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BILL ANALYSIS

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Senate Bill 1380 (as introduced 6-12-08)
Sponsor: Senator Jason E. Allen
Committee: Commerce and Tourism

Date Completed: 6-17-08

CONTENT

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

- **Allow the Michigan Strategic Fund (MSF) to create and operate a Centers of Energy Excellence Program to promote the development, acceleration, and sustainability of "energy excellence sectors" in Michigan.**
- **Allow the MSF board to enter into agreements with "qualified entities" for the designation and operation of a center of energy excellence.**
- **Allow the MSF board to spend up to $40.0 million from the 21st Century Jobs Fund appropriations on the Centers of Energy Excellence Program.**
- **Allow grants for the Program to be awarded only to for-profit companies for certain purposes.**
- **Require at least 70% of the funds allocated for the Program to be used to match Federal or international grants.**
- **Prohibit more than 15% of any grant from being used for administrative costs or overhead.**
- **Require the MSF board to establish an application evaluation process and appoint a committee to assist in reviewing applications.**
- **Specify factors the MSF board would have to consider in determining whether to enter into an agreement with a qualified entity.**
- **Specify information that an agreement would have to include.**
- **Allow the MSF board to select a centers manager to assist in the administration of the Program.**
- **Specify the centers manager's responsibilities.**
- **Reduce the minimum expenditure the commercialization board must authorize in fiscal year (FY) 2008-09 through FY 2011-12 for competitive edge technology grants and loans.**
- **Prohibit the MSF or its board from appointing any person to a review committee if he or she had a conflict of interest with any potential vendor.**

"Energy excellence sectors" would mean new and developing industry sectors in the energy field in Michigan where the MSF has determined the State has a competitive advantage and there are barriers to the commercialization of technology within the new and developing industry sector. "Energy field" would mean alternative energy technology, energy efficiency technology, technologies that contribute to energy security and independence, and other advanced energy technologies.

"Qualified entity" would mean a qualified business, an institution of higher education, a Michigan nonprofit corporation, or a political subdivision of the State. (Under the Act, "qualified business" means a business entity located in Michigan.)

Centers of Energy Excellence Program

Creation & Operation. The bill would allow 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 MSF could enter into agreements with one or more qualified entities for the designation and operation of a center of energy excellence. Before entering into such an agreement, one or more qualified entities could apply to the MSF for an agreement for designation and operation of a center of energy excellence. The application would have to be in a form determined by the MSF and would have to include information it determined necessary and appropriate.

The MSF board could not spend more than $40.0 million of the money appropriated for programs authorized under Chapter 8a from the 21st Century Jobs Trust Fund created in the Michigan Trust Fund Act for the Centers of Energy Excellence Program.

Grants. Program grants could be awarded only to for-profit companies for one of the following purposes:

-- Providing a match for a Federal or international grant of up to 25%.
-- Supplementing in-kind contributions provided by a person or entity other than the State.
-- Accelerating the commercialization of a new energy technology or process that would be ready to market within three years of the agreement's effective date.
-- Activities of the center, including workforce development and technology demonstration.

At least 70% of the funds allocated to the Program would have to be used to match Federal or international grants. The MSF board could authorize investment terms in qualified entities as part of any agreement. Not more than 15% of any grant awarded could be used for administrative costs or overhead by the grantee or an subcontractor hired to implement any portion of the agreement. Grants would have to be disbursed pursuant to a timeline and progress disbursement schedule included as part of an agreement.

Application Review. The MSF board would have to establish a standard process to evaluate applications for an agreement and appoint a committee of board members to assist in the review of applications. The MSF or its board could not appoint or designate any person paid or unpaid to a committee to review applications if he or she had a conflict of interest with any potential applicants, as determined by the Office of the Chief Compliance Officer. When determining whether to enter into an agreement under the bill, the MSF board would have to consider all of the following:

-- The potential that in the absence of an agreement the development, acceleration, and sustainability of energy excellence sectors addressed by the proposed center of energy excellence would occur in a location other than Michigan.
-- The extent to which the proposed center would promote the development of energy excellence sectors in Michigan.
-- The extent to which the proposed center would promote economic development or job creation in Michigan.
-- The extent to which the proposed center could attract private investment or encourage commercialization in energy excellence sectors in Michigan.
-- The extent to which the proposed center could leverage skills or resources in which Michigan possessed a competitive advantage, including workers' skills, intellectual property, and natural resources.
-- The extent to which the proposed center of energy excellence could encourage collaboration on commercialization and technology transfer among qualified entities in Michigan.
-- The extent to which the proposed center could attract additional Federal funding to Michigan or people or entities within Michigan.
-- The financial viability of the proposed center and the proposed business plan for it, including commitments of financial and other support for the center and the potential availability of Federal funding for it.
-- The financial resources available to the MSF board for operation of the Program.
-- Any recommendations from the centers manager.

Agreements. If the MSF board entered into an agreement with one or more qualified entities for the operation of a center of energy excellence, the agreement would have to include participation by at least one qualified business and at least one institution of higher education. An agreement would have to include all of the following:

-- The roles and responsibilities of the MSF and the qualified entities participating in the agreement.
-- A governance structure for the center.
-- The responsibilities of the MSF and the participating qualified entities, including financial resources, technology, real property, personal property, or other resources contributed by the parties to the agreement.
-- A commitment by the participating qualified entities to collaborate on commercialization and technology transfer opportunities in energy excellence sectors in Michigan.
-- A commitment to locate and retain commercialization opportunities resulting from the agreement or center within Michigan.
-- A business plan for the center that identified clear and measurable objectives, timelines, and deliverables for the center.
-- The duration of the agreement and a mechanism for the dissolution of the center and the disposition of any assets.
-- Provision for repayment of grants from the MSF in the event a qualified entity failed to comply with the agreement.

The agreement also would have to include a commitment by qualified entities that were institutions of higher education to provide incentives for faculty who participated in technology transfer and commercialization activities in energy excellence sectors and expansion of business formation efforts related to energy excellence sectors to increase the number of institution of higher education-related start-up companies.

The agreement could provide for representation of the MSF in the center's governance.

The MSF board could revoke an agreement for the designation and operation of a center of energy excellence if a qualified entity that was a party to the agreement did not comply with it.

Centers Manager. The MSF board could select a person or entity as a centers manager to assist it in the administration of the Centers of Energy Excellence Program. Costs associated with the administration of the Program would be subject to Section 88b(5) (which limits to 4% of the annual appropriation from the 21st Century Jobs Trust Fund the amount that may be used for administering programs and activities authorized under Chapter 8a).

The centers manager would have to do all of the following, as determined by the MSF board:

-- Provide administrative services related to the Program.
-- Act as contract manger on behalf of the MSF for any agreement establishing a center of energy excellence.
-- Recommend to the MSF board a plan for managing the Program and implement any plan authorized by the board.
-- Assist centers in developing a supply chain for energy excellence sectors.
-- Evaluate and report to the MSF board on the Program and progress made toward commercialization of technology in energy excellence sectors in Michigan.
-- Review applications submitted for agreements and make recommendations to the board for approval or disapproval of the applications.
-- Perform other functions related to the Program as the board considered necessary and appropriate.

Technology Grants & Loans

The Act requires the commercialization board to authorize the expenditure of at least the following amounts for competitive edge technology grants and loans:

-- $40 million in FY 2005-06.
-- $50 million in FY 2006-07.
-- $30 million in FY 2007-08 through FY 2011-12.

Under the bill, the commercialization board would have to authorize the expenditure of not less than $30 million in FY 2007-08 and at least $25 million in FY 2008-09 through FY 2011-12.

Conflict of Interest

The Act requires the MSF board to select all vendors for all marketing expenditures under Chapter 8a by issuing a request for proposal (RFP). At a minimum, the RFP must require responding entities to disclose certain information, including any conflict of interest. The MSF board must establish a standard process to evaluate proposals and appoint a committee to review them.

The bill would prohibit the MSF or its board from appointing or designating any person, paid or unpaid, to a review committee if the person had a conflict of interest with any potential vendors, as determined by the Office of the Chief Compliance Officer.

MCL 125.2088b et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would create a new program under the 21st Century Jobs Trust Fund and reduce a statutory allocation to an existing program for FY 2008-09 through FY 2011-12.

The 21st Century Jobs Trust Fund program received an appropriation of $75.0 million in FY 2007-08. The statute and the appropriations bill for this program include earmarks totaling $38,150,000. These consist of $30.0 million for Competitive Edge Technology Grants and Loans, $3.0 for administration, $3.75 million for business development and marketing, and $1.4 million for the Small Business Technology Development Centers to administer the Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) Federal matching grant programs. In addition, the MSF board has allocated $18,750,000 in FY 2007-08 for the Choose Michigan Fund, a new loan enhancement program that, pursuant to Public Act 80 of 2008, part of the film industry package, is required to include the Michigan Film and Digital Media Investment Loan Program. This brings the total of earmarks and allocations in FY 2007-08 to $56.9 million. The unallocated balance of the $75.0 million appropriated in FY 2007-08 is $18.1 million. The Michigan Economic Development Corporation has proposed using that balance for a Centers of Excellence Program. The bill would create a Centers of Energy Excellence Program specifically to provide grants to companies that collaborate with universities to commercialize alternative energy technology.

The bill would reduce the earmark for the Competitive Edge Technology Grants and Loans program from $30.0 million to $25.0 million for FY 2008-09 through FY 2011-2012. This would reduce funding for this program, which is administered by the Strategic Economic Investment and Commercialization Board, by $5.0 million per year. In addition, the bill would permit up to $40.0 million to be used for the Centers of Energy Excellence. Funding the Centers for Energy Excellence at the maximum level in FY 2008-09, the Competitive Edge Technology Grants and Loans program at the proposed level, and the statutory earmarks for administration and business marketing would use a total of $71,750,000 in FY 2008-09, leaving $3,250,000 for the remaining programs authorized under the 21st Century legislation.

For FY 2008-09, the Senate-passed version of HB 5816 (S-1), the appropriation bill that includes funding for the Michigan Strategic Fund, would provide $74,999,900 for 21st Century Jobs Trust Fund programs. This would fund the current statutory earmarks for Competitive Edge Technology Grants and Loans, administration and business development and marketing, and proposed boilerplate allocations which total $4.4 million, consisting of $1.4 million for SBIR/STTR and $3.0 million for Lakeshore Advantage. The Senate-passed budget would leave an unallocated balance of approximately $33.8 million for allocation by the MSF board to other 21st Century programs, including the loan enhancement and investment programs.

The creation of the Centers of Energy Excellence Program would increase the administrative responsibilities of the Michigan Strategic Fund. Any additional administrative costs related to this Program would be funded by the $3.0 million statutory earmark for administrative expenses.

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