Economic Development Accountability & Transparency Package

- Residents deserve to know where their money goes and what they get for it, and Michigan has fallen behind in ensuring that its business subsidies are transparent and that administrators are held accountable for results.
- This is a bipartisan package of bills.
- The bills will inform people about what is offered, what companies have received and creates new rules and reporting on projects that fail or fail to occur.

ACCESS BEFORE APPROVAL

SENATE BILL 767: Sen. Stephanie Chang / Sen. Dan Lauwers
HOUSE BILL 5458: Rep. Tenisha Yancey / Rep. Pamela Hornberger

THE PROBLEM:

- The state can be more transparent about support being offered to companies before deals are approved.
- If taxpayers have a problem with the support being offered to a particular company, the public is only notified after assistance is approved.
- In 2010, a convicted felon on parole was approved $9 million in state assistance. This was brought to the public's attention after a reporter identified the criminal record of the man who had been offered support. It could have been prevented with prior notification.

WHAT DOES THE LEGISLATION DO?

The bill amends the state's business subsidy rules to include the requirement to post documents that can help people understand what is being offered to companies and why 10 days before approving assistance.

The requirements include the regular documents prepared for each business project and the proposed contractual agreement.

WHY IS THIS IMPORTANT?

It's good government. It lets the state be more transparent about administrators' intents, in addition to the existing transparency from reporting on actions.

And if the state decides to take up controversial projects, this gives any public opposition the chance to present their case to the Strategic Fund board. This hasn't happened under current policies.

People should be told what companies are getting before the state approves their support.

EXAMPLES OF WHAT THE LEGISLATION WOULD ADDRESS

- Agendas can contain the name of a project and what kind of assistance will be offered, but not further details
- Agendas can change quickly prior to meetings and the statutory minimum for announcing a meeting is 18 hours. The December 17 board meeting agenda was not posted by Friday of the week prior.
- Some assistance is offered without public notification.
    - Michigan Business Development projects with state support of under $1 million may be approved outside of a public meeting
    - Michigan Community Revitalization projects
    - Grantees after state allocation from programs like the Translational Research and Commercialization program

FAILURE NOTICE

SENATE BILL 770: Sen. Lana Theis / Sen. Jeff Irwin
HOUSE BILL 5459: Rep. Yousef Rabhi / Rep. Steven Johnson

THE PROBLEM:

- Administrators of state business subsidies have an incentive to trumpet their successes and gloss over deals that did not create jobs.
- There are reporting requirements that include some of this information but they are dated and incomplete.

WHAT DOES THE LEGISLATION DO?

The bill adds new requirements for administrators to post a notice when deals fall short of expectations.

When a company ceases to operate or fails to meet its contractual terms, administrators will post a notice on its website that includes the name of the company, what kind of assistance it received and how much it has collected, whether the company received money from the state after its award was announced and an estimate from administrators about whether the state will get its money back. If the company is still operating, the notice will include how many jobs have been created or retained at the assisted business project.

Administrators will also be required to post any amendments to deals that companies seek prior to approving the amendment.

WHY IS THIS IMPORTANT?

We hire administrators not to be cheerleaders about their successes, but to be stewards of public resources. That includes being up front with the public about the deals they've made which have not gone as planned.

The state is good about reporting on what they've offered. They're bad at reporting what happens afterward, especially when companies underperform.

The federal government already has a requirement that companies report mass layoff events. This would be a similar kind of requirement for companies who receive state support.

EXAMPLES OF WHAT THE LEGISLATION WOULD ADDRESS

- In June 2012, the state approved a $450,000 grant to Altronics Energy and promoted the project in a press release which made news. It closed within a year. The MEDC made no note of this in its report on 2013 program report. The company disappeared from state reports until 2018, when it was included in a report which noted that the agreement had been terminated.
- In July 2013, the state approved a $600,000 grant to Teleperformance USA and promoted the project in a press release which made news. The company disappeared from state reports in 2014 until 2018 when the state reported that no money had changed hands, that no jobs had been created, and that the agreement had been terminated. A news report in 2018 noted that the company was closing its office and laying off its workforce.
- In March 2014, the state approved a $200,000 grant to Proos Manufacturing and promoted the project in a press release which made news. The company received $75,000 from the state but apparently did not abide by its terms and had to repay the state plus penalty, as noted in a 2016 report. No state reports mentioned what happened and MEDC officials refused to disclose what happened when asked.

PROPORTIONAL REDUCTION

SENATE BILL 768: Sen. Jim Ananich / Sen. Mike Shirkey
HOUSE BILL 5461: Rep. Lynn Afendoulis / Rep. Sarah Anthony

THE PROBLEM:

- When companies do not create the jobs they pledge in exchange for business subsidy deals, the costs to taxpayers could be less.
- The state already does some of this and the policy can be codified.

WHAT DOES THE LEGISLATION DO?

The bill adds a requirement that administrators reduce state support in proportion to a reduction in jobs if an agreement with the company is amended.

WHY IS THIS IMPORTANT?

If taxpayers are paying for jobs, they shouldn't pay as much when companies reduce the number of jobs that they create or retain with state money.

The state already does some of this. For instance, administrators reduced Stikwood's Business Development Program assistance from $400,000 to $273,000 in 2017 when the company reported a that it was going to decrease its workforce.

It's a good practice to ensure that taxpayers pay less when companies deliver fewer jobs than promised, and the bill makes this mandatory instead of optional.

EXAMPLES OF WHAT THE LEGISLATION WOULD ADDRESS

- The state amended the MBDP deal with Unified Business Technologies in 2018 by lowering jobs by 83% but its award by 53%.
- The state amended the MBDP deal with Niowave in 2017 by lowering jobs by two thirds but its award by 50%. The state later converted its award to a loan after the company again fell short of job requirements.

MEGA TRANSPARENCY

SENATE BILL 771: Sen. Jim Runestad / Sen. Stephanie Chang
HOUSE BILL 5460: Rep. John Reilly / Rep. David LaGrand

THE PROBLEM:

- The state does not report the dollar amounts that the companies with Michigan Economic Growth Authority deals have received.
- The credits transfer a large amount of revenue from taxpayers to the credit holders without being subject to normal transparency requirements.

WHAT DOES THE LEGISLATION DO?

Statutes state that these credits are considered confidential taxpayer information. This legislation removes that language and states that these credits are disclosable. It also adds that this information can be disclosed to people who make Freedom of Information Act requests.

WHY IS THIS IMPORTANT?

People deserve to know who is collecting their money and how much they're getting.

The state signed deals with companies who are expected to collect $6.1 billion in taxpayer funding through the old MEGA program. Yet residents cannot be told how much an individual company gets.

This is a travesty of basic transparency and this bill fixes that problem.

EXAMPLES OF WHAT THE LEGISLATION WOULD ADDRESS

The state used to provide this information. It stopped doing so in 2009.

The Auditor General has asked for statutory clarification about what is disclosable. It noted: "Our audit identified instances in which confidentiality provisions in various state laws restricted MSF [the Michigan Strategic Fund] and the Office of the Auditor General (OAG) from reporting essential MEGA tax credit information to Michigan citizens and report users."

It also asked lawmakers to consider these questions:

- What type of tax information should be precluded from public disclosure? Should such preclusion exist for only the amount of taxes paid and/or taxable income and not preclude estimated tax credits negotiated with public funds?
- When do State officials have the discretion to negotiate confidentiality provisions into individual agreements involving public funds? Do such agreements limit transparency and consistency among program participants or other taxpayers?
- Should the MSF Act more clearly define the type of info ration that could cause the applicant significant competitive harm? Does information such as the agreed-upon amount of estimated and capped tax credits impact a business's competitive advantage?

REVERT TO GENERAL FUND

SENATE BILL 769: Sen. Tom Barrett / Sen. Mallory McMorrow
HOUSE BILL 5462: Rep. Aaron Miller / Rep. Darrin Camilleri

THE PROBLEM:

- If business subsidy deals fail before funds are transferred, the money used for the deals becomes unallocated and therefore can be used for further deals.
- If money is returned to the state from failed deals, this money is left to the strategic fund board to allocate instead of lawmakers.
- Money from deals that fall short of expectations are therefore used to make more deals instead of going back to state general funds for lawmakers to devote to their highest priorities.

WHAT DOES THE LEGISLATION DO?

The bill adds a rule to state subsidy programs that money returned from state support programs goes to the state's general fund. And when companies are awarded state assistance but afterwards become ineligible to receive it, the money goes back to the state's general fund.

The bill adds this rule to the Michigan Business Development Program, the Michigan Community Revitalization Program and for any programs supported by the 21st Century Jobs Fund.

WHY IS THIS IMPORTANT?

This makes administrators more accountable. Administrators shouldn't get to authorize the same money twice.

It should be up to lawmakers what happens next to the money caught up in subsidy deals that go sour. Failed deals shouldn't be rewarded.

EXAMPLES OF WHAT THE LEGISLATION WOULD ADDRESS

The state ended its contract with Fuyao Automotive for $1 million in transfers to the company before money switched hands. This $1 million was unencumbered and therefore the state could use it to make more deals.

In 2017-18, WKW (dba Bowers Manufacturing) repaid the state $118,250 for not living up to its deal. The Michigan Strategic Fund gets to determine how to spend this money.