House Legislative Analysis Section
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MEGA RENEWAL & AMENDMENTS; AID TO DISTRESSED BUSINESSES

House Bill 5242 (Substitute H-2)
Sponsor: Rep. Tupac Hunter

House Bill 5246 (Substitute H-1)
Sponsor: Rep. David Farhat

House Bill 5248 (Substitute H-1)
Sponsor: Rep. Joe Hune

House Bill 5255 (Substitute H-3)
Sponsor: Rep. Daniel J. Acciavatti

Committee: Commerce

Senate Bill 820 (Substitute H-1)
Sponsor: Sen. Jim Barcia

Senate Bill 821 as passed by the Senate
Sponsor: Sen. Valde Garcia

Senate Bill 822 (Substitute H-1)
Sponsor: Sen. Alan Sanborn

Senate Bill 824 (Substitute H-2)
Sponsor: Sen. Jason E. Allen

Senate Committee: Commerce and Labor
House Committee: Commerce

Complete to 12-9-03

A SUMMARY OF THE BILLS LISTED ABOVE AS REPORTED BY THE HOUSE COMMITTEE ON COMMERCE 12-2-03

House Bills 5242, 5246, and 5248 would amend the Single Business Tax Act (MCL 208. 37c, 208.38g and 208.37d, respectively) so that new SBT credits will continue to be available under the Michigan Economic Growth Authority or MEGA program until December 31, 2009. Otherwise, the ability to grant new SBT credits would end on December 31, 2003. House Bills 5246 and 5248 are tie-barred to House Bill 5255. House Bill 5255 would make a number of amendments to the Michigan Economic Growth Authority Act (MCL 207.804 et al.). Moreover, House Bill 5242 and 5248 (in conjunction with House Bill 5255) would provide for several new kinds of SBT credits, for “distressed businesses” , “rural businesses”, and businesses involved in international competition, among others (as explained later).

Senate Bills 820-822 and 824 would essentially make the same amendments to statute as the House bills. The House and Senate Bills in this package are, generally speaking, twins. House Bill 5242 and Senate Bill 821 have similar content; House Bill 5246 and Senate Bill 822 have similar content; House Bill 5248 and Senate Bill 820 have similar content; and House Bill 5255 and Senate Bill 824 have similar content.

[According to information from the Michigan Economic Development Corporation, the MEGA program provides three kinds of SBT credits: regular credits for in-state companies or companies relocating to this state that create a specified number of new jobs – 75 for in-state companies and 150 for relocating companies; retention credits to prevent large employers from relocating production out of state, with the companies to provide at least $250 million in new production and retain at least 500 in-state jobs; and high-tech credits for companies devoting at least 25 percent of their total operating expenses to research and development and creating a specified number of jobs – five within the first year and 25 within five years. The credits are not automatic; they are awarded by either the MEGA board or the Department of Treasury, depending on the size of the credit.]

House Bill 5255/Senate Bill 824 would amend the Michigan Economic Growth Authority Act to do the following:

• increase the MEGA board from eight to ten members, with the governor to appoint one member from one or more nominees made by the Speaker of the House of Representatives and one member from one or more nominees made by the Senate Majority Leader; require that the two members nominated by legislative leaders serve on the MEGA executive committee that reviews applications; require all of the governors' six appointees to the board to be subject to the advice and consent of the Senate, except for the legislative nominees; replace the director of the Department of Management and Budget on the board with the chief executive officer of the Michigan Economic Development Corporation;

• eliminate the ability of MEGA to promulgate rules to administer its act.

• update the language of the act to put MEGA within the Department of Labor and Economic Growth, and to make the director of that department the chairperson of the MEGA board.

• require that authorized businesses (that is, businesses granted tax credits by MEGA) make a good faith effort to use Michigan-based suppliers and vendors when purchasing goods and services.

• Prohibit the authority from requiring an eligible business, as a condition of becoming an authorized business, to pay an unreasonable fee to or make a donation to the Michigan Economic Development Corporation or a foundation or fund associated with the MEDC.

• require that the annual report by MEGA to the legislature contain not only the name and location of all authorized businesses, but also the names and addresses of the directors and officers, if the business was a corporation, of the partners if the business was a partnership or limited liability partnership, and of the members, if the business was a limited liability company.

Distressed Businesses. As mentioned earlier, a new category of eligible business would be created known as a distressed business. A distressed business would be a non-seasonal employer that had at least 150 employees and that had seen a 30 percent reduction in full-time jobs over any consecutive two-year period. Up to 20 new agreements for an SBT tax credit would be available in 2004, 2005, and 2006 for a tax credit equal to the sum of 50 percent of the tax paid under the Michigan Unemployment Security Act (unemployment taxes) based on qualified new jobs and 25 percent of the unemployment tax based on all jobs other than qualified new jobs. The credit would not be refundable if it exceeded a firm's tax liability but it could be carried forward for up to 10 years. Up to 5 (out of 20) of these new credits could be for distressed businesses that had 1,000 or more full-time jobs at a facility four years immediately preceding applying for the credit.

Awarding of $1 Million Credit. The bills also would require the approval of a credit for $1 million for a project that did not meet the standard criteria if all of the following special criteria were met: 1) the application for approval was filed with the Department of Treasury between August 27, 2003 and October 10, 2003; 2) the project is for more than $10 million but the credit request is for $1 million or less; 3) the project is not a multiphase project; 4) the project is to construct a building and make related site improvements that will result in the creation or retention of approximately 190 jobs; and 4) the approval of the project will not result in the total of all credits approved exceeding $30 million or the calendar year in which the project was approved.

Rural Businesses. The Senate package (but not yet the House bills) would allow for up to 5 credits each year (out of the 50 now allowed only for high-tech companies) for a "rural business", which would be defined as an eligible business in a county with a population of 25,000 or less. To qualify a business would have to create 5 new qualified jobs and 25 jobs within 5 years.

International Competition. The Senate package (but not yet the House bills) would allow a credit for a firm that made a capital investment of $100 million in a time period beginning three years prior to and two years following becoming an authorized business and agreed to maintain at least 2,000 jobs at the facility without a permanent reduction in full-time employment except through attrition or retirement. The credit could only be granted as part of a package of incentives that addressed international competition and included a negotiated labor contribution.

House Bills 5242 and 5246 would also each amend a different section of the Single Business Tax (208.37c and 208.38g, respectively) to require that each year a firm claims a credit, it must attach to its annual return on which the credit is claimed a statement prepared by a certified public accountant verifying that the actual number of new jobs created is the same as the number of new jobs used to calculate the credit claimed for the tax year.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bills would reduce SBT revenue, all of which accrues to the General Fund, by an unknown amount. The fiscal impact of these bills depends on the number and size of credits granted. In addition, the bills would reduce SBT revenue by an estimated $1 million to $5 million for the credit based on Unemployment Insurance liability for the authorized distressed businesses. (HFA analysis dated 12-4-03)

Analyst: C. Couch

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.