Legislative Analysis

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SECURITIZATION OF TOBACCO REVENUES

House Bill 5048
Sponsor: Rep. Bill Huizenga
Committee: Commerce

Complete to 7-11-05

A SUMMARY OF HOUSE BILL 5048 AS INTRODUCED 7-6-05

The bill would create the Michigan Tobacco Settlement Securitization Authority Act under which three-fourths of all future tobacco settlement receipts would be transferred to a new authority, for value, under the terms of a sale agreement as determined by the state treasurer. The following is a brief description of the bill's main provisions.

- A new authority—the Michigan Tobacco Settlement Securitization Authority—would be created as a public body corporate and politic within the Department of Treasury, and a new fund— the Tobacco Settlement Securitization Fund—would be created under the jurisdiction and control of the authority.

- The transferred tobacco settlement receipts would be referred to as TSRs, and on and after the effective date of each sale of TSRs, the state would have no right, title, or interest in or to the TSRs sold; instead the TSRs sold would be the property of the authority.

- The authority would be authorized from time to time to issue bonds to purchase the state's tobacco receipts.

- The authority would be operated by a five-member board of directors that would include the state treasurer, the president and CEO of the Michigan Economic Development Corporation, and three members appointed by the Governor. The gubernatorial appointments would be subject to the advice and consent of the Senate and would be required to have knowledge, skill, or experience in business and financial fields.

- The authority would exercise its duties independently of the state treasurer, although its budgeting, procurement, and related administrative functions would be performed under the direction and supervision of the state treasurer. The authority could employ or contract for legal, financial, and technical experts, and other employees, as required.

- The state would not be liable on bonds of the authority, and the bonds would not be a debt of the state. The bonds would have to contain on their face a statement of this limitation.

- Generally speaking, every bond issue of the authority would be a general obligation of the authority payable out of revenues or money of the authority, subject only to agreements with the holders of particular bonds pledging any particular receipts or revenues. The authority could issue bonds expressly stated not to be general obligations but constituting limited obligations payable solely from and secured by specified revenues, money, and property.

- Bonds would be authorized by resolution of the authority and mature at the time provided in the resolution. Bonds could be sold at public or private sales at prices determined by the authority.

- The property of the authority and its income and operation would be exempt from taxation by the state or any of its political subdivisions.

- The authority would be required to submit an annual report on its activities no later than March 1 to the Governor, Speaker of the House of Representatives, and Majority Leader of the Senate.

- The bill contains extensive provisions regarding the nature and issuance of the authority bonds that resembles provisions in other laws governing bond-issuing authorities, such as the Michigan State Housing Development Authority (MSHDA).

FISCAL IMPACT:

This bill provides for the sale of three-fourths of the state's future tobacco settlement revenue. Some portion of these tobacco receipts are to be allocated to the economic development activities enumerated in House Bill 5047, and the remainder is likely to be used for Merit Scholarships and Medicaid. This allocation may be defined in subsequent budget appropriation bills; House Bill 5048 itself is silent on the allocation of sale proceeds. The amount of proceeds available from the sale of future tobacco settlement revenue will be depend on the prevailing bond market interest rate for this type of security at the time of sale. If such interest rates rise, the gross proceeds will be reduced.

State expenditures may increase due to the hiring of full time staff to support the Michigan Tobacco Settlement Authority (MTSA) created in this bill. Additional expenditures will be needed for legal counsel, financial and other consultants, and the reimbursable expenses of the non-compensated members of the MTSA. The amount of such costs cannot be estimated until information regarding the size and composition of full time staff, and the expected annual level of bonding activity, becomes available. It is likely that the MTSA operating expenses will be paid from bond issuance proceeds.

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