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

BILL ANALYSIS

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

House Bill 5331 (Substitute H-2 as passed by the House)
House Bill 5335 (Substitute H-2 as passed by the House)
House Bill 5341 (Substitute H-5 as passed by the House)
House Bill 5342 (Substitute H-2 as passed by the House)
House Bill 5343 (Substitute H-3 as passed by the House)
House Bill 5345 (Substitute H-4 as passed by the House)
Sponsor: Representative Lorence Wenke (H.B. 5331)
Representative John Stakoe (H.B. 5335)
Representative Matt Milosch (H.B. 5341)
Representative Glenn Steil Jr. (H.B. 5342)
Representative Scott Hummel (H.B. 5343)
Representative David Farhat (H.B. 5345)
House Committee: Tax Policy
Senate Committee: Economic Development, Small Business and Regulatory Reform

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CONTENT

The bills would amend various acts to create a single business tax credit for a "qualified start-up business" and exempt the business from specific taxes levied under the acts. The proposed tax credit would be available for tax years beginning after December 31, 2004, and could not be claimed for more than five years in total.

House Bills 5335 (H-2), 5341 (H-5) to 5343 (H-3), and 5345 (H-4) are tie-barred to House Bill 5531.

House Bill 5331 (H-2)

The bill would amend the Single Business Tax Act to provide that a taxpayer that was a qualified start-up business that did not have business income for two consecutive tax years, would be permitted to claim a credit against the single business tax (SBT) for the second year and each immediately following consecutive tax year in which the taxpayer did not have business income. The credit would be equal to the taxpayer's SBT liability for the tax year in which the taxpayer had no business income. If the taxpayer had business income in any tax year after the credit was claimed, the taxpayer could claim the credit for any following tax year only if the taxpayer subsequently had no business income for two consecutive years. The taxpayer could claim the credit for the second of those two consecutive tax years and each immediately following tax year in which the taxpayer had no business income. The credit could not be claimed for more than a total of five tax years.

"Qualified start-up business" would mean a business that had fewer than 25 full-time equivalent employees; had sales under $1 million in the tax year for which the credit was claimed; and was not publicly traded; also, research and development would have to make up at least 15% of the business's expenses in the tax year for which the credit was claimed.

The taxpayer also would have to meet one of the following criteria during one of the two consecutive tax years in which the qualified start-up business had no business income:

-- In the immediately preceding seven years, was in the first two years of contribution liability under Section 19 of the Michigan Employment Security Act (MESA). (Section 19 determines the contribution rate of a contributing employer.)
-- In the immediately preceding seven years, would have been in the first two years of contribution liability under Section 19 of MESA if the qualified start-up business had employees and were liable under the Act.
-- In the immediately preceding seven years, would have been in the first two years of contribution liability under Section 19 of MESA if the qualified start-up business had not assumed successor liability under Section 15(g) of that Act.

For a tax year for which the credit was claimed, the bill would set a limit of $135,000 on compensation, director's fees, or distributive shares paid by the taxpayer to a shareholder or officer of a corporation (other than an S corporation); a partner of a partnership or limited liability partnership; a shareholder of an S corporation; a member of a limited liability corporation; or individual who was an owner.

If a taxpayer that took the credit had no business activity in Michigan and had any business activity outside of the State for any of the first three tax years after the last tax year for which it took the credit, the taxpayer would have to add the following amounts to its tax liability:

-- 100% of the total of all credits claimed under the bill, if the taxpayer had no business activity in Michigan for the first tax year after the last tax year for which a credit was claimed.
-- 67% of the total of all credits claimed under the bill, if the taxpayer had no business activity in Michigan for the second tax year after the last tax year for which it claimed a credit.
-- 33% of the total of all credits claimed under the bill, if the taxpayer had no business activity for the third tax year after the last tax year for which the credit was claimed.

"Business income", as defined in the bill, would exclude funds received from small business innovation research grants and small business technology transfer programs established under the Federal Small Business Innovation Development Act of 1982, and subsequently reauthorized.

House Bills 5335 (H-2), 5341 (H-5), 5342 (H-2), and 5343 (H-3)

All of the bills would allow the governing body of a local tax collecting unit to adopt a resolution giving a tax exemption to a qualified start-up business, upon its application for an exemption. Before acting on the resolution, the governing body of the local tax collecting unit would have to give the unit's assessor and a representative of the affected taxing units that levy property taxes, an opportunity for a hearing. Within 60 days of becoming exempt, the qualified start-up business would have to file an exemption affidavit with the assessor of the local tax collecting unit.

House Bill 5335 (H-2) would amend the Neighborhood Enterprise Zone Act to allow an exemption for a new or rehabilitated facility owned or operated by a qualified start-up business from the neighborhood enterprise zone tax, which is imposed on the owner of a new or rehabilitated facility to which a neighborhood enterprise zone certificate is issued.

House Bill 5341 (H-5) would amend the General Property Tax Act to allow an exemption for real and personal property of a qualified start-up business from the collection of taxes under the Act, beginning in the year in which it claimed the proposed SBT credit. The bill would apply to taxes levied after December 31, 2004.

House Bill 5342 (H-2) would amend the Enterprise Zone Act to allow an exemption for a facility owned or operated by a qualified start-up business from the specific tax imposed on facilities in enterprise zones.

House Bill 5343 (H-3) would amend the Obsolete Property Rehabilitation Act to allow an exemption for a rehabilitated facility owned and operated by a qualified start-up business from the obsolete properties tax, which is levied upon the owner of a rehabilitated facility to which an obsolete property exemption certificate is issued.

The tax exemptions would not apply to that portion of the tax attributable to a tax described in Section 7ff(2) of the General Property Tax Act. (Under that section, real and personal property in a renaissance zone is not exempt from collection of the following:

-- A special assessment levied by the local tax collecting unit in which the property is located.
-- Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit.
-- A tax levied under certain sections of the Revised School Code providing for enhanced property taxes and a sinking fund levy.)

The nonexempt portion of the tax calculated under the bills would have to be disbursed proportionately to the taxing unit or units that levied the tax described in Section 7ff(2).

House Bill 5345 (H-4)

The bill would amend the City Income Tax Act to allow a qualified start-up business to claim a credit against the city income tax each year, for tax years beginning after December 31, 2004. The credit would be equal to the taxpayer's tax liability attributable to that business for the tax year in each of the five consecutive tax years beginning with the first tax year in which the business claimed the proposed SBT credit.

The proposed city income tax credit would be effective for a city that, within 90 days after the bill's effective date, adopted a resolution to include these provisions in its ordinance.

Proposed MCL 208.31a (H.B. 5331) Legislative Analyst: J.P. Finet
MCL 207.779 (H.B. 5335)
Proposed MCL 211.7gg (H.B. 5341)
MCL 125.2121c (H.B. 5342)
125.2790 (H.B. 5343)
Proposed MCL 141.635a (H.B. 5345)

FISCAL IMPACT

House Bill 5331 (H-2)

Based on information on businesses in Michigan that conduct some type of research and development activity, it is estimated that only a small number of firms would meet all of the requirements contained in this bill and qualify for the proposed single business tax credit. It is estimated this bill would reduce single business tax revenue by less than $1 million annually. This loss in revenue would have a direct impact only on General Fund/General

Purpose revenue because all single business tax revenue is earmarked to the General Fund. Local governments would not be directly affected by this bill.

House Bill 5335 (H-2)

The bill would reduce State and local taxes by an unknown and likely zero amount. It is unknown how many local units would approve the proposed exemption, the value of the property that would be exempted, or the millage rates applied to the property. Furthermore, property qualified under the Neighborhood Enterprise Zone Act would be unlikely to meet the research and development requirements to be a qualified business under the bill.

House Bills 5341 (H-5) and 5343 (H-3)

The bills would each reduce local property tax revenue by an unknown amount. It is unknown how many local units would approve the proposed exemptions, the value of the property that would be exempted, or the millage rates applied to the property.

House Bill 5342 (H-2)

The bill would likely have no impact on State or local revenues. The provisions under the Enterprise Zone Act sunset with 2005 tax liabilities. Given the timing requirements of the bill, combined with the timing requirements for eligibility as a qualified business, no taxpayers are likely to receive an exemption before the tax expires. If the sunset is extended, the bill would reduce State and local tax revenue by an unknown amount: It is unknown how many local units would approve the proposed exemption, the value of the property that would be exempted, or the millage rates applied to the property.

House Bill 5345 (H-4)

The bill would have an unknown, although likely negligible impact on State or local revenues. To qualify for the credit, a taxpayer could not have any business income. Under a city income tax, such a taxpayer would have no liability under these circumstances and thus receive no credit. The bill’s potential impact would occur if the taxpayer had business income in one of the five consecutive years in which the taxpayer would be eligible to claim the credit. If the taxpayer did have a city income tax liability in such a year and a city had adopted the ordinance, the bill would reduce local revenue. For business income that would be included under the Michigan individual income tax, the bill would increase State revenue by reducing the amount of the credit for city income taxes. It is unknown how many cities would adopt a resolution to include the bill's provisions under their ordinances, but regardless of the number of cities that did so, the revenue effects at the State and local levels are expected to be negligible.

Fiscal Analyst: Jay Wortley
David Zin

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