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BILL ANALYSIS

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House Bill 5375 (Substitute H-3 as passed by the House)
Sponsor: Representative Tim Melton
House Committee: Education
Senate Committee: Education

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CONTENT

The bill would create the "Michigan Promise Zone Act" to permit the governing body of an eligible entity (a city, township, county, school district, or intermediate school district in an area where the percentage of families with children living at or below the Federal poverty rate is higher than the State average), after a public hearing, to establish a promise zone and provide a promise of financial assistance for postsecondary education to students who graduated from a public or nonpublic high school within that zone. The bill also would do the following:

- Require the governing body to apply to Department of Treasury for approval to establish a promise zone.
- Require the governing body to develop a promise zone development plan that included a description of the proposed promise of financial assistance, any eligibility restrictions, an actuarial model of the cost of the plan, and how the necessary funds would be raised.
- Require the Department to review the promise zone development plan and certify that it met the bill's requirements and was sustainable.
- Provide that the promise of financial assistance could not include funding for attendance at a postsecondary institution located outside the State.
- Require the governing body to create a promise zone authority, under the supervision and control of an 11-member board.

- Require the State to capture half of any increase in the State education tax (SET) collected in the promise zone above a certain initial amount, and pay the captured tax to the promise zone authority.
- Permit a local government, school district, or intermediate school district (ISD) that was not an eligible entity to establish a promise zone, but prohibit such an entity from capturing SET revenue.
- Prohibit an authority board from spending more than 5% of the money it received for administrative costs.
- Require the Department to oversee the operations of any promise zone authority or board.

The bill is described in detail below.

Promise Zone

If the governing body of an eligible entity determined that it was necessary for the best interests of the public to promote access to postsecondary education, the governing body, by resolution, could declare its intention to establish a promise zone.

The governing body would have to set a date for a public hearing on the adoption of the proposed resolution. Notice of the public hearing would have to be published twice in a newspaper of general circulation in the eligible entity, at least 20 and not more than 40 days before the date of the hearing, and would have to be posted in at least 20

conspicuous public places in the eligible entity at least 20 days before the hearing. The notice would have to state the date, time, and place of the hearing and describe the proposed promise zone, the details of the promise of financial assistance, and the criteria for eligibility to receive that assistance.

("Governing body" would mean the elected body of an eligible entity having legislative powers. "Eligible entity" would mean a city, township, county, local school district, or ISD, in which the percentage of families with children under age 18 who are living at or below the Federal poverty level is greater than or equal to the State average, as determined by the Department of Treasury.

"Promise of financial assistance" would mean a commitment by an eligible entity to provide financial resources for postsecondary education to eligible students living in a promise zone who graduated from a public high school or nonpublic high school located within that promise zone.)

Application

At least 30 days after the public hearing on a resolution to establish a promise zone, if the governing body intended to proceed with the establishment of the promise zone, it would have to submit an application to the Department of Treasury seeking approval to do so.

The Department would have to review the application and certify that the governing body was eligible to establish a promise zone.

If the Department certified the governing body's eligibility, the governing body, by resolution, would have to establish a promise zone.

Option to Create Separate Promise Zone

Within 90 days after the governing body of the eligible entity in which the local school district was located approved an application to establish a promise zone, the local school district could elect by resolution not to participate in the establishment of a promise zone by the governing body. The resolution would have to provide that the local school district would establish a separate promise zone under the bill. If the local school

district did not establish a promise zone within a reasonable period of time, the Department of Treasury could include that local school district in the promise zone established by the eligible entity in which the district was located.

Promise Zone Authority

If the Department of Treasury certified the eligibility of a governing body to establish a promise zone and the governing body, by resolution, established a promise zone, the governing body, by resolution, would have to create a promise zone authority.

An authority would be a public body corporate that could sue and be sued in any court in the State. An authority would possess all the powers necessary to carry out its purpose. The enumeration of a power in the bill could not be construed as a limitation on the general powers of an authority.

An authority would be under the supervision and control of a board consisting of 11 members appointed by the chief executive officer of the eligible entity with the advice and consent of the governing body. (For the purpose of this provision, "chief executive officer" would mean the superintendent of the local school district or ISD.) Not more than five members could be government officials. Of the members first appointed, an equal number, as near as practicable, would have to be appointed for one year, two years, three years, and four years. A member would hold office until his or her successor was appointed. After the initial appointment, each member would serve a term of four years. An appointment to fill a vacancy would have to be made by the chief executive officer for the expired term only.

Members of the board would serve without compensation, but could be reimbursed for actual and necessary expenses. The chairperson of the board would have to be elected by it.

After having been given notice and an opportunity to be heard, a member of the board could be removed for cause by the governing body.

The board would be subject to the Open Meetings Act, and the Freedom of Information Act. The board would have to

adopt rules governing its procedures and the holding of regular meetings, subject to the approval of the governing body. Special meetings could be held if called in the manner provided in the rules.

The board could employ and fix the compensation of a director, who would serve at the pleasure of the board. A board member would not be eligible to hold the position of director. Before beginning his or her duties, the director would have to post a bond in the sum determined in the resolution establishing the authority, payable to the authority for its use and benefit, approved by the board, and filed with the clerk of the eligible entity. The premium on the bond would have to be considered an operating expense of the authority, payable from funds available to it for expenses of operation. The director would be the chief executive officer of the authority.

Subject to the board's approval, the director would have to supervise and be responsible for implementing the promise zone development plan and performing the functions of the authority in the manner authorized under the bill. The director would have to attend the board meetings and provide to the board, the governing body, and the chief executive officer of the eligible entity a regular report covering the activities and financial condition of the authority. The director would have to furnish the board with information or reports governing the operation of the authority as the board required.

The board could employ and fix the compensation of a treasurer, who would have to keep the financial records of the authority and who, together with the director, would have to approve all vouchers for the expenditure of funds of the authority. The treasurer would have to perform all duties delegated to him or her by the board and would have to furnish a bond in an amount prescribed by the board.

The board could employ and fix the compensation of a secretary, who would have to maintain custody of the official seal and records, books, documents, or other papers not required to be maintained by the treasurer. The secretary would have to attend board meetings and keep a record of

its proceedings and perform other duties delegated by the board.

The board could retain legal counsel to advise the board in the proper performance of its duties. The board also could employ other personnel it considered necessary.

The board could do any of the following:

- Prepare an analysis of the postsecondary educational opportunities for the residents of the promise zone.
- Study and analyze the need for financial resources to provide postsecondary educational opportunities for residents of the promise zone.
- Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considered proper, or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determined were reasonably necessary to achieve the purposes of the bill, and grant or acquire licenses, easements, and options.
- Fix, charge, and collect fees, rents, and charges for the use of any facility, building, or property under its control or any part of the facility, building, or property.
- 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.

The director of the authority would have to submit a budget to the board for the operation of the authority for each fiscal year, before the beginning of the fiscal year. The budget would have to be prepared in the manner and contain the information required of municipal departments. After review by the board, the budget would have to be submitted to the governing body, which would have to approve the budget before the board could adopt it. Unless authorized by the governing body, funds of the eligible entity could not be included in the budget of the authority.

Money received by the authority would have to be deposited immediately to the credit of the authority, subject to disbursement under the bill.

The authority could not spend more than 5% of the money received for administrative costs.

Promise Zone Development Plan

A promise zone authority would have to prepare a promise zone development plan (i.e., a plan that would ensure that the financial resources were available to fund adequately the promise of financial assistance). The plan would have to include a complete description of the proposed promise of financial assistance, which would have to include a promise of financial assistance to all students residing within the promise zone and who graduated from a public high school or nonpublic high school located within that promise zone. ("Public high school" would mean a public school that included grades 9 to 12 or 10 to 12 and that awarded a high school diploma. "Nonpublic school" would mean that term as defined in Section 5 of the Revised School Code, i.e., a private, denominational, or parochial school.)

The proposed promise of financial assistance, at a minimum, would have to provide funding sufficient to provide an eligible student with the tuition necessary to obtain a bachelor's degree or its equivalent at a public postsecondary institution in the State or combination of public postsecondary institutions in the State, subject to any limitations authorized under the bill. The proposed promise of financial assistance also could authorize the expenditure of funds from improvement activities designed to increase readiness for postsecondary education at public schools located in the promise zone.

The development plan would have to include a complete description of any limitation on the promise of financial assistance; if it were to be prorated based on the number of years a student had resided in the promise zone; if it would be restricted to students who had resided within or attended a public high school or nonpublic high school within the promise zone for a minimum number of years; if it were predicated on a student's maintaining a minimum college grade point average and carrying a minimum college credit hour classload; or if it were restricted to attendance at one or more institutions of postsecondary education in the State.

The plan also would have to include whether graduates of a public high school would be required to exhaust all other available publicly funded scholarships before receiving financial assistance under the bill. ("Other available publicly funded scholarships" would include any institutional aid from postsecondary institutions in the State and grants for postsecondary education provided by a Federal, State, or local governmental entity, but would not include loans.)

In addition, the plan would have to specify how the funds necessary to accomplish the promise of financial assistance would be raised. Any amount received under the State School Aid Act could not be included as a method of raising the necessary funds. The promise zone development plan would have to be financed from one or more of the following sources:

- Donations.
- Revenue.
- Money obtained from other sources approved by the governing body or otherwise authorized by law.

The plan also would have to include an actuarial model of how much it was estimated to cost, based on actuarial formulas developed by the Department of Treasury.

The proposed promise of financial assistance could not include funding for attendance at a postsecondary institution not located in this State.

The board would have to submit the promise zone development plan to the Department promptly after its adoption. The development plan would have to be published at least once in a newspaper of general circulation in the eligible entity.

The Department would have to review the proposed promise zone development plan and certify that it met all requirements under the bill and was sustainable. The Department also would have to review any proposed amendments to a promise zone development plan and certify that they met all requirements under the bill.

The establishment of a promise zone or a promise zone development 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 financial assistance set forth in the development plan were not paid to an eligible student.

Education Tax Capture

If a promise zone authority continued to make annual payments in accordance with the promise of financial assistance, in the year immediately after the base year and each subsequent year, the State would have to capture half of the increase in revenue, if any, from the collection of the State education tax.

The authority would have to determine the base year for calculating the amount of incremental growth for the capture of the SET. The base year would be the amount of revenue received from the collection of the SET in the promise zone in the year immediately before the year in which the authority made its initial tuition payment in accordance with the promise of financial assistance, or the amount of revenue received from the collection of the SET in the promise zone in any one of the three immediately preceding years, whichever was less.

The State could not capture any revenue from the collection of the State education tax if that revenue were subject to capture under any other law of the State. Proceeds from the capture of the SET would have to be deposited in the State treasury and credited to a restricted fund to be used solely for the purposes of the bill.

If the authority continued to make annual tuition payments in accordance with the promise of financial assistance, two years after the authority's initial payment of financial assistance and each subsequent year, the State would have to pay to the authority the captured State education tax. If the boundaries of two or more promise zones overlapped, payment would have to be made only to the first authority eligible for payment.

If at any time the authority did not make annual tuition payments in accordance with the promise of financial assistance, any amount captured from that promise zone in the restricted fund would have to be paid into the School Aid Fund.

Payments under those provisions could not be included in determining payments for financial assistance in the immediately preceding year.

Noneligible Entity

A city, township, county, local school district, or ISD that was not an eligible entity could create a promise zone, but could not capture revenue from the State education tax.

This provision would not prevent an eligible entity located within a city, township, county, local school district, or ISD that was not an eligible entity from creating a promise zone under the bill and capturing SET revenue as provided above.

Oversight; Authority Dissolution

The Department of Treasury would have to oversee the operations of any promise zone authority or board created under the bill. If the Department determined that the actions of a promise zone authority or board were not in accordance with the promise zone development plan, the Department could assume operational control of that authority or board.

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

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would reduce State education tax revenue to the School Aid Fund by an estimated \$46.2 million, based on data from the Kalamazoo Promise, and would increase expenditures from the School Aid Fund by an unknown and potentially significant amount. The bill also would change the distribution of revenue to local units, increasing local property tax revenue in some units while lowering it in others. The net effect of the bill on revenue other than school property tax revenue is unknown and potentially significant for individual local units. The magnitude of the impact would depend upon many variables, including the

number of local units that would create educational promise zones, the proximity of the zones to one another, the perceived quality of the educational systems affected by zones, the nature of the postsecondary educational commitments in the zones, the ability of the authorities to generate additional funding for disbursements, and the perceived credibility of the "promises".

While the number of eligible local units that could create a zone and an authority is unknown, the more zones that were created would be likely to reduce the effect of each zone. Furthermore, even with a small number of zones, the effect upon residency decisions of individuals could be minimal. While the bill would allow authorities to sue and be sued, it explicitly would exempt authorities from being held responsible for failing to make payment upon the promised financial commitments. A family that relocated to an area with a zone could do so at a substantial risk: If the authority did not have sufficient funds to fulfill the promise, the family would have no recourse to compensate for the loss. As a result, many individuals could be unwilling to alter their decisions as a result of the bill.

The City of Kalamazoo adopted a similar plan in 2006 and the effects of that action suggest a range of impacts for the bill. Based on the data for school districts in Kalamazoo County, approximately 80% or more of the increase in pupils in the Kalamazoo School District can account for enrollment declines in nearby school districts located within the county. Furthermore, the data suggest that each 1.0% change in the number of pupils in a district was associated with between a 0.5% and 1.0% change in the taxable value within the district.

As a result, using the 1.0% change in taxable value figure, if the bill were applied to the data reflecting the Kalamazoo "promise", State education tax revenue from the Kalamazoo School District would have increased by approximately \$1.6 million per year. The bill would have earmarked half of that amount, \$0.8 million, to be distributed to the local unit to pay for the promised postsecondary financial aid. However, State education tax revenue from surrounding school districts would have been \$1.3 million per year lower, all of which would have affected the School Aid Fund. As a result, net School Aid Fund revenue would have

been \$0.5 million per year lower as a result of the bill's application to the Kalamazoo example.

Furthermore, assuming that increases in taxable value affect homestead and nonhomestead property equally and based on the share of nonhomestead property relative to total taxable value, local school operating taxes within the City of Kalamazoo would have increased \$2.9 million while in other districts collections would have fallen by \$1.4 million. These increases would affect the amount of School Aid Fund expenditures needed in the respective districts in order to meet per-pupil funding guarantees, depending upon the specific characteristics of the per-pupil allowances in affected districts, but the net effect on School Aid Fund expenditures would have been either an increase or a decrease in total expenditures.

School districts that would meet the income requirements in the bill comprise 26.5% of the State's taxable value. As a result, the taxable value percentage increase in districts adopting the zones would need to rise by more than 5.6 times the percentage decline in districts without zones in order for the School Aid Fund not to experience a revenue decline. Based on the ratios from the City of Kalamazoo, if applied statewide the revenue loss to the School Aid Fund could total \$46.2 million per year.

The impact on expenditures from the School Aid Fund is unknown and would depend upon the relative split of changes in taxable value between homestead and nonhomestead property, the existence of hold-harmless mills on homestead property, and the relative foundation allowances in schools facing changes in enrollment as a result of the bill.

Local school districts that were a part of or surrounded promise zones would be affected by this legislation. To the extent that pupils left the school districts surrounding promise zones and enrolled in school districts within promise zones, the former districts would lose per-pupil funding, and the enrolling districts would gain per-pupil funding.

It is unknown whether the establishment of a promise zone would entice children not currently enrolled in the public school

system to enter a public school district within a promise zone. If this phenomenon were to occur, then State costs would increase commensurate with the number of additional enrolled pupils originating from outside the public school system.

The impact of the bill on local property tax revenue to individual local units could be significant. Between 2001 and 2005, taxable values in Kalamazoo County increased at an average rate of 5.7% per year, and rose at a 5.3% rate after Kalamazoo adopted its program. In the Kalamazoo School District, before the program, taxable values increased an average of 4.7% per year, compared with 5.1% after the program was adopted. However, in Galesburg Augusta Community Schools, the increase in taxable value fell from 9.9% per year before the change to 4.1% per year, and in the Parchment School District taxable values went from an average annual increase of 5.6% per year to 3.8%. These changes corresponded to enrollment changes in the districts, while enrollment in the Kalamazoo District went from a decline of 2.1% per year to an average annual increase of 5.6%. In contrast, enrollment in the Galesburg Augusta Community Schools went from an increase of 1.0% per year to an average annual decline of 1.8% per year, and enrollment in the Parchment School District went from an average annual increase of 0.6% per year to an average annual decline of 5.1% per year. As a result, property tax revenue to the City of Kalamazoo increased, while it fell for local units contained within the Parchment School District and the Galesburg Augusta Community School District. Data are not available at this time to extrapolate these changes to a statewide program as proposed by the bill; however, the Kalamazoo example suggests that lower-income local units would receive more property tax revenue as a result of the bill while all other units would receive less. The net effect of these changes is unknown at this time.

The degree to which the bill's inclusion of graduates of nonpublic schools within zones would alter the estimated impact on affected local units, School Aid Fund revenue, and School Aid Fund expenditures needed to maintain per-pupil funding guarantees is unknown.

The Department of Treasury would incur minimal administrative costs as a result of the bill.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.