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BILL ANALYSIS

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Senate Bill 802 (Substitute S-1 as reported)
Sponsor: Senator Jason E. Allen
Committee: Commerce and Labor

Date Completed: 3-20-06

RATIONALE

The Michigan Economic Growth Authority (MEGA) Act is designed to promote economic growth and job creation in the State by offering single business tax (SBT) credits to firms that create and maintain jobs in Michigan. Awarding these credits reportedly has been an effective economic development tool, but officials from the Michigan Economic Development Corporation (MEDC) (which provides staff for MEGA) apparently believe that the Act should be less restrictive. For instance, MEGA may enter into up to 25 new agreements for SBT credits each year with businesses that are not high-technology, distressed, or rural businesses, but the State tends to hit that limit well before the end of the calendar year, according to the MEDC. Also, only five of the 50 MEGA agreements allowed annually for high-technology and rural businesses may be used for rural businesses, and, to qualify for a credit, high-technology businesses must meet an average-wage standard that some consider overly stringent. The Act also specifically precludes a vaccine laboratory formerly owned by the State from receiving SBT credits. Some people believe that the cap on the number of MEGA agreements should be raised, more SBT credits should be allowed for rural businesses, the high-technology wage standard should be eased, and a company owning a former State vaccine lab should be allowed to receive SBT credits under the Act.

In addition, MEGA-awarded SBT credits are available to certain businesses that retain a minimum number of full-time jobs. This means that an employer that sells or spins off part of its operations may lose its eligibility for a credit. Some people believe

that an SBT credit should continue to be available to such an employer as long as another employer continues to maintain those jobs in Michigan.

Further, the MEDC apparently would like MEGA to award an SBT credit to a lumber mill operation in Ontonagon County in the Upper Peninsula, but the business does not meet the current requirements for entering into an agreement for SBT credits. It has been suggested that new criteria be included in the Act to accommodate an agreement with the lumber mill.

CONTENT

The bill would amend the Michigan Economic Growth Authority Act to do all of the following:

- **Increase the number of SBT credit agreements that MEGA may enter into annually.**
- **Allow MEGA to reduce the number of full-time jobs required in an agreement with a business for an SBT credit, in order to adjust for decreases in the business's full-time jobs in Michigan due to the divestiture of operations, if another employer continued to maintain those jobs.**
- **Authorize MEGA to enter into a written agreement to provide SBT credits to an eligible business that maintained 175 retained jobs and made new capital investment at a facility in a county with a population of 7,500 to 8,000.**
- **Reduce the average wage requirement for high-technology**

- **businesses that receive an SBT credit through MEGA.**
- **Expand the definition of "rural business" to include a business in a county with a population of 90,000 or less (rather than 80,000 or less).**

Annual Number of Agreements

The Act prohibits MEGA from executing more than 25 new written agreements each year for SBT credits for eligible businesses that are not qualified high-technology businesses, distressed businesses, or rural businesses. If the Authority executes fewer than 25 new written agreements in a year, it may carry forward for one year the difference between 25 and the number it executed in the immediately preceding year. The bill would allow up to 35 new written agreements annually, and allow a carryforward of the difference between 35 and the number of agreements executed in the prior year.

The Act prohibits MEGA from executing more than 50 new written agreements each year for eligible businesses that are qualified high-technology businesses or rural businesses. Five of those 50 may be for qualified rural businesses. Under the bill, 10 of the 50 could be for qualified rural businesses.

("Eligible business" means a distressed business or business that proposes to maintain retained jobs or to create qualified new jobs in Michigan in manufacturing, mining, research and development, wholesale and trade, or office operations or a business that is a qualified high-technology business.)

Decrease in Full-Time Jobs

Except as otherwise provided, to qualify for a MEGA SBT credit, an eligible business already located within Michigan must agree to maintain a number of full-time jobs equal to or greater than the number of full-time jobs it maintained in the State before expansion. The bill specifies that, after an eligible business had entered into a written agreement for an SBT credit, MEGA could adjust the number of full-time jobs required to be maintained by the business, in order to adjust for decreases in full-time jobs in the business in Michigan due to the divestiture of operations, if a single other

person continued to maintain those full-time jobs in the State.

The Authority could not approve a reduction in the number of full-time jobs to be maintained unless it had determined that it could monitor the maintenance of the full-time jobs in Michigan by the other person, and the authorized business agreed in writing that the continued maintenance of the full-time jobs in Michigan by the other person, as determined by MEGA, was a condition of receiving tax credits under the written agreement. A job maintained by another employer under this provision, that otherwise met the requirements in the Act's definition of "full-time job", would be considered a full-time job, notwithstanding the requirement that a full-time job be performed by an individual employed by an authorized business, or an employee leasing company or professional employer organization (PEO) on behalf of an authorized business.

Under the Act, "full-time job" means a job performed by an individual who is employed by an authorized business or an employee leasing company or PEO on behalf of the authorized business, for consideration for at least 35 hours each week and for which the authorized business or an employee leasing company or PEO, on behalf of the authorized business, withholds income and Social Security taxes. The bill would include employment by another person as allowed under the provision described above.

("Authorized business" refers to an eligible business that has met certain requirements under the Act and with which MEGA has entered into a written agreement for an SBT credit.)

MEGA Agreements for SBT Credits

The Act authorizes MEGA to enter into a written agreement to provide SBT credits with an eligible business that meets certain criteria. The bill would authorize an agreement with an eligible business that maintained 175 retained jobs and made new capital investment at a facility in a county with a population of at least 7,500 but not greater than 8,000 (Ontonagon County). ("Retained jobs means the number of full-time jobs at a facility of an authorized business maintained in Michigan on a

specific date as that date and number of jobs are determined by the Authority.)

In addition, under the Act, MEGA may enter into an agreement to provide SBT credits to an eligible business that is located in Michigan on the date of application, maintains at least 100 retained jobs at a single facility, and agrees to make new capital investment at that facility equal to the greater of \$100,000 per retained job or \$10.0 million to be completed by December 31, 2006. The bill refers instead to \$10.0 of new capital investment to be completed or contracted for by December 31, 2007.

High-Tech Wages

One of the criteria for MEGA to enter into an agreement with an eligible business for an SBT credit is that the average wage paid for all retained jobs and qualified new jobs must be equal to or greater than 150% of the Federal minimum wage. If the eligible business is a qualified high-technology business, however, the average wage paid for all qualified new jobs must be at least 400% of the Federal minimum wage. The bill would lower the wage standard for those high-technology jobs to 300% of the Federal minimum wage.

Definition of "Rural Business"

Currently, a business must be located in a county with a population of 80,000 or less to qualify as a "rural business". The bill would increase the maximum population to 90,000. (According to county population figures from the 2000 Federal decennial census, this would add Lapeer and Midland Counties to the counties in which a business may qualify as a "rural business". Under MCL 8.3v, unless otherwise specifically provided, the population of the State or a political subdivision is to be determined on the basis of the latest Federal decennial census.)

Other Provisions

Qualified New Job. Under the Act, "qualified new job" means one of three things. For jobs created after July 1, 2000, a qualified new job is a full-time job at a facility created by an eligible business that is in excess of the number of full-time jobs maintained by the eligible business in Michigan 120 days before the business became an authorized

business as determined by MEGA. The bill would refer to a full-time job at such a facility that exceeded the *lowest* number of full-time jobs maintained by that business in Michigan *in the immediately preceding* 120 days before it became an authorized business.

Former State Lab. The bill would delete a provision that excludes a site that was a vaccine laboratory owned by the State on April 1, 1995, from the definition of "facility". ("Facility" means a site or sites within Michigan in which an authorized business or subsidiary business maintains retained jobs or creates qualified new jobs.)

MCL 207.803 & 207.808

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 MEGA Act should be less restrictive in several respects. According to MEDC officials who testified before the Senate Commerce and Labor Committee, MEGA tends to meet the annual cap for SBT credit agreements with businesses that are not high-technology, rural, or distressed businesses well before the end of the calendar year. By increasing the maximum number of these "regular" SBT credits that MEGA may award each year and allowing up to 10, rather than five, SBT credits for rural businesses, the bill would expand the economic development benefits available under the Act and give MEGA more flexibility.

In addition, high-technology companies apparently have difficulty complying with the Act's requirement that their average wages be at least 400% of the Federal minimum wage. Salaries for all of a company's employees, including clerical and custodial workers, must be used in calculating the average wage. Even if a business has high-paying, high-technology jobs, it may not meet the Act's wage standard. Decreasing the high-technology wage requirement to 300% of the minimum wage would allow more businesses to qualify for SBT credits, which would help to revitalize and diversify Michigan's economy.

Supporting Argument

The Act allows MEGA to enter into an agreement to provide SBT credits with an eligible business already located in Michigan if the business agrees to maintain at least the number of full-time jobs that it maintained in Michigan before expansion. By allowing MEGA to adjust the number of full-time jobs that must be maintained in order to account for a business's decrease in full-time employment due to divestiture of its operations, the bill would accommodate businesses that might need to sell or spin-off some of their operations sometime after receiving a MEGA SBT credit. The bill would allow the credit to continue only if a single other employer continued to maintain those full-time jobs in Michigan and MEGA determined it could monitor the maintenance of the jobs by the other employer, so the Act's goal of keeping jobs in the State would continue to be met.

Supporting Argument

The Bioport Corporation owns and operates a laboratory in Lansing, Michigan, that is the only facility licensed by the U.S. Food and Drug Administration to manufacture the anthrax vaccine. This laboratory, which is now a private enterprise, formerly was owned by the State of Michigan. The MEGA Act excludes a vaccine laboratory formerly operated by the State from the Act's definition of "facility", meaning that Bioport is not eligible for a MEGA-awarded SBT credit. According to a Bioport official who testified before the Senate committee, the company has significantly increased the number of high-paying life sciences jobs since it was privatized and desires to expand its operations in Michigan, but a recently acquired lab facility in Maryland may pose some competition for manufacturing vaccines. Bioport apparently has been working with the City of Lansing and the MEDC to ensure its continued growth. Making Bioport eligible for a MEGA SBT credit would help the firm to increase its employment rolls, engage in new capital investment in its local facility, and stave off out-of-State competition for the development and manufacture of vaccines. Expansion of Bioport's operations in Michigan would mean the continuation and growth of high-paying life sciences jobs in the State.

Supporting Argument

The bill would enable MEGA to pursue an agreement with a lumber mill operation in

Ontonagon County under narrowly drawn new eligibility criteria for SBT credits. This would help ensure that good jobs were retained in the Upper Peninsula and that the business would make new capital investment at its lumber mill facility.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would reduce State revenue by an unknown amount, depending on the credits authorized (and the characteristics of the firms receiving them) as a result of the bill's changes. Generally, the bill would make it easier for certain taxpayers to qualify for credits under the MEGA Act. The bill would add businesses located in Lapeer and Midland Counties to the definition of "rural business" and expand the definition of "full-time job" to include employees of other firms that are the result of the credit recipient's selling off part of the firm as part of a divestiture. The bill also would expand the definition of "high-technology activity", lower the threshold for computing qualified new jobs, and lower the average wage requirements, which would enable more jobs at credit recipients to qualify for credits. The bill would remove the prohibition on a vaccine laboratory owned by the State on April 1, 1995, from being a qualifying facility. The bill also would increase the number of credits that may be authorized in a given year and expand eligibility to a firm maintaining 175 jobs and making new capital investment in a facility located in Ontonagon County.

Because credits under the MEGA Act are approved for specific amounts under specified circumstances, the bill likely would not affect any existing credits that have been approved. Similarly, the bill would have no effect on revenue if no MEGA credits were approved for taxpayers meeting the changed requirements under the bill or if the approved credits under the bill replaced another credit that otherwise would have been approved under the Act. However, because the bill would expand the number of credits that may be granted in any year, it is expected that the additional credits would be approved and that the bill would not merely redistribute credits (assumed to be for identical amounts) that otherwise would be approved.

Credits granted under the MEGA Act are expected to reduce single business tax revenue by approximately \$41.7 million FY 2005-06. If the increased credits allowed under the bill raised the cost of MEGA credits by 10% in a year, the bill would reduce General Fund revenue by an additional \$4.2 million per year.

This estimate is preliminary and will be revised as new information becomes available.

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.