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 5858 (as passed by the House)
Sponsor: Representative Ed Clemente
House Committee: New Economy and Quality of Life
Senate Committee: Commerce and Tourism

Date Completed: 3-18-08

CONTENT

The bill would amend the Michigan Business Tax (MBT) Act to do all of the following:

-- **Allow a qualified taxpayer to claim an MBT credit for a percentage of the taxable value of certain qualified suppliers' or customers' taxable property for up to five years, if the taxpayer received a certificate from the Michigan Economic Growth Authority (MEGA) designating it an anchor company.**
-- **Provide that MEGA could not designate more than five anchor companies each year or approve more than five new credits each year.**
-- **Allow a taxpayer to choose a refund or carry-forward if the taxpayer's credit exceeded its liability.**
-- **Specify that a credit could be reduced or terminated, or a previously credited amount could be added back to the taxpayer's liability, if a taxpayer failed to meet requirements for receiving the credit.**

"Qualified taxpayer" would mean a taxpayer that was designated by MEGA as an anchor company within the last five years and that has influenced one or more qualified suppliers or customers to open, locate, or expand their business and conduct business activity within a 10-mile radius of the anchor company. "Anchor company" would mean a qualified high-technology business that is an integral part of a high-technology activity and that has the ability or potential ability to influence business decisions and site location of qualified suppliers and customers.

"Qualified supplier or customer" would mean a business that opened a new location in Michigan, a business that located in Michigan, or an existing business located in Michigan that expanded its business within the last year as a result of an anchor company and, as certified by MEGA, has financial transactions with the anchor company, sells a critical and unique component or technology necessary for the anchor company to market a finished product or buys a critical or unique component from the anchor company, has created more than 10 qualified new jobs, and has made an investment of at least $1.0 million.

"Qualified new job" would mean a full-time job created by a qualified supplier or customer at a facility or facilities that exceeds the number of full-time jobs a qualified supplier or customer maintained in Michigan or facility before the expansion or location, as determined by MEGA. "Full-time job" would mean a job performed by an individual for 35 hours or more each week and whose income and Social Security taxes are withheld by a qualified supplier or customer and/or an employee leasing company or a professional employer organization on behalf of a qualified supplier or customer.

"Business", "qualified high-technology activity", and "qualified high-technology business" would mean those terms as defined in the Michigan Economic Growth Authority Act (MCL 207.803).

Specifically, except as otherwise provided, a qualified taxpayer could claim a credit against the MBT equal to the sum of up to 5% of the taxable value of each qualified supplier's or customer's taxable property that was located within the 10-mile radius of the qualified taxpayer and that was subject to collection of general ad valorem taxes under the General Property Tax Act, for up to five years, as determined by MEGA.

If a qualified supplier's or customer's taxable property were subject to the specific tax levied under the plant rehabilitation and industrial development Act (commonly referred to as PA 198), the qualified taxpayer could include only up to 2.5% of the taxable value of that property in the calculation of the amount of the credit.

The Authority could not designate more than five taxpayers as an anchor company in each calendar year or approve more than five new credits under the bill in each calendar year. A taxpayer would have five years from the date of designation as an anchor company to seek certification as a qualified taxpayer for each qualified supplier or customer for which a credit was sought.

A taxpayer could not claim a credit under the bill unless MEGA had issued a certificate to the taxpayer. A credit could not be provided, however, for a tax year before the tax year during which the certification was issued. The qualified taxpayer would have to attach the certificate to the annual return on which the credit was claimed. The certificate would have to state all of the following:

-- The taxpayer was a qualified taxpayer and the date on which the taxpayer was designated as an anchor company.
-- The amount of the MBT credit for the qualified taxpayer for the designated tax year.
-- The taxpayer's Federal employer identification number or the Michigan Department of Treasury number assigned to the taxpayer.

A taxpayer that claimed a credit under the bill and subsequently failed to meet the bill's requirements, or failed to meet any other conditions established by MEGA in order to obtain a certificate, could have its credit reduced or terminated or have a percentage of the credit amount previously claimed added back to the taxpayer's tax liability in the year that the taxpayer failed to comply with the bill or the agreement, as MEGA determined.

If the credit allowed under the bill exceeded the taxpayer's liability for the tax year, the taxpayer could elect to have the excess refunded or carried forward to offset tax liability in subsequent years for five years or until is was used up, whichever occurred first.

Proposed MCL 208.1431c Legislative Analyst: Patrick Affholter

FISCAL IMPACT

It is not possible to make a reasonable estimate of the fiscal impact of this bill because there are too many unknown variables. In particular, there is no way to know the taxable value of qualified suppliers and customers of qualified anchor companies. However, to help put the potential fiscal impact of this bill in perspective, for every $1.0 million in property owned by a supplier or customer of a qualifying anchor high-technology company that is located within 10 miles of the anchor company, the proposed credit against the Michigan business tax would equal $25,000 (5.0% times $500,000), assuming the taxable value is equal to 50% of the property's total value. Assuming that these credits were granted to five qualified anchor companies each year, which is the maximum number of credits that the MEDC could grant each year, and that each of these anchor companies would have five suppliers or customers locate within 10 miles of their site, each with total property of $1.0 million, the cost of this proposed credit would total $625,000 in the first year and then increase to $1.3 million in the second year. By the fifth year, the total cost would increase to $3.1 million, under the above assumptions. If the total value of each supplier's and customer's property were greater than or less than $1.0 million, then the cost of the credit would be greater than or less than the cost of the credit as illustrated above. This credit would be unusual in that a company would receive a credit based on the activity of another company. Most tax credits are based on a company's own activity, not on the activity of its suppliers or customers. The State's General Fund/General Purpose budget would incur the loss in Michigan business tax revenue resulting from this proposed credit. This bill would have no direct impact on local government.

Fiscal Analyst: Jay Wortley

S0708\s5858sa