

MICHIGAN STRATEGIC FUND ACT (EXCERPT)
Act 270 of 1984

CHAPTER 2

125.2021 Job development authority and Michigan economic development authority; acquisitions and succession by fund to rights, properties, obligations, and duties thereof.

Sec. 21. Upon the expiration of 180 days after the effective date of this act, the fund shall acquire and succeed to all of the rights, properties, obligations, and duties of the job development authority under the provisions of Act No. 301 of the Public Acts of 1975, being sections 125.1701 to 125.1770 of the Michigan Compiled Laws, and the Michigan economic development authority under Act No. 70 of the Public Acts of 1982, being sections 125.1901 to 125.1934 of the Michigan Compiled Laws, including the right to receive distributions required pursuant to the heritage trust act of 1982, Act No. 327 of the Public Acts of 1982, being sections 318.421 to 318.434 of the Michigan Compiled Laws, to the Michigan economic development authority for deposit in either the Michigan economic development fund or the research center fund. Upon the expiration of 180 days after the effective date of this act, all property of the job development authority and the Michigan economic development authority shall be transferred to and shall be the property of the fund, subject to any liens thereon and restrictions and limitations on the use thereof, heretofore provided by the job development authority and the Michigan economic development authority, respectively. The members, directors, and officers of the job development authority and the Michigan economic development authority, and the department of commerce, shall execute such conveyances, assignments, and transfers as may be necessary or appropriate to accomplish the foregoing. Upon the expiration of 180 days after the effective date of this act, the fund shall be considered to be the owner of all property of the job development authority and the Michigan economic development authority. Upon the expiration of 180 days after the effective date of this act, the fund shall assume and be liable for all of the obligations, promises, covenants, commitments, and other requirements of the job development authority and the Michigan economic development authority under Act No. 301 of the Public Acts of 1975 and Act No. 70 of the Public Acts of 1982, respectively, and shall perform all of the duties and obligations and shall be entitled to all of the rights of the job development authority and the Michigan economic development authority under any of its agreements, indentures, or other instruments and the foregoing acts. All actions, commitments, and proceedings, including but not limited to industrial development revenue bond projects for which an inducement resolution has been adopted, of the job development authority and the Michigan economic development authority made, given, or undertaken before the date of assumption by the fund under this section are hereby ratified, confirmed, and validated upon assumption by the fund. All actions, commitments, or proceedings undertaken, and all industrial development revenue bond projects for which an inducement resolution has been adopted by the job development authority or the Michigan economic development authority shall, and all actions, commitments, or proceedings of these authorities heretofore in the process of being undertaken by but not yet a commitment or obligation of the respective authority may, from and after the date of assumption by the fund under this section, be undertaken and completed by the fund in the manner and at the times provided in this act or other applicable law and in any agreements made before the date of assumption by the fund under this section by the job development authority under Act No. 301 of the Public Acts of 1975 or by the Michigan economic development authority under Act No. 70 of the Public Acts of 1982, and such actions undertaken and completed by the fund shall be considered to be the actions of the job development authority and the Michigan economic development authority, respectively. Upon the expiration of 180 days after the effective date of this act and thereafter, for purposes of the resolution of the Michigan economic development authority authorizing issuance of its economic development revenue bonds (oil and gas revenues), series 1982 A, dated December 1, 1982, this act and any other acts adopted which relate to the fund shall be considered an amendment to Act No. 70 of the Public Acts of 1982.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Compiler's note: For transfer of the Michigan strategic fund from department of treasury to department of talent and economic development, and transfer of powers and duties of board of directors of Michigan strategic fund to new board of directors, see E.R.O. No. 2014-6, compiled at MCL 125.1995.

Popular name: Strategic Fund

125.2022 Economic development fund; succession by fund to ownership and operation thereof; payments pursuant to heritage trust act of 1982; appropriation; utilization and expenditure of money; priorities; transfer and repayments of money; utilization of proceeds from bonds or notes.

Sec. 22. (1) Upon the expiration of 180 days after the effective date of this act, the fund shall succeed to the ownership and operation of the economic development fund created by Act No. 70 of the Public Acts of 1982, being sections 125.1901 to 125.1934 of the Michigan Compiled Laws. Payments into the economic development fund pursuant to the heritage trust act of 1982, Act No. 327 of the Public Acts of 1982, being sections 318.421 to 318.434 of the Michigan Compiled Laws, shall continue to be made as provided by that act upon and after the fund succeeds to the ownership and operation of the economic development fund.

(2) The fund shall pay into the economic development fund any money appropriated or otherwise provided by this state for the economic development fund and any other money made available to the fund for the economic development fund from any other source, public or private.

(3) After the fund succeeds to ownership and operation of the economic development fund, money in the economic development fund shall be utilized to achieve the purposes and objectives of the fund, this act, and other acts related to the fund and shall be expended in the following order of priority:

(a) To pay the principal and interest on bonds and notes issued pursuant to section 7 of Act No. 70 of the Public Acts of 1982, being section 125.1907 of the Michigan Compiled Laws, as provided in and to the extent authorized by the authorizing resolution pledging such funds for payment of such bonds or notes.

(b) To pay the principal and interest on bonds and notes issued by the fund, as provided in and to the extent authorized by the authorizing resolution pledging such funds for payment of such bonds or notes.

(c) To pay the costs of administration of the authority including the cost of administration of the economic development fund.

(d) To make a transfer to any of the accounts or funds created or operated by the fund in such amounts and at such times as the fund shall by resolution determine.

(4) After the fund succeeds to ownership and operation of the economic development fund, money previously transferred from the economic development fund to other funds created by Act No. 70 of the Public Acts of 1982 but not yet expended or obligated shall be transferred to the economic development fund or to 1 or more of the accounts or funds to which a transfer may be made under subsection (3)(d).

(5) After the fund succeeds to ownership and operation of the economic development fund, repayments of money expended from a fund created by Act No. 70 of the Public Acts of 1982 shall be made to 1 or more of the accounts or funds to which a transfer may be made under subsection (3)(d), as specified by the fund.

(6) Money deposited in the economic development fund from the proceeds of a bond or note of the fund or to which the fund succeeds pledging money directly derived from payments from the heritage trust fund created by Act No. 327 of the Public Acts of 1982, shall be utilized by the fund only in carrying out its powers in relation to an economic development project, to an export related transaction pursuant to section 7(r), to an enterprise eligible to receive financial aid from the research center fund, or to a process, technique, product, or device eligible to receive financial aid from the product development program account.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2023 Bonds or notes.

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

(a) To provide sufficient funds for achieving the fund's purposes and objectives including, but not limited to, amounts necessary to pay the costs of acquiring a project or part of a project; to make loans for the costs of a project or part of a project, including a Special Purpose FWC Settlement Entity; to make loans pursuant to section 7(r) for an export related transaction; for making grants; for providing money to guarantee or insure loans, leases, bonds, notes, or other indebtedness; for making working capital loans; for all other expenditures of the fund incident to and necessary or convenient to carry out the fund's purposes, objectives, and powers; and for any combination of the foregoing. The cost of a project may include administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees that are necessary for the project.

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

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

bonds or notes in the amount determined by the board.

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

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

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

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

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

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

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

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

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

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

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

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

(6) The notes or bonds of the fund are negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.9994, subject only to the provisions of the notes or bonds for registration.

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

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

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

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

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

(d) A pledge of money directly derived from payments from the heritage trust fund created by the heritage trust fund act of 1982, former 1982 PA 327.

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

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

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

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

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

(j) Vest in a trustee or a secured party the property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the fund may determine necessary or appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the rights of the noteholders and bondholders. A trust agreement may be executed by the fund with any trustee who may be located inside or outside this state to accomplish any of the foregoing.

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

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

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

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

(9) A pledge made by the fund is valid and binding from the time the pledge is made. The money or property so pledged and thereafter received by the fund is immediately subject to the lien of the pledge without a physical delivery or further act. The lien of a pledge is valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the fund and is valid and binding as against the transfer of the money or property pledged, irrespective of whether the parties have notice. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be recorded.

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

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

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

(13) The property of the fund and its income and operation is exempt from all taxation by this state or any of its political subdivisions, and all bonds and notes of the fund, the interest on the bonds and notes, and their transfer are exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the fund under this act, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the fund, issued pursuant to this act, the interest on the notes and bonds, the transfer of the notes and bonds, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation provided by the laws of this state, except for estate, gift, and inheritance taxes.

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

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

History: 1984, Act 270, Eff. Mar. 29, 1985;—Am. 1987, Act 278, Imd. Eff. Jan. 6, 1988;—Am. 2002, Act 556, Imd. Eff. July 26,

2002;—Am. 2009, Act 85, Imd. Eff. Aug. 31, 2009;—Am. 2014, Act 507, Imd. Eff. Jan. 14, 2015;—Am. 2020, Act 358, Imd. Eff. Dec. 30, 2020.

Popular name: Strategic Fund

125.2024 Contracts for management and operation of fund.

Sec. 24. The fund, in its discretion, may contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the fund.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2025 Actions by fund; equal opportunity criteria; considerations when entering transaction.

Sec. 25. All actions taken by the fund shall be necessary or convenient to achieve the purposes and objectives of this act or of the fund. The fund shall establish criteria to assure equal opportunity to women, minorities, and small businesses. When deciding whether to enter into a transaction, the fund shall consider whether:

- (a) The project is economically sound.
- (b) The project can be successfully completed.
- (c) The project is located or will locate in this state.
- (d) The project can be partially financed through ordinary means at reasonable terms.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund

125.2026 Staff and other support; cooperation of state agencies.

Sec. 26. (1) If requested by the fund, the department of commerce shall provide staff and other support to the Michigan strategic fund sufficient to carry out its duties, powers, and responsibilities.

(2) All departments and agencies of state government shall provide full cooperation to the fund in the performance of its duties, powers, and responsibilities.

History: 1984, Act 270, Eff. Mar. 29, 1985.

Popular name: Strategic Fund