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**SFA****BILL ANALYSIS**

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Senate Bills 1356 and 1357 (as introduced 9-20-00)  
Sponsor: Senator Glenn D. Steil  
Committee: Finance

Date Completed: 11-9-00

## **CONTENT**

**Senate Bill 1356** would amend the Single Business Tax Act to do the following:

- Permit a taxpayer or a "qualified taxpayer" (a taxpayer that owned a public school facility and leased it to a public school facility authority) to claim a credit against the single business tax for tax years beginning after December 31, 2000, and before January 1, 2023.
- Specify that for a qualified taxpayer, the tax credit would equal 10% of the cost of "eligible income" (rental and lease income that the taxpayer received from the authority for use of eligible property) for a tax year.
- Specify that a taxpayer's credit would equal 10% of the amount that the taxpayer contributed during the tax year to the public school facility authority.

**Senate Bill 1357** would create the "Public School Facility Authority Act" to do the following:

- Permit a public school district, not including a public school academy, to establish a public school facility authority.
- Specify that a school district would have to be located in a city that had a population over 170,000 and was the most populous city in a county with a population over 500,000. (Apparently, Grand Rapids public schools is the only district that would qualify.)
- Provide for the appointment of a five-member authority board.
- Specify duties of the authority, including receiving public school facilities from a district for a nominal fee; leasing public school facilities to a district for a nominal fee; selling, leasing, or purchasing property for projects involving a public school facility; and, developing a public school facility.
- Provide for the creation of a public school facility authority fund.
- Prohibit an authority from levying a tax.

- **Exempt from State and local taxes property of the authority, including property it leased to private persons and property it leased for use as a public school facility.**

The bills are tie-barred to each other.

A more detailed description of the bills follows.

### **Senate Bill 1356**

For tax years beginning after December 31, 2000, and before January 1, 2023, a qualified taxpayer could claim a credit against the single business tax (SBT) equal to 10% of the cost of eligible income received or accrued by the qualified taxpayer in the tax year. ("Qualified taxpayer" would mean a taxpayer that owned eligible property. "Eligible property" would mean a public school facility, as defined in Senate Bill 1357 (S-1), i.e., all or any part of school buildings, including library buildings, structures, athletic fields, and/or playgrounds, that were used or intended to be used by a district for instructional purposes, whose ownership had been transferred to an authority or to a private entity that had entered into a contract to lease it to an authority. "Eligible income" would mean rental and lease income received from an authority for use of eligible property. "Authority" would mean a public school facility authority, as defined in Senate Bill 1357 (S-1).)

For the same tax years, a taxpayer could claim a credit against the SBT equal to 10% of the amount the taxpayer contributed during the tax year to the authority.

These credits would have to be calculated after all other credits allowed under the Act were applied. If a credit allowed under the bill for a tax year and any carryforward of the credit allowed by the bill exceeded the taxpayer's tax liability for the tax year, the 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.

In regard to a taxpayer or a qualified taxpayer that claimed a credit under the bill, an affiliated group as defined in the Act, a controlled group of corporations as defined in the Internal Revenue Code and Federal regulations, or an entity under common control as defined in the Code, would have to consolidate the eligible income or the contributions of the members of the affiliated group, member corporations of the controlled group, or entities under common control, and could claim only one credit under the bill whether or not a combined or consolidated return was filed.

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

### **Senate Bill 1357**

#### **Creation of Authority**

By resolution of the local school board, a district could establish a public school facility authority. On the date on which all of the certified copies of the resolutions establishing the authority were filed with the Secretary of State, the authority would be created. ("District" would mean a public school district located in whole or in part in a qualified city. A district would not include a public school academy. "Qualified city" would mean a city with a population of more than 170,000 that was the most populous city in a qualified county. "Qualified county" would mean a county with a population of more than 500,000 that contained a qualified city and that was not a charter county or a county with an optional unified form of government.)

#### **Authority Board**

The powers, duties, and functions of an authority would be vested in by a board, which would consist of the following five members:

- Two members who were residents of the qualified city appointed by the local school board of the district, including one who was a member of the school board.
- One member who was a resident of the qualified city appointed by the mayor with approval of the city's legislative body.
- Two members who were residents of the qualified county appointed by the first three members at the first meeting of the board as the first item of business. These two members would have to be selected from a list of five candidates submitted by the board of directors of the chamber of commerce located in the qualified city. At least one would have to have experience in facilities management or construction. Every two years after the first appointment, one member would have to be appointed at the first meeting of the

board the member's term expired.

Board members would be appointed for a term of four years, except that one member initially appointed by the local school board and one from the qualified county would have to be appointed for two-year terms. Subsequent members would have to be appointed for a term of four years.

A board member would hold office until a successor was appointed and qualified. Notwithstanding a charter provision of the qualified city to the contrary, a member of the legislative body or other city official of the qualified city would be eligible to serve as a member of the board.

Board members would have to serve without compensation. The district would have to provide administrative staff to the authority. The district could receive reimbursement for reasonable and necessary administrative expenses.

The board would be subject to the Freedom of Information Act and the Open Meetings Act. The board could meet in closed session pursuant to the Open Meetings Act to determine whether it acknowledged as confidential any financial or proprietary information submitted and considered by the person submitting the information as confidential. ("Financial or proprietary information" would mean information that had not been publicly disseminated or that was unavailable from other sources, whose release could cause the person submitting the information competitive harm.)

#### **Duties of an Authority**

An authority could do all things necessary or convenient to carry out the purposes, objectives, and provisions of the bill and the purposes, objectives, and powers delegated to the authority or the board by other laws or executive orders, including soliciting, receiving, and accepting from any source gifts, grants, loans, or contributions of money, property, or other things of value, and other aid or payment, or participating in any other way in a Federal, State, or local government program; receiving public school facilities from the district for a nominal fee; and, leasing public school facilities to the district for a nominal fee.

The bill specifies that an authority could hold, clear, remediate, improve, maintain, manage, control, sell, exchange, mortgage, and hold mortgages on and other security interests in, lease, as lessor or lessee, and obtain or grant easements and licenses on property that the authority acquired. A sale, exchange, lease, or other disposition of authority property would have to be to a person for a project involving a public school facility, except for property acquired by the authority and later determined by it

not to be necessary for a public school facility, which could be sold or otherwise disposed of. Property being sold would have to be offered first to the district in which the property was located for the nominal fee for which it had been acquired, if the property had been acquired from the district. Temporary or permanent interests, licenses, or other appropriate interests in property acquired by the authority could be conveyed or granted by the authority for utility, vehicular, or pedestrian traffic facilities, or related purposes not inconsistent with the bill. The authority would not have the power to condemn property.

In addition, an authority could develop a public school facility, reimburse the district for reasonable and necessary administrative expenses; and, do all other acts and things necessary or convenient to carry out the purposes for which the authority had been established. ("Develop" would mean, unless the context clearly indicated a different meaning, to defray all or a part of the cost of purchasing, erecting, completing, remodeling, or equipping or reequipping school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities, or parts of or additions to those facilities; furnishing or refurbishing new or remodeled school buildings; and acquiring, preparing, developing, or improving sites, or parts of or additions to sites, for school buildings.)

An authority established under the bill could not levy a tax.

The accounts of an authority would be subject to annual audits by the State Auditor General or a certified public accountant selected by the authority. Copies of the audits would have to be forwarded annually to the State Treasurer, as provided in the Uniform Budgeting and Accounting Act. Records would have to be maintained according to generally accepted accounting principles. The authority would have to prepare and adopt an annual budget.

#### Other Provisions

The bill would create a public school facility authority fund for each authority. An authority would have to deposit all money received into the fund.

The bill states that property of an authority would be public property devoted to an essential public and governmental function and purpose, and income of the authority would be for a public purpose. The authority's property, income, and operations would be exempt from all taxes of the State or a political subdivision of the State. Property of the authority that was leased to private persons would be exempt from any State or local tax. Property of the authority and property leased by the authority for use as a public school facility would be exempt from any ad valorem property taxes collected under the General Property Tax Act.

An authority that completed the purposes for which it was organized would have to be dissolved by resolution of the board. The authority's property and assets remaining after the satisfaction of the obligations of the authority would belong to the district in which the property was located.

Proposed MCL 208.39d & 208.39e (S.B. 1356)

Legislative Analyst: L. Arasim

#### FISCAL IMPACT

##### Senate Bill 1356

The bill would reduce State General Fund revenues by an unknown amount. The bill would affect single

business tax revenues through two credits for different activities relating to a public school facility authority: 1) a credit for donations to an authority, and 2) a credit for income received from property leased to an authority. Depending on how property transfers would be handled under the bill, the bill also could increase the State School Aid Fund by an unknown amount. No precise information is available regarding how many taxpayers would use each credit or engage in new business activity with an authority, or the extent to which revenues would be affected.

The credits in the bill would affect business activity in two ways, both of which would reduce SBT revenues: 1) a shifting of current business activities to take advantage of the credits, and 2) new business activity stimulated by the credits. New business activity related to the credit for donations would reduce revenues. In the case of the second credit, although SBT revenues would increase as taxpayers took on new business with a public school facility authority, the structure of the credits ensures that revenues losses would exceed revenue gains.

The Grand Rapids Public School District is the only district in Michigan that would be able to create a public school facility authority under the bill. The following example illustrates the impact the bill could have. A recent proposal from the school district to renovate and expand four school buildings was estimated to cost \$40 million, less \$5.5 million for "value engineering" on the part of the contractors and developers. Furthermore, according to data from the Michigan Department of Education, the Grand Rapids Public School District spent approximately \$5 million in capital outlay in 1998. Assuming: 1) businesses purchasing property from the authority would recoup their costs by leasing the property back over a 10-year period, 2) once the lease was completed, the property would be donated back to the authority, and 3) certain additional factors regarding the relationship between property values and the construction and renovation costs, the bill would reduce net SBT revenues by \$10.8 million in the first year, approximately \$1.0 million per year afterward until the lease was completed, and an additional \$14.4 million in the year of the donation. In each of the 10 years the property was owned by the business, the State School Aid Fund would receive an additional \$1.1 million in State Education Property Tax, while local units such as the Grand Rapids Public School District and the City of Grand Rapids would receive an additional \$1.7 million in property tax revenues. In the year of the donation, the business also would experience a reduction in Federal tax liability of \$35.8 million.

Single business tax revenues would be reduced in four ways, only two of which are proposed by the bill;

the remaining losses would stem from current tax provisions that would apply to the business activity created/altered by the bill: 1) the tax credit on income from the lease, 2) the tax credit from the donation of facilities, 3) the investment tax credit that the business can claim upon purchasing the property, and 4) a reduction in the tax base in the year of the donation because the donation would qualify as a charitable contribution, thus lowering both the Federal corporate income tax base and the SBT base.

The bill also would have an unknown fiscal impact on the Grand Rapids Public School District and the City of Grand Rapids. To the extent that the Grand Rapids Public School District would participate in arrangements with a public school facility authority, the district could experience changes in the timing and/or levels of certain expenses or revenues. The bill does not clearly define how the authority would ensure that it would have sufficient funds to cover the lease payments, given the increase in property values resulting from the improvements; so local units could experience some increase in expenses in the long term if they had to transfer funds to the authority to cover the lease payments. Furthermore, while property was owned by a business, rather than the district or the authority, the property would be subject to local property taxes. The extent to which property tax revenues to the school district or the city would increase is unknown.

This estimate is preliminary and will be revised when more information is available.

#### **Senate Bill 1357**

An eligible local school district could experience reduced costs associated with developing public school facilities if the authority proposed under this bill were able to generate more gifts, grants, loans, or contributions than the district otherwise would generate on its own. It is unknown how "successful" the authority would be in reducing costs of development compared with members of the school district or the district itself seeking such assistance. According to eligibility criteria in this bill, Grand Rapids public schools is the only district that would qualify.

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