



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5972 (Substitute S-1)
House Bill 5973 (Substitute S-1)
House Bill 5976 (Substitute S-1)
Sponsor: Representative Andy Coulouris (H.B. 5972)
Representative Jeff Mayes (H.B. 5973)
Representative Kenneth Horn (H.B. 5976)
House Committee: Energy and Technology
Senate Committee: Commerce and Tourism

Date Completed: 6-25-08

CONTENT

House Bills 5972 (S-1), 5973 (S-1) and 5976 (S-1) would amend the Michigan Business Tax (MBT) Act allow a manufacturer of polycrystalline silicon for solar cells and semiconductor microchips, that would construct and operate a new or expanded facility in Michigan, to claim an MBT credit for 12 years beginning in 2012 for certain energy consumption costs. If the credit exceeded the taxpayer's MBT liability for the tax year, the taxpayer could elect to have the excess refunded or carried forward to offset the tax liability in subsequent years, for 10 years or until used up, whichever occurred first.

The bills are described in detail below.

House Bill 5972 (S-1)

The bill would add Section 432 to the MBT Act to allow a qualified taxpayer that had entered into an agreement with the Michigan Economic Growth Authority (MEGA), providing that the taxpayer would construct and operate a new or expanded facility described in the agreement for the manufacture of polycrystalline silicon, to claim a credit against the MBT for 12 years, calculated as provided in Sections 432a to 432d (proposed by House Bill 5973 (S-1), Senate Bills 1267 and 1268, and House Bill 5976 (S-1)). This credit would have to be taken after all other credits provided under the MBT Act. The Authority could not enter into more than one agreement under the bill and could not enter into an agreement after September 30, 2008.

A qualified taxpayer could not claim a credit under proposed Sections 432a to 432d unless MEGA had issued a certificate to that taxpayer. The taxpayer would have to attach the certificate to its annual return. The certificate would have to state all of the following:

- The taxpayer was a qualified taxpayer.
- The amount of the credit under the bill 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 and, for a taxpayer that was a unitary business group, the Federal employer ID number or Michigan Department of Treasury number assigned to the member of the group engaged in Michigan in the manufacture of polycrystalline silicon for solar cells and semiconductor microchips.

For purposes of Sections 432 to 432d, "qualified taxpayer" would mean a taxpayer whose business activity conducted in Michigan includes the manufacturing of polycrystalline silicon for solar cells and semiconductor microchips.

Also, for purposes of those sections, "guaranteed cost of electricity" would mean the amounts shown in Table 1, and "projected cost of electricity" would mean the amounts shown in Table 2.

Table 1
"Guaranteed Cost of Electricity"

Beginning of Tax Year	Cents Per Kilowatt Hour
After 12-31-11 and before 1-1-19	4.85
After 12-31-18 and before 1-1-21	5.20
After 12-31-20 and before 1-1-24	6.00

Table 2
"Projected Cost of Electricity"

Beginning of Tax Year	Cents Per Kilowatt Hour
After 12-31-11 and before 1-1-13	6.49
After 12-31-12 and before 1-1-14	6.66
After 12-31-13 and before 1-1-15	6.84
After 12-31-14 and before 1-1-16	7.02
After 12-31-15 and before 1-1-17	7.20
After 12-31-16 and before 1-1-18	7.40
After 12-31-17 and before 1-1-19	7.59
After 12-31-18 and before 1-1-20	7.79
After 12-31-19 and before 1-1-21	8.00
After 12-31-20 and before 1-1-22	8.21
After 12-31-21 and before 1-1-23	8.43
After 12-31-22 and before 1-1-24	8.65

House Bills 5973 (S-1) & 5976 (S-1)

Under House Bill 5973 (S-1), for tax years beginning after December 31, 2011, and before January 1, 2016, a qualified taxpayer that received a certificate under proposed Section 432 of the MBT Act could claim a credit equal to the product obtained by multiplying the qualified consumption of electricity times the difference between the guaranteed cost of electricity and the actual delivered price of electricity billed to the qualified taxpayer under a tariff rate approved by the Public Service Commission or the projected cost of electricity, whichever was less.

Under House Bill 5976 (S-1), for the 2023 tax year, a qualified taxpayer that received a certificate could claim a credit equal to the product obtained by multiplying 25% of the qualified consumption of electricity times the difference between the projected cost of electricity and the guaranteed cost of electricity.

Under both bills, "qualified consumption of electricity" would mean up to 1,445,400 megawatt hours of electricity consumed during the tax year at a facility described by an agreement entered into under proposed Section 432 of the MBT Act.

(Under Senate Bill 1267, for tax years beginning after December 31, 2015, and before January 1, 2022, a qualified taxpayer that received a certificate could claim a credit equal to the product obtained by multiplying the qualified consumption of electricity times the difference between the projected cost of electricity and the guaranteed cost of electricity.

Under Senate Bill 1268, for the 2022 tax year, a qualified taxpayer that received a certificate could claim a credit equal to the product obtained by multiplying 50% of the qualified consumption of electricity times the difference between the projected cost of electricity and the guaranteed cost of electricity.)

Proposed MCL 208.1432 (H.B. 5972)
Proposed MCL 208.1432a (H.B. 5973)
Proposed MCL 208.1432d (H.B. 5976)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The new refundable credit that would be created by these bills, along with Senate Bills 1267 and 1268, would reduce Michigan business tax revenue for 12 years beginning in tax year 2012. Based on the provisions in the bills that effectively would establish a maximum credit each year, and assuming that the Hemlock Semiconductor Corporation facility, for which this credit is designed, would operate on average at 87% of its capacity, then it is estimated that the maximum credit that would be claimed by this corporation would range from \$20.6 million to \$35.2 million annually for tax years 2012 through 2021, and then decline to an estimated \$15.3 million in 2022 and \$8.3 million in 2023. According to the Department of Treasury, this facility may qualify for a special economic development price for electricity that is well below the projected price levels contained in these bills. If electricity would be available to the facility at this lower price, then the cost of the credit would decline dramatically. For example, during the first four years of this new credit, the lower price for electricity would reduce the cost of the credit from an estimated total of \$95.7 million to only \$8.6 million. The estimated maximum loss in Michigan business tax revenue under this proposed new credit is presented in the following table. The loss in revenue would reduce General Fund/General Purpose revenue. Local governments would not be directly affected by this bill.

Fiscal Analyst: Jay Wortley

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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.

Estimated Maximum Cost of Proposed Credit in HBs 5972, 5973, and 5976 and SBs 1267 and 1268

Tax Year	Guaranteed Cost of Elec. (Cents per Kilowatt Hr)	Projected Cost of Elec. (Cents per Kilowatt Hr)	Difference (Cents per Kilowatt Hr)	% of Qualified Consumption Eligible for Credit	Maximum Qualified Consumption (megawatt hrs)	Maximum Cost of Credit (millions)	Cost at 87% of Capacity (millions)
2012	4.85	6.49	1.64	100%	1,445,400	\$23.7	\$20.6
2013	4.85	6.66	1.81	100%	1,445,400	26.2	22.8
2014	4.85	6.84	1.99	100%	1,445,400	28.8	25.0
2015	4.85	7.02	2.17	100%	1,445,400	31.4	27.3
2016	4.85	7.20	2.35	100%	1,445,400	34.0	29.6
2017	4.85	7.40	2.55	100%	1,445,400	36.9	32.1
2018	4.85	7.59	2.74	100%	1,445,400	39.6	34.5
2019	5.20	7.79	2.59	100%	1,445,400	37.4	32.6
2020	5.20	8.00	2.80	100%	1,445,400	40.5	35.2
2021	6.00	8.21	2.21	100%	1,445,400	31.9	27.8
2022	6.00	8.43	2.43	50%	722,700	17.6	15.3
2023	6.00	8.65	2.65	25%	361,350	9.6	8.3
Total	----	----	----	----	----	\$357.4	\$310.9

Source: Senate Fiscal Agency (4-22-08)