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House Bill 5479 (Substitute H-4 as passed by the House)

Sponsor: Representative Bert Johnson First House Committee: Tax Policy

Second House Committee: New Economy and Quality of Life

Senate Committee: Commerce and Tourism

Date Completed: 12-8-09

CONTENT

The bill would amend the Michigan Business Tax Act to do the following in regard to the historic rehabilitation credits for high community impact rehabilitation plans:

- -- Authorize one of the two additional credits available during 2010 to be used in 2009, and allow one of the two additional credits available during 2011 to be used in 2010.
- -- Revise one set of criteria, and establish a new set of criteria, for credits approved in 2009.
- -- Establish criteria for the credit from 2011 that was approved in 2010.
- -- Exempt a credit under the revised criteria for 2009 from the Act's \$3.0 million annual cap for a credit, and set an overall cap of \$4.6 million for that credit.

Credits

Under the Act, a taxpayer that owns and rehabilitates a historic resource may claim a credit against the Michigan Business Tax (MBT) for a percentage of the taxpayer's qualified expenditures, if the taxpayer receives a certificate of completed rehabilitation and other criteria are met. Typically, the credit equals 25% of qualified expenditures (reduced by the amount of a Federal historic preservation credit). If the credit for a tax year exceeds the taxpayer's MBT liability, the excess may not be refunded but may be carried forward to offset tax liability for up to 10 subsequent tax years.

Subject to the approval of the president of the Michigan Strategic Fund and the State Treasurer, the Director of the Department of History, Arts, and Libraries (HAL), or the Director's designee, may approve three credits during the 2009 calendar year of up to 15% of the taxpayer's qualified expenditures, and two additional such credits during the 2010, 2011, 2012, and 2013 calendar years, for certain rehabilitation plans that the HAL Director or his or her designee determines to be high community impact rehabilitation plans that will have significantly greater historic, social, and economic impact than other rehabilitation plans described in the Act.

Under the bill, the HAL Director or his or her designee, subject to the approval of the president of the Michigan Strategic Fund and the State Treasurer, could use one of the two additional credits available during 2010 to approve an additional credit during the 2009 calendar year, and one of the two additional credits available during 2011 to approve an additional credit during the 2010 calendar year.

Page 1 of 3 hb5479/0910

(Executive Order No. 2009-36, which abolished the Department of History, Arts, and Libraries, transferred the HAL Director's authority to approve these credits to the Michigan State Housing Development Authority.)

Criteria

In addition to meeting other criteria specified in the Act, two of the three credits available in 2009 for a high community impact rehabilitation plan must be for an application meeting either of the following sets of criteria:

- -- The historic resource is at least 80 years old; includes at least 75,000 total square feet; is located in a county with a population of more than 1.5 million; is located in a city with an unemployment rate that is at least 2% higher than the current State average unemployment rate at the time of the application; receives a Federal earmark appropriation; and is the former home of a former professional sports team.
- -- The historic resource is at least 85 years old; includes at least 120,000 total square feet; is located in a county with a population of more than 400,000 and less than 500,000; is located in a city with a population of more than 100,000 and less than 125,000; and is located in a city with an unemployment rate that is at least 2% higher than the current State average unemployment rate at the time of the application.

The bill would change the first set of criteria described above by requiring that the historic resource be at least 70, rather than 80, years old; requiring it to be at least 500,000, rather than 75,000, total square feet; and deleting the requirements that the historic resource receive a Federal earmark appropriation and be the former home of a former professional sports team.

The bill also would add a third set of criteria for a credit available in 2009. A historic resource would have to meet all of the following criteria:

- -- Be at least 70 years old.
- -- Include at least 180,000 total square fee but not more than 250,000 square feet, and exceed 30 stories in height.
- -- Be located in a county with a population of more than 1.5 million.
- -- Be located in a city with an unemployment rate at least 2% higher than the current State average unemployment rate at the time of the application for the credit.
- -- Be located in a historic district that contains a park bifurcated by an All-American Road designated by the Federal Highway Administration in a city with a population of more than 750,000.
- -- Be included in a rehabilitation plan for which an application was submitted by the deadline for consideration of an additional credit for the 2009 calendar year for a high community impact rehabilitation plan.

The revised and proposed sets of criteria for a credit for a high community impact rehabilitation plan available in 2009 would include the credit from the 2010 calendar year that could be used in 2009 under the bill.

The bill also would add a set of criteria for a credit available in 2010, including the credit from the 2011 calendar year that could be used in 2010 under the bill. The historic resource would have to meet all of the following criteria:

- -- Be at least 85 years old.
- -- Include at least 85,000 total square feet.
- -- Be located in a county with a population of more than 500,000 but less than 600,000 according to the official 2000 Federal decennial census.

Page 2 of 3 hb5479/0910

- -- Be located in a city with a population of more than 180,000 but less than 200,000 according to that census.
- -- Be currently or formerly owned by the U.S. government or formerly house agencies of the U.S. government, or both.
- -- House facilities operated in conjunction with a public university.

Maximum Credit

Currently, the maximum amount of credit that a taxpayer or an assignee may claim during a tax year for a high community impact rehabilitation plan is \$3.0 million. If the amount of the credit approved in the taxpayer's certificate of completed rehabilitation is greater than that amount, the portion that exceeds the cap must be carried forward to offset tax liability in subsequent tax years until used up.

Under the bill, the \$3.0 million annual cap would not apply to a credit approved during 2009 for a high community impact rehabilitation plan under the revised set of criteria proposed by the bill. The total amount of credits claimed for all years for a high community impact rehabilitation plan under that revised set of criteria, however, could not exceed \$4.6 million.

MCL 208.1435 Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would change the timing and distribution of credits claimed under the Michigan Business Tax for high community impact rehabilitation plans. Under current law, the number of credits is limited each year and the maximum value is capped at \$3.0 million, with any credit in excess of liability carried forward to future years. The bill would allow the number of credits in 2009 and 2010 to be increased, by reducing the credits available in 2010 and 2011 by the same number. The bill also would expand the circumstances under which a project can qualify as a high community impact rehabilitation plan, and would limit the total credit available to a specific plan.

The net effect of the bill's changes is unknown, but it is likely that the bill would reduce FY 2009-10 revenue by as much as \$4.6 million, and increase revenue in later fiscal years. Under current law, if a credit approved in 2009 totaled \$9.0 million, the credit would be claimed over approximately three years, and the bill would reduce that revenue loss to \$4.6 million, assuming the credit was not carried forward. However, the changes would increase the FY 2009-10 revenue reduction from \$3.0 million to \$4.6 million, and increase FY 2010-11 and FY 2011-12 revenue by approximately \$3.0 million in each year. Similarly, allowing a credit to shift from 2010 to 2009, would reduce FY 2009-10 revenue by approximately \$3.0 million, assuming the credit was not carried forward. The reduced number of credits available in 2011 would increase FY 2011-12 revenue by approximately \$3.0 million, assuming an alternative recipient would not have carried any portion of the credit forward. Any changes would affect General Fund revenue.

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.