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## BILL ANALYSIS



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Senate Bill 1166 (as introduced 3-4-08)  
Sponsor: Senator Wayne Kuipers  
Committee: Energy Policy and Public Utilities

Date Completed: 3-13-08

**CONTENT**

**The bill would amend the Michigan Business Tax (MBT) Act to allow a qualified taxpayer to claim an MBT credit for carbon dioxide emissions reductions and sequestration infrastructure.**

Specifically, a qualified taxpayer could claim a credit against the MBT equal to one or both of the following multiplied by the per ton market price for commodity carbon dioxide:

- The number of tons of eligible reductions in emissions of carbon dioxide.
- The annual capacity in tons of critical carbon dioxide sequestration infrastructure, including carbon dioxide pipelines and other related equipment developed by the taxpayer.

The maximum amount of a credit for any tax year for each qualified taxpayer would be \$20.0 million per qualified facility.

The Department of Treasury would have to approve a maximum total amount of all credits under the bill equal to \$250.0 million each calendar year. Of the total amount available each calendar year, 10% would have to be approved for critical carbon dioxide sequestration infrastructure, including carbon dioxide pipelines and other related equipment.

(Under the bill, "qualified taxpayer" would mean a taxpayer that owned or operated either of the following:

- A qualified facility that emitted at least 10,000 metric tons of carbon dioxide annually.
- An industrial facility that voluntarily achieved at least 10,000 metric tons of eligible reductions in emissions of carbon dioxide.

Other proposed definitions are below.)

A qualified taxpayer would have to apply to the Department of Treasury for a credit. An application would have to state the amount of eligible reductions the taxpayer would make in the tax year and the corresponding amount of a credit for which the taxpayer was applying. The Department would have to approve or deny an application within 45 days after receiving it. If the Department did not approve or deny an application within that time period, it would be considered approved as written. If the Department approved an application, it would have to issue an approval letter stating that the taxpayer was a

qualified taxpayer and the maximum total credit the taxpayer was eligible to claim in the tax year. If an application were denied, a taxpayer would not be prohibited from applying subsequently for a credit for another tax year. Approval letters would have to be issued to qualified taxpayers in the order in which the applications were received until the maximum total amount of credits for the calendar year was approved.

The credit would have to be calculated after the application of all other MBT credits.

If the credit allowed for the tax year and any unused carryforward of the credit exceeded the taxpayer's tax liability for the tax year, the excess could not be refunded, but could be carried forward as an offset to the tax liability in three subsequent tax years or until the excess credit was used up, whichever occurred first.

The Department of Treasury would have to develop policies and procedures to implement the bill's provisions by March 7, 2008. The policies and procedures would have to address all of the following:

- The volume of carbon dioxide sequestered.
- Sequestration reservoir and formation type.
- Sequestration zone depth.
- Seal characteristics and quality.
- Well density.
- Carbon dioxide injection rate per injection well.
- Development of a database for tracking emission reductions and geologic sequestration of carbon dioxide in Michigan.

The Department would have to evaluate the market pricing structure for commodity carbon dioxide once every two years beginning in 2010, and make adjustments to reflect future developments in carbon dioxide markets in Michigan, in the United States, and internationally.

The Department would have to report to the Legislature on the status of carbon dioxide sequestration in Michigan.

The bill would define "eligible reductions in emissions of carbon dioxide" as the voluntary reductions in emissions of carbon dioxide that were sequestered within Michigan in the tax year if the Department determined that those voluntary reductions were real, verifiable, permanent, and documented. Voluntary reductions in emissions of carbon dioxide that were sequestered within Michigan would include both direct and indirect emission reductions.

"Direct emissions reductions" would mean emission reductions achieved at a "qualified facility", i.e., a fee-subject facility as defined in Section 5501 of the Natural Resources and Environmental Protection Act (described below). "Indirect emissions reductions" would mean emission reductions that were not achieved at a qualified facility but were acquired by the taxpayer by contract. The term would include sequestered carbon dioxide emissions (the injection of carbon dioxide into geologic formations, including oil reservoirs, coal seams, natural gas reservoirs, or other formations) and reductions in emissions achieved at the qualified facility of a qualified taxpayer that was not the facility using the reductions in emissions to calculate a credit under the bill.

"Per ton market price for commodity carbon dioxide" would mean the closing price for one allowance in the European Union Emissions Trading System (EU ETS) equivalent to one metric ton of carbon dioxide on December 31 or \$50 per metric ton of carbon dioxide, whichever was greater. For a qualified facility that had a classification with a North American Industrial Classification System (NAICS) of 3361 or 3363, however, the term

would mean twice the closing price for one allowance in the EU ETS on December 31 or \$100 per metric ton, whichever was greater.

(Section 5501 of the Natural Resources and Environmental Protection Act defines "fee-subject facility" as the following sources:

- Any major source as defined in 40 CFR 70.2, i.e., any stationary source (or group of stationary sources located on one or more contiguous or adjacent properties and under common control of the same person or people under common control) belonging to a single major industrial grouping, and further described in that definition.
- Any source, including an area source, subject to a standard, limitation, or other requirement under 42 USC 7411 (a section of the Clean Air Act that pertains to standards of performance for new stationary sources) when the standard, limitation, or requirement becomes applicable to that source.
- Any source, including an area source, subject to a standard, limitation, or other requirement under 42 USC 7412 (which pertains to hazardous air pollutants) when the standard, limitation, or requirement becomes applicable to that source.
- Any affected source under Title IV (which pertains to acid deposition control).
- Any other source in a source category designated by the Administrator of the U.S. Environmental Protection Agency as required to obtain an operating permit under Title V (which pertains to permits for air pollution prevention and control).

Proposed MCL 208.1451

Legislative Analyst: Julie Cassidy

### **FISCAL IMPACT**

The bill would reduce State General Fund revenue by an unknown and potentially significant amount, depending on the nature of the taxpayer's activities and the credits approved. Total credits awarded each year could not exceed \$250.0 million, but because of carry-forward provisions, it would be possible for the fiscal impact in any one year to exceed \$250.0 million.

Excluding carbon dioxide production by residential and transportation sources, Michigan produced an estimated 110.2 million metric tons of carbon dioxide in 2004. It is unknown how many taxpayers own facilities that generate at least 10,000 metric tons of carbon dioxide. The definition of "qualified facility", where reductions in emissions eligible for the credit would have to occur, would not require the facility to emit at least 10,000 metric tons of carbon dioxide. As long as the taxpayer owned a single qualified facility that emitted at least 10,000 metric tons of carbon dioxide, the bill would appear to allow the taxpayer to claim the credit for all reductions at qualified facilities, whether or not they met the 10,000 metric ton requirement.

If carbon dioxide emissions from sources other than residential and transportation sources were reduced by 5% by qualified taxpayers receiving credits under the bill, the reduction would be more than enough to qualify for the maximum \$250.0 million in credits. Even with a 1% reduction, assuming none of the reduction was caused by taxpayers with an NAICS code of 3361 or 3363 (which corresponds to the motor vehicle manufacturing and motor vehicle parts manufacturing sectors), at the minimum price of \$50 per ton to be used when computing the credit, the bill would allow \$55.1 million in credits, plus any credits for the carbon dioxide sequestration infrastructure. Should the market price of carbon dioxide be above \$50 per metric ton, or to the degree to which a firm operating under NAICS code 3361 or 3363 reduced emissions, the bill would reduce revenue by a greater amount.

The credits for carbon dioxide sequestration infrastructure would reduce revenue by an unknown and likely significant amount. The credit would be based on annual capacity and be available whether or not the capacity was used. The credit also would be available in all

years in which the taxpayer owned the equipment, rather than just the initial year of acquisition. Assuming an annual capacity of 10,000 metric tons for one taxpayer's infrastructure, an annual reduction amount related to one option that would allow a taxpayer to become a qualified taxpayer, such equipment would generate a credit of \$500,000 per year.

The bill would result in unknown costs to the Department of Treasury for the implementation of this tax credit. The bill would charge the Department with oversight of the application and certification process for the credit, as well as the evaluation of pricing for commodity carbon dioxide. Because the Department of Treasury lacks expertise in this area, it would likely need to contract with the Department of Environmental Quality or another third party to comply with the requirements of the bill.

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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.