Legislative Analysis

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START-UP BUSINESS INCENTIVE PACKAGE

Senate Bill 1302 as passed by the Senate
Sponsor: Sen. Bruce Patterson

Senate Bill 1303 as passed by the Senate
Sponsor: Sen. Jud Gilbert, II

Senate Bill 1304 as passed by the Senate
Sponsor: Sen. Patty Birkholz

Senate Bill 1305 as passed by the Senate
Sponsor: Sen. Virg Bernero

Senate Committee: Economic Development, Small Business and Regulatory Reform
House Committee: Tax Policy

Complete to 6-29-04

A SUMMARY OF SENATE BILLS 1302-1305 AS PASSED BY THE SENATE 6-24-04

Each of the following bills is part of a package of bills exempting qualified start-up businesses from certain taxes, with local approval. The definition of "qualified start-up business" is found under Background Information.

Senate Bill 1302 (Technology Park Development Act)

The bill would amend the Technology Park Development Act (MCL 207.712) to exempt a qualified start-up business from the technology park facilities tax, except for that portion of the tax attributable to special assessments, debt millages, school enhancement millages, and school building sinking fund millages. The portion of the tax that is collected would be distributed proportionately to the appropriate taxing units. In order to provide the exemption, the local tax collecting unity would have to adopt a resolution in the same manner and under the same terms and conditions as provided in the General Property Tax, as amended by House Bill 6025.

The tax exemption would be available only for the year in which the resolution is adopted, though a qualified start-up business would not be eligible for the exemption for more than five years.

The technology park facilities tax is a specific tax levied in lieu of the general property tax against facilities located in a technology park district, on the state equalized value of a facility (excluding land and inventory) at a rate of the sum of (1) one-half of the 1993 school operating millage and (2) one-half of all property tax mills, except the state and local school operating mills.

Senate Bill 1303 (City Utility Users Tax Act)

The bill would amend the City Utility Users Tax Act (MCL 141.1155) to exempt a qualified start-up business from the city utility users tax if the business applies for an exemption and if the governing body of the city adopts a resolution approving of the exemption at its last official meeting in September. The business would have to file an exemption affidavit with the city treasurer by September 1 on each year it claims the exemption. The affidavit would have to include a statement that the business claimed the SBT start-up credit in the prior tax year, the business's SBT annual return, and a statement permitting the Department of Treasury releasing information in the SBT return related to the SBT start-up credit. A business could not claim the exemption for more than five years.

The act permits the City of Detroit to levy, assess, and collect from city utility users, a tax, in increments of ¼ of one percent that shall not exceed five percent. The tax is levied on intrastate telephone communication services, electrical energy, steam, and natural and artificial gas provided by a public utility or a resale customer. Revenue from the tax is used to retain or hire police officers.

Senate Bill 1304 (Plant Rehabilitation and Industrial Development Act)

The bill would amend the Plant Rehabilitation and Industrial Development Act (MCL 207.561) to exempt a speculative building, new facility, or replacement facility of a qualified start-up business from the industrial facility tax, except for that portion of the tax attributable to special assessments, debt millages, school enhancement millages, and school building sinking funds millages. The portion of the tax that is collected would be distributed proportionately to the appropriate taxing units.

The tax exemption could be claimed for up to five years. For the exemption to take effect, the governing body of the local tax collecting unity would have to adopt a resolution approving the exemption in the same manner as provided in the General Property Tax Act, as amended by House Bill 6025.

Under the act, commonly known as P.A. 198, local governmental units may provide new, renovated, or expanded industrial facilities with property tax abatements for up to 12 years. In lieu of the property tax, businesses pay the industrial facility tax. Under the act, renovated facilities are taxed at the same local property tax rate, though the taxes are based on the taxable value of the facility (excluding land and inventory) during the immediately proceeding tax year (meaning, prior to the renovation). For new facilities, the tax rate is the sum of (1) half of all other taxes other than the State Education Tax and (2) the State Education Tax, and is based on the taxable value of the new facility.

Senate Bill 1305 (Lessee-User Tax)

Public Act 189 of 1953 provides that, with certain exceptions, if real property exempt from ad valorem property taxation is leased, loaned, or otherwise made available to and used in connection with a for-profit business, the lessee or user of the property is subject to taxation (so-called lessee-user taxes) in the same amount and to the same extent as if the lessee or user owned the real property. A business could not receive the exemption for more than five years.

The bill would exempt, for taxes levied after December 31, 2004, real and personal property of a qualified start-up business from the lessee-user tax if the business applies for an exemption and the governing body of the local tax collecting unit adopts a resolution approving the exemption.

The qualified start-up business would have to file an affidavit on or before May 1 (or later if it files for an extension for its SBT return) in each tax year with the assessor of the local tax collecting unit. The affidavit would have to include a statement that the business claimed the SBT start-up credit in the prior tax year, the business's SBT annual return, and a statement permitting the Department of Treasury releasing information in the SBT return related to the SBT start-up credit.

In order to actually provide an exemption, the governing body of the local tax collecting unit would have to adopt a resolution approving the exemption for one or more qualified start-up businesses that filed the affidavit prior to May 1. The resolution could also provide the exemption to all qualified start-up businesses that file the affidavit after the May 1 deadline due to an extension on their SBT return.

BACKGROUND INFORMATION:

A "qualified start-up business" is defined in the Single Business Tax Act to mean a business that (1) has fewer than 25 full-time equivalent employees; (2) has sales of less than $1 million in the tax year for which the credit is claimed; (3) has research and development expenses (as defined under the federal Internal Revenue Code) that constitute at least 15 percent of its expenses in the tax year for which the credit is claimed; (4) is not publicly traded; and (5) was in or would have been in the first two years of contribution liability under the Michigan Employment Security Act, in the immediately preceding seven years. The term was added to the Single Business Tax Act by Public Act 126 of 2004 (House Bill 5331). That act creates an SBT credit for this category of businesses.

In addition, many of the bills reference the process by which a resolution is adopted under Section 7hh of the General Property Tax Act. That section would exempt the real and personal property of a qualified start-up business from taxation under that act. The process by which the exemption may be claimed requires an application to be filed by May 1 (or later, if there the deadline to file an SBT return has been extended) and local adoption of a resolution approving the exemption. The process is quite similar to the process set forth in Senate Bill 1305, except that House Bill 6025 permits local taxing units to pass an ordinance not approving the exemption within their jurisdiction and it permits counties to pass a resolution granting an exemption from taxes levied by the county.

FISCAL IMPACT:

The fiscal impact of the bills would depend on the number of qualified start-up businesses and the degree to which local units approve exemptions.

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