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BILL ANALYSIS

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House Bill 4674 (as passed by the House)
Sponsor: Representative Jeff Mayes
House Committee: New Economy and Quality of Life
Senate Committee: Commerce and Tourism

Date Completed: 6-2-09

CONTENT

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

- **Allow an MBT credit for a qualified supplier's or customer's payroll claimed by an "anchor company" to include each qualified supplier's and qualified customer's payroll.**
- **Allow an MBT credit for a qualified supplier's or qualified customer's payroll to be taken after all other allowable nonrefundable MBT credits.**
- **Revise a provision pertaining to the maximum number of anchor companies that may be designated annually.**
- **Allow the Michigan Economic Growth Authority to exclude an anchor company's qualified sales to a qualified customer from the calculation of the sales factor under the Act.**
- **Revise the definitions of "qualified supplier or customer" and "qualified sales to a qualified customer".**

The bill specifies that it would be retroactive and effective for tax years that begin after December 31, 2008.

"Anchor company" means 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.

Anchor Company Credit

Public Act 92 of 2008 amended the MBT Act to allow a qualified taxpayer (an anchor company that has influenced a new qualified supplier or customer to open, locate, or expand in Michigan) to claim an MBT credit in amount up to 100% of the qualified supplier's or customer's payroll attributable to employees who perform qualified new jobs as determined by the Michigan Economic Growth Authority (MEGA), multiplied by the tax rate for the tax year, for up to five years, if the taxpayer receives a certificate from MEGA. Under the bill, the credit a qualified taxpayer may claim would be equal to the sum of up to 100% of *each* qualified supplier's and qualified customer's payroll attributable to those employees, and the credit could include each of the qualified supplier's and qualified customer's payroll.

The Act gives a taxpayer five years from the date of designation as an anchor company to seek certification from MEGA as a qualified taxpayer for each qualified supplier or customer for which a credit is sought. Under the bill, an anchor company would have five years from

the date of designation to seek certification for each qualified supplier *and* qualified customer that was included in the credit that the anchor company was seeking.

The bill specifies that an anchor company's MBT credit for qualified suppliers' and qualified customers' payroll could be taken after all other allowable nonrefundable credits under the Act.

Maximum Annual Number of Anchor Companies

The Act prohibits MEGA from designating more than five taxpayers as an anchor company in each calendar year or approving more than five new credits in each calendar year. The bill would delete a provision under which, if a qualified taxpayer is awarded a credit, any subsequent credits awarded to that taxpayer may not be included in determining the yearly limit of five new credits.

Qualified Sales to Qualified Customer

Currently, MEGA may provide that qualified sales to a qualified supplier or customer are not sales in Michigan for purposes of calculating the sales factor under the Act for the tax year for which a credit is provided. The bill specifies, instead, that MEGA could provide that qualified sales to a qualified customer would not be considered in calculating the sales factor.

Under the Act, qualified sales to a qualified supplier or customer are the total sales in Michigan to a qualified supplier or customer multiplied by a fraction, the numerator of which is the compensation on which the credit is calculated and the denominator of which is the total compensation of the qualified supplier or customer. The bill would delete that provision and would define "qualified sales to a qualified customer" as sales to a qualified customer that are in excess of the Michigan sales to the customer before the year of expansion or location within Michigan as determined by MEGA and that would otherwise be included in the calculation of the sales factor under the Act.

"Qualified supplier or customer" means a business that opens a new location in Michigan, a business that locates in Michigan, or an existing business located in Michigan that expands its business with the last year as a result of an anchor company and satisfies certain criteria, as certified by MEGA. Under the bill, that would be the definition of "qualified supplier" and "qualified customer" except that the business's location or expansion in Michigan would not have to occur "within the last year", and the criteria would have to be satisfied before the issuance of a certificate and at the time specified in an agreement with the qualified taxpayer.

One of the criteria to be certified by MEGA is that the qualified supplier or qualified customer sells a critical or 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. Under the bill, the sale of a critical or unique component or technology would have to be as the result of a commercial relationship with the anchor company.

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Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill's proposed changes to the MBT anchor company payroll refundable credit would not change the basic credit, but instead would clarify and make technical changes to various provisions and components of the credit. Therefore, this bill would have no fiscal impact.

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.