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BILL ANALYSIS

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Senate Bill 599 (as introduced 6-16-05)
Sponsor: Senator Tom George
Committee: Economic Development, Small Business and Regulatory Reform

Date Completed: 6-22-05

CONTENT

The bill would amend the Single Business Tax (SBT) Act to do the following:

-- Establish procedures and criteria to be used by the Michigan Economic Growth Authority (MEGA) in approving a project for which the total credits would be $200,000 or less; and allow MEGA to approve up to 100 of these projects per year.
-- Revise the provisions governing the assignment of all or a portion of a MEGA tax credit.
-- Delete a provision allowing MEGA to consider criteria not listed in the Act in determining whether a project is eligible for tax credits.
-- Limit MEGA's on-site inspections to projects that cost more than $10 million.

Project with Credits of $200,000 or Less

The Act establishes procedures under which eligible taxpayers and qualified taxpayers may claim credits against the SBT, with approval of the Michigan Economic Growth Authority. Currently, for a qualified taxpayer, the Act allows credits for 1) a project that will cost $10.0 million or less, and 2) a project that will cost more than $10.0 million. The bill would add a third category: a project for which the total credits would be $200,000 or less. (Also, for the first category, the bill would refer to a project costing more than $2.0 million but $10.0 million or less.)

If the total of all MEGA credits for a project were $200,000 or less, a qualified taxpayer would have to apply to MEGA for approval of the project as provided in the bill. The MEGA chairperson or his or her designee would have to approve or deny the project within 30 days after receiving the application. If the chairperson did not approve or deny the application within that time frame, the application would be considered approved as written. If a project were denied, a taxpayer would not be prohibited from subsequently applying for the same project or another project.

The MEGA chairperson could approve up to 100 projects in each calendar year, and would have to approve first those that were submitted first.

A project could be a multiphase project.

If the MEGA chairperson approved a project, he or she would have to assign a project number to it and issue a preapproval letter stating that the taxpayer was a qualified taxpayer; the maximum total eligible investment for the project on which the credits could be claimed and the maximum total of all credits for the project when it was completed and a certificate of completion was issued; and the project number assigned by MEGA.

The Authority could use only the following criteria to approve a project:

-- The project was for eligible investment.
-- The project was on property that was a facility, was blighted, or was functionally obsolete.
-- The project would create jobs.

(Under the Act, "qualified taxpayer" means a taxpayer that meets both the following criteria:

-- Owns or leases eligible property.
-- Certifies that, except as otherwise provided, the Department of Environmental Quality has not sued or issued a unilateral order to the taxpayer pursuant to Part 201 (Environmental Response) of the Natural Resources and Environmental Protection Act.)

<u>Assignments</u>

Under the bill, the Act's provisions regarding the assignment of all or a portion of a qualified taxpayer's tax credit would apply only to projects completed before January 1, 2006.

Under the Act, in addition to the other listed procedures, the following apply to assignments of a qualified taxpayer's tax credit if the total of all credits for a project is more than $10.0 million but $30.0 million or less:

-- The credit must be assigned based on the schedule contained in the certificate of completion.
-- If the qualified taxpayer assigns all or part of the credit amount, the taxpayer must assign the annual credit amount for each tax year separately.
-- More than one annual credit amount may be assigned to any one assignee and the qualified taxpayer may assign all or part of each annual credit amount to any assignee.
-- The qualified taxpayer may not assign more than the annual credit amount for each tax year.

The bill also provides that, if the credit assignment were to an unknown lessee or for a multiphase project, the assignment would have to be made before January 1, 2006.

Under the bill, for projects completed after December 31, 2005, a qualified taxpayer could assign all or a portion of a credit approved by MEGA. A credit assignment would be irrevocable and, except for a credit assignment based on a multiphase project, would have to be made in the tax year in which a certificate of completion was issued.

A qualified taxpayer could claim a portion of a credit and assign the remaining credit amount. If the qualified taxpayer both claimed and assigned portions of the credit, the taxpayer would have to claim the portion it claimed in the tax year in which a certificate of completion was issued. An assignee could not subsequently assign a credit or any portion of a credit.

The credit assignment would have to be made on a form prescribed by MEGA. The qualified taxpayer would have to send a copy of the completed assignment form to MEGA in the tax year in which the assignment was made. An assignee would have to attach a copy of the completed assignment form to its annual return required under the Act, for the tax year in which the assignment was made and the assignee first claimed a credit, which would have to be the same tax year.

<u>Eligibility Criteria</u>

Under the Act, MEGA must consider specific criteria to the extent reasonably applicable to the type of project proposed when approving a project with a cost of more than $10.0

million, and the chairperson of MEGA or his or her designee must consider the criteria to the extent reasonably applicable to the type of project proposed when approving a project with a cost of $10.0 million or less.

In addition to the listed eligibility criteria, MEGA or the MEGA chairperson, as applicable, may consider any other criteria that MEGA or the chairperson considers appropriate for the determination of eligibility. The bill would delete this provision.

<u>On-Site Inspections</u>

Under the Act, when a project is completed, the taxpayer must submit documentation that it is completed, an accounting of the cost of the project, the eligible investment of each taxpayer (if more than one is eligible for a credit) and, if the taxpayer is not the owner or lessee of the eligible property on which the eligible investment was made at the time the project is completed, that the taxpayer was the owner or lessee of that eligible property when all eligible investment of the taxpayer was made.

As part of the verification process, MEGA must conduct an on-side inspection. Under the bill, MEGA would have to conduct an on-site inspection as part of the verification process for approved projects costing more than $10.0 million.

<u>Eligibility Property</u>

Under the bill, "eligible property" would mean that term as defined in the Brownfield Redevelopment Financing Act, except that, for the purposes of a project for which the total for all credits was $200,000 or less, "eligible property" would not have to be in a qualified local governmental unit.

(Under the Brownfield Redevelopment Financing Act, "eligible property" means property for which eligible activities are identified under a brownfield plan that was used or is currently used for commercial, industrial, or residential purposes that is either in a qualified local governmental unit and is a facility, functionally obsolete, or blighted or is not in a qualified local governmental unit and is a facility, and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property or tax reverted property owned or under the control of a land bank fast track authority.)

MCL 208.38g Legislative Analyst: J.P. Finet

FISCAL IMPACT

The bill would reduce single business tax revenue by an estimated $7.0 million in the first full year and $15.0 million by the fifth year. It is assumed that the maximum of 100 credits would be granted each year and the average project would qualify for a credit of $150,000, of which about half would be claimed in the first year. All of this loss in revenue would affect the General Purpose portion of the General Fund.

The bill would have no fiscal impact on the Michigan Economic Development Corporation within the Department of Labor and Economic Growth (which provides staff for MEGA).

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