

Draft 6/15/2009

MICHIGAN ECONOMIC DEVELOPMENT CODE (MEDC)

[Editor's note: the draft of ARTICLE XII is included in this document. To assist in orienting the reader, remaining articles of the draft Michigan economic development code, including source statutes, are outlined in a separate document.]

ARTICLE XII – MICHIGAN WORKFORCE DEVELOPMENT

[Compiler's notes: The text of this article comes from the 21ST CENTURY JOBS TRUST FUND ACT, the MICHIGAN BUSINESS AND INDUSTRIAL TRAINING ACT, and the MICHIGAN WORKS ONE-STOP SERVICE CENTERS ACT (See citations below). Section numbering has been changed, but sections are annotated as to their source. Note dated references to departments of labor and commerce have been updated to department of labor and economic growth.]

DIVISION I. DEFINITIONS**Sec. 12101 Definitions.**

As used in this article:

- (a) "Chief elected official" means a chief elected official of a unit of general local government. [MSOCA, MCLA 408.113(a).]
- (b) "Education advisory group" means an education advisory group described in section 12323. [MSOCA, MCLA 408.113(c).]
- (c) "Employer" means a Business that employs or plans to employ skilled workers. [MBITA, MCLA 421.222.]
- (d) "Job upgrading" means the specialized training that is given to an identified level of employees to enable them to advance to a higher level of employment. [MBITA, MCLA 421.222.]
- (e) "Local workforce development board" means a local workforce investment board established as provided in section 12309. [MSOCA, MCLA 408.113(h).]
- (f) "Michigan works agency" means an entity designated to be the administrator for workforce development activities in a local Michigan works area under the guidance of the local workforce development board. [MSOCA, MCLA 408.113(d).]

(g) "Michigan works area" means a geographic area that the governor designates as a local workforce investment area under section 116 of the workforce investment act, 29 USC 2831, including an area designated and recognized under that act before the effective date of this act. [MSOCA, MCLA 408.113(e).]

(h) "Michigan works one-stop service center" means a facility designated to provide access to services delivered under the Michigan works one-stop service center system and certified as meeting standards established by the department of labor and economic growth. [MSOCA, MCLA 408.113(f).]

(i) "Michigan works one-stop service center system" means the integrated and coordinated system of local boards, agencies, service centers, and advisory groups described in section 12305 to deliver workforce development services and implement federal and state law. [MSOCA, MCLA 408.113(g).]

(j) "Training" means custom-designed training given to prospective employees of new businesses and industries within this state; to employees, prospective employees, or both, of expanding businesses and industries within this state; and to employees, prospective employees, or both, of businesses and industries within this state that possibly would relocate without this training. [MBITA, MCLA 421.222.]

(k) "Training Program" means the Michigan business and industrial training program established pursuant to section 12103. [MBITA, MCLA 421.222.]

(l) "Residual tobacco settlement revenue" means any residual interests, as defined by the Michigan tobacco settlement finance authority act, that are received by this state. [21st C JTF, MCLA 12.252(e).]

(m) "Tobacco settlement revenue" means money received by this state that is attributable to the master settlement agreement incorporated into a consent decree and final judgment entered into on December 7, 1998 in *Kelly Ex Rel. Michigan v Philip Morris Incorporated, et al.*, Ingham county circuit court, docket no. 96-84281CZ, including any rights to receive money attributable to the master settlement agreement that has been sold by this state. [21st C JTF, MCLA 12.252(f).]

(n) "21st century jobs trust fund" means the 21st century jobs trust fund established in section 12207. [21st C JTF, MCLA 12.252(g).]

(o) "Workforce investment act" means the workforce investment act of 1998, 29 USC 2801 to 2945. [MSOCA, MCLA 408.113(i).]

DIVISION II. WORKFORCE DEVELOPMENT PROGRAMS

PART A: Business and Industrial Training Program.

Sec. 12103. Establishment of Business and Industrial Training Program

The department of labor and economic growth, in cooperation with the department of education, shall develop a Michigan business and industrial training program. The program shall emphasize employee training specifically designed to accommodate the needs of individual employers. The program shall encourage the expansion of existing businesses and industries within this state, promote retention of existing jobs within this state, prevent out of state business and industrial migration, and assist in the in-migration of out of state businesses and industries. [MBITA, MCLA 421.223.]

Sec. 12104. Job training; criteria.

The program shall train persons for jobs that are characterized by the following criteria: skill demand, wage for the area commensurate with the skill required for the job, feasibility and desirability for location within this state. [MBITA, MCLA 421.224.]

Sec. 12105. Powers of program.

The program may do all of the following:

- (a) Perform a job skills analysis and design a training curriculum for a requesting employer.
- (b) Recruit and refer trainee applicants to an employer.
- (c) Provide off site preemployment training, or on site preemployment training if off site preemployment training is not practical, to prospective employees of a new or expanding business or industry.
- (d) Enter into an on the job training agreement with an employer.
- (e) Retrain employees in response to a technological change.
- (f) Provide job upgrading training if the training will increase the employer's total work force.
- (g) Contract with persons, public or private educational institutions, agencies, or other bodies for training or consultative services for an employer.
- (h) Provide materials and supplies used in the training process, instructors with specialized skills, instructional training aids and equipment, consultative services relative to highly specific or technical data, and other services.

(i) Assist a foreign employer locating or expanding in this state by familiarizing the employer's foreign personnel with the work attitudes, work methods, expectations, customs, and life style of employees who work within this state.

(j) Reimburse a foreign employer for travel and per diem expenses incurred in the training of key personnel from this state at a home facility of the employer, and for instructional time of foreign personnel within this state.

(k) Take other action that is considered to be necessary or desirable for the furtherance of the establishment of training programs under this division. [MBITA, MCLA 421.225.]

Sec. 12106. Training services; primary concern; community college or area vocational educational center to be given initial consideration as provider.

(1) The primary concern in the provision of training services shall be the needs and type of services identified by the employer.

(2) A community college or area vocational education center shall be given initial consideration to provide any training, job upgrading, or job upgrading training. [MBITA, MCLA 421.226.]

Sec. 12107. Marketing and promotion of program.

(1)The department of labor and economic growth shall market and promote the program. [MBITA, MCLA 421.227.]

Sec. 12108. Utilization of federal money.

(1)The program shall utilize federal money, when possible, to implement this division. [MBITA, MCLA 421.228.]

PART B: 21st Century Jobs Trust Fund.

Sec. 12207. 21st century jobs trust fund; establishment; investment; money remaining at close of fiscal year; deposit of interest and earnings; deposit of Michigan tobacco settlement revenue.

(1) The 21st century jobs trust fund is established in the department of treasury. The 21st century jobs trust fund shall consist of donations of money made to the 21st century jobs trust fund from any source and both of the following:

(a) To the extent provided in section 8(1) of the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.268, the net proceeds of the sale of tobacco settlement revenues to the tobacco settlement finance authority under the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.261 to 129.279.

(b) Amounts appropriated from the general fund in [section 89b\(1\) of the Michigan strategic fund act, 1984 PA 270, MCL 125.2089b](#)

(2) The state treasurer shall direct the investment of the 21st century jobs trust fund, which may be invested as part of the common cash of this state under 1967 PA 55, MCL 12.51 to 12.53, but shall be separately accounted for by the state treasurer. The state treasurer may invest the funds or assets of the 21st century jobs trust fund in any investment authorized under 1855 PA 105, MCL 21.141 to 21.147, for surplus funds of this state, in obligations issued by any state or political subdivision or instrumentality of the United States, or in any obligation issued, assumed, or guaranteed by a solvent entity created or existing under the laws of the United States or of any state, district, or territory of the United States, which are not in default as to principal or interest. In addition, the state treasurer shall comply with the divestment from terror act in making investments under this section.

(3) Except as provided in subsection (4), money in the 21st century jobs trust fund at the close of a fiscal year shall remain in the 21st century jobs trust fund and shall not revert to the general fund.

(4) Interest and earnings from investment of the 21st century jobs trust fund shall be deposited in the general fund.

(5) Beginning in fiscal year 2008 and through fiscal year 2015, each year \$75,000,000.00 of the tobacco settlement revenue received by this state that is not considered a TSR as that term is defined under the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.261 to 129.279, shall be deposited into the 21st century jobs trust fund.

(6) For the fiscal year ending September 30, 2016 only, \$30,000,000.00 of the tobacco settlement revenue received by this state that is not considered a TSR as that term is defined under the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.261 to 129.279, shall be deposited into the 21st century jobs trust fund. . [21st C JTF, MCLA 12.257]

Sec. 12208. Transfer and disbursement of funds; purpose.

(1) Upon request from the fund board as defined in [section 88a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2088a](#), except as provided in subsection (2), the state treasurer shall transfer and disburse appropriated funds

from the 21st century jobs trust fund only for the purpose of carrying out and at the specified time and as necessary to implement **part 8A of article II of this code, formerly the Michigan strategic fund act, 1984 PA 270, MCL 125.2088 to 125.2088p.**

(2) The state treasurer shall transfer and disburse the amounts described in 1220 7(1)(b) for the purposes described in **part 8B of article II of this code, formerly the Michigan strategic fund act, 1984 PA 270, MCL 125.2089 to 125.2089d,** as provided by an appropriation.

PART C: Michigan Works One-Stop Service Center System.

Sec. 12305. Michigan works one-stop service center system; creation

(1) The Michigan works one-stop service center system is created to provide an integrated and coordinated system for delivery of workforce development programs and services tailored to local needs, including, but not limited to, portions of services and programs regulated or funded under all of the following state and federal laws:

- (a) Title I of the workforce investment act, Public Law 105-220.
- (b) The Wagner-Peyser act, 29 USC 49 to 49c and 49d to 49l-2.
- (c) Section 221 of the trade act of 1974, 19 USC 2271.
- (d) Section 57f of the social welfare act, 1939 PA 280, MCL 400.57f.
- (e) Section 6(d)(4) of the food stamp act of 1977, 7 USC 2015.
- (f) Reed act transfers under 42 USC 1101 to 1110.

(2) The system consists of the local workforce development board in each Michigan works area, Michigan works agencies, Michigan works one-stop service centers, and education advisory groups. [MSOCA, MCLA 408.115.]

Sec. 12307. Designation of Michigan works areas.

(1) The governor shall designate Michigan works areas in the state in accordance with section 116 of the workforce investment act, 29 USC 2831. [MSOCA, MCLA 408.117.]

Sec. 12309. Local workforce development board; appointment; certification

- (1) The chief elected official in each Michigan works area shall appoint and the governor shall certify a local workforce development board for that Michigan works area in accordance with section 117 of the workforce investment act, 29 USC 2832. [MSOCA, MCLA 408.119.]

Section 12311. Local workforce development board; members.

All of the following apply to a local workforce development board:

- (a) A majority of the members of a local workforce development board shall be representatives of the private sector appointed from a list of individuals nominated by local business organizations and business trade associations.
- (b) A local workforce development board shall include representatives of education, the department of human services, the department of labor and economic growth, vocational rehabilitation providers, organized labor, economic development organizations, and community-based organizations. Representatives of government agencies shall be nominated by the department of labor and economic growth.
- (c) Members of a local workforce development board shall be appointed for fixed and staggered terms.
- (d) The chairperson of the local workforce development board shall be an individual from the private sector elected by the board. [MSOCA, MCLA 408.121.]

Sec. 12313. Local workforce development board; duties.

A local workforce development board shall do all of the following in cooperation with the chief elected officials in the Michigan works area:

- (a) Develop and submit to the governor a plan for coordinating local workforce development services for employers and job seekers in the area. The plan shall provide for access to designated core services with no fees or charges and shall provide services beyond the core services based on eligibility criteria.
- (b) Award competitive grants or contracts to eligible providers.
- (c) Develop a budget.
- (d) Employ staff necessary to carry out the duties of the board.

- (e) Solicit and accept grants and donations.
- (f) Oversee the operation of the one-stop delivery of services through the Michigan works one-stop service center system.
- (g) Establish local performance standards through negotiation with the department of labor and economic growth for evaluating and improving the Michigan works one-stop service center system.
- (h) Coordinate workforce development activities with other economic development activities and strategies in the Michigan works area.
- (i) Promote private sector employer participation in the Michigan works one-stop service center system.
- (j) Make available connecting, brokering, and coaching activities through intermediaries to help meet employer hiring needs.
- (k) Appoint an education advisory group and its chair.
- (l) Conduct business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and make information available to the public concerning performance of its duties or other information requested under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (m) Any other duties, functions, or responsibilities required of the board to implement the workforce investment act or state or federal law. [MSOCA, MCLA 408.123.]

Sec. 12315. Conflict of interest.

- (1) A local workforce development board and each member of the board shall avoid a conflict of interest with duties of the board. Except as provided in subsection (2), an individual shall not be appointed to or serve on a local workforce development board if he or she has an ownership interest in or is employed by an organization that receives money under the direct control of the board or if the individual engages in any other activity that creates a conflict of interest or what would appear to a reasonable person to be a conflict of interest.
- (2) An individual who has an interest in or is employed by an entity that receives money under the partial or complete control of the local workforce development board may be appointed to or continue to serve on the board if the individual does not hold a policy-making position with the entity and would not receive other than a remote or incidental benefit from the board's decisions.

(3) The exception to the strict conflict of interest policy provided in subsection (2) applies to allow local workforce development board representation from entities such as a school that enrolls students with tuition paid from funds under the control of the board, a government agency from which representation is required, and an employer that accepts compensation for extraordinary costs of providing on-the-job training from funds under the board's control. [MSOCA, MCLA 408.125.]

Sec. 12317. Designation of entities to perform administrative functions

The local workforce development board and local officials in each Michigan works area shall designate an entity to perform administrative functions. The entity shall be 1 of the following:

- (a) A public office or agency of a local unit of government within the Michigan works area.
- (b) A private nonprofit agency servicing 1 or more units of local government within the Michigan works area.
- (c) A nonprofit organization exempt from tax under section 501(c)(3) of the internal revenue code, 26 USC 501.
- (d) An entity organized under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536. [MSOCA, MCLA 408.127.]

Sec. 12319. Administrator; service; activities; direct services; approval of governor; pilot or demonstration projects.

(1) An administrative entity designated under section 12317 shall serve as the administrator for state and federal funding provided to the workforce development board for workforce development services and activities in the Michigan works area. Subject to subsection (2), an administrative entity designated under section 12317 may engage in any activity necessary to fulfill the intent of this act, including, but not limited to, the following:

- (a) Informing the state, units of local government, private agencies and organizations, and the general public of the nature and extent of the need for workforce development services for businesses and individuals within the Michigan works area.
- (b) Developing and administering local workforce development programs within the Michigan works area.

(c) Conducting pilot and demonstration projects to research the effectiveness of innovative approaches to reduce unemployment, improve services, and utilize resources.

(d) Providing and advocating for training and technical assistance to public and private agencies, community groups, and local units of government to better define problems, improve services, and facilitate citizen participation.

(e) Increasing interagency coordination and cooperation in serving businesses and individuals.

(f) Entering into agreements with federal, state, and local public and private agencies and organizations if necessary to carry out the purposes of this act.

(g) Receiving and accepting grants or gifts to support or promote the activities authorized by this act.

(h) Implementing and operating Michigan works one-stop service centers.

(i) Engaging in any other activity necessary to fulfill the intent of this act.

(2) Except for incumbent worker training and business services, an administrative entity designated under section 12317 shall not provide workforce development services directly to job seekers and individual trainees without the approval of the governor.

(3) The department of labor and economic growth shall establish criteria and procedures for approving all pilot or demonstration projects described in subsection (1)(c) that are funded by the department. [MSOCA, MCLA 408.129.]

Sec. 12321. Service providers; competitive procurement process; agreement to deliver services.

(1) Except as provided in subsection (2), an administrative entity designated under section 12317 shall provide state or federally funded workforce development services to program applicants and participants only through service providers selected by a competitive procurement process established in accordance with department policy and applicable state law.

(2) An administrative entity designated under section 12317 may provide state or federally funded services directly to program applicants and participants without contracting with a service provider, if the department of labor and economic growth determines after a competitive procurement process that no other provider

is capable of providing the required services within the limits of available funding and cost-to-benefit analysis.

(3) Except as otherwise provided in this section, an administrative entity designated under section 12317 may enter into any agreement necessary to deliver services under this act. [MSOCA, MCLA 408.131.]

Sec. 12323. Education advisory group.

(1) A local workforce development board shall appoint an education advisory group to operate in the Michigan works area and serve in an advisory capacity to the board on educational issues. The board shall appoint the chairperson of that group.

(2) An education advisory group appointed under this section shall include local workforce development board members and representatives of employers, labor representatives, local school districts, postsecondary institutions, intermediate school districts, career and technical educators, public school parents, and academic educators. An education advisory group member shall be employed in the sector he or she represents.

(3) The conflict of interest provisions in section 12315 do not apply to the members of an education advisory group appointed under this section. [MSOCA, MCLA 408.133.]

Sec. 12325. Oversight and evaluation by department; report.

(1) The department of labor and economic growth shall oversee and evaluate the activities of the Michigan works agencies and shall require Michigan works agencies to report information to the department to facilitate the oversight. All the reported information shall be available to the public. [MSOCA, MCLA 408.135.]

Sources:

1. PA 489 of 2000 - 21st Century Jobs Trust Fund Act, MCLA 12.252,257-258 (21st C JTF).
2. PA 48 of 1982 - Michigan Business and Industrial Training Act, MCLA 421.222-229 (MBITA)
3. PA 491 of 2006 - Michigan Works One-Stop Center Act, MCLA 408.111-135 (MWOCA).