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 BILL ANALYSIS

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Senate Bills 880 and 881 (as enacted)
Sponsor: Senator Michelle A. McManus
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACTS 555 & 556 of 2008

Date Completed: 7-14-09

CONTENT

Senate Bill 880 amended the Use Tax Act to exempt the following from the use tax:

- **Personal property sold to an extractive operator for transporting or loading timber at the extraction site.**
- **Personal property acquired by a person in the business of repairing or improving real estate, if the property is to be made part of a qualified convention facility.**

Senate Bill 881 amended the General Sales Tax Act to do the following:

- **Exempt from the sales tax the sale of personal property to an extractive operator for transporting or loading timber at the extraction site.**
- **Provide an exemption for the sale of personal property used in the construction or renovation of a qualified convention facility.**
- **Require the Department of Treasury, every three months instead of every six months, to calculate the rate of prepayment of the sales tax on gasoline purchased from a refiner, pipeline operator, or marine terminal operator.**

The bills were tie-barred to each other, Senate Bills 1630 and 1633 (Public Acts 554 and 586 of 2008), and House Bill 5691 (Public Act 553 of 2008). (Senate Bill 1630 enacted the Regional Convention Facility Authority Act. Senate Bill 1633 amended the Health

and Safety Fund Act to provide for the transfer of sums to the Convention Facility Development Fund. House Bill 5691 amended the State Convention Facility Development Act to provide for the distribution of sums to a metropolitan authority created under the Regional Convention Facility Authority Act; provide for liquor tax distributions to counties; and make other changes.)

Senate Bill 880Timber Extraction

Under the Use Tax 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 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 will remove the timber from the extraction site.

Convention Facility Property

Under the bill, the use tax does not apply to tangible personal property acquired before January 1, 2014, by a person engaged in the business of altering, repairing, or improving real estate for others if the property is to be affixed to or made a structural part of a qualified convention facility under the Regional Convention Facility Authority Act.

Senate Bill 881

Timber Extraction

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 amended the definition as described above.

Convention Facility Property

Before January 1, 2014, the bill exempts from the sales tax the sale of tangible personal property for use in construction or renovation of a qualified convention facility under the Regional Convention Facility Authority Act.

Prepayment of Tax on Gasoline

The General Sales Tax Act requires a person who purchases or receives gasoline from a refiner, pipeline terminal operator, or marine terminal operator, at the time of the purchase or receipt, to prepay a portion of the sales tax to the refiner or terminal operator. If the purchase or receipt is made outside the State, the prepayment must be

made directly to the Department of Treasury. Prepayments must be made at a cents-per-gallon rate determined by the Department and must be based on 6.0% of the statewide average retail price of a gallon of self-serve unleaded regular gas rounded up to the nearest 10th of one cent.

Previously, the Department had to determine the rate of prepayment every six months, unless the Department certified that the statewide retail price of a gallon of self-serve unleaded regular had changed less than 10.0% during the six-month period, but the rate could not be determined less than annually.

The bill, instead, requires the Department to determine the prepayment rate every three months unless it determines that the statewide average retail price of a gallon of self-serve unleaded regular has changed less than 10.0% since the establishment of the rate then in effect.

MCL 205.94p & 205.94z (S.B. 880)
205.54d et al. (S.B. 881)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

These bills will reduce sales and use tax revenue by about \$10.0 million in FY 2009-10 and by less than \$1.0 million in subsequent fiscal years. The exemption in the bills for materials purchased for renovating Cobo Hall will reduce sales and use tax collections about \$9.0 million and most, if not all, of this loss will occur in FY 2009-10. The exemption for equipment used to transport timber at the point of extraction will reduce sales and use taxes by less than \$1.0 million annually. The change to increase the frequency of adjusting the per-gallon amount of sales tax prepayments made by gasoline stations is designed to help reduce tax overpayments and underpayments, and will have no overall fiscal impact. These changes will primarily reduce the School Aid Fund, General Fund, and revenue sharing payments to local governments.

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.