Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 615 and 623 (as reported without amendment)
Sponsor: Senator Ken Horn
Committee: Economic and Small Business Development

Date Completed: 8-24-22

RATIONALE

The Good Jobs for Michigan (GJFM) program was created in 2017. The program offered financial support through tax capture withholding for companies that created new jobs in Michigan. The program sunset in December 2019. Some believe that GJFM had a significant and positive impact, and that the loss of this program is negatively affecting the State's economy. Accordingly, it has been suggested that a new program be created within the Michigan Strategic Fund (MSF) to encourage the creation of new jobs in Michigan.

CONTENT

Senate Bill 615 would add Chapter 8F to the Michigan Strategic Fund Act to do the following:

- **Require the MSF to create and operate the Michigan Employment Opportunity Program (MEOP) to authorize the transfer of the dedicated portion of withholding tax capture revenue to authorized businesses that provided certified new jobs in the State.**
- **Allow an eligible business to apply to the MSF to enter into a written agreement that authorized the payment of withholding tax capture revenue under the proposed Chapter.**
- **Allow the MSF to enter into an agreement with an eligible business for withholding tax capture revenue if the MSF found, among other things, that the eligible business proposed to create and maintain the minimum number of certified new jobs at a facility in the State and to pay an average annual wage as required by the bill.**
- **Prohibit the duration of the withholding tax capture revenue from exceeding five or 10 years, whichever was applicable as determined by the bill, from the date the authorized business created the certified new jobs.**
- **Prescribe the requirements of a written agreement between an eligible business and the MSF.**
- **Require the MSF to determine the duration and amount of the withholding tax capture revenue for an authorized business based upon the tier of the county in which the business created certified new jobs, the number of certified new jobs created, and the average annual wage of those jobs created.**
- **Require the State Treasurer to calculate the amount of withholding tax capture revenue collected for each calendar year and the percentage of that amount needed to be transferred from the General Fund.**
- **Prohibit the MSF from committing an amount of total withholding tax capture revenue that exceeded $300.0 million and from executing more than 40 new written agreements each calendar year for authorized businesses.**
- **Create the "Employment Opportunity Fund" within the State Treasury.**
- **Prescribe the process by which an authorized business could receive withholding tax capture revenue payments from the Fund.**

- **-- Prohibit the MSF from designating an authorized business or entering into a new written agreement on or after December 31, 2026.**

<u>**Senate Bill 623**</u> **would amend the Income Tax Act to do the following:**

- **-- Require an amount equal to that portion of the withholding tax capture revenue attributable to certified new jobs and due to be paid to an authorized business under a written agreement entered into under proposed Chapter 8F (see Senate Bill 615) of the Michigan Strategic Fund Act to be deposited each State fiscal year into the Employment Opportunity Fund.**
- **-- Require an employer who has entered into a written agreement under the Michigan Employment Opportunity Program to delineate in a return or report to the Department of Treasury the portion of those taxes withheld and paid to the State that were attributable to certified new jobs, for as long as a written agreement remained in effect.**

Senate Bill 623 is tie-barred to Senate Bill 615.

<u>Senate Bill 615</u>

<u>Definitions</u>

Under the bill, "eligible business" would mean a business other than a retail establishment, professional sports stadium, casino, or that portion of an eligible business used exclusively for retail sales that proposes to create one or more of the amounts of certified new jobs as described below.

To be an eligible business located in a tier one county, a business would have to create one of the following:

- -- A minimum of 3,000 certified new jobs in the State with an average annual wage that was equal to or greater than the prosperity region average wage.
- -- A minimum of 500 certified new jobs in the State with an average annual wage that was equal to or greater than the prosperity region average wage.
- -- A minimum of 250 certified new jobs in the State with an average annual wage that was equal to 125% or more of the prosperity region average wage.

To be an eligible business located in a tier two county, a business would have to create one of the following:

- -- A minimum of 500 certified new jobs in the State with an average annual wage that was equal to or greater than the prosperity region average wage.
- -- A minimum of 250 certified new jobs in this state with an average annual wage that was equal to or greater than the prosperity region average wage.
- -- A minimum of 100 certified new jobs in this state with an average annual wage that was equal to 125% or more of the prosperity region average wage.

To be an eligible business located in a tier three county, a business would have to create one of the following:

- -- A minimum of 250 certified new jobs in the State with an average annual wage that was equal to or greater than the prosperity region average wage.
- -- A minimum of 100 certified new jobs in the State with an average annual wage that was equal to or greater than the prosperity region average wage.
- -- A minimum of 50 certified new jobs in the State with an average annual wage that was equal to 125% or more of the prosperity region average wage.

"Certified new job" would mean a full-time job created by an authorized business at a facility in the State that is in excess of the number of full-time jobs that authorized business maintained in the State prior to the expansion or location and the number of full-time jobs that the authorized business acquired through a merger or acquisition that were located in the State before the expansion or location, as determined by the MSF. Under written agreement between the authorized business, the MSF, and the primary supplier, certified new jobs for an authorized business located in a tier one county as described below could, as determined by the MSF, include the number of those new jobs created by the primary supplier of that authorized business as a result of the new or increased business activity with that authorized business as determined by the Fund.

"Tier one county" would mean a county with a population of 250,000 or more. "Tier two county" would mean a county with a population of more than 90,000 and less than 250,000. "Tier three county" would mean a county with a population of 90,000 or less.

"Prosperity region" would mean each of the 10 prosperity regions identified by the Department of Technology, Management, and Budget on the bill's effective date. "Prosperity region average wage" would mean the average annual wage for the prosperity region where the facility is located based on the most recent data made available by the Michigan Bureau of Labor Market Information and Strategic Initiatives.

"Authorized business" would mean an eligible business that has met the requirements of Chapter 8F and with which the MSF has entered into a written agreement for withholding tax capture revenue under Chapter 8F and section 51f of the Income Tax Act.

"Withholding tax capture revenues" would mean the amount of income tax withheld under Part 3 of the Income Tax Act each calendar year that is attributable to individuals employed within certified new jobs. The State Treasurer would have to develop methods and processes that were necessary for each authorized business to report the amount of withholding under Part 3 of the Income Tax Act from individuals employed within certified new jobs. "Written agreement" would mean a written agreement made between the eligible business and the Fund under Chapter 8F.

"Casino" would mean a casino regulated by the State under the Michigan Gaming Control and Revenue Act, a casino at which gaming is conducted under the Indian Gaming Regulatory Act, or property associated or affiliated with the operation of either type of casino described in this below, including, but not limited to, a parking lot, hotel, or motel.

"Facility" would mean a site or sites within the State in which an authorized business creates certified new jobs.

"Full-time job" would mean a full-time job as determined by the MSF performed by an individual whose income and Social Security taxes are withheld by one or more of the following:

-- An authorized business.
-- An employee leasing company.
-- A professional employer organization on behalf of the authorized business.

"Primary supplier" would mean an entity that creates at least 25 new jobs in the State and that provides to an authorized business under a written agreement under Chapter 8F a minimum of $5.0 million in tangible personal property annually as determined by the Fund and a minimum of 10% of the tangible personal property used by the authorized business annually as determined by the Fund.

Michigan Employment Opportunity Program Application

Under the bill, the MSF would have to create and operate the Michigan Employment Opportunity Program to authorize the transfer of the dedicated portion of withholding tax capture revenue to authorized businesses that provided certified new jobs in the State. The MSF would have to develop and use a detailed application, approval, and compliance process published and available on its website.

An eligible business could apply to the MSF to enter into a written agreement that authorized the payment of withholding tax capture revenue under proposed Chapter 8F. The Fund could request information, in addition to that contained in an application, as could be needed to allow the MSF to discharge its responsibilities under the proposed Chapter.

After receiving an application, the MSF could enter into an agreement with an eligible business for withholding tax capture revenue under proposed Chapter 8F if the MSF determined that all the following were met:

-- The eligible business proposed to create and maintain the minimum number of certified new jobs at a facility in the State and to pay an average annual wage as described above.
-- In addition to the jobs specified above, the eligible business, if already located within the State, agreed to maintain a number of full-time jobs equal to or greater than the number of full-time jobs it maintained in the State prior to the expansion, as determined by the Fund.
-- The plans for the expansion or location were economically sound.
-- The expansion or location of the eligible business would benefit the people of the State by increasing opportunities for employment and by strengthening the economy of the State.
-- The withholding tax capture revenue offered under Chapter 8F and paid from the employment opportunity fund were an incentive to expand or locate the eligible business in the State and address the competitive disadvantages with sites outside the State.
-- An industry-recognized regional economic model cost-benefit analysis revealed that the payment of withholding tax capture revenue under Chapter 8F to an eligible business would result in an overall positive fiscal impact to the State.
-- The eligible business would create the requisite number of certified new jobs within not more than five years after entering into the written agreement as determined by the Fund.
-- The eligible business would maintain the number of certified new jobs throughout the duration of the time that the authorized business received withholding tax capture revenue paid from the Employment Opportunity Fund; however, if the authorized business failed to maintain the requisite number of certified new jobs as provided in the written agreement, the authorized business would forfeit the withholding tax capture revenue for that calendar year.
-- That the local governing body of the municipality in which the facility was located approved the expansion or new location by resolution.

Withholding Tax Capture Revenue Determinations

If the MSF determined that the eligible business satisfied all of the requirements described above, subject to the provisions described below, the MSF would have to determine the amount and duration of the withholding tax capture revenue to be authorized under Chapter 8F and would have to enter into an agreement as provided by the bill. The duration of the withholding tax capture revenue could not exceed five or 10 years, whichever was applicable based on the average annual wage of the certified new jobs, from the date the authorized business created the certified new jobs as provided in the agreement. Subject to the provisions below, in determining the maximum amount and maximum duration of the withholding tax capture revenue authorized, the MSF would have to consider the following factors, if applicable:

-- The number of certified new jobs to be created.
-- The degree to which the average annual wage of the certified new jobs exceeded the prosperity region average wage.
-- Whether there was a disadvantage to the eligible business if it were to expand or locate in the State versus a site outside the State.
-- The potential impact of the expansion or location on the economy of the State.
-- The estimated cost of the reimbursement of withholding tax capture revenue under Chapter 8F, the staff, financial, or economic assistance provided by the municipality, or local economic

development corporation or similar entity, and the value of assistance otherwise provided by the State.
-- Whether the expansion or location would occur in the State without the payment of withholding tax capture revenue offered under Chapter 8F. -- Whether the eligible business had made a written commitment to fund some portion of costs for applicable training of the individuals who would perform the full-time jobs that led to a professional or technical certification for these individuals.
-- That the eligible business would make a good-faith effort to employ, if qualified, Michigan residents at the facility.

The bill would require the MSF to determine the duration and amount of the withholding tax capture revenue. In determining the duration, the MSF would have to provide a duration of up to five years for an eligible business located in a tier one, tier two, or tier three county that created a minimum of 500 certified new jobs in the State with an average annual wage that was equal to or greater than the prosperity region average wage, a minimum of 250 certified jobs in the State with an average annual wage that was equal to or greater than the prosperity region average wage, or a minimum of 100 certified new jobs in the State with an average annual wage that was equal to or greater than the prosperity region average wage, respectively.

In determining the amount of the withholding tax revenue payments, the MSF could approve a payment of not more than 50% of the withholding tax capture revenue for an eligible business described above.

In determining the duration of the withholding tax capture revenue, the MSF would have to provide a duration of up to 10 years for eligible businesses that created the following:

-- For an eligible business located in a tier one county, a minimum of 3,000 certified new jobs in the State with an average annual wage that was equal to or greater than the prosperity region average wage.
-- For an eligible business located in a tier one county, a minimum of 250 certified new jobs in the State with an average annual wage that was equal to 125% or more of the prosperity region average wage.
-- For an eligible business located in a tier two county, a minimum of 500 certified new jobs in the State with an average annual wage that was equal to or greater than the prosperity region average wage.
-- For an eligible business located in a tier two county, a minimum of 100 certified new jobs in the State with an average annual wage that was equal to 125% or more of the prosperity region average wage.
-- For an eligible business located in a tier three county, a minimum of 250 certified new jobs in the State with an average annual wage that was equal to or greater than the prosperity region average wage.
-- For an eligible business located in a tier three county, a minimum of 50 certified new jobs in the State with an average annual wage that was equal to 125% or more of the prosperity region average wage.

In determining the amount of withholding tax capture revenue payments, the MSF could approve a payment of up to 100% of the withholding tax capture revenue for an eligible business described above.

The bill specifies that the amount of withholding tax capture revenue certified to be paid to an authorized business would have to be reduced by 5%, which would have to be retained by the MSF for additional administrative expenses under Chapter 8F as described below.

<u>Written Agreement Requirements</u>

Under the bill, a written agreement between an eligible business and the MSF would have to include, but not be limited to, all the following:

- -- A description of the business expansion or location that was the subject of the written agreement.
- -- Conditions upon which the authorized business designation was made.
- -- A statement from the eligible business that the eligible business would not have added certified new jobs without the withholding tax capture revenue payments authorized under Chapter 8F.
- -- An estimate of the amount of withholding tax capture revenue expected to be generated for each calendar year of the duration of the written agreement.
- -- A statement by the eligible business that a violation of the written agreement could result in the revocation of the designation as an authorized business, the loss or reduction of future withholding tax capture revenue payments under Chapter 8F, or a repayment of withholding tax capture revenue received pursuant to Chapter 8F.
- -- A statement by the eligible business that a misrepresentation in the application could result in the revocation of the designation as an authorized business and the repayment of withholding tax capture revenue received under Chapter 8F plus a penalty equal to 10% of the withholding tax capture revenue payments received pursuant to the Chapter.
- -- A method for measuring and verifying full-time jobs before and after an expansion or location of an authorized business in the State.
- -- A provision that the authorized business that was certified under as provided by the bill for a payment from the Employment Opportunity Fund would have to file the required returns and reports under Chapter 8F and Part 3 of the Income Tax Act with the Department of Treasury, and would have to provide any other information reasonably requested by the MSF or the Department.
- -- A maximum amount of withholding tax capture revenue that the authorized business could claim before reduction of the 5% payment as provided by the bill for administrative expenses.

Upon execution of a written agreement as provided above, an eligible business would be an authorized business. The MSF would have to provide a copy of each written agreement to the Department. Upon execution of the written agreement, the transfer and payment of withholding tax capture revenue as specified in Chapter 8F and in the written agreement would be binding on the State. The State Treasurer would have to calculate, based on the written agreements received as described above, the amount of withholding tax capture revenue collected as a result of the certified new jobs created under those written agreements for each calendar year and the percentage of that amount that would need to be transferred from the General Fund and deposited, in accordance with Section 51f of the Income Tax Act into the Employment Opportunity Fund, where the MSF would have to issue payments to the authorized business as described below.

(Senate Bill 623, which is described in more detail below, would amend Section 51f of the Income Tax Act to prescribe the process for depositing revenue into the Employment Opportunity Fund.)

The bill would prohibit the MSF from committing, and the Department from disbursing, an amount of total withholding tax capture revenues that exceeded $300.0 million which included the 5% payment for administrative expenses as described below. The Fund could not execute more than 40 new written agreements each calendar year for authorized businesses. If the MSF approved fewer than 40 written agreements in a calendar year, then any unused written agreements would have to carry forward into future calendar years and would be in addition to the annual limit that otherwise was applicable.

The MSF could not approve more than 10 written agreements each year for authorized businesses in a tier one county that total more than $125.0 million, 15 written agreements each year for authorized businesses in a tier two county that total more than $100.0 million, or 15 written agreements each year for authorized businesses in a tier three county that total more than $75.0 million.

As used above, "total withholding tax capture revenues" would mean the aggregate amount of withholding tax capture revenues that may be distributed to authorized businesses under all written agreements.

The bill also would prohibit the MSF from designating an authorized business or entering into a new written agreement on or after December 31, 2026.

Disbursement of Withholding Tax Capture Revenue

Except as otherwise provided, the MSF would have to issue a withholdings certificate each calendar year to an authorized business that stated the following:

-- That the eligible business was an authorized business.
-- The amount of withholding tax capture revenue to be paid from the employment opportunity fund for the designated calendar year.
-- The authorized business's Federal employer identification number or the Michigan Treasury number assigned to the authorized business.

The MSF would have to provide the Department with a copy of each withholdings certificate issued. After receiving a withholdings certificate, an authorized business could request a payment from the Employment Opportunity Fund by filing a copy of the withholdings certificate with the MSF. The MSF would have to issue the withholding tax capture revenue payment from the Employment Opportunity Fund within 90 days of receipt of the request for payment from the authorized business.

If the authorized business subsequently failed to satisfy and maintain the minimum number of certified new jobs as required under Chapter 8F or any other conditions included in the written agreement, the authorized business would forfeit its withholding tax capture revenue payment for the calendar year that the authorized business failed to comply with Chapter 8F or the written agreement. The forfeiture of a withholding tax capture revenue payment as described above would not extend the duration of the original written agreement. Accordingly, if the duration of the written agreement had not expired, an authorized business that satisfied all of the terms of the written agreement after a forfeiture as described above would be entitled to certification for withholding tax capture revenue payments for those subsequent calendar years.

In the event of a proposed reorganization, merger, or other change of ownership of the authorized business for which reimbursement would continue under a written agreement, the approval of the MSF would be required before the assignment or transfer of the written agreement.

The MSF would have to retain an amount equal to 5% of the withholding tax capture revenue payments authorized for that year for the Fund. The Board would have to use that amount to pay for the additional administration expenses under Chapter 8F. Each year, the MSF would have to distribute at least 50% of the amount received as described above to the economic development organization that assisted the eligible business in obtaining funding under Chapter 8F.

As a condition of being an authorized business, an authorized business would have to authorize the MSF to identify the authorized business and disclose the amount and duration of the withholding tax capture revenue payments. The MSF would have to publish the information on the MSF's website and include this information in the report required as described below.

Creation of Employment Opportunity Fund

The bill would create the Employment Opportunity Fund within the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund. The State Treasurer would have to direct the investment of the Fund and credit all amounts deposited under Section 51f of the Income Tax Act to the Fund and credit to the Fund any interest and earnings from Fund investments. Money in the Fund at the close of the fiscal year would have to remain in the Fund and could not lapse to the General Fund.

The Employment Opportunity Fund could be used only for one or more of the following purposes:

-- To make withholding tax capture revenue payments in accordance with a written agreement to an authorized business within 90 days after receipt of a request for payment and a copy of the withholding certificate issued under the bill.
-- To distribute an amount equal to 5% of the withholding tax capture revenue payments certified by the bill to the MSF to pay for administration expenses as provided Chapter 8F.

Reporting Requirements

The Michigan Strategic Fund Act requires the MSF to transmit to each member of the Legislature, the Governor, the Clerk of the House of Representatives, the Secretary of the Senate, and the Senate and House Fiscal Agencies annually a report of its activities. The report must include certain information, such as a list of entities that received financial assistance the type of project or product being financed, and the amount and type of financial assistance, among other things.

Under the bill, the report also would have to include all the following for all written agreements related to the Michigan Employment Opportunity Program created as described above:

-- The name of the authorized business.
-- The number of certified new jobs required to be maintained.
-- The amount and duration of the withholding tax capture revenue.

Senate Bill 623

Distribution of Income Tax Revenue

The Income Tax Act levies and imposes upon the taxable income of every person other than a corporation a tax of 4.25%. The Act also specifies the distribution of revenue collected from the income tax. For example, Section 51 of the Act requires certain percentages or amounts of the tax levied to be deposited in the State School Aid Fund, the Agricultural Preservation Fund, and the Renew Michigan Fund, and Section 51d of the Act requires $600.0 million of the tax levied to be deposited into the Michigan Transportation Fund.

In addition to those distributions described above, the Act requires an amount equal to that portion of the withholding tax capture revenue attributable to certified new jobs and due to be paid to an authorized business under a written agreement entered into under Chapter 8D of the Michigan Strategic Fund Act to be deposited each fiscal year into the Good Jobs for Michigan Fund created in Michigan Strategic Fund Act.

Under the bill, in addition to the distributions under Section 51 and Section 51d of the Income Tax Act, and following the distribution described above, an amount equal to that portion of the withholding tax capture revenue attributable to certified new jobs and due to be paid to an authorized business under a written agreement entered into under Chapter 8F (see Senate Bill 615) of the Michigan Strategic Fund Act would have to be deposited each State fiscal year into the Employment Opportunity Fund created in the Michigan Strategic Fund Act.

Income Tax Return Requirements

Under the Act, every person required by the Act to deduct or withhold taxes must make a return or report in form and content and at times as prescribed by the Department of Treasury. An employer that has entered into a written agreement under the Good Jobs for Michigan Program created under the Michigan Strategic Fund Act, for as long as the written agreement remains in effect, must delineate in the return or report the portion of those taxes withheld and paid to the State that are attributable to certified new jobs. The bill would extend this requirement to an employer who has entered into an agreement under the Michigan Employment Opportunity Program, which Senate Bill 615 would create within the Michigan Strategic Fund Act.

MCL 125.2009 et al. (S.B. 615)
206.51f & 206.711 (S.B. 623)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Michigan is in competition with 49 other states, as well as Canada, to attract large projects to the State. With the sunset of the GJFM program (which, according to the Michigan Economic Development Corporation (MEDC), created 11,300 jobs with an average hourly wage of $31.51), Michigan does not have the economic development infrastructure to retain companies, help them expand, and attract new firms. Other states are capitalizing on this failure.

Michigan currently has the highest concentration of automobile manufacturing in the county; according to the National Association of Manufacturers, manufacturing makes up about 19% of the State's economy. However, with much of the auto industry converting from internal combustion engines to electric vehicles, the industry is once again up for grabs. Michigan must be an active player and must compete effectively in order to maintain its hold on automobile manufacturing. The creation of the MEOP is one way that Michigan could keep pace with the changing industry and fight for critical manufacturing investments.

Michigan was once the undisputed leader in attracting new business to the State, and the MEOP could help the State return to that position. Former Governor John Engler noted that if Michigan wanted to compete for big developments, the State had to get into the state incentives race. When the Michigan Economic Growth Authority (MEGA) was at its peak during its first few years of implementation, it was one of the best tax incentive programs in the country. Governor Engler also signed bills establishing brownfield tax credits, tax exemptions through the Obsolete Property Rehabilitation Act (OPRA), and tax-free renaissance zones. Lastly, the former Governor also helped to form the Michigan Jobs Commission, which since has transitioned into the MEDC. With these new programs implemented, Michigan won the Governor's Cup from *Site Selection Magazine* an unprecedented four years in a row as the number one state in the nation for new investment and job creation. Therefore, it is apparent that state incentive programs have worked for the State in the past, so the MEOP should be created to return Michigan to its position as a leader in economic development.

The proposed MEOP would be accountable and transparent. This program would not require any money up front from the State budget. A business would obtain the promised benefit only after new jobs have been created, thus ensuring the creation of new and high paying jobs for the State. The proposed MEOP also would have three tiers based on the size of the county. This would allow smaller corporations in less-populated cities to apply to receive benefits as well. Projects would have the ability to scale based on location. Furthermore, by tiering on a county level, it would be easier to determine an appropriate regional wage. Different counties have varying needs when it comes to the number of available jobs that should be available and the wages of these positions. The tiered structure of the MEOP would allow high-paying jobs to be created throughout the State and would allow corporations to adapt to the needs of individual Michigan counties.

Opposing Argument

Corporate incentive programs are expensive and ineffective. According to a 2020 study conducted by the Mackinac Center for Public Policy, only three out of the nine program areas that were studied showed that State incentive programs made a statistically significant impact on job growth. Furthermore, in those three cases, it cost the State about $600,000 in incentives per job created.[1] In 2014, economist Nathan Jensen analyzed the Promoting Employment Across Kansas (PEAK)

---

[1] Wetzel, Holly, "Business Incentive Programs are Ineffective and Expensive", Mackinac Center for Public Policy. Retrieved on 8-15-2022.

program, which is structured similar to that proposed for the MEOP. This analysis noted that businesses that were granted subsidies from the PEAK program were no more likely to create new jobs in Kansas than businesses that did not receive a subsidy.[2] As noted above, the PEAK program is structured in a similar way as the proposed MEOP would be, so the incentives most likely would prove to be just as ineffective.

Subsidy programs are not the main motivator for companies during site selection. According to researcher Richard Florida, business incentives do not play as important a role in companies' location decisions as states tend to believe. Rather, these decisions are based on more concrete factors such as labor costs, workforce quality, proximity to markets, and access to suppliers.[3] One example of this, according to the Center for Economic Accountability, is the location decision for Amazon HQ2. The final decision was between sites in Maryland and Virginia that were about 10 miles apart. The state of Maryland offered $7.0 billion more in subsidies than Virginia, yet Amazon chose the site in Virginia. This serves to illustrate the fact that if $7.0 billion could not move Amazon HQ2 10 miles down the road, a program like the MEOP likely would not make a difference on site selection in Michigan.

Lastly, subsidy programs create zero-sum job wars, and many cities and states spend more money trying to entice businesses to relocate or generate jobs than on necessary public services. On an interstate level, this can best be seen in the 'job war' between Kansas and Missouri. According to Good Jobs First, the states spent about a one-third of a billion dollars combined on incentives for businesses to relocate within their borders. This was labeled as job creation, when in reality, it was simply the relocation of workers within the same job market. The excessive spending on incentives can be seen with Michigan municipalities, as well. For example, according to testimony before the Senate Committee on Economic and Small Business Development, Detroit spent $54.0 million for a new Fiat Chrysler Automobiles plant in 2019. This was more money than the city had spent to run the Detroit Health Department throughout the entire year. In Grand Rapids, before the COVID-19 pandemic, the city's combined cost of economic development programs was $38 million—more than the $31 million that the city spent to run the fire department. Investments in the MEOP or other business incentive programs take away funding from public services.

Legislative Analyst: Olivia Ponte

FISCAL IMPACT

Revenue Impact

The bills would reduce General Fund revenue by a maximum of $300.0 million over the life of the program, although it is impossible to know how much of the impact would fall in any given fiscal year. The actual revenue reduction in any given year would depend on the number of agreements the MSF entered into, the specific terms of those agreements, the location of the activities covered by the agreements, and the tax capture rates approved under any agreements. While the bills would require the MSF to determine that an agreement would result in an "overall positive fiscal impact to the state", the bills would not require agreements to exhibit a net positive impact on the General Fund; thus, any net positive impact could include increased revenue to funds other than the General Fund. Without considering any overall net positive impact on State revenue, the bills would not limit the reduction in General Fund revenue in any given year but would provide a $300.0 million limit on the total reduction over the life of all agreements entered into under the bills.

The specific withholding capture under an agreement would depend on the average wage in the area covered by the agreement, as well as the wage for any certified new job. While the bill references average wages for prosperity zones, the Bureau of Labor Market Information and

[2] Jensen, Nathan M., "Evaluation Firm-Specific Location Incentives: An Application to the Kansas PEAK Program". Retrieved on 8-15-2022.
[3] Florida, Richard, "Want to deplete your tax base? Give 'job creators' what they want". Retrieved on 8-16-2022.

Strategic Initiatives publishes median wage data for prosperity zones. The difference between the median and the average wage can be substantial; for the State as a whole the average wage rate was $53,390 ($25.67 per hour) in 2020, slightly more than 30% above the median wage of $40,920 ($19.67 per hour). Average wage rates can be calculated based on data published by the Bureau of Labor Market Information and Strategic Initiatives, and those calculation produce slightly different results, with a statewide average wage in 2020 of $59,409 (compared to the current US Bureau of Labor Statistics estimate of $59,432).

Statewide, the median wage in 2020 ranged from $15.91 per hour ($33,102 annually) in the Northeast Prosperity Region, Muskegon to $21.86 per hour ($45,460 annually) in the Detroit Prosperity Region. For calculated annual wage rates, the averages ranged from $42,917 in the Northeast Prosperity Region to $66,728 in the Detroit Prosperity Region. Based on a statewide average wage rate of $53,390, and assuming an effective 3.0% withholding rate after accounting for personal exemptions, the minimum annual withholding subject to the bills would total $1,602 per employee. For firms located in a tier 1 county required to provide at least 3,000 certified new jobs, the minimum withholding subject to the bills would total approximately $4.8 million per year (or $48.1 million over the maximum ten-year life of the agreement). As a result, approximately six agreements at the maximum level, located in tier 1 counties, could exhaust the $300.0 million cap.

To the extent that the certified new jobs represented actual new employment that would not have occurred absent the bills (and Senate Bill 615 would require that taxpayers entering into an agreement to state such a condition, and does not appear to allow agreements for "jobs retention"), the bills likely would result in a net positive fiscal impact on the State, especially in cases in which the captured portion of withholding could not exceed 50% of the withholding from jobs covered by the agreements. However, the bills would result in a change in the way revenue would be split between funds. Under current law, a new job paying $55,000 (approximately 3% more than the statewide average wage) and subject to an effective 3.0% ate (after exemptions) would increase General Fund revenue by $1,257 and School Aid Fund revenue by $393. Under the bills, a new job covered by an agreement would generate $825 at the 50% capture rate, or $1,650 at the 100% capture rate, in revenue for the Employment Opportunity Fund, to be paid to the taxpayer. However, revenue to the Employment Opportunity Fund would be disbursed after distributions to the School Aid Fund and the Michigan Transportation Fund. As a result, the net impact would be a $393 gain to the School Aid Fund, but either a $432 gain or a $1,650 loss to the General Fund, depending on whether the wages were subject to capture at a 50% or 100% rate. Excluding most other secondary effects, presumably a portion of the $55,000 in income would be spent on items taxable under the sales tax. If 35% of the income were spent on items subject to the sales tax, it would increase sales tax revenue by $1,155, of which $847 would be directed to the School Aid Fund, $115 to constitutional revenue sharing to local units of government, and the remaining $193 to the General Fund. Accounting for such an increase in sales tax revenue, and combined with the impact on individual income tax revenue, the bills would increase School Aid Fund revenue by $1,239 but the impact on the General Fund would either be a $625 increase or a $1,457 loss, again depending on the capture rate. In comparison, under current law, the General Fund would increase by $1,450 and the School Aid Fund would increase by $1,239 (a net increase of $2,687). This example serves to illustrate that the expected fiscal impact of the bills on the General Fund could be negative, even if the overall fiscal impact on the State were positive and the jobs were new jobs that would not exist absent the bills.

Senate Bill 615 would place several requirements on proposals covered by the agreements, but some of these requirements lack definitions or details. For example, plans for an expansion would have to be "economically sound", but that term is not defined in the bill. Similarly, the bill would require the use of an industry-recognized regional economic model cost-benefit analysis, but does not indicate who would be responsible for conducting the analysis (the taxpayer, the Michigan Strategic Fund, the Department of Treasury, a disinterested third party, etc.). Also, although a variety of additional assumptions often are required in order for a model to produce accurate results, the bill does not indicate what factors and assumptions should be included in the analysis. As a result, some of the requirements likely would not represent barriers to entering into an agreement. For example, if the analysis assumed that any jobs covered by an agreement would not otherwise exist at any wage rate, it would be almost impossible to argue any project failed to represent an overall positive impact to the State.

Finally, while the bill would earmark revenue to the Employment Opportunity Fund, any payments from the Fund to businesses participating in agreements could require appropriation.

Administrative Impact

The bills would result in the need for additional appropriations for the Department of Treasury and the Department of Labor and Economic Opportunity. The Department of Treasury would incur additional administrative expenses due to administering the Employment Opportunity Fund. Under a similar program with the Good Jobs Fund, Treasury calculated administrative costs of up to $125,000 to administer the Fund, assuming it received the full withholding tax capture revenue. The Department of Treasury also would have similar one-time costs associated with creating the Fund, which would be minimal. Since the Department of Treasury would not be guaranteed any of the 5% of the Fund allowed for administration, the Department of Treasury would need to bill the Department of Labor and Economic Opportunity an administrative fee or cover those costs within current appropriations.

The Department of Labor and Economic Opportunity, which houses the Michigan Strategic Fund, also would incur additional expense in order to develop and administer the application, approval, and compliance process. Senate Bill 615 would allow up 5% of the proposed Fund to be used for the MSF's administrative costs; this allocation would equate to $15.0 million if the full $300.0 million were received. This allocation likely would be more than sufficient to cover the administrative costs of the Department of Labor and Economic Opportunity, even when split 50% with an economic development organization that assisted eligible businesses.

Fiscal Analyst: Cory Savino
David Zin

SAS\A2122\s615a