

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 999 (Substitute S-2 as reported)  
Sponsor: Senator Valde Garcia  
Committee: Technology and Energy

## **CONTENT**

The bill would amend Public Act 282 of 1905, which provides for the assessment and taxation of the property of telephone, telegraph, and railroad companies, to allow a credit against the tax for expenditures for certain equipment with the capability to carry information; and a separate credit for annual maintenance fees proposed by Senate Bill 880. The bills are tied to each other.

(Senate Bill 880 would create the "Metropolitan Extension Telecommunications Rights-of-Way Oversight Act". The bill would require telecommunication providers to pay an annual maintenance fee based on the linear feet of public rights-of-way their facilities occupied. A provider could apply to the Public Service Commission for a determination of the amount of credit available under Senate Bill 999.)

Under Senate Bill 999 (S-2), a company could claim a credit against the tax imposed by Public Act 282 equal to 6% of "eligible expenditures" incurred in the calendar year immediately preceding the tax year for which the credit was claimed. "Eligible expenditures" would be expenditures made by a company to purchase and install "eligible equipment" after December 31, 2001. "Eligible equipment" would be property, placed into service in Michigan for the first time, with information carrying capability exceeding 200 kilobits per second in both directions. The credit could not exceed a company's tax liability under the Act, in the tax year the credit was claimed.

After any equipment credit was determined, a company could claim a credit against any remaining tax imposed under Public Act 282 equal to the maintenance fee credit proposed by in Senate Bill 880. If the maintenance fee credit for a tax year, and any unused carryforward of the credit, exceeded the company's remaining tax liability for the tax year (after the equipment credit was determined), the excess could not be refunded but could be carried forward to offset tax liability in subsequent tax years, until used up.

A company could not claim either the equipment credit or the maintenance fee credit in a tax year in which the company was not subject to the annual maintenance fee proposed by Senate Bill 880, or the company failed to pay the annual maintenance fees that were due and payable.

Proposed MCL 207.13b

Legislative Analyst: G. Towne

## **FISCAL IMPACT**

The bill would reduce State revenues by approximately \$4.7 million per year, although the potential exposure could be greater.

The equipment eligible for the first credit also would be eligible for the investment tax credit under the single business tax (SBT). However, the credit under the bill would differ from the investment tax credit in that it would be subject to several limitations: 1) it could not exceed 6% of eligible expenditures, 2) initially it could not exceed 3% of a company's utility property tax liability (rising to 12% between tax year 2003 and tax year 2006) and 3) for tax years after 2003, the credit could not exceed the prior year's credit. Another provision would require that the credit not exceed the company's total utility property tax liability. The credit also



would not be refundable and could not be carried forward or backward. SBC/Ameritech and Verizon are the two largest telecommunications companies in Michigan that would be eligible for the credit.

The bill's limitations appear to reduce the impact of the credit significantly. For example, between 1996 and 2000, the FCC reports that Ameritech spent an average of \$132.1 million per year on additional cable and wire. It is unknown how much of this investment was in equipment capable of transmitting data at more than 200 kilobits per second in two directions. Consequently, under the bill's limitations and Ameritech's estimated property tax liability, Ameritech would be eligible for a credit of approximately \$4.0 million rather than the full \$7.9 million the bill would allow without the limitations. Information is not available for the Michigan investments of other telecommunication providers in Michigan, although Verizon Midwest, which includes Michigan as well as portions of several other states, is estimated to pay approximately 15% of the utility property tax.

For those portions of eligible expenditures that occur in Michigan, taxpayers also would be eligible to claim an investment tax credit (ITC) for as much as 100% of the tax levied on the portion of their tax base equal to the cost of the equipment. Absent the limitations, or if a taxpayer did not make enough investment to meet the limitations, under the bill taxpayers would receive a larger credit on their eligible expenditures in Michigan than under the ITC. The investment tax credit allows a credit equal to a maximum of the tax rate (scheduled to be 1.8% in tax year 2003) on that portion of the tax base equal to the amount of the eligible investment occurring in Michigan, while the bill would allow a credit of up to 6%. For example, if a taxpayer made \$500 million in eligible investments in Michigan, the taxpayer would pay \$9.0 million on the \$500 million of tax base and would receive an ITC of \$9.0 million plus up to an additional \$12.7 million in credit under the bill.

In some cases, a taxpayer might not be eligible for the investment tax credit because the taxpayer chose to claim the gross receipts deduction under the SBT. A taxpayer would choose to claim such a deduction only if the liability after the deduction were less than it would be if the taxpayer filed in a manner that would allow the taxpayer to claim the ITC. The revenue lost under the bill would occur regardless of whether the taxpayer claimed the gross receipts reduction.

Under the second credit, the bill would reduce revenues by an unknown amount. This credit could not exceed the lesser of 1) costs paid under the proposed "Metropolitan Extension Telecommunications Rights-of-Way Oversight Act", or 2) the amount those costs, combined with other long-term costs, exceeded a provider's rates. The impact is uncertain because the proposed Act does not define what "costs" would be included. This credit would not be refundable, but could be carried forward indefinitely until used. Assuming that the "costs" allowed under the credit would be the maintenance fees levied under Section 8 of the proposed Act, the credit could reduce State revenues by an additional \$26.7 million, although the impact likely would be less. For example, it is estimated that Ameritech would pay an estimated \$23.3 million in maintenance fees that would be eligible for the credit, subject to certain limits established by the bill's other provisions. The credit would be the lesser of the costs or, essentially, the amount by which the costs of providing service exceeded revenues. In 2000, Ameritech reported \$3.6 billion in revenues and operating expenses of \$2.2 billion, suggesting operating profits of \$1.4 billion, considerably in excess of the \$23.3 million in maintenance fees eligible for the credit. Ameritech reported net income of \$592.6 million, still in excess of the maintenance fees. As a result, the additional \$23.3 million in maintenance fees would not likely exceed the rates Ameritech is allowed to charge for its service. As a result, the limitation would significantly restrict the credit for the largest taxpayer affected under the bill. However, the credit would be structured such that under certain circumstances it could reduce revenues by the full \$26.7 million in maintenance fees levied on noncable providers under the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act.

Date Completed: 2-19-02

Fiscal Analyst: David. Zin

Floor/sb999

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.