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SFA**BILL ANALYSIS**

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Senate Bill 1378 (Substitute S-1 as reported)
Senate Bills 1379 and 1381 (as reported without amendment)
Sponsor: Senator Glenn D. Steil (S.B. 1378)
 Senator Bill Schuette (S.B. 1379 & 1381)
Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 11-2-00

RATIONALE

The volume of goods, services, and income from investment that flows between the United States and Canada constitutes the largest bilateral exchange in the world, according to the Canadian Embassy's Department of Foreign Affairs and International Trade in Washington, D.C. Among the states, Michigan is Canada's leading trade partner, with more than half of the State's exports purchased by Canada. Because of Michigan's close proximity to Canada and because of the trading partnership, residents from Michigan and Canada, especially residents of the Province of Ontario, cross the border seeking employment. In many cases, the occupation in question will require professional licensure or regulation, which is governed by the Occupational Code in Michigan. Thus, Michigan residents as well as foreign nationals, including Canadians, who meet the Code's requirements for certain practitioners, such as barbers, morticians, architects, engineers, land surveyors, and real estate brokers, may obtain a license to practice their occupation in the State. In Canada, requirements for licensure are established in statute by provincial government, such as Ontario, but private, nongovernmental associations apply the requirements and issue licenses to persons whose credentials comply with the criteria. Furthermore, Ontario does not provide reciprocal licensure for Michigan residents who are licensed under the Occupational Code and who want to work in Ontario. Thus, a Michigan resident who obtained a license under the Code cannot practice his or her occupation in Ontario without first seeking licensure from the appropriate licensing board or authority.

Some people believe that in order to facilitate the flow of business services between Michigan and Ontario, there should be a mutual recognition of occupational licenses issued in either jurisdiction. Because Canada is the principal export destination of Michigan products and services, and because Michigan and Canada share a common border and common concerns, it also has been suggested that an advisory commission be established to facilitate a partnership between Canada and Michigan, and that an office of protocol be created to assist not only the State but local governments and businesses that want to establish trade and other relationships with Canada and other countries.

CONTENT

Senate Bill 1378 (S-1) would amend the Occupational Code to require the Department of Consumer and Industry Services (DCIS), notwithstanding the provisions contained in any article, to grant a license to engage in a particular occupation or a registration to use a particular title to an applicant licensed, registered, or otherwise regulated in the Province of Ontario, Canada, by an equivalent licensing board or regulatory authority if that board or authority granted reciprocity to persons who were licensed or registered under the Code.

Senate Bill 1379 would amend the Urban Cooperation Act to replace references to the "Dominion of Canada" in the Act with "Canada".

Senate Bill 1381 proposes a new act to create the Office of Protocol and the

Michigan-Canada Advisory Commission within the Governor's Executive Office; provide for the appointment of the chief protocol officer; establish the membership of the Advisory Commission; and, specify the responsibilities of the chief protocol officer and of the Advisory Commission.

A more detailed description of Senate Bill 1381 follows.

Office of Protocol

The chief protocol officer would be the executive director of the Office of Protocol. The Governor could appoint the chief protocol officer, who would serve at the Governor's pleasure and would be exempt from the classified State Civil Service.

The chief protocol officer would be responsible for coordinating visits of foreign dignitaries to the State and otherwise assisting the Governor in establishing positive relations with foreign governments.

Advisory Commission

The Michigan-Canada Advisory Commission would consist of the following members: the Directors of the Departments of State Police, Environmental Quality, Natural Resources, Transportation, Agriculture, and Consumer and Industry Services; as well as the Commissioner of the Office of Financial and Insurance Services, the Attorney General, the Secretary of State, and the chief protocol officer. In addition, the membership would include one person appointed by the Governor from a list of at least two persons supplied by the Speaker of the House of Representatives, and one from a list of at least two persons supplied by the Senate Majority Leader; as well as three persons appointed by the Governor.

Members would have to serve for two-year terms or until a successor was appointed. If a vacancy occurred on the Advisory Commission, it would have to be filled for the unexpired term in the same manner as the original appointment. The Governor could remove a Commission member for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

The Commission would have to comply with the Open Meetings Act and the Freedom of Information Act.

Commission members would have to serve without compensation, but could be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as Commission members.

Commission Responsibilities

The Advisory Commission would have to advise the Governor on how to further the relations between the State and Canada, and would have to report annually to the Legislature on the status of relations between Michigan and Canada.

MCL 339.203 (S.B. 1378)
MCL 124.502 et al. (S.B. 1379)

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

According to the Department of Consumer and Industry Services, approximately 300 to 400 Canadians who have met the licensure or registration requirements of Michigan's Occupational Code, and 3,000 to 4,000 who have complied with the Public Health Code's requirements for licensure of health professionals, have qualified for employment in Michigan. Generally, Michigan grants licenses and registrations to Canadian residents who meet the requirements of the Occupational Code. Conversely, Michigan residents who want to work in Ontario must undergo a review of their licenses by the appropriate licensing authority in the province. Recognition of occupational licenses or registrations in Michigan or Ontario is not reciprocal. By requiring the DCIS to recognize an occupational license or registration issued in Ontario if the province granted reciprocity to persons licensed or registered under Michigan's Occupational Code, Senate Bill 1378 (S-1) would eliminate some of the regulatory activity that often delays the flow of business services between the State and the province.

Response: While 90% of the Canadian applicants for occupational licensure or

registration in Michigan are residents of Ontario, a number are from British Columbia and other provinces of Canada. Thus, Senate Bill 1378 (S-1) should provide for reciprocity for licenses and registrations granted by any of the provinces. The bill also should state that the standards for licensure or registration in Ontario would have to be comparable to those in Michigan. In addition, the bill should permit, but not require, the DCIS to issue a license or registration if reciprocity were granted. If the DCIS were informed that the province took disciplinary action against a person seeking Michigan licensure or registration, then the Department could protect Michigan residents and deny a license or registration.

Supporting Argument

Senate Bill 1381 would create a Michigan-Canada Advisory Commission to advise the Governor on ways to further the relations between this State and Canada. Membership would include not only the Director of the DCIS but Directors of other departments, such as Natural Resources, State Police, and Agriculture, as well as individuals appointed to the Commission. Thus, the Commission could advise the Governor not only on trade issues but also on other matters, such as environmental and agricultural issues, that affect Michigan and Canada.

Supporting Argument

Senate Bill 1379 would update the Urban Cooperation Act by replacing references to "Dominion of Canada" with "Canada", which would reflect the governmental status of the country. To explain the evolution of current references to Canada, officials from the Canadian Embassy in Washington, D.C., refer to "Constitutional Law of Canada", by Peter W. Hogg, Dean of the Osgoode Hall Law School of York University, in Toronto. According to Mr. Hogg, Canada's British North America Act of 1867 created "one Dominion under the name of Canada" (but did not actually name the country the Dominion of Canada). After 1867, the country was usually described officially as "the Dominion of Canada". In the early 1900s, the term "dominion" was used outside of Canada to denote the self-governing countries of the British Empire. Canada, Australia, New Zealand, and South Africa exercised a substantial measure of self-government and it did not seem appropriate at the time to describe them as colonies. To distinguish them from more dependent

territories of the British Empire, they were called dominions. The terminology was revised, however, to reflect other world changes, such as the British Empire's becoming the British Commonwealth. After World War II, the term "dominion" became unfashionable because it was thought to carry a colonial connotation. Thus, outside of Canada, the term "member of the Commonwealth" superseded the term "dominion" to describe self-governing countries of the Commonwealth. Objections to "dominion" were significant in Canada, where the word was part of the official name of the country. In the 1930s, the Canadian federal government switched the country's official name from the Dominion of Canada to Canada. Subsequently, various acts of the Canadian Parliament have made efforts to discontinue the use of the word "dominion"; for example, dominion-provincial conferences since 1950 have been federal-provincial conferences.

In addition, according to other sources, "dominion" was removed from many of the titles of federal agencies in the 1960s. Subsequently, the federal Parliament passed a bill in 1982 to replace Dominion Day with Canada Day.

Response: Some people point out that when the Canadian Constitution was patriated from Britain in 1982, the entire British North America Act was incorporated into it as the Constitution Act of 1867. Therefore, some contend, "dominion" still continues to be part of the official title of Canada.

Opposing Argument

Under Senate Bill 1378 (S-1), a Michigan occupational license or registration could not be issued to an Ontario resident unless Ontario granted reciprocity to a Michigan licensee. The bill therefore could reduce the number of applicants if Ontario did not participate in the reciprocity. This in turn could hinder the exchange of business services between the State and an important trading partner, as well as reduce the number of professionals providing necessary services to Michigan residents.

Response: It is not certain that the licensure of Ontario residents would be reduced if the bill were passed. According to the DCIS, reciprocity in granting licenses or registrations would be one more way to obtain licensure. An applicant from Ontario, or anywhere in Canada, still could apply for

licensure or registration under current procedures. An Ontario resident also could seek licensure through reciprocal licensing, if the bill were passed. In addition, Canadian nurses still could apply for temporary licenses to work in Michigan, under Public Act 256 of 2000 (which allows the Michigan Board of Nursing, until October 1, 2004, to grant a nonrenewable temporary license to an applicant for a license to practice as a registered professional nurse (RPN) if the applicant is licensed as an RPN by an equivalent licensing board or authority in Canada).

Opposing Argument

Senate Bill 1381, which would create the Office of Protocol within the Executive Office and provide for the appointment of a chief protocol officer, is not needed. This position currently exists within the Executive Office, is on loan to the Michigan Economic Development Corporation (MEDC), and is funded in the MEDC budget. According to the MEDC, the responsibilities of the chief of protocol include the following: serving as the point of first contact for the diplomatic community to address the needs and concerns of foreign countries as they relate to Michigan; serving as a State governmental resource for protocol issues and assisting legislators, business executives, and local officials with protocol when they meet international visitors or travel abroad; and, answering protocol questions for small businesses in Michigan, such as inquiries about appropriate gifts for foreign visitors, posting of flags, and proper ways to address visitors. In addition, the office works with business officials traveling abroad by providing letters of introduction from the Governor; coordinates overseas trade missions by the Governor; and, assists the MEDC's global business development unit with internal business activities.

Legislative Analyst: L. Arasim

FISCAL IMPACT

Senate Bill 1378 (S-1)

According to the Department of Consumer and Industry Services, the bill could have a fiscal impact as there are currently numerous licensees who are Canadian citizens. This bill could reduce the licensing revenue currently collected from new applicants if Ontario does not participate in the reciprocity.

Senate Bill 1379

The bill would have no fiscal impact on State or local government.

Senate Bill 1381

The Office of Protocol within the Michigan Economic Development Corporation has an FY 2000-01 budget of approximately \$100,000. This \$100,000 includes funding for a limited-term classified protocol officer position. The cost of the Michigan-Canada Advisory Commission would be minimal.

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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.