

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



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

Senate Bill 999 (as introduced 1-9-02)
Sponsor: Senator Valde Garcia
Committee: Technology and Energy

Date Completed: 1-16-02

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. The bill is tie-barred to Senate Bills 880 and 881. (Senate Bill 880 would create the "Metropolitan Extension Telecommunications Rights-of-Way Oversight Act". Senate Bill 881 would create the "Michigan Broadband Development Authority Act".)

Senate Bill 999 would allow a company to claim a credit against the tax equal to 4% 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 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. A company could not claim the 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 at the time an annual report was due under that bill.

Further, the amount of the credit a company could claim would be limited in the following ways:

- The credit could not exceed 3% of the company's liability for the tax in the 2003 tax year.
- For the 2004 tax year, the credit could not exceed the greater of 6% of the company's liability for the tax in that tax year, or 100% of the credit the company received in the 2003 tax year.
- For the 2005 tax year, the credit could not exceed the greater of 9% of the company's liability for the tax in that tax year, or 100% of the credit the company received in the 2004 tax year.
- For the 2006 tax year and each tax year after 2006, the credit could not exceed the greater of 12% of the company's liability for the tax in the tax year in which the credit was claimed, or 100% of the credit the company received in the immediately preceding tax year.

A company could apply for the credit by submitting an application to the State Board of Assessors in a form prescribed by the Board.

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 under the bill could be greater. The bill would create a new credit against the utility property tax for new investments in property which can carry information at a rate of more than 200 kilobits per second in two directions. While such investments would also be eligible for the investment tax credit under the SBT, the credit under the bill would also differ from the investment tax credit in that it would be subject to several limitations: 1) it would not exceed 4% of eligible expenditures, 2) initially it could not exceed 3% of a company's utility property tax liability (between tax year 2003 and tax year 2006 this percentage would rise to 12%), and 3) for tax years after 2003 the credit could not exceed the prior year's credit. Another subsection would also require that the credit not exceed the company's total utility property tax liability but the other limitations make this subsection irrelevant. The credit would also not be refundable and would not be allowed to be carried forward or carried 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 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 limitations imposed by the bill and Ameritech's estimated property tax liability, Ameritech would be limited to a credit of approximately \$4.0 million rather than the full \$5.3 million the bill would allow without the limitations. Information is not available for the Michigan investments of other telecommunications 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 which occur in Michigan, taxpayers would also be eligible to claim an investment tax credit 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 a larger credit on their eligible expenditures in Michigan than under the investment tax credit. 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 4%. 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 investment tax credit of \$9.0 million plus 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 they choose to claim the gross receipts deduction under the SBT. A taxpayer would only choose to claim such a deduction if the liability after the deduction were less than it would be if the taxpayer filed in a manner which would allow them to claim the investment tax credit. The revenue lost under the bill would occur regardless of whether or not the taxpayer claimed the gross receipts reduction.

This is a preliminary estimate, and will be revised if and when more data becomes available.

Fiscal Analyst: D. Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.