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BILL ANALYSIS

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Senate Bill 1 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Mark C. Jansen
Committee: Finance

Date Completed: 2-26-09

RATIONALE

Some people believe that Michigan taxes, including the Michigan Business Tax (MBT) and the MBT surcharge, have forced some businesses to lay off employees, close, or leave the State. Reportedly, the surcharge is particularly burdensome on mid-sized businesses and older, established firms because they often do not qualify for specific tax credits designed to attract new and rapidly growing businesses to the State.

It has been suggested that the surcharge on the MBT be eliminated in order to reduce taxation on a broad range of businesses in the State.

CONTENT

The bill would amend the MBT Act to decrease the MBT surcharge by 50% for tax years ending in 2009, and then eliminate it, for taxpayers other than financial institutions.

In addition to the taxes imposed and levied under the Act, an annual surcharge is imposed and levied on each taxpayer equal to a percentage of the taxpayer's tax liability under the Act after allocation or apportionment to this State but before calculation of various credits. The surcharge does not apply to a person subject to the tax under Chapter 2A (an insurance company) or to a person subject to the tax under Chapter 2B (a financial institution) that is authorized to exercise only trust powers. The amount of the surcharge levied on any taxpayer may not exceed $6.0 million for any single tax year. Under the bill, the amount of the surcharge could not exceed $6.0 million for the 2008 tax year and $3.0 million for the 2009 tax year.

For each taxpayer other than a person subject to the tax under Chapter 2B, the surcharge is equal to 21.99% of the taxpayer's liability. For a person subject to the tax under Chapter 2B, the surcharge is equal to 27.7% for tax years ending during 2008, and 23.4% for tax years ending after 2008.

Under the bill, for each taxpayer other than a person subject to the tax under Chapter 2B, the surcharge would decrease to 11.0% of the taxpayer's liability for tax years ending in 2009 and would be eliminated for subsequent tax years.

Under the Act, if the Michigan personal income growth exceeds 0.0% in any one of the three calendar years immediately preceding the 2017 calendar year, then the surcharge may not be levied and imposed on or after January 1, 2017. Under the bill, this provision would apply only to a person subject to the tax under Chapter 2B.

MCL 208.1281

BACKGROUND

The Michigan Business Tax Act was enacted by Public Act 36 of 2007 to replace the Single Business Tax Act, which was repealed effective December 31, 2007, by a citizen-initiated law. Additional statutory changes were made in 2007 to generate sufficient revenue to support appropriations. These included Public Act 93 of 2007, which extended the use tax to a number of

services, effective December 1, 2007. The amendment was repealed on that date, however, by Public Act 145 of 2007. To replace the revenue that the use tax expansion would have generated, Public Act 145 also created the surcharge within the Michigan Business Tax Act. Public Act 145 made a number of additional amendments to the MBT Act, as well.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Businesses in Michigan, many of which are struggling to make money in the face of a recession and increased tax liability under the MBT, need quick and significant tax relief that can best be provided through elimination of the MBT surcharge. The surcharge is prohibitively expensive for many firms and is often a factor in a business owner's decision to lay off employees, close the business, or move it to a neighboring state. The surcharge is particularly burdensome because it is equal to 22% of a taxpayer's liability before the calculation of any credits and can cost a business up to $6.0 million in addition to its total MBT liability.

Unlike targeted tax credits, elimination of the surcharge would provide tax relief to a broad range of businesses, thereby protecting jobs in several sectors and regions of the State. Targeted credits, including the credits for film production, certain anchor companies, and specific individual businesses, help bring new business to the State, but do nothing to help struggling established businesses.

Opposing Argument

While the elimination of the surcharge may be a worthy goal, it should be done as part of a comprehensive plan to lessen the tax burden on businesses, encourage job creation, reform tax policy, and balance State income and spending. The bill would reduce tax revenue during fiscal years 2008-09, 2009-10, 2010-11, and beyond, which would increase the deficit significantly in those fiscal years. Because the amount of money raised by the surcharge is substantial, spending cuts and reforms to State programs would have to be made if the surcharge were eliminated. Responsible fiscal policy requires significant tax cuts to be made only with corresponding spending cuts.

Additionally, eliminating the surcharge would not, in itself, create jobs in the State. The assumption that tax cuts will improve the economy has not proven true, as Michigan is in a recession that is getting worse despite decreases in taxation.

Response: The long-term profitability of businesses in Michigan is crucial to the existence of State government. In order for the State to spend money, it must raise revenue by taxing businesses and individuals. If businesses and individuals in Michigan stop making money or leave the State, then there will be no tax revenue to spend on essential services. Each business closed and job lost reduces the money that could be used to match Federal dollars or to support education, social services, and police protection, among other things. While eliminating the surcharge could contribute to a budget imbalance, keeping it would be much worse for the businesses and residents of the State in the long term.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill would reduce Michigan Business Tax revenue an estimated $166.1 million in FY 2008-09, $457.5 million in FY 2009-10, and $593.4 million in FY 2010-11. All of this loss in revenue would reduce General Fund/General Purpose revenue. The bill would have no direct impact on local units of government.

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.