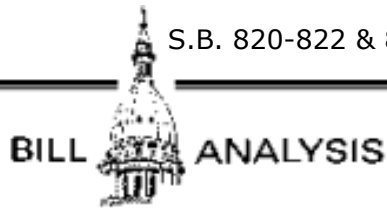




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Senate Bills 820, 821, 822 and 824 (as introduced 11-4-03)

Sponsor: Senator Jim Barcia (Senate Bill 820)
Senator Valde Garcia (Senate Bill 821)
Senator Alan Sanborn (Senate Bill 822)
Senator Jason E. Allen (Senate Bill 824)

Committee: Commerce and Labor

Date Completed: 11-4-03

CONTENT

Senate Bills 820, 821, and 822 would amend the Single Business Tax (SBT) Act to extend to December 31, 2009, the ability of the Michigan Economic Growth Authority (MEGA) to award certain tax credits, and require the Department of Treasury to audit taxpayers claiming a MEGA credit in order to verify that the actual number of jobs created or retained was the same as the number used to calculate the credit.

Senate Bill 824 would amend the Michigan Economic Growth Authority Act to do all of the following:

- Specify that MEGA would be within the Department of Labor and Economic Growth (proposed by Executive Order 2003-18).**
- Include in the Authority members appointed by the Governor upon the nomination of the Senate Majority Leader and the Speaker of the House, and require that gubernatorial appointments to MEGA be with the advice and consent of the Senate.**
- Require that the Majority Leader's and Speaker's nominees be among a majority of the Authority constituting a quorum and voting to take any action.**
- Require the Authority, rather than the MEGA chairperson, to make determinations on the confidentiality of financial and proprietary information submitted to MEGA.**
- Require authorized businesses as to make a good-faith effort to use Michigan-based suppliers and vendors when purchasing goods and services.**
- Include the names of corporate officers, board members, and partners of authorized businesses in the information that must be in MEGA's annual report to the Legislature.**

Senate Bills 820 and 822 are tie-barred to Senate Bill 824.

SBT Credits

Under the SBT Act, an authorized business may claim credits against the SBT for certain business activities, creating qualified new jobs, or maintaining retained jobs in Michigan if the authorized business has a certificate issued under the MEGA Act. Those SBT credits may not be claimed if the initial certification is issued after December 31, 2003.

An "authorized business" is an eligible business with which MEGA has entered into a written agreement for an SBT credit under the MEGA Act. "Eligible business" means a business that proposes to maintain retained jobs after December 31, 1999, or to create qualified new jobs in Michigan after April 18, 1995, in manufacturing, mining, research and development, wholesale and trade, or office operations, or a business that is a qualified high-technology

business; the term does not include retail establishments, professional sports stadiums, or that portion of an eligible business used exclusively for retail sales.

“Qualified new job” means either of the following:

- A full-time job created by an authorized business at a facility that exceeds the number of full-time jobs the authorized business maintained in Michigan before the expansion or location, as determined by MEGA.
- For jobs created after July 1, 2000, a full-time job at a facility created by an eligible business that exceeds the number of full-time jobs maintained by that eligible business in Michigan 120 days before it became an authorized business, as determined by MEGA.

“Retained jobs” means the number of full-time jobs at a facility of an authorized business maintained in Michigan on a specific date, as that date and number of jobs are determined by MEGA.

Senate Bill 820

Section 37d of the Single Business Tax Act allows an authorized business to claim a business activity credit against the SBT in an amount equal to its tax liability attributable to authorized business activity for tax years beginning after 1994, and for up to 20 years plus any carryforward years allowed under the SBT Act, if MEGA has issued a certificate to the taxpayer. The credit may not be claimed by a taxpayer if its initial certification is issued after December 31, 2003. Under the bill, a credit could not be claimed if the taxpayer’s initial certification were issued after December 31, 2009.

Senate Bill 821

Under Section 37c of the Single Business Tax Act, an authorized business may claim a payroll credit against the SBT in an amount certified each year by MEGA. The credit may not be claimed if the taxpayer’s initial certification is issued after December 31, 2003. Under the bill, a credit could not be claimed if the taxpayer’s initial certification were issued after December 31, 2009.

In addition, the bill would require the Department of Treasury to audit the taxpayer each year to verify that the actual number of new jobs created was the same as the number of new jobs used to calculate the payroll credit claimed for the tax year.

Senate Bill 822

Section 38g of the Single Business Tax Act allows an eligible taxpayer to claim a job retention credit against the SBT in an amount certified each year by MEGA for tax years that begin after 1999, for a period not to exceed 20 years as determined by MEGA. A credit may not be claimed if the eligible taxpayer’s initial certification under MEGA is issued after December 31, 2003. Under the bill, the credit could not be claimed if the eligible taxpayer’s initial certification were issued after December 31, 2009.

The bill would require the Department of Treasury to audit the taxpayer each year to verify that the actual number of new jobs created was the same as the number of retained jobs used to calculate the job retention credit claimed for the tax year.

Senate Bill 824

The Michigan Economic Growth Authority Act created MEGA in 1995 within the former Michigan Jobs Commission and required the Commission to provide staff for MEGA and carry out its

administrative duties and functions as directed by MEGA. The budgeting, procurement, and related functions as directed by MEGA were under the supervision of the Commission. (Executive Reorganization Order (ERO) 1999-1 abolished the Michigan Jobs Commission and transferred MEGA to the Michigan Strategic Fund (MSF). That ERO also authorized the MSF to enter into an interlocal agreement with one or more local public agencies under the Urban Cooperation Act to provide for the creation of the Michigan Economic Development Corporation (MEDC), and gave the MEDC shared power, privilege, or authority of the MSF and the local agencies to perform economic development programs and functions. Pursuant to that authority, MEGA has operated under the MEDC.)

The bill would delete references to the Michigan Jobs Commission and refer instead to the Department of Labor and Economic Growth (LEG). (Under Executive Order (EO) 2003-18, which establishes LEG, the position as MEGA member designated for the Director of the Michigan Jobs Commission is transferred to the President and Chief Executive Officer of the MEDC; the position as a MEGA member designated for the Director of the Department of Management and Budget is transferred to the LEG Director; and the position as MEGA chair designated for the Director of the Jobs Commission is transferred to the LEG Director. Unless rejected by the Legislature, the EO will take effect on December 7, 2003.)

Under the Act, the Authority consists of the following eight members:

- The Director of the Michigan Jobs Commission, or his or her designee, who serves as the MEGA chairperson (which does not reflect the current status).
- The State Treasurer, or his or her designee.
- The Director of the Department of Management and Budget, or his or her designee.
- The Director of the Department of Transportation, or his or her designee.
- Four members appointed by the Governor who are not State employees and who have knowledge, skill, and experience in the academic, business, local government, labor, or financial fields.

Under the bill, the Authority would consist of 10 members. The bill would refer to the LEG Director rather than the Michigan Jobs Commission Director, and would require six members, rather than four, to be appointed by the Governor. The gubernatorial appointments would be subject to the advice and consent of the Senate. Of the six appointed members, one would have to be appointed from one or more nominees of the Senate Majority Leader and one would have to be appointed from one or more nominees of the Speaker of the House.

The Act provides that a majority of the MEGA members constitutes a quorum and that action may be taken by the Authority at a meeting upon a vote of the majority of members present. Under the bill, a majority of members constituting a quorum and a majority of the members voting, would have to include the member nominated by the Senate Majority Leader and/or the member nominated by the Speaker of the House.

The Act exempts from disclosure under the Freedom of Information Act a record, material, or other data received, prepared, used, or retained by MEGA in connection with an application for a tax credit that relates to financial or proprietary information submitted by the applicant and that is considered by the applicant and acknowledged by MEGA as confidential. The MEGA chairperson must make the determination as to whether MEGA acknowledges the information as confidential. If the chairperson makes such a determination, he or she must release a written statement stating all of the following:

- The name and business location of the person requesting that the information be confidential.
- That the MEGA chairperson determined the information to be confidential.
- A broad nonspecific overview of the confidential financial or proprietary information.

Under the bill, the Authority, not the chairperson, would have to make the determination that financial or proprietary information was confidential and release the required statement.

The Act requires that MEGA report on its activities to the Senate and the House of Representatives annually, on October 1. The report must contain information specified in the Act, including the name and location of all authorized businesses. The bill also would require the report to include the names and addresses of all of the following:

- The corporate directors and officers of an authorized business that was a corporation.
- The partners of an authorized business that was a partnership or limited liability partnership.
- The members of an authorized business that was a limited liability company.

The bill would delete MEGA's power to promulgate rules.

MCL 208.37d (S.B. 820)
208.37c (S.B. 821)
208.38g (S.B. 822)
207.804 et al. (S.B. 824)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bills 820, 821, and 822

The bills would reduce State tax revenues by an unknown and potentially significant amount, depending upon how many additional credits would be awarded, the size of the credits, the purposes for which the credits were awarded, the tax liability of those receiving the credits, and whether or not the economic activity related to the credits would have occurred absent the credits.

This estimate is preliminary and will be revised as new information becomes available.

Senate Bill 824

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Maria Tyszkiewicz
David Zin

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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.