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Senate Bill 437 (as introduced 5-12-21)
Sponsor: Senator Wayne A. Schmidt
Committee: Economic and Small Business Development

Date Completed: 5-20-21

CONTENT

The bill would amend the Michigan Business Tax Act to do the following:

- **Specify that a qualified taxpayer that was approved for a credit based on a multiphase project by Resolution 2020-219 adopted by the Michigan Economic Growth Authority and issued a preapproval letter on June 10, 2011, would have until September 14, 2023, to complete that project and claim the credit without penalty.¹**
- **Specify that a component of a multiphase project would be considered completed when a temporary or final certificate of occupancy had been issued.**

Project Extension

Subject to the Act, a qualified taxpayer that has unused credits or has a preapproval letter issued between December 31, 2007, and January 1, 2014, or an assignee designated by the qualified taxpayer, provided that the project is completed in a certain amount of time as described below, may claim a credit against the tax imposed by the Act equal to a certain percentages of the cost of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property.

(Generally, the Act defines "eligible investment" as any demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property when made after the approval date of a brownfield plan but in any event no earlier than 90 days prior to the date of the preapproval letter. "Eligible property" means property for which eligible activities are identified under a brownfield plan that was used or is currently used for commercial, industrial, public, or residential purposes, including personal property, to the extent included in the brownfield plan and that meets certain other requirements, such as being located in a qualified local governmental unit and being blighted or functionally obsolete.)

The Act allows the credit to be claimed if the taxpayer has unused credits or a preapproval letter, provided the project is completed no more than five years after the preapproval letter for the project is issued unless extended under the Act. If the project is a multiphase project, the qualified taxpayer must complete it not more than 10 years after the preapproval letter, as amended, if applicable, is issued. The bill specifies that a qualified taxpayer could complete a project as otherwise extended as described below.

¹ Previous iterations of this bill have referred to Resolution 2010-219.

(The Act defines "project" as the total of all eligible investment on an eligible property or, for the purposes of the Act, either all eligible investment on property not in a qualified local governmental unit that is a facility or all eligible investment on property that is not a facility but is functionally obsolete or blighted. "Multiphase project" means a project approved under the Act that has more than one component, each of which can be completed separately.)

If all components of a multiphase project are not completed by 10 years after the date on the preapproval letter for the project was issued, the qualified taxpayer that received the preapproval letter for the project must pay to the State Treasurer, as a penalty, an amount equal to the sum of all credits claimed and assigned for all components of the multiphase project and a taxpayer or an assignee may not claim credits based on that multiphase project claimed after that date. The bill specifies that this provision would not apply as described below.

Under the bill, a qualified taxpayer that was approved for a credit based on a multiphase project by Resolution 2020-219 adopted by the Michigan Economic Growth Authority and issued a preapproval letter on June 10, 2011 would have until September 14, 2023 to complete that project and claim the credit without penalty.

The Act also allows a taxpayer to petition the Michigan Economic Growth Authority to amend the project and preapproval letter for certain purposes, including extending the duration of time provided to complete the project. The project may not exceed 10 years from the date of the preapproval letter. The bill would apply the proposed extension above to this provision.

Completion Certificate

Under the Act, when each component of a multiphase project is complete, a taxpayer must submit documentation to that effect, and including other information, to the Michigan Economic Growth Authority or its designee, who must verify that the component is complete. When the designee verifies the completion, a component completion certificate must be issued to the qualified taxpayer.

The Act specifies that a component is considered to be completed when the local municipality in which the project is located issues a certificate of occupancy for all the buildings or facilities that comprise the completed component and a component completion certificate is issued. The bill would specify that a component would be considered completed when a *temporary or final* certificate of occupancy had been issued as described above and a component completion certificate was issued.

MCL 208.1437

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

To the extent that the project approved by Resolution 2010-219 was completed by the current due date, the bill would have no fiscal impact. Under the terms of the bill, if the project were completed after the current due date but before September 14, 2023, the bill would shift tax credits that would reduce fiscal year (FY) 2020-21 Michigan Business Tax (MBT) revenue to a later fiscal year, possibly FY 2022-23 or FY 2023-24.

Certificated credits approved under the MBT are expected to be claimed through FY 2031-32, based on the terms of the credits. The Consensus Revenue Estimating Conference estimates if and when certificated credits likely will be claimed. Absent the bill, if the project were not completed by the current due date, the State would pay approximately \$10.0 million less in credits during FY 2020-21. If the bill were enacted, and the project was completed by

September 14, 2023, the projected credit would be claimed in a later fiscal year, resulting in fewer credits in FY 2020-21, but an increase in the credits that would be paid during a later fiscal year.

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.