



Senate Fiscal Agency
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BILL ANALYSIS

COMMITTEE SUMMARY

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Senate Bill 290 (Substitute S-1)
Senate Bill 293 (Substitute S-2)
Senate Bill 295 (Substitute S-1)
House Bill 4083 (Substitute S-2)
House Bill 4089 (Substitute S-2)
House Bill 4092 (Substitute S-1)
House Bill 4093 (Substitute S-1)
House Bill 4094 (Substitute S-1)

Sponsor: Senator Gilda Z. Jacobs (S.B. 290)
Senator Dennis Olshove (S.B. 293)
Senator Michael Switalski (S.B. 295)
Representative Fred Miller (H.B. 4083)
Representative Judy Nerat (H.B. 4089)
Representative Bob Constan (H.B. 4092)
Representative Bettie Cook Scott (H.B. 4093)
Representative Sarah Roberts (H.B. 4094)

Senate Committee: Commerce and Tourism

House Committee: Commerce (H.B. 4083, 4089, 4092, 4093, & 4094)

Date Completed: 5-5-09

CONTENT

The bills would amend various statutes to do all of the following:

- **Establish requirements for the hiring of Michigan residents or individuals who planned to become Michigan residents, except under certain circumstances, in various economic development and tax incentive programs.**
- **Prohibit the use of certain financing, tax breaks, or assistance unless the applicant stated in writing that it would not hire or contract for individuals who were not authorized under Federal law to work in the United States.**
- **Require the reporting of information relating to the hiring of Michigan residents and exemptions from the hiring of Michigan residents.**

Some of the bills also would require an agreement to include a remedy

provision regarding ineligibility for tax abatements, financing, or assistance, and the repayment of benefits, if the applicant violated the hiring restrictions.

Senate Bill 290 (S-1) would amend the Brownfield Redevelopment Financing Act; Senate Bill 293 (S-2) would amend the Michigan Renaissance Zone Act; and Senate Bill 295 (S-1) would amend the Obsolete Property Rehabilitation Act. House Bill 4083 (S-1) would amend the Michigan Strategic Fund (MSF) Act; House Bill 4089 (S-2) would amend the Michigan Economic Growth Authority (MEGA) Act; House Bill 4092 (S-1) would amend the Industrial Development Revenue Bond Act; House Bill 4093 (S-1) would amend the plant rehabilitation and industrial development Act; and House Bill 4094 (S-1) would amend Transportation Economic Development Fund law.

The bills all are tie-barred to Senate Bills 502 and 539.

Senate Bill 290 (S-1)

The Brownfield Redevelopment Financing Act allows municipalities (cities, villages, townships, and counties) to establish brownfield redevelopment zones and brownfield redevelopment zone authorities, which may implement brownfield plans for the redevelopment of commercial or industrial property. The Act specifies financing sources for authority activities, including the capture of tax increment revenue (that is, revenue from the incremental increase in property values within a zone). The revenue may be used to pay the costs of eligible activities on eligible property within a zone.

Under the bill, beginning July 1, 2009, authorities could not use tax increment revenue to pay or reimburse a business entity for eligible activities on eligible property unless the business entity stated, in writing, that it would not knowingly hire, or contract with any business entity that knowingly hired, an individual who was not authorized under Federal law to work in the U.S.

Also, beginning July 1, 2009, a brownfield authority could not use tax increment revenue to pay or reimburse a business entity for eligible activities on eligible property unless the business entity stated, in writing, that it would hire only Michigan residents, or individuals who planned on becoming Michigan residents, to perform eligible activities on eligible property under the Act unless the authority determined that the eligible activities could not be performed by using only those people for one of the following:

- To the extent necessary to comply with Federal law or regulation concerning the use of Federal funds.
- To the extent that key management personnel or individuals with special skills, who were not Michigan residents, were needed.
- For facilities located in a county that bordered on another state, if the authority determined that the use of nonresidents for the construction, rehabilitation, development, or renovation would not have a significant

adverse effect on the employment of Michigan residents.

The business entity also would have to state in writing that it would contract with businesses that agreed to hire only Michigan residents, or individuals who planned on becoming Michigan residents, to perform eligible activities on eligible property under the Act unless the authority determined that the eligible activities could not be performed by using only those people for one or more of the circumstances described above.

The written agreements required by the bill also would have to contain a remedy provision stating that the business entity could be required to repay some or all of the payments or reimbursements received under the Act if the business were determined to be in violation of the bill's requirements, as determined by the authority.

Each authority would have to report to the MSF board on its activities by October 1 each year. The report would have to include all of the following:

- The number of Michigan residents employed in jobs related to eligible activities on eligible property in the immediately preceding year in which the bill's employment requirements applied.
- The total number of jobs created related to eligible activities on eligible property in the immediately preceding year in which the bill's employment requirements applied.
- The specific reasons for each determination of exemption from the bill's employment requirements made by the authority and the number of jobs related to each determination.

The Attorney General or appropriate State agency would be responsible for any enforcement necessary to ensure compliance after the applicant had signed an agreement under the bill's employment requirements.

Senate Bill 293 (S-2)

The Michigan Renaissance Zone Act provides for the designation of various types of renaissance zones in Michigan. Residents of renaissance zones or businesses that are located and conduct business activity within

a zone may receive certain tax exemptions, deductions, or credits.

Under the bill, beginning July 1, 2009, when designating a renaissance zone, if all other considerations were equal, the State Administrative Board or the MSF would have to give preference to an applicant for renaissance zone status if the applicant agreed in writing to hire only Michigan residents or individuals who planned on becoming Michigan residents, or contract with businesses that agreed to hire only those people, to construct, renovate, rehabilitate, or improve a facility in the renaissance zone under the conditions described in Senate Bill 290 (S-1).

If the Board or the MSF designated a renaissance zone, a taxpayer that was a business could not claim the exemption, deduction, or credit under the Act unless the taxpayer and the Board or the MSF entered into a written agreement providing that, for work in the renaissance zone, the taxpayer would not knowingly hire, or contract with any business entity that knowingly hired, an individual who was not authorized under Federal law to work in the U.S.

The written agreement also would have to contain a remedy provision providing for both of the following:

- A requirement that the taxpayer would not be eligible to claim any future exemptions, deductions, or credits under the Act if it were determined to be in violation of the bill, as determined by the Board or the MSF.
- A requirement that the taxpayer could be required to repay some or all of the exemptions, deductions, or credits received under the Act if the taxpayer were determined to be in violation of the bill, as determined by the Board or the MSF.

The Act requires the MSF annually to report to the Legislature. Under the bill, that report would have to include all of the following:

- The number of Michigan residents employed in jobs related to the construction, renovation, rehabilitation, or improvement of a facility in the immediately preceding year.

- The total number of jobs related to the construction, renovation, rehabilitation, or improvement of a facility created in the immediately preceding year.
- The specific reasons for each determination of exemption from the bill's requirements to hire Michigan residents or those who planned to become Michigan residents made by the Board or the MSF and the number of jobs related to each determination.

Senate Bill 295 (S-1)

Under the Obsolete Property Rehabilitation Act, qualified local units of government may establish obsolete property rehabilitation districts containing obsolete property (commercial property or commercial housing property that is blighted or functionally obsolete, or the site of a hazardous substance). The owner of obsolete property may apply for an obsolete property rehabilitation exemption certificate, which may be issued for a period of one to 12 years. If the certificate is approved by the legislative body of the local unit and the State Tax Commission, the rehabilitated facility is exempt from ad valorem property taxes and is subject, instead, to an obsolete properties tax. (Essentially, the amount invested in the rehabilitated facility is exempt from millage levied in the local unit, except for local school operating millage and the State Education Tax.)

Under the bill, beginning July 1, 2009, the legislative body of the local governmental unit could not approve an application for an obsolete property exemption certificate unless the applicant stated, in writing, that the applicant would not knowingly hire, or contract with any business entity that knowingly hired, an individual who was not authorized under Federal law to work in the U.S.

An agreement also would have to contain a remedy provision providing for both of the following:

- A requirement that the applicant's obsolete property exemption certificate be revoked if the applicant were determined to be in violation of the agreement, as determined by the local unit's legislative body.
- A requirement that the applicant could be required to repay some or all of the

benefits received under the Act if the applicant were determined to be in violation of the agreement, as determined by the local unit's legislative body.

Also, beginning on July 1, 2009, the legislative body could not approve an application unless the applicant stated, in writing, that the applicant would make a good faith effort to employ or contract with Michigan residents or individuals who planned on becoming Michigan residents, and Michigan firms, to construct, rehabilitate, develop, or renovate a facility.

Not later than the February 1 immediately following the completion of the construction, rehabilitation, development, or renovation of a facility, the applicant would have to report to the local unit's legislative body regarding all of the following:

- The number of Michigan residents employed in jobs for the renovation, restoration, or construction of a facility for which an obsolete property exemption certificate was granted.
- The number of jobs created from the renovation, restoration, or construction of a facility for which an obsolete property exemption certificate was granted.
- The details of the good faith efforts required of the applicant.

By May 1 each year, the local unit's legislative body would have to compile all information submitted by applicants under these reports and submit it to the MSF board.

The Attorney General or appropriate State agency would be responsible for any enforcement necessary to ensure compliance after the applicant had signed an agreement under the bill.

House Bill 4083 (S-1)

The Michigan Strategic Fund has a variety of responsibilities related to economic development and job creation.

Under the bill, beginning July 1, 2009, the MSF board could not approve a request for assistance for a project or an economic development project, or a loan or grant under Chapter 8A (21st Century Investment

Programs and Activities) of the Act, unless the applicant stated in writing that the applicant would not knowingly hire, or contract with any business entity that knowingly hired, an individual who was not authorized under Federal law to work in the U.S.

Also, beginning on July 1, 2009, the MSF board could not approve a request for assistance for a project or an economic development project or a loan or grant under Chapter 8A, unless the applicant stated in writing that it would hire only Michigan residents or individual who planned on becoming Michigan residents, or contract with businesses that hired only Michigan residents or those who planned on becoming Michigan residents, to work on projects, economic development projects, or facilities that were constructed with a loan or grant provided under Chapter 8A, under the conditions described in Senate Bill 290 (S-1).

The written agreement would have to contain a remedy provision providing for both of the following:

- A requirement that the applicant's financing, loan, or grant be revoked if the applicant were determined to be in violation of the requirement to hire Michigan residents or those who planned to become Michigan residents or the requirement to hire only workers authorized under Federal law to work in the U.S.
- A requirement that the applicant could be required to repay some or all of the benefits received under the Act if the applicant were determined to be in violation of those provisions, as determined by the MSF board.

By February 1 each year, the MSF board would have to report to the Senate and the House of Representatives on the activities for the immediately preceding fiscal year. The report would have to contain all of the following:

- The number of Michigan residents employed in jobs from projects, economic development projects, or facilities constructed with a loan or grant provided under Chapter 8A in the immediately preceding year.

- The number of Michigan residents employed in jobs and the number of jobs created from other economic development initiatives that were required to be reported to the MSF board.
- The specific reasons for each determination of exemption from the requirement to hire only Michigan residents or those who planned to become Michigan residents made by the MSF board and the number of jobs related to each determination.
- Any other information the board determined necessary.

House Bill 4089 (S-2)

The Michigan Economic Growth Authority Act allows MEGA to enter into an agreement with an eligible business for a Michigan Business Tax credit if the business meets a prescribed set of criteria. Among the criteria are creating and maintaining a minimum number of qualified new jobs at a facility, maintaining a certain number of full-time jobs in Michigan, and paying a certain level of wages.

Under the bill, beginning July 1, 2009, MEGA could not enter into a written agreement with an eligible business unless the business stated, in writing, that it would not knowingly hire, or contract with any business entity that knowingly hired, an individual who was not authorized under Federal law to work in the U.S.

Also, beginning July 1, 2009, when determining which eligible businesses qualified for the tax credits, if all other considerations were equal, MEGA would have to give preference to an eligible business that stated, in writing, that it would hire only Michigan residents or individuals who planned on becoming Michigan residents, or contract with businesses that agreed to hire only Michigan residents or individuals who planned on becoming Michigan residents, to construct, rehabilitate, develop, or renovate the facility under the conditions described in Senate Bill 290 (S-1).

A written agreement also would have to contain a remedy provision requiring that the eligible business's credits be revoked if the business were determined to be in violation of the requirement to hire only

individuals who were authorized to work in the U.S. or, if applicable, the requirement to hire or contract only with Michigan residents or those who planned to become Michigan residents, as determined by MEGA. The remedy provision also would have to require the eligible business to repay some or all of the benefits received under the Act if the it were determined to be in violation of those provisions.

Under the Act, MEGA must report on its activities to the Senate and the House yearly on October 1. Under the bill, that report would have to include all of the following:

- The number of Michigan residents employed in qualified new jobs that were created or retained in the immediately preceding year.
- The specific reasons for each determination of exemption from the requirement to hire Michigan residents or those who planned to become Michigan residents made by MEGA and the number of jobs related to each determination.
- The details of the good faith efforts required in the Act to employ or contract with Michigan residents and the encouragement in the Act to use Michigan-based suppliers and vendors.

House Bill 4092 (S-1)

The Industrial Development Revenue Bond Act allows a municipality to borrow money and issue its negotiable bonds for the purpose of defraying the cost of industrial buildings, the site for such a building, and industrial machinery and equipment.

Under the bill, beginning July 1, 2009, a municipality's governing body could not issue bonds or notes under the Act to construct, improve, or finance improvements to industrial buildings unless the applicant stated, in writing, that the applicant would not knowingly hire, or contract with any business entity that knowingly hired, an individual who was not authorized under Federal law to work in the U.S.

The written agreement would have to contain a remedy provision providing for both of the following:

- A requirement that the applicant's industrial facilities exemption certificate

House Bill 4093 (S-1)

be revoked if the applicant were determined to be in violation of the requirement to hire only workers authorized under Federal law to work in the U.S.

- A requirement that the applicant could be required to repay some or all of the benefits received under the Act if the applicant were determined to be in violation of that requirement, as determined by the municipality's governing body.

Also, beginning on July 1, 2009, a municipality's governing body could not issue bonds or notes to construct, improve, or finance improvements to industrial buildings unless the applicant stated, in writing, that it would make a good faith effort to employ or contract with Michigan residents or individuals who planned on becoming Michigan residents, and Michigan firms, to construct or improve industrial buildings under the Act.

Not later than the February 1 immediately following the completion of the construction or improvement of an industrial building, the applicant would have to report to the municipality's governing body regarding all of the following:

- The number of Michigan residents employed in jobs for the construction or improvement of industrial buildings for which bonds or notes were issued under the Act.
- The number of jobs created from the construction or improvement of industrial buildings for which bonds or notes were issued under the Act.
- The details of the good faith efforts required of the applicant to hire only Michigan residents or those who planned on becoming Michigan residents, and Michigan firms.

By May 1 each year, the municipality's governing body would have to compile all of this information and submit it to the MSF board.

The Attorney General or other appropriate State agency would be responsible for any enforcement necessary to ensure compliance after the applicant had signed an agreement under the bill.

The plant rehabilitation and industrial development Act, commonly referred to as PA 198, allows local units of government, with the approval of the State Tax Commission, to grant industrial facilities exemption certificates to new and speculative buildings and replacement facilities located in a plant rehabilitation or industrial development district. A certificate essentially grants a property tax abatement to an industrial facility, which is subject to an industrial facilities tax that is lower than standard property taxes.

Under the bill, beginning July 1, 2009, a local unit's legislative body could not approve an application for an industrial facilities exemption certificate unless the applicant stated, in writing, that the applicant would not knowingly hire or contract with any business entity that knowingly hired an individual who was not authorized under Federal law to work in the U.S.

The written agreement would have to contain a remedy provision providing for both of the following:

- A requirement that the applicant's industrial facilities exemption certificate be revoked if the applicant were determined to be in violation of the requirement to hire only workers authorized under Federal law to work in the U.S.
- A requirement that the applicant could be required to repay some or all of the benefits received under the Act if the applicant were determined to be in violation of that requirement, as determined by the municipality's governing body.

Also, beginning July 1, 2009, a local unit's legislative body could not approve an application for an industrial facilities exemption certificate unless the applicant stated, in writing, that the applicant would make a good faith effort to employ or contract with Michigan residents or individuals who planned on becoming Michigan residents, and Michigan firms, to construct, rehabilitate, develop, or renovate the facility.

Not later than the February 1 immediately following the completion of the renovation, restoration, or construction of a facility, the applicant would have to report to the local unit's legislative body regarding all of the following:

- The number of Michigan residents employed in jobs for the renovation, restoration, or construction for which an industrial facilities exemption certificate was granted.
- The number of jobs created from the renovation, restoration, or construction of a facility for which an industrial facilities exemption certificate was granted.
- The details of the good faith efforts required of the applicant to hire only Michigan residents or those who planned to become Michigan residents.

By May 1 each year, the local unit's legislative body would have to compile all this information and submit it to the MSF board.

The Attorney General or other appropriate State agency would be responsible for any enforcement necessary to ensure compliance after the applicant had signed an agreement under the bill.

House Bill 4094 (S-1)

The Transportation Economic Development Fund law created the Fund to assist in the funding of highway, road, and street projects necessary to support economic growth. The law also established the Office of Economic Development within the Michigan Department of Transportation (MDOT) to administer the Fund. A project under the law must relate to one or more of the following categories:

- Economic development road projects in any of the following targeted industries: agriculture or food processing; tourism; forestry; high-technology research; manufacturing; mining; or office centers of not less than 50,000 square feet.
- Projects for reducing congestion on county primary and city major streets within urban counties, including advanced traffic management systems.
- Development projects for the improvement of rural primary roads in rural counties and major streets in cities

and villages with a population of 5,000 or less.

- Projects for development within rural counties on county rural primary roads or major streets within incorporated villages and cities with a population of less than 5,000.

Under the bill, beginning July 1, 2009, MDOT's director of economic development (the administrator) could not use any proceeds of the Fund for a project unless the applicant stated, in writing, that the applicant would not knowingly hire or contract with any business entity that knowingly hired an individual who was not authorized under Federal law to work in the U.S.

The written agreement also would have to contain a remedy provision providing for both of the following:

- A requirement that the applicant would no longer be eligible to receive financing for the economic development road projects in the targeted industries, if the applicant were determined to be in violation of the requirement to hire only workers authorized to work in the U.S.
- A requirement that the applicant could be required to repay some or all of the benefits received under the Act if the applicant were determined to be in violation of that requirement, as determined by the administrator.

Also, beginning July 1, 2009, the administrator could not use any proceeds of the Fund for a project unless the applicant stated, in writing, that the applicant would make a good faith effort to employ or contract with Michigan residents or individuals who planned on becoming Michigan residents, and Michigan firms, to construct, rehabilitate, and develop the project.

Under the Act, the State Transportation Commission must submit a report by December 31 each year to the Governor, the Senate, the House, the Senate Fiscal Agency, and the House Fiscal Agency. Under the bill, that report would have to include both of the following:

- The number of Michigan residents employed in projects funded under the Act in the immediately preceding year.

-- The details of the good faith efforts required under the bill to employ or contract with Michigan residents or individuals who planned on becoming Michigan residents, and Michigan firms.

MCL 125.2665 (S.B. 290)
125.2695 et al. (S.B. 293)
125.2788 (S.B. 295)
125.2011 (H.B. 4083)
207.808 & 207.810 (H.B. 4089)
Proposed MCL 125.1255a (H.B. 4092)
MCL 207.554 (H.B. 4093)
247.913 (H.B. 4094)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bills 290 (S-1) & 295 (S-1)

Senate Bills 290 (S-1) and 295 (S-1) would have a minimal, and likely negligible, impact on State and local revenue. Revenue could be increased to the degree that some repayments were required and/or a greater portion of captured wages was spent within the State. To the extent that the bills increased the cost of certain projects, revenue would be increased although the increase would be financed by the capture of greater tax revenue from other sources. The net effect of these factors is indeterminate.

In addition, the Attorney General could incur minimal costs related to enforcing the provisions in the bills.

Senate Bill 293 (S-2)

The bill would increase the costs of the Michigan Strategic Fund, which has primary administrative responsibilities for approvals related to alternative energy zones, agricultural processing zones, renewable energy facility zones, and forest processing facility zones. The addition eligibility determinations, compliance assessments, and reports proposed by the bill would increase the responsibilities of the Michigan Strategic Fund and would likely require additional personnel; however, the number of staff required is unknown. The administrative costs of these programs are supported by the line item for Job Creation Services in the MSF budget. The year-to-date appropriation for Job Creation Services is \$17,263,100 in FY 2008-09, of which

\$13,986,400 is appropriated from the General Fund. The bill would have a minimal impact on the responsibilities and costs of the State Administrative Board, which has some oversight responsibilities for these programs.

Violations of the hiring and contracting provisions in the bill could trigger repayments of credits, tax exemptions or deductions; however, this is not expected to have a significant impact on State or local revenue.

House Bill 4083 (S-2)

The bill would expand the administrative responsibilities of the staff of the Michigan Strategic Fund by applying the proposed hiring restrictions to every program authorized under the 21st Century Jobs Trust Fund program and requiring the MSF to compile a report to the Legislature each year.

The current language authorizes up to 4% of the total appropriation for this program for administration. The appropriation for FY 2008-09 as of May 4, 2009, is \$62.0 million, of which \$2.48 million is allocated for administration. The list of programs administered under Chapter 8A that would be affected include: the Choose Michigan Fund, the Centers of Energy Excellence, the Small Business Technology Development Center Federal Matching grant program, the 21st Century Investments and Loans program, the Film and Digital Media Loan Fund, and the commercialization competition conducted by the Strategic Economic Investment and Commercialization Board. Any additional administrative costs would have to be covered with existing revenue as the bill does not designate another source.

The bill also includes a repayment provision for noncompliance with the Act, which would be determined by the MSF board.

House Bills 4089 (S-2), 4092 (S-1), & 4093 (S-1)

The bills would have a minimal, and likely negligible, impact on State and local revenue. Revenue could be increased to the degree that some repayments were required and/or a greater portion of captured wages was spent within the State or that fewer credits, bonds, or exemptions were granted

under the bills. To the extent that the bills increased the cost of certain projects, the credits, bonds, or exemptions could be increased. The net effect of these factors is indeterminate.

In addition, the Attorney General could incur minimal costs related to enforcing the provisions in the bills.

House Bill 4094 (S-1)

The bill would have no fiscal impact on State or local government.

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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.