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BILL ANALYSIS

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Senate Bill 973 (Substitute S-3 as reported by the Committee of the Whole)
Sponsor: Senator Cameron S. Brown
Committee: Commerce and Tourism

CONTENT

The bill would amend the Michigan Business Tax (MBT) Act to do the following in regard to the historic preservation tax credit, effective January 1, 2009:

-- Allow a qualified taxpayer, for tax years beginning on and after January 1, 2009, to claim a tax credit in addition to the existing credit for a percentage of the taxpayer's qualified expenditures for the rehabilitation of a historic resource, if the taxpayer had a preapproval letter issued by December 31, 2013.
-- For a rehabilitation plan with $1.0 million or less in qualified expenditures, require the additional credit to be at least 10% but not more than 15% of qualified expenditures, and be approved by the Director of the Department of History, Arts, and Libraries (HAL).
-- For a rehabilitation plan with more than $1.0 million in qualified expenditures, limit the credit to 15% of qualified expenditures and require the approval of the HAL Director and the president of the Michigan Strategic Fund (MSF).
-- Provide that the total of all of these approved additional credits could not exceed an amount ranging from $8.0 million in 2009 to $12.0 million in 2013, and require at least 25% of the amount to be allocated to rehabilitation plans having $1.0 million or less in qualified expenditures (but, if all such approved credits for a calendar year were less than the minimum allotted amount, allow the remainder to be used for plans with more than $1.0 million in qualified expenditures).
-- Allow the HAL Director, subject to the approval of the MSF president and the State Treasurer, to approve one additional credit in 2009, and two each in 2010, 2011, 2012, and 2013 for "a high community impact rehabilitation plan that will have a significantly greater historic, social, and economic impact than" the other rehabilitation plans eligible for additional credits; limit these credits to 15% of qualified expenditures; and limit the amount of the credit that a taxpayer or assignee could claim in a tax year to $3.0 million, but allow the excess to be carried forward.
-- Regarding the existing credit, delete a requirement that a certificate of completion be issued within five years after the rehabilitation plan was certified by the Michigan Historical Center; and provide that only those expenditures paid or incurred during the time periods prescribed for the credit under Federal law could be considered qualified expenditures.
-- For projects for which a certificate of completion was issued after December 31, 2008, allow a qualified taxpayer to assign all or any portion of the credit, and allow an assignee to reassign the credit.
-- For projects for which a certificate of completed rehabilitation was issued after December 31, 2008, and for which the credit amount was less than $250,000, allow a qualified taxpayer to choose to receive a refund of 90% of the amount of a credit that exceeded the taxpayer's tax liability for a year, instead of carrying forward the excess.

-- For tax years beginning after 2008, if a certificate of completed rehabilitation were revoked or sold or disposed of less than five years after the historic resource was placed in service, require between 20% and 100% of the credit amount previously claimed to be added back to the tax liability of the taxpayer who received the certificate (unless the taxpayer entered into an agreement with the State Historic Preservation Office allowing the sale or transfer of the historic resource).
-- Include a historic resource that was subject to a historic preservation easement among those resources eligible for a credit, if other criteria were met.

The MBT Act allows a qualified taxpayer with a rehabilitation plan certified by the Michigan Historical Center for the rehabilitation of a historic resource, for which a certification of completed rehabilitation has been issued after the end of the taxpayer's last tax year, to credit against the MBT an amount for the qualified expenditures for the rehabilitation. The amount of the credit is 25% of eligible qualified expenditures, reduced by the amount of the Federal credit the taxpayer received for the same qualified expenditures under the Internal Revenue Code (which allows a rehabilitation credit of 20% of qualified expenditures), effectively reducing the State credit to 5%. Only a partnership, limited liability company, or subchapter S corporation may assign a historic preservation credit.

MCL 208.1435 Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would increase the cost of the Michigan business tax's historic preservation credit by at least an estimated $9 million by tax year 2012, and then this cost would increase gradually to an estimated $13 million by the 2016 tax year. This loss in revenue could be higher than estimated due to the uncertainty of how much one of the new credits would cost, given that the dollar limit on the amount that could be claimed in any one year would be $3.0 million. In addition, it is very likely that the cost of this bill would vary significantly from year to year due to annual fluctuations in both the number and the size of credits that would be claimed. Under the current State credit, which equals 25% of qualified expenditures less the Federal credit of 20% of expenditures, the number of credits that were claimed each year from 2003 to 2006 ranged from 12 to 25 and the total cost of the State portion of these credits ranged from $1.7 million to $2.7 million, a fluctuation of over 50%.

This bill would increase the cost of the State historic preservation tax credit for five major reasons: 1) The bill would create a new credit beginning in tax year 2009 for projects approved by December 31, 2013, equal to 10% to 15% of qualified expenditures and the total amount of these credits would be capped at $8 million in 2009, $9 million in 2010, $10 million in 2011, $11 million in 2012, and $12 million in 2013; 2) this new credit, in combination with the existing 25% State/Federal credit, would provide a total credit of 35% to 40% of qualified expenditures and this increase in the total credit percentage would make some currently marginal historic preservation projects more viable and therefore it would increase the number of taxpayers that would claim this credit; 3) the bill would expand the ability of taxpayers to assign these credits to other taxpayers, which also would help improve the financial viability of current marginal projects and thus increase the number of credits granted; 4) for credits less than $250,000, a taxpayer could receive a refund equal to 90% of the amount by which the credit exceeded tax liability; and 5) the bill would create a new special credit (one credit in 2009 and two each year from 2010 to 2013), which could not exceed 15% of the projects qualified expenditures, and not more than $3.0 million could be claimed as a credit in any given year. The loss of revenue under this bill would reduce the General Fund/General Purpose budget.

Date Completed: 9-16-08 Fiscal Analyst: Jay Wortley

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