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BILL



ANALYSIS

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Senate Bills 1342 and 1343 (as introduced 5-27-08)
Sponsor: Senator Mark C. Jansen
Committee: Commerce and Tourism

Date Completed: 9-16-08

CONTENT

Senate Bill 1342 would add Chapter 13 (New Jobs Training Programs) to the Community College Act, to do all of the following:

- Allow a community college district to enter into an agreement with an employer, until December 31, 2018, to provide training for new jobs.
- Allow training program costs to be paid to the community college from income taxes withheld by employers on the new jobs created.
- Specify the requirements for an agreement, including that the employer provide money to the community college if the withholding amount were insufficient to pay program costs, and pay an administrative fee to the community college district of 15% of the aggregate amount to be paid under the agreement.
- If program costs were to be paid from income tax withholding, require the employer to pay the amount to be withheld to the community college in the same manner it paid income tax withholding to the Department of Treasury.
- Allow a community college district, by resolution of its board of trustees, to sell revenue bonds to finance costs of the new jobs training programs, in anticipation of payments under an agreement with an employer.
- Allow a community college district to pay for a new jobs training program

out of the district's funds, including self-funding methods.

- Provide that bonds and notes issued under Chapter 13 would be tax exempt.
- Set a limit of \$50.0 million per year on the aggregate outstanding obligation of all agreements under Chapter 13.

Senate Bill 1343 would amend the Income Tax Act to provide for income taxes withheld pursuant to an agreement entered into under Senate Bill 1342 to be paid to community colleges. Senate Bill 1343 also would require the Department of Treasury to make an annual report concerning the operation and effectiveness of new jobs training programs and the corresponding income tax withholding requirements.

The bills are tie-barred.

Senate Bill 1342

Agreement with Employers

Under proposed Chapter 13, a community college district could enter into an agreement to establish a project with an employer engaged in business activities anywhere in Michigan. An agreement would have to meet all of the following:

- Provide for program costs that could be paid from a new jobs credit from withholding, to be received or derived from new employment resulting from the

project, or from tuition, student fees, or special charges fixed by the community college's board of trustees to defray program costs in whole or in part.

- Contain an estimate of the number of new jobs to be created by the employer.
- Include a provision that fixed, on a quarterly basis, the minimum amount of new jobs credit from withholding to be paid for program costs.
- Provide that, if the amount received from the new jobs credit from withholding were insufficient to pay program costs, the employer agreed to provide money, at least quarterly, to make up the shortfall, so that the community college district received for each quarter the minimum amount of new jobs credit from withholding that was provided in the agreement.
- Include the employer's agreement to mortgage, assign, pledge, or place a lien on any real or personal property as required by the community college district, as security for obligations under the agreement.
- Provide for payment of an administrative fee to the community college district in an amount equal to 15% of the aggregate amount to be paid under the agreement.
- Contain other provisions the community college district considered appropriate or necessary.

Any payments required to be made by an employer under an agreement would be a lien on the employer's real and personal business property, until paid; would have equal precedence with property taxes; and could not be divested by a judicial sale. Property subject to the lien could be sold for sums due and delinquent at a tax sale, with the forfeitures, penalties, and consequences as for the nonpayment of property taxes. The purchaser at a tax sale would obtain the property subject to the remaining payments required under the agreement.

A community college district would have to file a copy of an agreement with the Department of Treasury promptly after its execution.

A community college district could not enter into any new agreements after December 31, 2018.

Under Chapter 13, "new jobs training program" would mean the project or projects established by a community college district for the creation of jobs by providing education and training or retraining of workers for new jobs. "New job" would mean a job in this State in a new, existing, or expanding business of an employer, but would not include a job of a recalled worker, a replacement job, or any other job that existed in the employer's business within one year before the date of an agreement.

"Program costs" would mean all necessary and incidental costs of providing "program services", which would include any of the following:

- Training or retraining for new jobs.
- Adult basic education and job-related instruction.
- Developmental, readiness, and remedial education.
- Vocational and skill-assessment services and testing.
- Training facilities, equipment, materials, and supplies.
- Administrative expenses for the new jobs training program.
- Services subcontracted with public universities and colleges in Michigan, private colleges or universities, or any Federal, State, or local departments or agencies.
- Contracted or professional services.

New Jobs Credits

If any part of the program costs of a new jobs training program were to be paid from receipt of money from a new jobs credit from withholding, the agreement would have to contain all of the following provisions:

- Program costs would have to be paid from money received from a new jobs credit from withholding.
- The new jobs credit would have to be based on salary and wages paid to the employer's employees in the new jobs.
- For each employee in a new job, each month the employer would have to pay the amount required to be deducted and withheld by the Income Tax Act (as amended by Senate Bill 1343) to the community college district in the same manner as the employer returned and paid withholding payments to the Revenue Division of the Department of

Treasury, and the district would have to pay the amounts received into a special fund to pay program costs and the principal of and interest on any bonds issued by the community college district to finance or refinance the project in whole or in part.

- The community college district could irrevocably pledge the new jobs credit from withholding, and the special fund into which the withholdings were paid, for the payment of the principal of and interest on bonds issued by a community college district to finance or refinance the project in whole or in part.
- For each new jobs credit from withholding paid to a community college district, the employer would have to certify to the Department of Treasury that the payment was made pursuant to an agreement and provide any other information reasonably requested by the Department.
- Any other provisions required by the community college district.

At the end of each calendar quarter, a community college district receiving money from a new jobs credit from withholding would have to certify to the Department of Treasury the amount of credit each employer with which the college had an agreement had remitted to the community college district in that calendar quarter.

By April 1 of each year, each community college district that received money from a new jobs credit in the preceding calendar year would have to provide all of the following information to the Department of Treasury for the preceding calendar year:

- The name of the community college district.
- The name of each employer with which the district had an agreement, organized by major industry group under the Standard Industrial Classification Code as compiled by the U.S. Department of Labor.
- The amount of money from a new jobs credit each employer had remitted to the community college district.
- The amount of new jobs training revenue bonds the district had authorized, issued, or sold.
- The total amount of the district's debt related to agreements at the end of the calendar year.

- The number of degrees or certificates awarded to program participants in the calendar year.
- The number of individuals who entered a program at the community college district in the calendar year; who completed the program in the calendar year; and who were enrolled in a program at the end of the calendar year.
- The number of individuals who completed a program an employer hired to fill new jobs.
- Any other information reasonably requested by the Department of Treasury.

New Jobs Training Revenue Bonds

By resolution of its board of trustees, a community college district could authorize, issue, and sell new jobs training revenue bonds in anticipation of payments to be received pursuant to an agreement with an employer, to finance costs of new jobs training programs and to pay costs of issuing those bonds. The bonds would have to be payable in the manner and on the terms and conditions determined, or with the parameters specified, by the board in the authorizing resolution. The resolution would have to create a lien on the receipts from new jobs credits to be received by the community college district pursuant to agreements with employers. The lien would be a statutory lien and would be a first lien subject only to liens previously created. As additional security, in the authorizing resolution, the board of trustees also could pledge the limited tax full-faith and credit of the district and could authorize and enter into an insurance contract, agreement for lines of credit, letter of credit, commitment to purchase obligations, remarketing agreement, reimbursement agreement, tender agreement, or any other transaction necessary to provide security to assure timely payment of any bonds.

A community college district could issue bonds with respect to a single project or multiple projects, as determined by the board of trustees in the authorizing resolution. The board could determine to sell the bonds in conjunction with the sale of bonds by another community college district.

Bonds issued under Chapter 13 would not be subject to the Revised Municipal Finance Act,

except that they would be subject to the maximum rate permitted under that Act. The issuance of bonds under Chapter 13 would be subject to the Agency Financing Reporting Act.

Bonds issued under Chapter 13 could not be considered to be within any limitation of outstanding debt limit applicable to the community college district, but would be considered as authorized in addition to any limitation of outstanding debt limit applicable to the district.

A community college district could not authorize, issue, or sell any new jobs training revenue bonds after December 31, 2018.

By resolution of its board of trustees, a community college district could refund all or any part of its outstanding bonds issued under Chapter 13 by issuing refunding bonds.

Self-Funding

A community college district would be authorized to pay all or part of the costs of new jobs training programs out of funds of the community college district, including self-funding methods. The use of district funds and self-funding methods to pay the costs of the new jobs training programs would be considered an authorized expenditure of public funds and could not be construed as an investment.

Tax Exemption & Annual Limit

Bonds and notes issued by a community college district under Chapter 13 and the interest on and income from those bonds and notes would be exempt from taxation by the State or a political subdivision of the State.

The aggregate outstanding obligation of all agreements entered into under Chapter 13 could not exceed \$50.0 million in any calendar year.

Senate Bill 1343

Withheld Taxes

Under the Income Tax Act, every Michigan employer required under the Internal Revenue Code to withhold income taxes and every "flow-through entity" entity in

Michigan must withhold taxes at the rate prescribed in the Act, after deducting personal and dependency exemptions allowed under the Act. ("Flow-through entity" means an S corporation, partnership, limited partnership, limited liability partnership, or limited liability company.) Withheld taxes accrue to the State on the last day of the month in which they are withheld, but must be paid to the Department of Treasury within 15 days after the end of any month, except as otherwise allowed under the Act.

Under the bill, for an employer or flow-through entity that had entered into an agreement with a community college pursuant to the proposed Chapter 13 of the Community College Act, a portion of the taxes withheld that were attributable to each employee in a new job created pursuant to an agreement under Chapter 13 would accrue to the community college on the last day of the month in which the taxes were withheld, but would have to be paid to the community college by the employer or flow-through entity within 15 days after the end of any month or as otherwise provided, for as long as the agreement remained in effect. Payments made by an employer or flow-through entity to a community college under the bill would be considered income taxes paid to the State.

Under the Act, if the Department has reasonable grounds to believe that withheld taxes will not be paid to the State as prescribed by the Act, or to provide a more efficient administration, the Department may require the payment of withheld taxes at other monthly periods or from time to time. The Department also may require the withheld taxes to be deposited in a bank it approves, in a separate account, in trust for the Department, and payable to the Department, and to keep the amount of the taxes in the account until payment to the Department. The bill would refer to the Department or the community college, if applicable, in these provisions.

The Act requires every employer and flow-through entity required to deduct or withhold taxes from compensation, or share of income available for distribution, to make a return or report in a form and content and at the times prescribed by the Department. The bill would require an employer or flow-through entity that had entered into an agreement with a community college under

Chapter 13, and that was required by the agreement to deduct or withhold taxes from compensation and make payments to a community college for a portion of those withheld taxes, to delineate in the return or report between the amount deducted or withheld and paid to the State and the amount paid to a community college.

Annual Report

Under the bill, by July 1 of each year, based on information received from each community college district, the Department of Treasury would have to submit an annual report to the Governor, the Secretary of the Senate, the Clerk of the House of Representatives, the chairperson of each standing committee with jurisdiction over economic development issues, the chairperson of each legislative budget subcommittee with jurisdiction over economic development issues, and the president of the Michigan Strategic Fund. The report would have to concern the operation and effectiveness of the new jobs training programs and the corresponding income tax withholding requirements. The report would have to include all of the following:

- The number of community colleges participating in the new jobs training program and the names of those colleges.
- The number of employers that had entered into agreements with community colleges pursuant to the program and the names of those employers, organized by major industry group under the Standard Industrial Classification Code compiled by the U.S. Department of Labor.
- The total amount of money from a new jobs credit from withholding each employer had remitted to the community college district.
- The total amount of new jobs training revenue bonds each community college district had authorized, issued, or sold.
- The total amount of each community college district's debt related to agreements at the end of the calendar year.
- The number of degrees or certificates awarded to program participants in the calendar year.
- The number of individuals who entered a program at each community college district in the calendar year; who completed the program in the calendar

- year; and who were enrolled in a program at the end of the year.
- The number of individuals who completed a program whom an employer hired to fill new jobs.

Proposed MCL 389.161-389.166 (S.B. 1342)
MCL 206.351 et al. (S.B. 1343)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

These bills would allow community colleges to finance job training programs by capturing the income tax that would be withheld from the wages paid for the new jobs and otherwise remitted to the Department of Treasury. It is not possible to provide a meaningful estimate of the impact the bills potentially would have on income tax revenue because there is no way to know how many job training programs actually would be created, the size and cost of these job training programs, the number of jobs that would be created, or how many of these jobs would be created only because of the job training programs. If it is assumed that all of the jobs created through these job training programs would be created only due to the job training programs, then it can be argued that the bills would have no real fiscal impact on income tax revenue because with or without the job training programs, the State would not receive any income tax from these workers. However, it is very likely that some of the new jobs will be created even if these bills are not enacted. To help put the potential fiscal impact into perspective, for every 100 jobs created through the proposed job training programs, assuming an average wage of \$35,000 per year, community colleges would capture about \$121,000 to finance job training programs under the bills. Any loss of income tax revenue under these bills would reduce the General Fund (76.7%) and the School Aid Fund (23.3%).

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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.