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SFA BILL ANALYSIS

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Senate Bill 1322 (as introduced 5-9-02)
Sponsor: Senator Joanne G. Emmons
Committee: Finance

Date Completed: 5-14-02

CONTENT

The bill would amend the Single Business Tax Act to allow credits against the single business tax (SBT) for the following:

-- Research, development, or manufacturing of an alternative energy system, vehicle, or marine propulsion system, or alternative energy technology.
-- The income tax withholding amount for qualified employees of an alternative energy entity in an alternative energy zone.
-- Qualified investment for research experimental activities, as approved by the Michigan Economic Growth Authority.
-- Negotiated return on investment in a proposed Michigan Early Stage Venture Capital Investment Fund.

All of the credits would apply for tax years beginning after December 31, 2002. The credits for investment in research experimental activities and venture capital would be available for tax years beginning after 2002 and before January 1, 2013.

Research, Development, & Manufacturing

A taxpayer could claim a nonrefundable credit for that portion of the taxpayer's SBT liability for the tax year attributable to the research, development, or manufacturing of an "alternative energy marine propulsion system", an "alternative energy system", "an alternative energy vehicle", or "alternative energy technology" (as those terms would be defined in the General Property Tax Act).

"Tax liability attributable to research, development, and manufacturing..." of an alternative energy system, vehicle, or technology would mean the taxpayer's SBT liability multiplied by a fraction whose numerator was 1) the ratio of the average value of the taxpayer's property in this State not in a renaissance zone used for alternative energy research, development, and manufacturing, to the average value of all of the taxpayer's property in this State, plus 2) the ratio of the taxpayer's payroll in Michigan not in a renaissance zone for alternative energy research, development, and manufacturing, to all of the taxpayer's payroll in this State; and whose denominator was two.

Qualified Withholding Amount

A taxpayer that was a qualified alternative energy entity could claim a credit for its qualified withholding amount. The taxpayer would have to claim this credit after all allowable nonrefundable credits under the Act. If the proposed credit exceeded the taxpayer's SBT liability for the tax year, the excess would have to be refunded.

The bill would define "qualified alternative energy entity" as a taxpayer located and conducting a qualified business activity within an alternative energy zone (a renaissance zone so designated by the board of the Michigan Strategic Fund). "Qualified business activity" would mean research, development, enhancement, or manufacturing that supported the research, development, enhancement, or manufacturing of alternative energy technology.

"Qualified withholding amount" would mean the amount of tax that would have been withheld under the Income Tax Act by the qualified alternative energy entity for all qualified employees in the calendar year immediately preceding the close of the entity's fiscal year for which this credit was being claimed, if those employees had claimed the same number of personal and dependency exemptions that they could claim on their annual return under the Income Tax Act. "Qualified employee" would mean an individual employed by a qualified alternative energy entity, whose job responsibilities were related to the entity's research, development, or manufacturing activities, and whose regular place of employment was within an alternative energy zone.

Research Experimental Activities

An eligible taxpayer could claim a credit for qualified investment for research experimental activities conducted in the tax year as approved by the Michigan Economic Growth Authority (MEGA), for the amount determined by MEGA. ("Eligible taxpayer" would mean a taxpayer approved and issued a letter by MEGA.)

The Authority would have to approve or deny a credit to taxpayers that applied for one. It could not approve more than 50 taxpayers as eligible taxpayers each State fiscal year. The Authority would have to issue to each eligible approved taxpayer a letter authorizing the credit, stating the amount of the credit that the taxpayer could claim each tax year and the tax year in which the taxpayer could claim the credit. The taxpayer would have to attach the letter to the annual return on which the credit was claimed.

The Authority would have to determine the percentage, which could not exceed 25%, of the taxpayer's qualified investment for research experimental activities that the taxpayer could claim as a credit. The maximum credit that MEGA could approve for each eligible taxpayer would be $1 million per tax year.

The qualified investment of an eligible taxpayer would have to meet at least one of the following criteria:

-- The activity on which the investment was based was conducted in a certified technology park.
-- The qualified investment was in a business sector targeted by the Michigan Economic Development Corporation for increased economic development within this State.
-- The investment was directly related to an agreement between an institution of higher education in Michigan and a business for a product or technology based on advanced technology research and development conducted by the higher educational institution.

If the credit allowed for a tax year and any unused carryforward of the credit exceeded the taxpayer's SBT liability for the tax year, the excess could not be refunded, but could be carried forward as an offset for five tax years or until used up, whichever occurred first.

A taxpayer could transfer all or a portion of this tax credit. A transfer would be irrevocable and would have to be made in the tax year in which MEGA issued a letter. If a taxpayer both claimed and transferred portions of the credit, the taxpayer would have to claim the portion it claimed in the tax year in which the letter was issued. If the taxpayer transferred all or part of the credit to more than one taxpayer, the taxpayer would have to allocate the credit to each transferee. A transferee could not subsequently transfer all or any portion of a credit transferred. A taxpayer could not transfer more than the annual credit amount for each tax year.

A tax credit transfer would have to be made on a form prescribed by the Department of Treasury. The taxpayer would have to send a copy of the completed form to MEGA and the Department within 30 days after the transfer was made. The transferee would have to attach a copy of the completed form to its annual SBT return for the tax year in which the transfer was made and the transferee first claimed a credit, which would have to be the same tax year.

The bill would define "qualified investment" as the increase in expenditures for research experimental activities in the tax year by the eligible taxpayer as compared with the taxpayer's average expenditures for such activities over the four tax years immediately preceding the tax year in which the credit was claimed (or, if less than four years, for the number of years in which the taxpayer had expenditures for these activities). If an eligible taxpayer's expenditures for research experimental activities for the tax year were not more than the average over the four preceding years, the taxpayer could not claim a credit for that tax year.

Early Stage Venture Capital Investment

A qualified taxpayer could claim an SBT credit for the amount authorized and for which a certificate was issued under the Michigan Early Stage Venture Capital Investment Act. (Senate Bill 1318 would create that Act and provide for a credit amounting to the difference between a negotiated return and the actual return on investment in an Early Stage Venture Capital Investment Fund. Total credits could not exceed $30 million, or $5 million per tax year. A taxpayer would have to be certified by the proposed Early Stage Venture Capital Investment Authority.) "Qualified taxpayer" would mean a taxpayer that had a certificate issued under the proposed Act or a taxpayer that was a transferee of a credit.

If the credit for a tax year and any unused carryforward of the credit exceeded the taxpayer's SBT liability for the tax year, the excess could not be refunded but could be carried forward for five years or until used up, whichever occurred first. For tax years beginning after December 31, 2013, if the taxpayer had unused carryforward, the taxpayer could continue to use it for the remainder of the five-year period or until it was used up.

A certified investor could transfer all or a portion of this tax credit. A transfer would be irrevocable and would have to be made in the tax year in which the proposed Authority issued a certificate. If the certified investor both claimed and transferred portions of the credit, the investor would have to claim the portion it claimed in the tax year in which the certificate was issued. If the certified investor transferred all or part of the credit to more than one taxpayer, the investor would have to allocate the credit to each transferee. A transferee could not subsequently transfer all or any portion of a credit transferred. The certified investor could not transfer more than the annual credit amount authorized for that investor for each tax year.

A tax credit transfer would have to be made on a form prescribed by the Department of Treasury. The certified investor would have to send a copy of the completed form to the Department in the tax year in which the transfer was made. The transferee would have to attach a copy of the completed form to its annual SBT return for the tax year in which the transfer was made and the transferee first claimed a credit, which would have to be the same tax year.

Proposed MCL 208.39e Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

This bill would create four new credits against the single business tax, and the preliminary fiscal impact estimates are summarized below.

Alternative Energy Research, Development, and Manufacturing Credit - The amount of current activity devoted to alternative energy research, development, and manufacturing is not known at this time, but it is estimated that this credit would potentially cost several million dollars, and would most likely become more costly in future years.

Qualified Withholding Tax Credit - No estimate is available for this refundable credit at this time.

Qualified Experimental Research Tax Credit - This credit would be limited to not more than 25% of the cost of the research and to not more than $1 million per year per taxpayer. An estimate of the total cost of this credit is not available at this time, but it would potential reduce single business tax revenue by several million dollars annually.

Early Stage Venture Capital Investment Tax Credit - An estimate of the fiscal impact of this credit is not available at this time, but tax credits would be limited to a total of $30 million and not more than $5 million would be issued per year.

The cost of these credits would reduce General Fund/General Purpose revenue.

Fiscal Analyst: Jay Wortley

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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.