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BILL ANALYSIS

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House Bill 5295 (as reported without amendment)  
Sponsor: Representative Kate Ebli  
House Committee: Tax Policy  
Senate Committee: Finance

Date Completed: 8-9-10

### **RATIONALE**

Under the Michigan Business Tax (MBT) Act, most types of businesses are subject to a business income tax and a modified gross receipts tax. Financial institutions, instead, are subject a franchise tax, which is imposed upon a financial institution's tax base (net capital). The Act's definition of "financial institution" includes banks, thrifts, and savings and loans. It does not include farm credit institutions, which are cooperatively owned entities chartered by the Federal government. Farm credit institutions provide loans and financial services to farmers, agriculture-related businesses, and others. The only farm credit institution in Michigan is GreenStone Farm Credit Services, which is headquartered in East Lansing and has 37 branches throughout this State and in northeastern Wisconsin. Evidently, GreenStone's tax liability is 168% greater under the MBT Act than it was under the former Single Business Tax Act, but would be only 37% greater if GreenStone were subject to the franchise tax imposed on financial institutions. Because the farm credit institution functions similarly to a bank or a savings and loan, it has been suggested GreenStone should be treated as a financial institution under the MBT Act.

### **CONTENT**

The bill would amend Chapter 2B of the Michigan Business Tax Act to include a federally chartered Farm Credit System institution in the definition of "financial institution". The present definition includes a bank holding company, national bank, State-chartered bank, thrift institution, and savings and loan holding company.

Under Chapter 2B, every financial institution with nexus to the State is subject to a franchise tax in lieu of the business income tax and the modified gross receipts tax. The franchise tax is imposed upon the financial institution's tax base (net capital) after allocation or apportionment to the State, at a rate of 0.235%.

MCL 208.1261

### **BACKGROUND**

The Farm Credit System (FCS) is a government-sponsored enterprise created by Congress in 1916 to provide a source of credit to those in the agriculture industry. The FCS is a nationwide network of cooperatively organized entities that are owned and controlled by their borrowers. Farm credit institutions are chartered by the Federal government and must operate within the limits of the Farm Credit Act. The FCS is regulated by an independent Federal agency, the Farm Credit Administration.

The FCS provides credit and other services to agricultural producers and farmer-owned agricultural and aquatic cooperatives. It also makes loans for agricultural processing and marketing activities, rural housing, farm-related businesses, rural utilities, and foreign and domestic companies involved in international agricultural trade.

### **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**

The bill would correct an inequity under the MBT Act by providing for Michigan's only farm credit institution, GreenStone Farm Credit Services, to be treated as a financial institution, instead of being subject to the business income tax and modified gross receipts tax. Although Greenstone is not technically a bank or mortgage lender, it operates as one to a large extent and apparently is viewed as one by the competition. Like other farm credit institutions, GreenStone offers an array of credit services, including loans for machinery, equipment, livestock, vehicles, and real estate. These loans are available to farmers, aquatic producers, forestry harvesters, providers of farm marketing and processing services, and contract growers. The institution also offers various financial services, including appraisals, tax preparation, and accounting, as well as crop insurance and life and disability insurance through partnerships with insurance companies. In addition, a division of Greenstone called Country Living offers financing to those who live or want to live in a rural area.

GreenStone is owned by more than 19,000 members and is the nation's fifth largest farm credit institution. With 31 branches in Michigan, GreenStone has members, employees, and facilities throughout the State. In the last five years, Greenstone returned 20% to 25% of its net income to its members in the form of dividends totaling \$67.0 million, according to testimony submitted to the Senate Finance Committee.

GreenStone's ability to provide services and pay dividends is affected by its liability under the MBT Act. Because it is not taxed as a financial institution, GreenStone's MBT liability is more than \$500,000 greater than what the company would have paid under the Single Business Tax (SBT) Act. If GreenStone were treated as a financial institution, that figure would be \$100,000—still more than its SBT but within reason—and the savings would flow back to its members.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would likely reduce MBT revenue to the General Fund by an unknown, but minimal, amount. The actual impact would depend upon the specific characteristics of the affected taxpayers. The bill would not affect local revenue or expenditures.

Fiscal Analyst: David Zin

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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.