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BILL ANALYSIS

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Senate Bill 880 (Substitute S-1 as passed by the Senate)  
Senate Bill 881 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Michelle A. McManus  
Committee: Finance

Date Completed: 8-12-08

### **RATIONALE**

The Use Tax Act and the General Sales Tax Act exempt from taxation property used in extractive operations (such as mining or timber-cutting), as well as the sale of the property to an extractive operator. Reportedly, from 1999, the year the exemptions were enacted, until 2006, Michigan loggers and sawmills were not taxed for the sale or use of their loaders, haulers, forwarders, and other equipment used for transporting lumber as part of extractive operations. In recent tax years, however, some equipment has been taxed based on the percentage of time the equipment is used for purposes that the Acts do not explicitly exempt. For example, forwarders may be used to load logs onto trucks, transport logs from the place they are cut to a centralized location to be sorted, or transport logs to a location to be stored temporarily before being loaded onto trucks. As the Acts are being applied, if a forwarder loads a truck from a pile of logs temporarily stored in a centralized area, that use of the forwarder may be taxable. If a forwarder loads a truck directly from the cutting area and not from a pile in a centralized area, that use may not be taxable. Evidently, because there is no standard formula for determining the taxable value of forwarders and similar loading and hauling equipment used in sawmill and timber operations, the taxable value of the equipment has been determined through agreements between individual auditors and equipment owners, and varies from taxpayer to taxpayer for the use and sale of the same equipment.

Some people believe that, in order to simplify the calculation of use and sales tax

liability for equipment used in logging operations, to ensure consistent taxation of the equipment, and to reduce the tax burden on sawmills and others in the State's timber industry, equipment used for transporting logs to and from cutting areas, temporary storage sites, and trucks, and used for loading the logs, should be exempt from the use and sales taxes.

### **CONTENT**

**Senate Bill 880 (S-1) would amend the Use Tax Act, and Senate Bill 881 (S-1) would amend the General Sales Tax Act, to exempt from the tax property sold to an extractive operator, or the sale of tangible personal property to an extractive operator, for transporting timber from the point of extraction to a place of temporary storage at the extraction site and loading or transporting timber from a place of temporary storage at the extraction site to a vehicle or other equipment located at the extraction site that would remove the timber from the extraction site.**

The bills are described in detail below.

#### **Senate Bill 880 (S-1)**

The Use Tax Act imposes a tax on the privilege of using, storing, or consuming tangible personal property in this State at a rate equal to 6% of the price of the property or services specified in the Act.

The tax does not apply to property sold to an extractive operator for use or

consumption in extractive operations. The property is exempt only to the extent that it is used for the exempt purposes stated in the Act, and the exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method.

The term "extractive operations" means the activity of taking or extracting for resale ore, oil, gas, coal, timber, stone, gravel, clay, minerals, or other natural resource material. An extractive operation begins when contact is made with the actual type of natural raw product being recovered. Extractive operations include all necessary processing operations before shipment from the place of extraction and all necessary processing operations and movement of the natural resource material until the point at which the natural raw product being recovered first comes to rest in finished goods inventory storage at the extraction site.

Under the bill, extractive operations for timber also would include transporting timber from the point of extraction to a place of temporary storage at the extraction site and loading or transporting timber from a place of temporary storage at the extraction site to a vehicle or other equipment located at the extraction site that would remove the timber from the extraction site.

### **Senate Bill 881 (S-1)**

The General Sales Tax Act exempts a sale of tangible personal property to an extractive operator for use or consumption in extractive operations. The property is exempt only to the extent that it is used for the exempt purposes stated in the Act, and the exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method.

The Act's definition of "extractive operations" is the same as the definition in the Use Tax Act. The bill would amend the definition as described above.

MCL 205.94p (S.B. 880)  
205.94u (S.B. 881)

### **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 bills would exempt from the sales and use taxes sawmill equipment used for loading and transporting lumber as part of extractive operations. Currently, the taxes are applied to this equipment based on the percentage of time it is used for nonexempt purposes, specifically transporting logs to temporary storage sites and loading trucks with logs at those sites. Because the equipment is used for a variety of purposes during extractive operations and because there is no standard formula for calculating the percentage of time equipment is used for nonexempt purposes, it is very difficult for auditors and taxpayers to determine accurate and consistent taxable values. Reportedly, some businesses have not had to pay taxes based on the portion of time a piece of equipment is used for loading a truck, while others have been liable for 20% of the value. Loading and unloading trucks and sorting logs are integral parts of extractive operations and should be included as a use of equipment exempt from taxation.

Legislative Analyst: Craig Laurie

### **FISCAL IMPACT**

Not much data or information is available on these bills, but it appears that they would reduce sales and use tax revenue by less than \$1.0 million annually. This loss in revenue would primarily reduce the General Fund and the School Aid Fund. Local governments also would be potentially negatively affected as a loss in sales tax revenue would reduce revenue sharing payments, but any decline would be very small.

Fiscal Analyst: Jay Wortley

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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.