

Legislative Analysis



COMMUNITY INVESTMENT PILOT PROGRAM

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<http://www.house.mi.gov/hfa>

House Bill 5752 as introduced
Sponsor: Rep. Tommy Brann

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

House Bill 5753 as introduced
Sponsor: Rep. Ronnie D. Peterson

Committee: Commerce and Tourism
Complete to 4-11-22

SUMMARY:

House Bill 5753 would amend the Michigan Strategic Fund Act to require the Michigan Strategic Fund (MSF) to develop a community investment pilot program to promote projects and activities to assist distressed areas or the low-income residents of a community. House Bill 5752 would amend the Income Tax Act to create a tax credit for individual and corporate taxpayers equal to 50% of qualified investments made under the pilot program in a tax year. Total credits would be capped at \$25.0 million per year.

House Bill 5753 would require MSF to develop a Michigan community investment pilot program. The pilot program would have to promote community participation and collaborations among nonprofit organizations, businesses, and residents with the goal of generating assistance for a distressed area or the low-income population of a neighborhood, community, or commercial corridor. MSF also would have to establish and post on its website an application, approval, and compliance process for the MSF board of directors to certify *community investment plans* and determine eligibility and issue certificates to taxpayers that make *qualified investments* in *qualified organizations* as provided under House Bill 5752. The criteria to be used by the MSF board for approving community investment plans would have to be included in the pilot program.

Community investment plan would mean *community development programs, projects, and activities* proposed by a qualified organization to assist, through qualified investments, a *distressed area* in a neighborhood, community, or commercial corridor or the *low-income population* who reside in a neighborhood or community.

Community development programs, projects, and activities would mean strategies to encourage small business development, provide affordable housing, promote financial empowerment, stimulate workforce attraction and retention, and any other strategies that assist a distressed area in a neighborhood, community, or commercial corridor or the low-income population who reside in a neighborhood or community.

Distressed area would mean any of the following:

- An area in a city with a population of at least 10,000 that meets either of the following:
 - The area is designated as a “blighted area” by a local legislative body under 1945 PA 344.

- The authority¹ determines both of the following:
 - The area is blighted or largely vacant because of blight clearance.
 - Approval of elimination of income limits applicable in connection with authority loans has been received from the city as a resolution adopted by the highest legislative body of the city (or a written communication from the mayor if under the city charter a full-time mayor is elected at large who can veto legislative actions of the city's legislative body).
- A **municipality** that meets all of the following:
 - It has lost population since 1970.
 - It has had an overall increase in the state equalized value of real and personal property since 1972 that is less than the statewide average.
 - It has a poverty rate greater than the statewide average.
 - It has had an unemployment rate higher than the statewide average for three of the preceding five years.
- An area located in a local unit of government certified by the Michigan Enterprise Zone Authority as meeting the criteria prescribed in section 2(f) of the Neighborhood Enterprise Zone Act.

Municipality means a county, city, village, township, port district, development organization, institution of higher education, or community or junior college, or a subdivision or instrumentality of any of those.

Low-income population would mean families whose incomes are 80% or less of the median family income for the area.

Qualified investment would mean investment certified by MSF that is contributed to a qualified organization to promote and support implementation of the organization's community investment plan approved by MSF under the pilot program.

Qualified organization would mean a nonprofit organization that is exempt under section 501(c)(3) of the federal Internal Revenue Code and meets all of the following:

- The organization has a community investment plan approved by MSF under the community investment pilot program.
- A majority of the organization's efforts are focused on serving one or more specific neighborhoods or communities with a constituency that is economically disadvantaged.
- The purpose of the organization is to engage local residents and businesses to together undertake community development programs, projects, and activities.
- The organization demonstrates to MSF that its constituency, including economically disadvantaged people, has a meaningful role in its governance and direction, which could include committees, membership meetings, and representation on the board of directors.

Proposed MCL 125.2088u

¹ The bill does not say which authority is referred to here. The provision is similar to language elsewhere in the law that pertains to the Michigan State Housing Development Authority.

House Bill 5752 would allow a taxpayer who makes a qualified investment in a qualified organization after December 31, 2021, and before January 1, 2027, to claim a credit against the tax imposed by Part 1 or Part 2 of the Income Tax Act equal to 50% of the qualified investment made during the tax year. (Parts 1 and 2 respectively apply to the individual income tax and the corporate income tax.) A taxpayer who is a member of a flow-through entity that makes such an investment could claim a credit against the member's tax liability under Part 1 based on the member's proportionate share of ownership or an alternative method approved by the Department of Treasury.

To qualify for the tax credit, the taxpayer would have to request certification of the qualified investment from the MSF, as provided under HB 5753, at least 60 days before making the investment. A taxpayer could not claim a credit unless the MSF issued a certificate to the taxpayer. The board of directors of the MSF could not approve a credit for a taxpayer who was convicted of a felony involving a fiduciary obligation or the conversion or misappropriation of funds or insurance accounts, theft, deceit, fraud, misrepresentation, or corruption.

MSF would have to forward a copy of each certificate to the governor, the president of the MSF, the chair of the Senate finance committee, the chair of the House tax policy committee, and the directors of the House and Senate Fiscal Agencies. (The prohibition in section 28(1)(f) of 1941 PA 122 against divulging tax information would not apply to this disclosure.) Additionally, the taxpayer would have to attach the certificate to the annual tax return on which a credit under the bill is claimed.

The certificate would have to specify all of the following:

- The total amount of investment made during the tax year by the taxpayer in each qualified organization.
- The total amount of qualified investments made in each qualified organization if different from the previous amount.
- The total amount of the credit under the bill that the taxpayer is allowed to claim for the designated tax year.

If the total amount of all credits allowed under the bill exceeded the tax liability of the taxpayer for the tax year, that portion of the credit exceeding the tax liability would not be refunded, but could be carried forward to offset tax liability in subsequent tax years for up to five years.

The total amount of all credits that the MSF could certify under the bill could not exceed \$25.0 million each calendar year.

Proposed MCL 206.280

Each bill would take effect only if both bills were enacted.

FISCAL IMPACT:

As written, House Bill 5752 would reduce income tax revenue by an unknown, but potentially substantial amount. The bill limits the amount of credits in any individual calendar year to \$25.0 million. If a credit exceeds a taxpayer's liability in a given year, the excess will not be refunded but may be carried forward to a future tax year. Therefore, even though the amount

of credits awarded in any given year is limited to \$25.0 million, the amount actually claimed in a tax year could vary widely if credits are carried forward.

House Bill 5753 would create administrative costs for the Michigan Strategic Fund related to the development, operation, and administration of the Michigan community investment pilot program. No estimate of costs can currently be provided. A legislative appropriation would be necessary to accommodate any costs that exceed current appropriations.

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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.