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

SFA BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 269 (Substitute S-3)
Senate Bill 270 (Substitute S-2)
Senate Bill 1046 (Substitute S-1)
Senate Bill 1047 (Substitute S-1)
Senate Bill 1048 (as introduced 2-24-00)
Sponsor: Senator Bill Schuette (S.B. 269 & 270)
Senator Ken Sikkema (S.B. 1046)
Senator Loren Bennett (S.B. 1047)
Senator Mike Rogers (S.B. 1048)
Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 3-14-00

CONTENT

Senate Bill 269 (S-3) would amend the Single Business Tax Act to specify that for tax years beginning after December 31, 1999, and before January 1, 2004, a qualified taxpayer or assignee could claim a single business tax (SBT) credit for a single project as provided under Senate Bill 1046, equal to 10% of eligible investment for a credit totaling $1 million or less, or up to 10% of the cost of eligible investment for a credit totaling more than $1 million.

Senate Bill 270 (S-2) would amend the Brownfield Redevelopment Financing Act to allow a municipality with established brownfield redevelopment zones to alter or amend the zones' boundaries; allow a new brownfield redevelopment authority to exercise its powers over any eligible property located in the municipality; and redefine "eligible property" to include property used for commercial, industrial, or residential purposes that either was located in an eligible local unit and was a facility, functionally obsolete, or blighted, or was not located in an eligible local unit and was a facility.

Senate Bill 1046 (S-1) would amend the Michigan Economic Growth Authority Act to do the following:

- **Require a taxpayer applying for an SBT credit, as proposed in Senate Bill 269 (S-3), for investments of less than $1 million or for $1 million to $30 million to apply to the Michigan Economic Growth Authority (MEGA) for approval of the total credit amount.**
- **Permit MEGA to approve an unlimited number of credits for which the total credit amount for a single project did not exceed $1 million.**
- **Prohibit MEGA from approving more than 15 credits yearly for which the total credit amount for a single project would be more than $1 million but not more than $30 million, and specify that not more than three of these could be for total credit amounts of more than $10 million.**
- **Establish criteria for MEGA to use in approving a credit and determining the total credit amount for each project.**
- **Require MEGA, when a project was completed, to issue a certificate to each qualified taxpayer that made an eligible investment on a single project.**
- **Revise the criteria, including minimum job development, for an additional tax credit under the Single Business Tax Act.**
- **Prohibit MEGA from executing more than 50 new agreements for eligible businesses that were qualified high-technology businesses.**

Senate Bill 1047 (S-1) would create the "Obsolete Property Rehabilitation Act" to allow a qualified local governmental unit, by resolution, to establish obsolete property rehabilitation districts; allow the owner of obsolete property to apply for an obsolete property rehabilitation certificate; require a public hearing on each application; require the State Tax Commission to approve or disapprove an application within 60 days of receipt; specify requirements for a certificate; exempt property in an obsolete property rehabilitation district from the property tax; levy an obsolete properties tax on rehabilitated facilities to which a certificate was issued; provide for the revocation or transfer of certificates; and require qualified local units and the Department of Treasury to submit annual

reports.

Senate Bill 1048 would amend the General Property Tax Act to permit the governing body of a local assessing district to adopt a resolution to exempt from taxes under the Act personal property of a business located in eligible property (as defined under the Brownfield Redevelopment Financing Act).

Senate Bill 269 (S-3) is tie-barred to House Bills 4400, 5443, 5444, and 5445. Senate Bill 270 (S-2) is tie-barred to Senate Bill 269 and House Bills 5443-5445. Senate Bill 1046 (S-1) is tie-barred to Senate Bill 269 and House Bills 4400, 5444, and 5445. Senate Bill 1047 (S-1) is tie-barred to Senate Bill 269 and House Bills 4400, 5443, and 5445. Senate Bill 1048 is tie-barred to Senate Bill 269 and House Bill 4400.

(House Bill 4400 would amend the Brownfield Redevelopment Financing Act to expand the brownfield redevelopment program; House Bill 5443 would amend the Michigan Economic Growth Authority Act to provide several new tax credits for business investment; House Bill 5444 would create the "Obsolete Property Rehabilitation Act"; and House Bill 5445 would amend the General Property Tax Act to allow the governing body of a local assessing district to exempt certain personal property from taxes.)

A more detailed description of the bills follows.

Senate Bill 269 (S-3)

Maximum Credits

The bill would allow a qualified taxpayer or an assignee to claim a credit against the SBT equal to 10% of eligible investment for a credit totaling less than $1 million, or up to 10% of the cost of eligible investment paid or accrued by the taxpayer for a credit totaling more than $1 million. If the total credit amount for a single project were more than $1 million, the maximum total credits allowed under the bill for a qualified taxpayer for all tax years and for each project would have to be determined under Senate Bill 1046.

"Qualified taxpayer" would mean a taxpayer that owned or leased eligible property, and had certified that the Department of Environmental Quality (DEQ) had not sued or issued a unilateral order to the taxpayer under Part 201 of the Natural Resources and Environmental Protection Act (NREPA) to compel response activity on or to the eligible property, or spent any State funds for response activity on or to the eligible property and demanded reimbursement for those expenditures from the qualified taxpayer.

"Eligible investment" would mean demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property and the addition of machinery, equipment, and fixtures to eligible property after the date that eligible activities on that property had started pursuant to a brownfield plan, if the costs of the eligible investment were not otherwise reimbursed to the taxpayer or paid for on behalf of the taxpayer from any source other than the taxpayer. The addition of leased machinery, equipment, or fixtures to eligible property by a lessee of the machinery, equipment, or fixtures would be eligible investment if the lease had a minimum term of 10 years or were for the expected useful life of the machinery, equipment, or fixtures, and if the owner of the machinery, equipment, or fixtures were not the qualified taxpayer with regard to the machinery, equipment, of fixtures.

"Eligible property" would mean property that was used for commercial, industrial, or residential purposes that was either in a qualified local government unit (as defined in Senate Bill 1047) and was a facility, functionally obsolete, or blighted; and, in addition to that property, a facility in this State, if the total credit amount allowed under the bill were $1 million or less. "Eligible activities" would be defined in the Brownfield Redevelopment Financing Act.

Procedure

A qualified taxpayer could apply for credits for more than one project. Each qualified taxpayer and assignee that claimed an SBT credit for a single project would have to attach a copy of the approval letter issued under Senate Bill 1046 for credits less than $1 million; the obsolete property rehabilitation certificate issued under Senate Bill 1047 for credits of more than $1 million; or the credit assignment form provided for under the bill, to the annual return filed under the SBT Act on which a credit was claimed. A credit could be claimed only if it were approved under Senate Bill 1046. The credit would have to be calculated after application of all other credits allowed under the SBT Act.

Carryforward

If the credit allowed under the bill for the tax year and any unused carryforward of the credit exceeded the qualified taxpayer's or assignee's tax liability for the tax year, that portion that exceeded the tax liability for the tax year could not be refunded but could be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurred first. The maximum time allowed under the carryforward provisions would begin with the tax year in which the project was completed for credits of $1 million or less, or the tax year in which the certificate was issued to the qualified taxpayer for credits over $1 million. If the qualified taxpayer assigned all or

any portion of its credit under the bill, the maximum time allowed under the carryforward provision for an assignee would begin to run with the tax year in which the assignment was made and the assignee first claimed a credit, which would have to be the same tax year. For a credit totaling more than $1 million but not more than $30 million, the carryforward period for an annual credit amount would begin to run in the tax year for which the annual credit amount was designated on the certificate.

Tangible Assets

If eligible investment were for the addition of tangible assets not defined in the Internal Revenue Code, if the cost of those assets would be used to calculate a credit under the bill, and if the tangible assets were sold or disposed of or transferred from eligible property to any other location, the qualified taxpayer that did so would have to add a percentage of the Federal basis of the tangible assets used to determine gain or loss as of the date of the sale, disposition, or transfer to the qualified taxpayer's tax liability after application of all credits under the Act for the tax year in which the sale, disposition, or transfer occurred. (The percentage used here would be the same as the percentage of eligible investment used to determine the credit.) If a qualified taxpayer had an unused carryforward of a credit, the amount otherwise added to the qualified taxpayer's liability could instead be used to reduce the qualified taxpayer's carryforward.

Credit Assignment

If a qualified taxpayer paid or accrued eligible investment for a single project on or to eligible property that was leased for a minimum term of 10 years to another taxpayer for use in a business activity, the qualified taxpayer could assign all or a portion of the total credit amount based on that eligible investment to the lessee. A credit assignment would be irrevocable and would have to be made in the year a project was completed for a credit of $1 million or less, or for a credit of more than $1 million, the tax year in which a certificate based on the eligible investment was issued, unless the assignee was unknown. If a qualified taxpayer wished to assign all or a portion of its credit to a lessee but the lessee were unknown in the year the project was completed for a credit of $1 million or less, or for a credit of more than $1 million, the tax year in which the certificate was issued, the qualified taxpayer could delay claiming and assigning the credit until the lessee was known.

A qualified taxpayer could claim a portion of a credit and assign the remaining credit amount. If the qualified taxpayer both claimed and assigned portions of the credit, the qualified taxpayer would have to claim the portion it claimed in the tax year that a project was completed for a credit of $1 million or less, or the tax year in which a certificate was issued for a credit of more than $1 million. If a qualified taxpayer assigned all or a portion of a tax credit and the eligible property were leased to more than one taxpayer, the qualified taxpayer would have to prorate the credit to each lessee based on square footage or another method approved by the Treasury Department. A lessee could not subsequently assign a credit or any portion of a credit assigned under the bill.

The qualified taxpayer would have to send a copy of the completed assignment form to the Department of Treasury in the tax year in which the assignment was made. The assignee would have to attach a copy of the completed form to its annual SBT return, for the tax year in which the assignment was made and the assignee first claimed a credit, which would have to be the same tax year. In addition, the following would apply to a credit that was over $1 million but not more than $30 million:

-- The credit would have to be assigned based on the schedule contained in the certificate, that provided that up to 10% of the total credit amount would be claimed for a single project for any one tax year, and the annual credit amount maximum for each year, up to 10 years, would have to be clearly printed on the certificate.
-- If the qualified taxpayer assigned all or a portion of the total credit amount, the qualified taxpayer would have to assign the annual credit amount for each tax year separately.
-- More than one annual credit amount could be assigned to any assignee and the qualified taxpayer could assign all or a portion of each annual credit amount.
-- The qualified taxpayer could not assign more than the annual credit amount for each tax year.

If the qualified taxpayer were a partnership, limited liability company, or Subchapter S corporation that had no tax liability under the Act, the qualified taxpayer could assign all or a portion of a credit to its partners, members, or shareholders, based on their proportionate share of ownership. A credit assignment would be irrevocable and would have to be made in the tax year in which the project was completed for a credit of $1 million or less, or for a credit over $1 million, the tax year in which a certificate based on the eligible investment was issued. A qualified taxpayer could claim a portion of a credit and assign the remaining credit amount. If the qualified taxpayer both claimed and assigned portions of the credit, the qualified taxpayer would have to claim the portion it claimed in the tax year in which the project was completed for a credit of $1 million or less, or for a credit of more than $1 million, the tax year that a certificate was issued. A partner,

member, or shareholder that was an assignee could not assign a credit or any portion of a credit assigned under the bill. The qualified taxpayer would have to send a copy of the completed assignment form to the Department in the tax year in which the assignment was made. A partner, member, or shareholder who was an assignee would have to attach a copy of the completed assignment form to its annual return, for the tax year in which the assignment was made and the assignee first claimed a credit, which would have to be the same tax year.

Other Provisions

A qualified taxpayer or assignee could not claim a credit under the bill based on eligible investment on which a credit claimed under Section 38d of the Act was based. (Section 38d allows a credit for eligible investments under the Brownfield Redevelopment Financing Act for tax years beginning after December 31, 1996, and before January 1, 2001.)

The Department would have to develop procedures to implement the bill.

Senate Bill 270 (S-2)

Definitions

Currently, "eligible activities" means baseline environmental assessment activities; due care activities; and/or additional response activities. The bill would include, for eligible activities on eligible property that had been or was currently used for commercial, industrial, or residential purposes that was in a qualified local unit and was a facility, functionally obsolete, or blighted only (and except for purposes of Section 38d of the SBT Act), the following additional activities: infrastructure improvements that directly benefited eligible property; demolition of structures that was not response activity under Part 201 of the NREPA; lead or asbestos abatement; site preparation that was not response activity; and reasonable administrative and operating activities of the authority or the municipality on behalf of the authority, in connection with these activities.

"Blighted" would mean a property that had been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code; was an attractive nuisance to children because of physical condition, use, or occupancy; was a fire hazard or was otherwise dangerous to the safety of persons or property; had had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property was unfit for its intended use; or was tax reverted property owned by a local unit or by the State.

"Functionally obsolete" would mean that the property was unable to be used to adequately perform the function for which it was intended due to substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affected the property itself or the property's relationship with other items comprising a larger property.

Currently, "eligible property" means a facility as defined in Section 20101 of the NREPA. The bill would redefine "eligible property" as property for which eligible activities were proposed under a brownfield plan that had been or was currently used for commercial, industrial, or residential purposes that was either in a qualified local governmental unit and was a facility, functionally obsolete, or blighted, or was not in a qualified local governmental unit and was a facility. The term would not include property if its only classification were as agricultural real property under the General Property Tax Act.

Zone Boundaries

Under the Act, a municipality may establish one or more brownfield redevelopment authorities and must exercise its powers in its zone or zones. The bill specifies that an authority with zones established before the bill's effective date would have to exercise its powers within its designated zones. The authority could alter or amend the boundaries of those zones if it held a public hearing on the alteration or amendment using the procedure as prescribed in the bill. An authority established after the bill's effective date would have to exercise its powers over any eligible property located in the municipality.

Hearing

Under the Act, before approving a brownfield plan for eligible property, a governing body must provide notice and a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to express their views and recommendations regarding the plan. The authority must fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed plan before the public hearing. The bill instead provides that before approval of a plan, a governing body would have to hold a public hearing on the plan. Notice of the time and place of the hearing would have to be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which could not be less than 20 days before the date set for the hearing.

The notice of the hearing would have to contain a description of the property to which the plan applied in relation to existing or proposed highways, streets,

streams, or otherwise; a statement that maps, plats, and a description of the plan were available for public inspection at a place designated in the notice and that all aspects of the plan were open for discussion at the public hearing; and any other information that the governing body considered appropriate.

At the hearing, the governing body would have to provide an opportunity for interested persons to be heard and would have to receive and consider communications in writing with reference to the plan. The governing body would have to make and preserve a record of the public hearing, including all data presented at the hearing. Not less than 20 days before the hearing, the governing body would have to provide notice of the hearing to the taxing jurisdictions that levied taxes subject to capture under the Act. The authority would have to fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed plan. At the hearing, an official from a taxing jurisdiction with millage that would be subject to capture would have the right to be heard in regard to the adoption of the plan.

Capture of School Taxes

If a brownfield plan included a capture of taxes levied for school operating purposes, approval of a work plan by MEGA to capture school operating taxes and a development agreement between the municipality and the owner of the eligible property would be required if the revenues would be used for infrastructure improvements that directly benefited eligible property, demolition of structures that was now part of response activity under Part 201 of the NREPA, lead or asbestos abatement, or site preparation that was not response activity. The eligible activities to be conducted would have to be consistent with the work plan submitted by the authorities under the bill. The DEQ's approval would not be required for the capture of taxes levied for school operating purposes for activities described in the bill.

The bill specifies that an authority would be prohibited from doing the following: using funds from a local site remediation revolving fund that were derived from taxes levied for school operating purposes for the activities described above unless the eligible activities conducted were consistent with a work plan approved by MEGA; using taxes captured from eligible property to pay for eligible activities conducted more than 90 days before approval of the plan; or using taxes levied for school operating purposes captured from eligible property for response activities that benefited a party liable under the NREPA.

The bill provides that all school taxes levied for school operating purposes that were not used for eligible activities consistent with a work plan or remedial action plan approved by the DEQ or approved by MEGA would have to be distributed proportionately between the local school district and the School Aid Fund.

Approval

To seek MEGA approval of a work plan, an authority would have to submit all of the following:

-- A copy of the brownfield plan.
-- Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that could be due.
-- A summary of the available information on the historical and current use of each eligible property.
-- Existing and proposed future zoning for each eligible property.
-- A brief summary of the proposed redevelopment and future use for each eligible property.
-- A separate work plan, or part of a work plan, for each eligible activity to be undertaken.

Upon receiving a request for approval, MEGA would have to provide one of the following written responses to the requesting authority within 60 days: an unconditional approval; a conditional approval that delineated specific necessary modifications to the plan, including individual activities to be added or deleted from the plan and revision of costs; or a letter stating with specificity the necessary additions or changes to the plan to be submitted before a plan would be considered by MEGA, if the plan lacked sufficient information.

In its review of the plan, MEGA would have to consider whether the individual activities included in the plan were sufficient and required to complete the eligible activity, and whether the cost for each activity was reasonable.

If MEGA failed to respond within 60 days after receiving a request for approval, the authority could proceed with the eligible activities, which would be considered approved.

Approval of a plan by MEGA would be final. An authority would have to reimburse MEGA for the actual cost incurred by MEGA or a contractor to review a work plan.

Annual Report

Each year by March 1, MEGA would have to submit to each member of the Legislature a report

containing the following:

- -- A compilation and summary of all the information submitted to MEGA regarding a work plan.
- -- The amount of revenue the State would have received if taxes levied for school operating purposes had not been captured under the bill for the previous calendar year.
- -- The amount of revenue each local unit would have received if taxes levied for school operating purposes had not been captured for the previous calendar year.

Senate Bill 1046 (S-1)

Tax Credit Approval

A taxpayer that applied for a single project tax credit under the Single Business Tax Act, as proposed in Senate Bill 269 (S-3), would have to apply to the Michigan Economic Growth Authority (MEGA) for approval of the credit if the total credit amount for eligible investment for a single project would be $1 million or less. If the total credit amount for eligible investment for a single project would be more than $1 million but not more than $30 million, the taxpayer would have to apply to MEGA for approval of the total credit amount. ("Total credit amount" would mean the sum of the credits for a single project for which a certificate was issued under the bill.)

If the taxpayer showed that the eligible investment would be made to or on eligible property, MEGA could approve or deny the credit. The Michigan Economic Growth Authority would have to issue an approval letter stating that the taxpayer was a qualified taxpayer, that the taxpayer's proposed investment was for eligible activities, and the maximum total credit amount that could be claimed for the project when it was completed and a certificate was issued. The approval letter would have to include the project number assigned by MEGA.

If a total credit amount would be more than $1 million but not more than $30 million, the State Treasurer would have to concur in the approval of MEGA, which would have to use the criteria in the bill when approving a credit and determining its total credit amount. The letter of approval also would have to include the annual credit amount, which could not exceed 10% of the total credit amount.

The Michigan Economic Growth Authority could approve an unlimited number of credits for which the total credit amount for eligible investment for a single project would be $1 million or less. For total credit amounts that would be more than $1 million but not more than $30 million, MEGA could not approve more than 15 credits during each calendar year, of which not more than three could be for total credit amounts for eligible investment of more than $10 million but not more than $30 million.

("Eligible investment" and "qualified taxpayer" would be defined as in Senate Bill 269 (S-3).

"Eligible activities" and "eligible property" would mean those terms as defined in Senate Bill 270 (S-2).)

Credit Approval

The Michigan Economic Growth Authority would have to review all applications for credits and if approved, determine the amount of the credit, which could not be more than 10% of eligible investment as calculated in Senate Bill 269 (S-3) for each project. Before approving a credit amount of more than $10 million but not more than $30 million only, MEGA would have to determine that the eligible investment would not occur in the State without the tax credit, except for a project for which construction began after January 1, 2000, and that was under construction on January 1, 2001. When approving a credit and determining the total credit amount for each project, MEGA would have to consider the following criteria: the overall benefit to the public; the extent of reuse of vacant buildings and redevelopment of blighted areas; substantial creation of jobs; that the project was in a qualified local unit of government or area of high unemployment; the level and extent of contamination alleviated by the project to the extent known to the qualified taxpayer; whether the level of private sector contribution exceeded $10 million; the cost gap that existed between the site and a similar greenfield site as determined by MEGA; whether the move of a qualified taxpayer from another part of the State would create a brownfield; that the financial statements of the qualified taxpayer indicated that it was financially sound and that the project was economically sound; and, any other criteria that MEGA considered appropriate for determining eligibility under the bill. ("Qualified local governmental unit" would mean that term as defined in the Obsolete Property Rehabilitation Act.)

A qualified taxpayer could apply for credits under the Single Business Tax Act, as proposed in Senate Bill 269 (S-3), for more than one project in a tax year. Each credit approved and each credit for which a certificate had been issued would have to be for a single project. The Authority would have to determine if an application was for a single project or multiple projects.

Project Certificate

Upon the completion of a project for which a credit was approved, MEGA would have to issue a

certificate to each qualified taxpayer that had made eligible investment on a single project that stated all of the following: each taxpayer was a qualified taxpayer, the total credit amount, each taxpayer's Federal employer identification number or the Michigan Treasury number assigned to the taxpayer, the project number assigned by MEGA; and, the annual credit amount and the schedule on which the annual credit amount would be claimed by the qualified taxpayer, for a credit for which the total credit amount for eligible investment for a single project would be more than $10 million but not more than $30 million. ("Annual credit amount" would mean the maximum amount that a qualified taxpayer would be eligible to claim each tax year for a tax credit under the bill for a single project, which could not exceed 10% of the total credit amount for that project.)

Except as provided in Senate Bill 269 (S-3), qualified taxpayers would have to claim credits approved under the bill in the tax year in which the project was completed for credits or the tax year in which the certificate was issued.

Eligible investment for leased machinery, equipment, or fixtures would have to be calculated based on the cost of that property had it been purchased. Credits claimed by a lessee of eligible property would be subject to the total credit amount limitation under the bill that applied to the sum of credits approved for the owners and lessees of a project that were qualified taxpayers.

The Authority would have to develop the application process and appropriate forms required under the bill.

Criteria for Additional Tax Credits

Currently, after receiving an application, MEGA may enter into an agreement with an eligible business for an additional tax credit under the Single Business Tax Act if MEGA determines that the eligible business creates a minimum of 75 qualified new jobs at the facility if expanding in the State, 150 qualified new jobs at the facility if locating in the State, or 25 qualified new jobs at the facility if it is located in a neighborhood enterprise zone as determined under the Neighborhood Enterprise Zone Act, or in a Federally designated empowerment zone, rural enterprise community, or enterprise community within 12 months of the expansion or location as determined by MEGA. In addition, the eligible business must agree to maintain the above jobs for each year that the credit is authorized.

The bill also would include, as alternative criteria, the creation of a minimum of 25 qualified new jobs if the facility were located in a renaissance zone under the Michigan Renaissance Zone Act, or a minimum of five qualified new jobs at the facility if the eligible business were a qualified high-technology business. In addition, if the eligible business were a qualified high-technology business, it would have to agree to maintain a minimum of five qualified new jobs at the facility plus a minimum of 25 qualified new jobs at the facility within five years after the date of the agreement, as well as a minimum of 25 qualified new jobs at the facility each year that a credit was authorized.

("Qualified high-technology business" would mean a business with not less than 25% of the total operating expenses of the business used for research and development as determined under generally accepted accounting principles and verified by MEGA and "high-technology activity" would mean one or more of the following:

-- Advanced computing, which would be any technology used in the design and development of computer hardware and software.
-- Advanced materials, which would be materials with engineered properties created through the development of specialized process and synthesis technology.
-- Biotechnology, which would be the continually expanding body of fundamental knowledge related to the functioning of biological systems.
-- Electronic device technology, which would be any technology that involved microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-electrical devices, or date and digital communications and imaging devices.
-- Engineering or laboratory testing related to the development of a product.
-- Environmental technology, which would be the assessment and prevention of threats or damage to human health or the environment, environmental cleanup, or development of alternative energy sources.
-- Medical device technology, which would be any technology that involved medical equipment or products other than a pharmaceutical product that had therapeutic or diagnostic value and was regulated.
-- Product research and development.)

Currently, for a business to receive additional credit, the average wage for all qualified new jobs must be equal to or greater than 150% of the Federal minimum wage. Under the bill, if the eligible business were a qualified high-technology business, then the average wage paid for all qualified new jobs would have to be equal to or greater than 400% of the Federal minimum wage.

The bill would delete the current requirement that the expansion or location of the qualified business will

not have the effect of transferring employment from one or more local governmental units to the local unit in which the facility is to be located unless the legislative body of each local governmental unit from which employment is to be transferred consents by resolution to the transfer.

Written Agreement

The Act provides for an agreement to be entered into between an eligible business and MEGA, and prohibits MEGA from executing more than 25 new agreements each year. Under the bill, the Authority could not execute more than 25 new agreements each year for eligible businesses that were not qualified high-technology businesses. If MEGA executed fewer than 25 new agreements in a year, it could carry forward the difference between 25 and the number of new agreements executed for one year only. The Authority could not execute more than 50 new agreements each year for eligible businesses that were qualified high-technology businesses.

Senate Bill 1047 (S-1)

Obsolete Property Rehabilitation Districts

Under the bill, a qualified local governmental unit, by resolution, could establish one or more obsolete property rehabilitation districts that could consist of one or more parcels or tracts of land or a portion of a parcel or tract of land, if at the time the resolution was adopted, the land were either obsolete property in an area characterized by obsolete commercial property or commercial housing property, or commercial property that was obsolete property owned by a qualified local unit on the bill's effective date, and subsequently conveyed to a private owner.

The legislative body of a qualified local unit could establish an obsolete property rehabilitation district on its own initiative or upon a written request filed by the owner or owners of property comprising at least 50% of all taxable value of the property located within a proposed obsolete property rehabilitation district. The written request would have to be filed with the clerk of the qualified local unit.

Before adopting a resolution establishing an obsolete rehabilitation district, the legislative body would have to give written notice by certified mail to the owners of all real property within the proposed district and would have to afford an opportunity for a hearing on the establishment of the district at which any of those owners and any other resident or taxpayer of the qualified local unit could appear and be heard. The legislative body would have to give public notice of the hearing at least 10 days but not more than 30 days before the date of the hearing.

The legislative body of the qualified local unit, in its resolution establishing an obsolete property rehabilitation district, would have to set forth a finding and determination that the district met the bill's requirements.

("Qualified local governmental unit" would mean a city with a median family income of 150% or less of the statewide median family income as reported in the 1990 Federal decennial census and that contained or had within its borders an eligible distressed area as defined in the State Housing Development Authority Act, was contiguous to a city with a population of 500,000 or more, had a population of 10,000 or more that was located outside of an urbanized area as delineated by the U.S. Bureau of the Census, and was the central city of a metropolitan area designated by the U.S. Office of Management and Budget.

"Obsolete property" would mean commercial property or commercial housing property that was blighted, functionally obsolete, and/or a facility as defined under the NREPA.)

Application and Resolution

If an obsolete property rehabilitation district were established, the owner of obsolete property could file an application for an obsolete property rehabilitation exemption certificate with the clerk of the qualified local unit. The application would have to contain a general description of the obsolete facility and proposed use of the rehabilitated facility, the general nature and extent of rehabilitation to be undertaken, a descriptive list of the fixed building equipment that would be part of the rehabilitated facility, a time schedule, a statement of expected economic advantages (including jobs retained or created), and information relating to the bill's taxable value requirements.

Upon receiving an application for an exemption certificate for a facility located on property owned by the qualified local unit on the bill's effective date, and subsequently conveyed to a private owner, the clerk of the qualified local unit would have to notify in writing the assessor of the local unit and the legislative body of each taxing unit that levied ad valorem property taxes in the qualified local unit. The legislative body of the qualified local unit would have to hold a public hearing on the application and give notice to the applicant, the assessor, a representative of the affected taxing units, and the general public. The hearing on each application would be held separately from the hearing on the establishment of the districts. In addition, the clerk would have to request the assessor of the local unit in which the facility was located to determine the taxable value of the property. This would have to be determined before the hearing.

The legislative body of the qualified local unit by resolution would have to approve or disapprove an application for an obsolete property rehabilitation certificate within 60 days after its receipt. The clerk would have to retain the original of the application and resolution. If approved, the clerk would have to forward a copy of the application and resolution to the State Tax Commission. If disapproved, the reasons would have to be set forth in the resolution, and the clerk would have to send a copy by certified mail to the applicant and the assessor. A resolution would not be effective unless approved by the Commission.

Obsolete Property Rehabilitation Certificate

Within 60 days after receiving a copy of an application and resolution, the Commission would have to approve or disapprove the resolution. The State Treasurer, with the written concurrence of the Michigan Strategic Fund president, would have to advise the Commission as to whether approving the application would be necessary to reduce employment, promote economic growth, and increase capital investment in the qualified local units.

Following approval of the application by the legislative body of the qualified local unit and the Commission, the Commission would have to issue to the applicant a certificate containing the following:

-- A legal description of the real property on which the obsolete facility was located.
-- A statement that unless it was revoked, the certificate would remain in force for the period stated.
-- A statement of the taxable value of the obsolete property, separately stated for real and personal property, for the tax year immediately preceding the effective date of the certificate after deducting the taxable value of the land and personal property other than personal property assessed under Section 14(6) of the General Property Tax Act (which deals with personal property situated on government-owned land or land owned by another person).
-- A statement of the period of time authorized by the legislative body of the qualified local unit within which the rehabilitation would have to be completed.
-- If the authorized period of time were less than 12 years, the factors, criteria, and objectives, as determined by the resolution, necessary for extending the period of time, if any.

The effective date of the certificate would be the December 31 immediately following the date the certificate was issued.

The Commission would have to file with the clerk of the qualified local unit a copy of the certificate, and maintain a record of all certificates filed; and send by certified mail, a copy of the certificate to the applicant and the assessor of the local unit in which the property was located.

Duration

A certificate would remain in force and effect for a period to be determined by the legislative body of the qualified local unit (unless revoked as provided below). The certificate could be issued for a period of at least one year, but not exceeding 12 years. If the number of years were less than 12, the certificate could be subject to review by the legislative body of the qualified local unit and the certificate could be extended. The total amount of time determined for the certificate including extensions could not exceed

12 years after the completion of the rehabilitated facility. The review of the certificate would be based upon factors, criteria, and objectives that would have to be placed in writing and approved at the time the certificate was approved by resolution of the legislative body of the local unit, and sent by certified mail to the applicant, the assessor of the local unit in which the property was located, and the Commission.

A new exemption could not be granted under the bill after December 31, 2015, but an exemption then in effect would continue until the expiration of the certificate.

Requirements for Approval

The legislative body of a qualified local unit could not approve an application for a certificate unless the applicant complied with all of the following requirements:

-- The rehabilitation of the facility was not commenced before the establishment of the obsolete property rehabilitation district.
-- The application related to a rehabilitation program that when completed constituted a rehabilitated facility and would be situated within an obsolete property rehabilitation district established in a qualified local unit.
-- Completion of the facility was calculated to increase commercial activity, create employment, retain employment, prevent a loss of employment, or increase the number of residents in the community in which the facility was situated.
-- The applicant stated in writing that the rehabilitation of the facility would not be undertaken without the applicant's receipt of the certificate.
-- The applicant was not delinquent in the payment of all taxes related to the facility.

Taxable Value

If the taxable value of the property proposed to be exempt, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under the proposed Act or under the Plant Rehabilitation and Industrial Development Districts Act, exceeded 5% of the taxable value of the qualified local unit, the legislative body of the local unit would have to make a separate finding and include a statement in its resolution approving the application that exceeding that amount would not have the effect of substantially impeding the operation of the qualified local unit or impairing the financial soundness of an affected taxing unit.

The assessor of each city in which there was a rehabilitated facility with respect to which one or more obsolete property rehabilitation exemption certificates had been issued and were in force, would have to determine annually as of December 31 the value and taxable value, both for real and personal property, of each facility separately, having the benefit of a certificate. Upon receiving notice of the filing of an application for the issuance of a certificate, the assessor would have to determine and furnish to the local legislative body the value and taxable value of the property to which the application pertained and other information necessary to permit the local legislative body to make the determinations required for approval of an application.

Obsolete Properties Tax

A rehabilitated facility for which a certificate was in effect, but not the land on which the facility was located, or personal property other than personal property assessed under Section 14(6) of the General Property Tax Act, for the period on and after the effective date of the certificate and continuing so long as the certificate was in force, would be exempt from ad valorem property taxes collected under the General Property Tax Act. Every owner of a rehabilitated facility to which a certificate was issued would be subject to an obsolete properties tax.

The amount of the tax, in each year, would have to be determined by adding the results of multiplying the total mills levied as ad valorem taxes for that year by all taxing units within which the facility was located, by the taxable value of the real and personal property of the obsolete property for the tax year immediately preceding the effective date of the certificate, after deducting the taxable valuation of the land and of personal property other than personal property assessed under Section 14(6) of the General Property Tax Act, to the result of multiplying the mills levied for school operating purposes under the Revised School Code by the taxable value of the land and of the personal property other than personal property assessed under the General Property Tax Act and the taxable value of the real and personal property of the obsolete property in the tax year immediately preceding the effective date of the certificate.

The obsolete properties tax would have to be collected, disbursed, and assessed in accordance with the bill. It would be an annual tax, payable at the same times, in same installments, and to the same officer or officers as taxes imposed under the General Property Tax Act. Except as otherwise provided, the officer or officers would have to disburse the tax payments received each year to and among the State, cities, school districts, counties, and authorities, at the same times and in same proportions as required by law for the disbursement of taxes collected under the General Property Tax Act.

For intermediate school districts receiving State school aid, of the amount of obsolete property tax that would otherwise be disbursed to an intermediate school district, all or a portion (determined on the basis of tax rates being used to compute the amount of State aid), would have to be paid to the State Treasury to the credit of the State School Aid Fund. The amount of tax that would otherwise be disbursed to a local school district for school operating purposes would have to be paid instead to the State Treasury and credited to the State School Aid Fund.

The officer or officers would have to send to the Commission a copy of the amount of disbursement made to each unit.

A rehabilitated facility located in a renaissance zone would be exempt from the obsolete properties tax to the extent and for the duration provided under the Michigan Renaissance Zone Act, except for the portion of the tax attributable to a special assessment or a tax on property in a renaissance zone. The obsolete properties tax would have to be disbursed proportionately to the taxing unit or units that levied the special assessment or the property tax in a renaissance zone.

The amount of the tax applicable to real property, until paid, would be a lien upon the real property to which the certificate applied. Proceedings upon the lien as provided by law for the foreclosure in the circuit court of mortgage liens upon real property could commence only upon the filing by the appropriate collecting officer of a certificate of nonpayment of the obsolete properties tax applicable to real property, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the facility by certified mail, with the register of deeds of the county in which the property was located.

Within 60 days after a certificate was granted, the State Treasurer, with the written concurrence of the Michigan Strategic Fund president, could exclude all or a portion of the number of mills levied under the State Education Tax Act from the specific tax calculation on the facility if they determined that reducing the number of mills used to calculate the obsolete property tax was necessary to reduce unemployment, promote economic growth, and increase capital investment in qualified local units.

The State Treasurer, with the written concurrence of the Michigan Strategic Fund president could not grant more than 25 exclusions each year.

Revocation or Transfer

The legislative body of a qualified local unit could, by resolution, revoke a certificate if it found that the completion of rehabilitation of the facility had not occurred within the time authorized by the legislative body in the certificate or a duly authorized extension of that time, or that the holder of the certificate had not proceeded in good faith with the operation of the facility in a manner consistent with the bill's purposes and in absence of circumstances that were beyond the control of the certificate holder.

A certificate could be transferred and assigned by the holder of the certificate to a new owner of the rehabilitated facility if the qualified local unit approved the transfer after application by the new owner.

Report

By October 15 each year, each qualified local unit granting an obsolete property rehabilitation exemption would have to report to the Commission on the status of each exemption. The report would have to include the current value of the property to which the exemption pertained, the value on which the obsolete property rehabilitation tax was based, a current estimate of the number of jobs retained or created by the exemption, and a current estimate of the number of new residents occupying commercial housing property units covered by the exemption.

The Department of Treasury annually would have to prepare and submit a report on the use of obsolete property rehabilitation districts to the House and Senate committees responsible for tax policy and economic development issues. Three years after the bill's effective date, the Department also would have to prepare and submit to those House and Senate committees an economic analysis of the costs and benefits of the bill in the three local units in which it had been most heavily used.

Senate Bill 1048

The governing body of a local assessing district (a city, village, or township) could adopt a resolution to exempt from the collection of taxes under the General Property Tax Act all personal property owned or leased by businesses located in eligible property designated in the resolution. The clerk of the local assessing district would have to notify in writing the assessor of the local tax collecting unit in which the eligible property was located and the legislative body of each taxing unit that levied ad valorem property taxes in the local assessing district in which the eligible property was located. Before acting on the resolution, the governing body of the local assessing district would have to give the assessor and a representative of the affected taxing units an opportunity for a hearing.

The exemption under the bill would take effect on the December 31 immediately succeeding the adoption of the resolution by the governing body of the local assessing district and would continue in effect for a period specified in the resolution. A copy of the resolution would have to be filed with the State Tax Commission, and would not be effective unless approved by the Commission.

Within 60 days after receiving a copy of the resolution, the Commission would have to approve or disapprove it. The State Treasurer, with the written concurrence of the president of the Michigan Strategic Fund, would have to advise the Commission as to whether exempting personal property within the eligible property was necessary to reduce unemployment, promote economic growth, and increase capital investment in the State.

("Personal property" would not include buildings described in Section 14(6) of the General Property Tax Act or certain leasehold improvements and leasehold estates described in Sections 8(h), 8(l), and 8(j). "Eligible property" would mean that term as defined in the Brownfield Redevelopment Financing Act.)

Proposed MCL 208.38g (S.B. 269)
MCL 125.2652 et al. (S.B. 270)
MCL 207.803 et al. (S.B. 1046)
Proposed MCL 211.9i (S.B. 1048)

Legislative Analyst: N. Nagata

FISCAL IMPACT

Senate Bills 269 (S-3) & 1046 (S-1)

It is not possible to estimate the fiscal impact of these bills with any degree of confidence because there are too many unknowns. For example, it is not known: 1) how many "high-technology businesses" would qualify for and be granted the existing single business tax credit by the Michigan Economic Growth Authority, or how many of these "high-tech" businesses would come to Michigan only due to this credit, 2) how many businesses would qualify for and be granted the single business tax credit for brownfield redevelopment activity due to the proposed extension and expansion of this credit, and 3) the size of the credits businesses in both of these groups would qualify for and receive. In addition, to the extent that these credits create jobs in Michigan that otherwise would not exist, it can be argued that any loss in single business tax revenue due to these bills would at least be partially offset by new income tax revenue. Any loss in single business tax revenue would affect General Fund/General Purpose revenue, and any gain in income tax revenue would affect both General Fund/General Purpose and School Aid Fund revenue.

Senate Bill 270 (S-2)

The bill would have an indeterminate fiscal impact on State and local government, depending on the amount and value of the land that would be included in the program. The fiscal impact would also depend on the initial value and the captured assessed value, or the increase in value, of the land. In addition, the brownfield plans may include the capture of taxes levied for school operations purposes.

Senate Bill 1047 (S-1)

This bill would allow certain cities (77) to exempt owners of obsolete buildings from the property tax. The exemption certificates would be in effect for at least one year (which could be renewed up to 12 years) but would not exceed 12 years.

Businesses that obtained obsolete rehabilitation exemption certificates would be levied the obsolete properties tax. The obsolete properties tax would be equal to the total millage rate of all taxing units within the district of ad valorem taxes multiplied by the taxable value of the buildings in the year prior to the issuance of the exemption certificate plus the millage rate of school operating and the State education tax multiplied by the increase in taxable value of the redeveloped building. However, the State Treasurer and the president of the Michigan Strategic Fund could exclude all or a portion of the six mills levied under the State education tax from the obsolete properties tax, but could not grant more than 25 exclusions per year. The obsolete properties tax would be disbursed to the State, cities, counties, school districts, and authorities in the same proportions as required for the general property tax. The obsolete properties tax that would be attributable to school districts and intermediate school districts would be credited to the State School Aid Fund.
The fiscal impact of the bill is unknown. To determine the fiscal impact of the bill, one would need additional data such as the taxable value of the exempt property or obsolete buildings, the property tax millage rates, the cities that would participate, and the extent to which the cities would participate.

Senate Bill 1048

The fiscal impact of the bill is unknown. To determine the fiscal impact of the bill, one would need additional data such as the local units that would participate, the taxable value of the exempt personal property, and the property tax millage rates.

Fiscal Analyst: J. Wortley
R. Ross

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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.