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House Bills 4454 and 4472 (as reported without amendment)
Sponsor: Representative Jacob Hoogendyk (House Bill 4454)
Representative Alexander C. Lipsey (House Bill 4472)
House Committee: Commerce
Senate Committee: Commerce and Labor

Date Completed: 8-11-03

RATIONALE

Michigan law provides for various tax credits and exemptions designed to encourage businesses to locate and expand, and retain and create jobs, in this State. These incentives include credits against the single business tax under the Michigan Economic Growth Authority (MEGA) Act, and property tax credits for personal property in economically distressed areas. Specifically, the MEGA Act permits the Authority, after receiving an application, to enter into an agreement with an eligible business for certain single business tax (SBT) credits, if it determines that various conditions have been met. Those conditions include the creation and maintenance of a specified number of qualified new jobs. A high-technology business may qualify for the SBT credit, for example, if it creates at least five qualified new jobs within 12 months of an expansion or location in Michigan, and maintains both those five jobs for each year the credit is awarded and at least 25 new jobs within five years after expansion or location. A business receiving an SBT credit also must meet wage and other requirements specified in the Act. (An "eligible business" is a business that proposes to maintain retained jobs or to create qualified new jobs in Michigan in certain fields.)

The General Property Tax Act allows the governing body of an eligible local assessing district to adopt a resolution exempting from taxation all new personal property owned or leased by an eligible business located in one or more eligible districts designated in the resolution. (An "eligible local assessing district" is a city, village, or township that contains an "eligible distressed area", as defined in the State Housing Development

Authority Act. An "eligible business" is a business engaged primarily in manufacture, mining, research and development, wholesale trade, or office operations. "Eligible district" means an industrial development district; a renaissance zone; an enterprise zone; a brownfield redevelopment zone; an empowerment zone; an authority district or a development area under the Tax Increment Finance Authority Act; or a downtown district or a development area under the downtown development authority Act.)

The issue of business and job retention arose recently when the pharmaceutical company Pfizer, Inc. purchased Pharmacia Corporation. Although headquartered out of State, the companies had a total of approximately 10,000 employees in Michigan before the sale. The merger of the two drug-makers, however, presented the likelihood of some job consolidation and elimination. In order to encourage Pfizer to maintain and expand its Michigan operations and employment, some people believe that the MEGA Act's SBT credit and the General Property Tax Act's personal property tax exemption should be extended to the pharmaceutical company. (Please see **BACKGROUND** for more information on the Pfizer-Pharmacia merger and subsequent efforts to maintain Pfizer's pharmaceutical jobs and activities in Michigan.)

CONTENT

House Bills 4454 and 4472 would amend the Michigan Economic Growth Authority Act and the General Property Tax Act, respectively, to allow an "eligible pharmaceutical company" to receive certain credits under the Single Business

Tax Act, and to authorize a local tax collecting unit to exempt from property taxes all new personal property owned or leased by an eligible pharmaceutical company located in that local unit.

"Eligible pharmaceutical company" would mean a company that met all of the following criteria:

- The company was engaged primarily in the manufacture, research and development, and sale of pharmaceuticals.
- The company had at least 8,500 employees located in Michigan, all of whom were located within a 100-mile radius either of each other (under House Bill 4454) or of the local tax collecting unit that offered an exemption (under House Bill 4472).
- At least 5,000 of the employees located in Michigan were engaged primarily in research and development of pharmaceuticals.

Under the definition in House Bill 4454, an "eligible pharmaceutical company" also would have to enter into a written agreement with MEGA within 18 months after the bill's effective date.

House Bill 4454

Under the bill, in order to receive the SBT credit under the MEGA Act, an eligible pharmaceutical company would have to create a minimum of five qualified new jobs within 12 months of the company's expansion or location in Michigan and agree to maintain at least five qualified new jobs at the facility for each year that an SBT credit was authorized.

(The Act defines "qualified new job" as either 1) a full-time job created by an "authorized business" at a facility that is in addition to the number of full-time jobs the business maintained in Michigan before its expansion or location, as determined by MEGA; or 2) for jobs created after July 1, 2000, a full-time job at a facility created by an eligible business that is in addition to the number of full-time jobs maintained by that business in Michigan 120 days before the business became an authorized business, as determined by MEGA. "Authorized business" means an eligible business with which MEGA has entered into a written agreement for an SBT credit.)

House Bill 4472

Under the bill, within 18 months after its effective date, the governing body of a local tax collecting unit could adopt a resolution to exempt from taxation under the Act all new personal property owned or leased by an eligible pharmaceutical company located in that local unit. The clerk of the local unit would have to notify in writing the local unit's assessor and the legislative body of each taxing unit that levied ad valorem property taxes in the local unit. Before acting on the resolution, the local unit's governing body would have to give the assessor and a representative of the affected taxing units an opportunity for a hearing.

Under the Act, within 60 days after receiving a copy of a resolution authorizing a personal property tax exemption, the State Tax Commission must approve or disapprove the resolution. The State Treasurer, with the written concurrence of the President of the Michigan Strategic Fund, must advise the Commission as to whether exempting an eligible business's new personal property is necessary to reduce unemployment, promote economic growth, and increase capital investment in Michigan. Under the bill, those requirements also would apply to a resolution exempting an eligible pharmaceutical company's new personal property from taxation.

The Act defines "new personal property" as personal property that was not previously subject to tax under the Act and that is placed in an eligible district after a resolution exempting the property from taxation is approved by the eligible local assessing district. The bill would include in that definition personal property that was placed in a local tax collecting unit after a resolution authorized by the bill was approved by the governing body of the local tax collecting unit.

MCL 207.803 et al. (H.B. 4454)
211.9f et al. (H.B. 4472)

BACKGROUND

Pfizer-Pharmacia Merger

In April 2003, Pfizer finalized its purchase of Pharmacia and began the process of reorganizing the operations of what is now the

world's largest pharmaceutical company. Although Pfizer is a New York-based company and Pharmacia was headquartered in New Jersey, the combined company has significant operations in Michigan. With more than 6,300 employees at four sites, Pharmacia was the largest employer in Kalamazoo County. Before the companies' merger, Pfizer employed more than 3,000 people in Ann Arbor and Holland.

After its purchase of Pharmacia was finalized, Pfizer executives announced that there would be some jobs lost in Michigan, including about 100 research and development jobs in Holland and an undisclosed number of research jobs in Kalamazoo. Pfizer also announced, however, that it would "boost drug research and development in Ann Arbor, make the Portage operations its largest drug-manufacturing site in the country and name Kalamazoo a center of excellence in drug-safety evaluation" ("Drug Giant Stakes its Future in State: Michigan to Keep Pfizer's Biggest Workforce"; *Detroit Free Press*, 4-30-03). The Pfizer chairman and chief executive officer was quoted as saying, "Michigan will continue to be Pfizer's largest and most important business location in the United States" ("Pfizer Threat Puts Spotlight on Michigan's Job-Retention Efforts"; *Ann Arbor News*, 4-24-03).

Tax Incentives and Job Retention Efforts

Renaissance Zone & SBT Credit. After the July 2002 announcement that Pfizer and Pharmacia had agreed on a plan for Pfizer to acquire Pharmacia, the Legislature passed and then-Governor Engler signed into law Public Acts 587 and 588 of 2002, which provide for the designation of a pharmaceutical renaissance zone and an SBT tax credit, respectively. Both Acts took effect on October 16, 2002.

Under the Michigan Renaissance Zone Act, businesses and residents within an area designated as a renaissance zone are eligible for certain tax exemptions and credits, including exemptions from property taxes, the State income tax, and the single business tax. The Act allows the Michigan Strategic Fund board to designate five renaissance zones in addition to the nine originally authorized. Public Act 587 amended this statute to permit the board, within 18 months of the Act's effective date, to designate one of the additional five renaissance zones as a

pharmaceutical renaissance zone. This zone must promote and increase the research, development, and manufacturing of an eligible pharmaceutical company's pharmaceutical products. According to the Michigan Economic Development Corporation, there are no current plans for the Michigan Strategic Fund board to designate a pharmaceutical renaissance zone because Pfizer has not applied for zone designation (which would require it to create new jobs in the zone).

Public Act 588 amended the Single Business Tax Act to allow an eligible taxpayer (i.e., an eligible pharmaceutical company under Public Act 587) to claim a credit against the tax for qualified research expenses related to the taxpayer's pharmaceutical-based business activity in Michigan. An eligible taxpayer may assign all or a portion of the credit to another taxpayer, who may not subsequently assign the credit. The total of all credits allowed under Public Act 588 may not exceed \$10 million in any one tax year. According to a Pfizer official, the company is not sure whether it will qualify for the SBT credit and will not be certain until closer to the April 2004 tax deadline.

State Assistance for Displaced Workers. On April 29, 2003, the Director of the Department of Consumer and Industry Services (DCIS) announced that State assistance would be provided for employees displaced by Pfizer's acquisition of Pharmacia and to encourage new job creation for those skilled workers. According to a DCIS press release, the assistance will include efforts "to help displaced workers with job counseling, resume writing, interviewing skills, using the Michigan Talent Bank, and other resources". In addition, State "resources will be utilized to help Kalamazoo advance its biotechnology industry growth strategy" and State economic development officials will work with local officials "in developing an action plan for furthering the region's emerging life sciences cluster", including developing "a plan to create a new regional life sciences venture capital fund".

Appropriations

Life Sciences Corridor Company Formation Fund. On June 26, 2003, Governor Granholm announced that the Life Sciences Steering Committee had approved setting aside \$2

million in fiscal year (FY) 2002-03 funds to create a company formation fund to help former Pfizer workers initiate start-up companies. On July 12, the Governor announced that the \$2 million in that fund had been awarded for 11 proposals, creating 10 new companies to spur the expansion of one existing company. The funded proposals aim to create more than 180 jobs. According to the press release announcing the grants, the "proposals all have pharmaceutical ties, but focus on a wide range of specialties including contract research, contract chemistry, drug discovery and pre-clinical profiling". Ten of the proposals originated in Kalamazoo County, while the remaining project was from Ann Arbor.

Biosciences Research and Commercialization Center. Enrolled Senate Bill 540, which was presented to the Governor on July 31, 2003, proposes supplemental appropriations for FY 2002-03. That bill includes a \$10 million appropriation for the Biosciences Research and Commercialization Center at Western Michigan University.

Senate Bill 540 would require the Center to "coordinate research initiatives and provide an organizational home for scientists as they work to establish new businesses, obtain extramural funding to support research programs, and develop a center of excellence to promote life sciences research and commercialization" in Michigan. The center also would be required to enter into "collaborative efforts with private sector entities to develop novel pharmaceutical products in specialized therapeutic areas...[and] provide an organizational structure for research scientists and engineers, an entity to receive and license intellectual property, and a vehicle for entrepreneurial activities required for commercialization". According to the legislation, the Center's mission would be "to discover new knowledge, to generate and acquire intellectual property, to commercialize intellectual property, and to enrich the intellectual culture of the community".

Senate Bill 540 also spells out certain requirements for the Center to receive the appropriation. In particular, the Center would have to submit a proposal and detailed business plan to the Life Sciences Steering Committee, demonstrate an "ability to

leverage significant additional public and private investment and provide a minimum of 25% matching funds", demonstrate a commitment to enter into collaborative research projects with universities or private research facilities in Michigan, and repay the \$10 million by committing to the State 10% of any royalties or return on investment directly related to research or commercialization activities developed by the Center.

Pfizer Venture Assistance

On July 21, 2003, Pfizer announced that it will provide support valued at \$20 million to a Kalamazoo start-up called Jasper Clinical Research and Development (one of the companies receiving Life Sciences Corridor funding), once it begins operations in October. Four former Pharmacia researchers are launching the new company. According to the *Detroit Free Press* ("Pfizer to Assist Workers in Venture", 7-22-03), Pfizer will donate a three-story building in Kalamazoo and its equipment to Bronson Methodist Hospital, which in turn will lease the facility to Jasper.

According to the article, "Pfizer had planned to close Pharmacia's Jasper Clinical Investigation Unit in Kalamazoo", which would have displaced the four Jasper principals and 11 other former Pharmacia researchers. Instead, "the former Pharmacia workers will keep their jobs, 29 Bronson Hospital workers will join the Jasper payroll, and the company plans to hire six more researchers". The new company will conduct clinical studies of drug candidates and drug development consultation services.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Pfizer's acquisition of Pharmacia, Kalamazoo County's largest employer, leaves a great deal of uncertainty as to what will happen to the companies' nearly 10,000 Michigan-based jobs as well as significant manufacturing and research and development operations located in the State. A serious loss of pharmaceutical positions and operations could have a devastating effect on the local communities that have depended on them for the communities' economic vitality. A loss of the

industry's high-paying jobs and highly skilled workers also could be a drain on the State economy and Michigan's efforts to maintain its manufacturing and research base.

By offering an SBT credit and, with local approval, a personal property tax exemption to the pharmaceutical company, if it employs at least 8,500 people in Michigan, including 5,000 in research and development, the bills could encourage Pfizer to maintain its Michigan presence. That, in turn, would assist communities in Kalamazoo County, as well as Ann Arbor and Holland, in retaining their economic foothold in the pharmaceutical industry, and would help Pfizer to expand its Michigan operations. Along with Public Acts 587 and 588 of 2002, the bills are part of a broader effort to encourage the world's largest pharmaceutical company to maintain its Michigan business activity and employment levels.

Response: Pfizer has operations in Ann Arbor, Holland, and the Kalamazoo area, but Ann Arbor and Holland might not be able to offer the personal property tax exemption under House Bill 4472. The bill's definition of "eligible pharmaceutical company" would require that all of the company's Michigan employees be located within a 100-mile radius of the local tax collecting unit that approved a personal property tax exemption. According to the official Michigan Department of Transportation roadmap, while Holland and Ann Arbor each are within 100 miles of Kalamazoo, the distance between Ann Arbor and Holland is 140 miles.

Opposing Argument

The bills may be unnecessary. Pfizer already has begun to disclose its reorganization plans, and it appears that Michigan will fare better than was expected. As Pfizer executives announced, the company's Ann Arbor research and development operation will be enhanced, Portage will be the site of Pfizer's largest drug manufacturing operation, and Kalamazoo will be designated a center of excellence in drug-safety evaluation and will be one of two principal sites for veterinary medicine research and development. While some Michigan-based jobs will be eliminated, Pfizer apparently has decided to keep a major presence in Michigan, without the tax breaks proposed by the bills.

Opposing Argument

Government should not engage in the practice of determining where or how a business operates by granting individually tailored tax breaks. Such incentives are unfair and needlessly interfere with the natural flow of market forces. Rather than picking and choosing which players benefit from such policies, perhaps the State's overall tax structure should be revamped to make Michigan a more attractive location for all types of businesses. Improving the business climate, rather than artificially influencing the market, would go further toward enhancing Michigan's economy and promoting the State as a place to do business.

In addition, any enacted tax breaks should be more broadly available. For example, research and development and manufacturing are major activities of many Michigan-based companies. In order to encourage firms to maintain and expand those functions in the State, perhaps legislation should make all Michigan-based companies eligible for the tax credits, rather than just offering those benefits to a single company at a time when it is reorganizing.

Response: Michigan must compete with other states and nations to attract and maintain business activity, especially that of large interstate and international companies like Pfizer. Offering incentives such as SBT credits and property tax exemptions could encourage the drug-maker to maintain Pharmacia's Michigan roots.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 4454

If the Authority were to provide an SBT credit that otherwise would not be provided to another taxpayer, the bill would reduce General Fund/General Purpose revenues by an unknown and potentially significant amount. The bill would reduce revenues only if MEGA were to find that an eligible pharmaceutical company met the job creation and investment eligibility requirements and if the credit would be in addition to or replace and exceed what would be provided to other taxpayers under the current law. The reduction in revenues also assumes that while the definition of eligible business, which a company must meet

to receive a credit, does not include an eligible pharmaceutical company, the bill would be interpreted to allow the eligible pharmaceutical company to receive the credit.

The bill likely would have little effect on the intrastate distribution of activity for an eligible pharmaceutical company and thus little impact on local revenues. Based on the information available, the only company in Michigan that apparently would qualify as an eligible pharmaceutical company is Pfizer, Inc., which still could relocate employees within the State (for instance, all 8,500 employees could be located at the same facility and not spread out across a 100-mile radius) and still meet the qualifications to receive the credit.

House Bill 4472

The bill would reduce local unit revenues by an unknown and potentially significant amount, assuming that a local unit were to exempt new personal property, that the property otherwise would be acquired, and that the exemption of property for an eligible pharmaceutical company would not affect other exemptions that otherwise might be approved or continued under current law. The amount of revenue loss would depend upon how much new personal property an eligible pharmaceutical company purchased and how long the property was exempted under the resolution.

These estimates are preliminary and will be revised as new information becomes available.

Fiscal Analyst: David 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.