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MEGA; SINGLE BUSINESS TAX CREDITS

House Bill 5443
Sponsor: Rep. Clark Bisbee
Committee: Economic Development

Senate Bill 269 (Substitute S-1)
Sponsor: Sen. Bill Schuette
Committee: Economic Development, International Trade and Regulatory Affairs

Complete to 2-28-00

A SUMMARY OF HOUSE BILL 5443 AS INTRODUCED 2-24-00 AND SENATE BILL 269 (SUBSTITUTE S-1)

Under current law, businesses may apply to the Michigan Economic Growth Authority (MEGA) to receive credits against the single business tax for certain eligible activities, including environmental assessment and cleanup of contaminated sites. Authorization to issue tax credits for this purpose expires after calendar year 2000. Senate Bill 269 would amend the Single Business Tax Act (MCL 208.38g) and House Bill 5443 would amend the Michigan Economic Growth Authority Act (MCL 207.803 et al.) to extend the program through 2005, expand the tax credits available to businesses under the MEGA program, and revise the process for approval of tax credits under the program.

For tax years beginning after December 31, 1999 and before January 1, 2006, Senate Bill 269 would allow a qualified taxpayer or an assignee to claim a credit against the single business tax in an amount up to 10 percent of the cost of an eligible investment for a single project under the MEGA act. The bill specifies that a business could apply for credits from more than one project. House Bill 5443 would add a new definition of "eligible investment", to include demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property, and, in some cases, could include the addition of machinery, equipment, and fixtures to the property. (Under House Bill 4400, to which these bills are tie-barred, "eligible property" would be expanded to include, in addition to contaminated property, blighted or obsolete commercial property. House Bill 4400 would amend the Brownfield Redevelopment Financing Act to expand that program.)

Taxpayers would apply to the MEGA program for tax credits, and House Bill 5443 would specifically grant the authority "the powers necessary and convenient" to determine eligibility and issue certificates for single business tax credits. The bill would also modify the approval process as follows. For tax credit amounts of $1 million or less, the chairperson of the authority would approve or deny the credit, with the concurrence of the state treasurer. There would be no limit on the number of under $1 million credits that could be issued by the MEGA chairperson.

For a credit in an amount of more than $1 million and up to $30 million, the MEGA board would have to approve the application, with the concurrence of the state treasurer. Credits in this range would be limited to 15 per calendar year, and no more than 3 of these could be for more than $10 million. A credit of over $10 million would be claimed over a ten-year period in increments of 10 percent of the total credit amount per year.

The amount of the tax credit would be determined by the MEGA chairperson (if an amount under $1 million) or by the MEGA board (if the amount sought was $1 million to $30 million). The criteria for approval of a credit, and for determining the credit amount, would be:

• the overall benefit to the public;

• the extent of reuse of vacant buildings and redevelopment of blighted areas;

• whether the project was in a qualified local unit of government (as defined in House Bill 5445, which allows tax abatements for blighted or obsolete commercial properties in certain urban areas) or area of high unemployment;

• the level and extent of contamination alleviated by the project;

• the level of private sector contribution;

• the cost gap between the proposed site and a similar "greenfield" site;

• whether the project would result in another "brownfield" by virtue of the taxpayer's relocation from another area in the state;

• whether the investment would occur in the state without the tax credit; and

• any other criteria considered appropriate by the MEGA chairperson.

In addition to the above listed criteria, for credits of over $1 million, the board would also have to consider whether the project would result in the "substantial creation of jobs"; whether the level of private sector contribution exceeded $10 million; and whether the financial statements of the qualified taxpayer indicated that it was financially sound and that the project was economically sound. For a credit of over $10 million, the authority would have to determine that the investment would not occur but for the tax credit.

<u>Assignment of tax credit</u>. Senate Bill 269 would allow a single business taxpayer to assign the MEGA credit to a long-term lessee. Such an assignment could be made for an eligible investment for a project on eligible property that is leased for a minimum term of ten years to another taxpayer for a business activity. A credit assignment made under this provision would be irrevocable and would have to be made in the year a certificate was issued by the MEGA board.

In addition, the bill would allow a taxpayer that was a partnership, limited liability company, or subchapter S corporation to assign all or a portion of a credit to its partners, members, or shareholders, based on their proportionate share of ownership. This assignment would be irrevocable.

Environmental response activity. Senate Bill 269 would specify that a taxpayer could not be issued a tax credit under these provisions if the Department of Environmental Quality had sued or issued a unilateral order to the taxpayer to compel environmental response activity under the Natural Resources and Environmental Protection Act, or had expended any state funds for response activity and demanded reimbursement from the taxpayer for those activities.

New high-technology credit. House Bill 5443 would authorize the awarding of up to 50 new tax credits per year for qualified high-technology businesses. A qualified high-technology business would be defined as a business having at least 25 percent of its operating expenses used for research and development, and whose primary business activity is one or more of the following:

• advanced computing (any technology used in the design and development of computer hardware and software);

• advanced materials (materials with engineered properties created through the development of specialized process and synthesis technology);

• biotechnology;

• electronic device technology (technology involving microelectronics; semiconductors; electronic equipment; instrumentation, radio frequency, microwave, and millimeter electronics; optical and optic-electrical devices; or data and digital communications and imaging devices);

• engineering or laboratory testing related to the development of a product;

• environmental technology;

• medical device technology; and

• product research and development.

Under current law, in order to receive a tax credit under the MEGA program, a business must agree to meet several conditions relating to the number of new jobs that will be created and maintained, the average wage paid for qualified new jobs, and so forth. Under the bill, for qualified high-technology businesses, these provisions would be modified. A high-technology business would have to agree to create at least 5 qualified new jobs initially, and an additional 25 qualified new jobs within 5 years after the date of the agreement. The 25 jobs would have to be maintained for each year that a tax credit was authorized. The average wage paid for these high-technology jobs would have to be at least four times the federal minimum wage. Finally, the bill would exempt high-technology businesses from the provision requiring the authority to determine that the expansion or location of a business would not occur in the state without the tax credit offered under the program.

Other MEGA provisions.

• House Bill 5443 would delete from the MEGA act language requiring the consent of the local unit of government that would lose employment due to a business relocation in an agreement to grant a tax credit under the MEGA program. (Similar language was eliminated from Public Act 198 of 1974, the plant rehabilitation and industrial development act, by Public Act 144 of 1999.)

• Where current law requires businesses receiving tax credits under the MEGA program to agree to maintain specific numbers of qualified new jobs at the facility for which the tax credit is granted, the bill would specify that this provision applies for each year that credit was authorized under the act.

• Current law limits the authority to 25 new agreements (tax credits) per year. Under the bill, if the authority executed less than 25 new agreements in a year, the excess tax credits could be carried forward for one year only (allowing more than 25 agreements to be issued the following year).

Tie-bars. House Bill 5443 and Senate Bill 269 are tie-barred to each other, and to House Bills 4400, 5443, and 5444.

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