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BILL ANALYSIS

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Senate Bill 777 (Substitute S-1 as passed by the Senate) *(as enrolled)*
Sponsor: Senator Tony Stamas
Committee: Commerce and Tourism

Date Completed: 9-23-09

RATIONALE

In 2008 and 2009, legislation amended the Michigan Business Tax (MBT) Act to allow the Michigan Economic Growth Authority (MEGA) to enter into agreements providing tax credits for the engineering, development, and production of advanced automotive battery technology "in order to stimulate the domestic commercialization and affordability of high-power energy batteries" (MCL 108.1434(1)). Many see granting automotive battery credits as the first step in establishing Michigan as a center for alternative energy research and development. Now, two alternative energy companies are proposing a joint venture to buy and redevelop the closed Ford Motor Company plant in Wixom. One of those companies aims to produce large-scale batteries and manufacture high-volume energy storage systems to store generated energy for later distribution at times of high demand. A State tax incentive package and Federal loan guarantees reportedly are essential to the success of this proposal. To accommodate the project, some people believe that the MBT Act should allow MEGA to offer one company a substantial tax credit for capital investment in the production of large-scale batteries for the high-volume storage of energy.

CONTENT

The bill would amend the Michigan Business Tax Act to allow a taxpayer to claim a credit of up to $25.0 million for up to four years, for a portion of capital investment expenses in a facility that would produce large-scale batteries and manufacture certain energy storage systems.

Specifically, the bill would allow a taxpayer to enter into an agreement with the Michigan Economic Growth Authority to claim an MBT credit equal to 25% of the capital investment expenses for any tax year for the construction of a facility that would produce large-scale batteries and manufacture integrated power management, smart control, and storage systems from 500 kilowatts to 100 megawatts, if the taxpayer would create at least 500 new jobs in Michigan and had received Federal loan guarantees for a project that employed innovative energy efficiency, renewable energy, and advanced transmission and distribution technology from the U.S. Department of Energy under the Federal Energy Policy Act (42 USC 16513).

Not more than one agreement could be entered into under the bill, and the maximum allowable credit could not exceed $25.0 million per year for up to four years. No credit could be claimed in a tax year beginning before 2012. The Authority could not adopt a resolution authorizing an agreement to provide a credit under the bill after March 1, 2010.

If a taxpayer claimed a credit under the bill, its agreement with MEGA would have to specify all of the following:

-- The location of the facility.
-- The estimated total cost of the facility.
-- The capital investment expenses that qualified for the MBT credit.
-- The annual and total dollar amount of the credit that could be claimed.

-- The minimum number of new jobs to be created in Michigan each year to qualify for the credit.

The agreement also would have to include a repayment provision under which, if the taxpayer failed to meet the agreement's requirements, MEGA could reduce or terminate the credit or add a percentage of previously claimed credits to the taxpayer's tax liability for the year that the taxpayer failed to comply with the agreement.

MCL 208.1434

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

Michigan has long been a manufacturing center, particularly in the automotive industry. In recent years, it has become apparent that the State needs to diversify its economy with new types of manufacturing as well as research and development related to new technology. One emerging economic sector involves the development and production of alternative energy. The joint venture that proposes to buy the Ford Wixom plant would provide a great opportunity to retool old technology, develop new energy sources, and create high-quality jobs for Michigan workers. One of the principals in that project plans to produce large-scale batteries at the Wixom facility for the storage of electrical power.

By authorizing MEGA to offer a significant tax credit to a company that would produce large-scale batteries and manufacture energy storage systems, the bill would help to facilitate the development of the alternative energy sector in the Michigan economy while also diversifying the State's manufacturing base. The project, which reportedly depends on receiving State tax credits and Federal loan guarantees, could eventually employ around 2,500 workers directly, and spur the creation of as many as 4,000 jobs at or near the Ford Wixom site. In addition to battery production, the joint venture includes a solar-panel manufacturing operation that would involve about $275 million in capital investment. The two companies also would develop the rest of the large Ford Wixom plant for lease to other alternative energy entrepreneurs.

Supporting Argument

While the bill would authorize a generous tax break for the alternative energy project proposed for the former Ford plant, the bill includes several safeguards. The company would have to create at least 500 jobs and secure Federal loan guarantees in order to be eligible for the MBT credit. Since the four-year credit of up to $25 million per year could be claimed for 25% of capital investment expenses for any tax year, the taxpayer would have to make substantial investments each of those years in order to claim the credit. The Authority could enter into only one agreement for the credit, and it could not be claimed before 2012. Finally, the agreement would have to include a repayment provision under which the credit could be reduced or terminated, or a percentage of a credit amount previously claimed could be added back to the taxpayer's MBT liability, if the business failed to meet the requirements of the agreement.

Opposing Argument

The State cannot afford to keep doling out refundable tax credits for specific projects. In recent years, Michigan has substantially increased the amount of such tax credits offered to a limited number of taxpayers, yet the State's unemployment rate continues to rise and its economy continues to falter. Clearly, targeted tax breaks are not the answer to improving Michigan's employment and economic situations.

Refundable tax credits help specific businesses at the expense of all the other businesses in the State, many of which have made a commitment to operating in Michigan and employing Michigan workers for decades. While tax credits benefit a few companies, broad-based tax relief could help tens of thousands of companies of all sizes. In addition, at the same time tax credits are being offered for specific projects, State funding has been cut, or is being proposed for reduction, for State Police troopers, Medicaid services and provider rates, early childhood educational programs, college scholarship grants, and clothing allowances for the poor. Michigan needs to look for more effective and efficient methods to spur economic activity.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would create a refundable tax credit against the Michigan Business Tax totaling not more than $25.0 million per year for up to four years, for a maximum cost of $100.0 million. The credit could not be claimed before 2012. This loss in Michigan Business Tax revenue would reduce the General Fund. The bill would have no direct impact on local governments.

Fiscal Analyst: Jay Wortley