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BILL ANALYSIS

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Senate Bill 155 (as introduced 2-24-15)
Sponsor: Senator Vincent Gregory
Committee: Finance

Date Completed: 10-12-15

CONTENT

The bill would amend Part 2 of the Income Tax Act, which provides for the Corporate Income Tax, to allow a taxpayer with fewer than 100 full-time employees to claim a credit for each unemployed veteran hired by the taxpayer, equal to 25% of the compensation paid to the employee or $4,000, whichever was less.

Specifically, for tax years beginning on and after January 1, 2015, a qualified taxpayer (an employer that employs fewer than 100 full-time employees) could claim a credit against the tax imposed by the Act for each qualified employee during the tax year, of an amount equal to 25% of the compensation paid by the taxpayer to the employee during the tax year or $4,000, whichever was less.

For this purpose, "taxpayer" would include a financial institution and an insurance company.

If the credit allowed for a tax year and any unused carryforward of the credit exceeded the qualified taxpayer's tax liability for the tax year, the excess could not be refunded but could be carried forward as an offset to the tax liability in subsequent tax years, for five years or until the excess was used up, whichever occurred first.

If a taxpayer terminated the employment of a qualified employee for whom a credit was claimed within one year after hiring the employee, the Department of Treasury could reduce or terminate the credit or have a percentage of the amount already claimed added back to the taxpayer's tax liability in the tax year in which the employee was terminated.

The bill would define "qualified employee" as an individual who satisfies each of the following:

-- Is currently unemployed and certifies by signed affidavit that he or she has not held a full-time job during the 60-day period before the date he or she began employment with the qualified taxpayer.
-- Is a veteran who has served at least 180 days on active duty or has a service-connected disability (as defined in Federal law).
-- Is not employed by the qualified taxpayer to replace another employee of that taxpayer unless the other employee separated from employment voluntarily or for cause.
-- Is not a relative or dependent of an individual who owns, directly or indirectly, more than 50% in value of the outstanding stock of the qualified taxpayer, or, if the taxpayer is an entity other than a corporation, is not a relative or dependent of any individual who owns, directly or indirectly, more than 50% of the capital and profits in the entity.

"Veteran" would mean a person who served in the active military, naval, marine, Coast Guard, or air service and who was discharged or released from his or her service with an honorable or general discharge.

"Full-time job" would mean a job performed by an individual for 35 hours or more each week and whose income and Social Security taxes are withheld from the wages earned by the individual for performing the job.

"Compensation" would mean all wages, salaries, fees, bonuses, commissions, and other payments made in the tax year on behalf of or for the benefit of employees, officers, or directors of the taxpayer. The term would include payments that are subject to or specifically exempt or excepted from withholding under the Internal Revenue Code. Compensation also would include, on a cash or accrual basis consistent with the taxpayer's method of accounting for Federal income tax purposes, payments to a pension, retirement, or profit sharing plan other than those payments attributable to unfunded accrued actuarial liabilities, and payments for insurance for which employees are the beneficiaries, including payments under health and welfare and noninsured benefit plans and payment of fees for the administration of such plans. Compensation would not include any of the following:

- Discounts on the price of the taxpayer's merchandise or services sold to the taxpayer's employees, officers, or directors that are not available to other customers.
- Payments to an independent contractor, except as otherwise provided in this definition.
- Payments to State and Federal unemployment compensation funds.
- The employer's portion of payments under the Federal Insurance Contributions Act, the Railroad Retirement Tax Act, and similar social insurance programs.
- Payments, including self-insurance payments, for worker's compensation insurance or Federal Employers' Liability Act insurance.

"Relative" would mean an individual who bears a relationship described in Section 152(d)(2)(A) to (H) of the Internal Revenue Code to the qualified taxpayer (i.e., a child or descendent of a child; a brother, sister, stepbrother, or stepsister; the father or mother, or an ancestor of either; a stepfather or stepmother; a nephew or niece; an uncle or aunt; a son-, daughter-, father-, mother-, brother-, or sister-in-law; or an individual (other than a spouse) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household).

"Dependent" also would be defined as it is in Section 152 of the Internal Revenue Code.

Proposed MCL 206.672 Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would reduce General Fund revenue by an unknown amount that would depend on the number of individuals and businesses affected and the specific financial characteristics of affected businesses. In Michigan, corporations with fewer than 100 employees employ approximately 755,000 individuals, or about 21.3% of employees, and the average payroll for each of these employees is $44,600. Approximately 600,000 veterans live in Michigan, and approximately 289,000 participate in the Michigan labor force. The 2014 unemployment rate among Michigan veterans was 6.3% (below the average nonveteran unemployment rate of 7.0%). Nationally, only 23.9% of corporations report sufficient net income subject to tax that would enable them to fully claim the credit. The analysis here assumes that employers that are not subject to the Michigan Corporate Income Tax, such as S-corporations, partnerships, and other so-called "pass-through" organizations, would not be able to claim the credit.

Based on the average payroll costs, the $4,000 maximum credit would appear to apply for most veterans affected by the bill. The number of individuals who could potentially be affected by the bill is unknown because the number of unemployed Michigan veterans who have been unemployed for at least 180 days is unknown, and while nationally the unemployment rate for veterans who exhibit a service-connected disability is 5.9%, the bill also would apply to nondisabled individuals. It is also unknown how many of these individuals would obtain employment from a qualified taxpayer.

If all of the approximately 18,000 unemployed Michigan veterans met the definition of qualified employee and were hired by a qualified taxpayer under the bill's provisions, the bill would reduce revenue by as much as $72.0 million per year if all of the affected taxpayers were able to claim the entire credit. If only 21.3% of the unemployed veterans were hired by a qualified taxpayer, the potential impact would be reduced to approximately $15.3 million per year. Because most taxpayers would not be expected to claim the entire credit and would need to carry the credit forward, the actual revenue loss would likely be less.

The credit would not be expected to have a significant effect on total employment; however, by effectively lowering the net cost of employing a veteran by approximately 10% relative to the cost of hiring a nonveteran, the bill would be expected to affect the choice between hiring a veteran and a nonveteran.

Fiscal Analyst: David Zin