Legislative Analysis

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MICHIGAN PROMISE ZONE ACT

House Bill 5375
Sponsor: Rep. Tim Melton
Committee: Education

Complete to 10-29-07

A SUMMARY OF HOUSE BILL 5375 AS INTRODUCED 10-25-07

The bill would create a new act to be known as the Michigan Promise Zone Act. It would allow the governing bodies of certain communities (called "eligible entities") to create promise zone authorities. Those authorities could identify "promise zones," and then create a "promise zone development plan" whose purpose would be to ensure financial assistance for postsecondary education to high school graduates who live within the zone's boundaries.

[The bill defines "eligible entities" to mean a city, township, county, local school district, or intermediate school district, in which the percentage of children under age 18 living at or below the federal poverty level is greater than the state average of children under age 18 living at or below the federal poverty level, as determined by the Department of Treasury.]

The bill also provides under certain conditions for the capture of a portion of the incremental growth in revenue from the State Education Tax (SET) in a zone, with the captured amount returned to the promise zone for use in funding tuition payments. A zone would need to have raised money and paid out tuition assistance before any captured tax revenue would be available. (This is described more fully later.)

The program would be administered by the Michigan Department of Treasury. A more detailed explanation of the bill follows.

Creating a Promise Zone. The bill specifies that if a governing body determined that it was necessary for the best interests of the public to promote access to postsecondary education, then it could, by resolution, declare its intention to establish a promise zone. After a public hearing (properly publicized), the governing body could establish a promise zone by resolution, as well as a promise zone development plan. The resolution and plan would be filed with the Department of Treasury for certification that the documents met all requirements under the act. The department would also review any subsequent proposed amendments to the zone and plan.

The bill specifies that the creation of a zone or plan would not create a cause of action in law or in equity against the state, an eligible entity, or a promise zone authority, if the proposed promise of the financial assistance set forth in the plan were not paid to an eligible student.

Promise Zone Development Plan. The promise zone development plan would have to include at least all of the following:

- A complete description of the proposed promise of financial assistance (which, at a minimum, would have to provide sufficient funding to cover tuition necessary to obtain a bachelor's degree or its equivalent at a public state institution, and could also be used for education improvement activities designed to increase college readiness).

- A complete description of any limitation on the promise of financial assistance (including whether the assistance would be prorated based on residency length; would require public high school attendance; would be predicated on a minimum college grade point average and class load; or would be restricted to attendance at one or more institutions of post-secondary education).

- Whether graduates of a public high school would be required to exhaust all other available publicly funded scholarship before receiving finance assistance.

- How funds necessary to accomplish the promise of financial assistance would be raised.

- An actuarial model of how much the proposed plan was estimated to cost (based on actuarial formulas developed by the Department of Treasury).

Promise Zone Authority. If the Department of Treasury certified the creation of a promise zone and development plan, then the governing body would, by resolution, create a promise zone authority. The authority would be under the control of an 11-member board appointed by the chief executive officer of the eligible entity, with the advice and consent of the governing body. Not more than five members could be government officials. Of the first members appointed, an equal number (as near as is practicable) would be appointed for one year, two-year, three-year, and four-year terms; after the initial appointment, each member would serve a four-year term. Members would serve without compensation but could be reimbursed for actual and necessary expenses. The chair would be elected by the board.

The proceedings and rules of the board would be subject to the Open Meetings Act, and the board would be required to adopt rules governing its procedure, subject to the approval of the governing body (which could remove authority members for cause). A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function would be subject to the Freedom of Information Act.

The authority's board could employ a director who would serve at its pleasure. The director would be required to take the constitutional oath of office and furnish bond, the premium on which would be considered an operating expense of the authority. The director would be responsible for implementing the zone development plan. The director also would attend the board's meetings, and provide regular reports concerning the activities and financial condition of the authority.

The board could also employ a treasurer, who together with the director would approve all vouchers for the expenditure of authority funds. The bill specifies that money received by the authority must immediately be deposited to the authority's credit. The board also could employ a secretary who would maintain custody of the records, as well as keep a record of all the board's proceedings when attending the board's meetings. The board could retain legal counsel, and employ other personnel.

Duties of the Promise Zone Authority Board. The promise zone authority board could do any of the following:

- Prepare an analysis of the postsecondary educational opportunities for the residents of the zone.
- Study and analyze the need for financial resources to provide postsecondary educational opportunities for residents of the zone.
- Acquire, by purchase or lease, land and other property.
- Collect fees, rents, and charges for the use of any facility or property under its control.
- Lease, in whole or in part, any facility, building, or property under its control.
- Solicit and accept grants and donations of money, property, labor, or other things of value from a public or private source.

Authority Budget. The bill specifies that the director of an authority must submit an operating budget to the board each fiscal year. The budget must be prepared in the manner and contain the information required of municipal departments. After review by the board, the budget would be submitted to the governing body, which must approve the budget before the board can adopt it. Unless authorized by the governing body, funds of the eligible entity could <u>not</u> be included in the authority's budget.

Capture of State Education Tax Incremental Growth. The year preceding that in which an authority makes its initial tuition payment would be the base year for determining the amount of incremental growth for the capture of the State Education Tax. The base would be the amount of revenue received from the collection of the State Education Tax in the promise zone.

If the authority continued to make annual payments in accord with its promise of financial assistance, in the year immediate succeeding the base year, and each year thereafter, the state of Michigan would be required to capture half of the increase in revenue, if any, from the collection of the State Education Tax. (The state would not capture any revenue if that revenue were subject to capture under any other law.) The proceeds from the capture of the SET would be deposited in the state treasury, and credited to a restricted fund to be used solely for the purposes of the new act.

If the authority continued to make annual tuition payments in accord with the promise of financial assistance, then <u>two years after the initial payment</u> and each year thereafter, the state would pay to the authority the captured SET amounts.

If the authority did not make annual tuition payments, any amount captured from the promise zone in the restricted fund would be paid into the School Aid Fund. The bill specifies that payments under this section would not be included in determining payments for financial assistance in the immediately preceding year.

Treasury Oversight. The Department of Treasury would be required to oversee the operations of any promise zone authority or board created under this act. If the department determined that the actions of an authority or board were not in accord with the development plan, then the department could assume operational control of the authority or board.

Dissolution. An authority that had completed the purposes for which it was organized would be dissolved by resolution of the governing body, while the property and assets remaining after the satisfaction of authority obligations would belong to the eligible entity.

Federal Poverty Level. The bill would define "federal poverty level" to mean the poverty guidelines published annually in the federal register by the United States Department of Health and Human Services under its authority to revise the poverty line under the Omnibus Budget Reconciliation Act.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on state and local government. The bill could reduce the amount of revenue available to the state School Aid Fund from the State Education Tax depending on a number of factors, including the following:

1) The number of eligible communities that chose and were approved to establish promise zones.
2) The resulting impact on property values and economic activity (if any).

The reduction in state revenue would be equal to one-half of the increase in revenue from the State Education Tax within the promise zone, compared to the year immediately preceding the first year tuition payments were made for that zone; those revenues would be shifted to the local promise zone authority. The bill would increase administrative costs for the Department of Treasury to implement its provisions by an indeterminate amount.

The bill could increase local revenue, to the extent that the incentive of the tax increment financing encouraged private contributions for tuition payments. The bill would create local costs for communities establishing promise zones by creating an obligation to make tuition payments for eligible students.

The magnitudes and net impact of these impacts is indeterminate. The bill would require communities choosing to establish promise zones to develop an actuarial model of how much the proposed plan is estimated to cost.

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