annually due to the \$30.0 million cap on total authorized investment authority and 50% match rate from private sources for all Rural Jobs and Capital Investment Funds.

Assuming funds were appropriated for program operation, the bill would increase administrative and oversight costs for the MSF by an unknown amount. Presumably, the \$10,000 application fee and the annual fee of 0.5% on all Rural Jobs and Capital Investment Fund investment authority could be used to offset program costs. However, it is not known whether this amount would be sufficient to fully offset administrative and oversight costs that would be incurred by the MSF.

Local governments with a population of 15,000 or less could realize increased community revitalization program incentives on a per project basis. The bill's provisions would still cap the overall incentive at \$10.0 million; however, this could account for up to 50% of the project's eligible investment. Current law limits the incentive to \$10.0 million or 25% of a project's costs for all local governments.

### ***ARGUMENTS:***

#### ***For:***

The program outlined in the bill is a complement to recent legislation—like the Transformational Brownfield Plan and Good Jobs for Michigan programs—that places a specific focus on growing businesses and jobs in rural areas. The businesses and funds eligible for the program, the types of jobs that will be created, and the investment parameters are all tailored to meet the needs of rural areas. Small businesses in rural areas often have difficulty accessing capital, and the bill creates a public-private funding source to meet their financing gaps. Additionally, investments in small rural businesses often further the fabric of rural communities and their contributions to the state.

The program is modeled after similar rural jobs programs in other states, and includes some general best practice provisions for economic development incentives, including repayment provisions and penalties for investing out of state.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.