

ALLOW AMENDMENT FOR TIME EXTENSION TO COMPLETE CERTAIN BROWNFIELD PROJECT

Phone: (517) 373-8080
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House Bill 4420 (reported from committee w/o amendment)

Sponsor: Rep. Jim Tedder

Committee: Tax Policy

Complete to 6-8-17

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 217 of 2017)

BRIEF SUMMARY: HB 4420 would amend section 437 of the Michigan Business Tax Act (MCL 208.1437), which deals with brownfield tax credits, to allow a development project meeting specific criteria to be amended to extend the duration of time to complete the project and still be eligible for a pre-approved brownfield tax credit.

[While the Michigan brownfield tax credits program no longer issues new awards, existing credits are still honored; these credits began under the Single Business Tax, were continued under the Michigan Business Tax, and certain "certificated" credits can continue to be claimed under the MBT, even with the advent of the new Corporate Income Tax, until they expire.]

FISCAL IMPACT: Assuming a taxpayer would not qualify for a brownfield tax credit but for the changes provided for in the bill, the provisions of the bill would have a negative fiscal impact equal to the value of the credits a taxpayer qualified for when compared to current law. The maximum value of the brownfield redevelopment credit is set at \$1,803,856.

THE APPARENT PROBLEM:

According to testimony before the House Tax Policy Committee (5-24-17), the development the bill describes and addresses is the Capitol Park Center project in Lansing. The brownfield tax credit awarded to the project is set to expire on May 28, 2018. But, according to the project's developer, the project has been delayed due to the sale of the property, and due to uncertainty surrounding federal tax rates and credits after the recent Presidential election. The bill would allow the project to be amended to extend the completion date of the project, accommodating this delay, and to match the expiration date of a low income housing tax credit, which is set to expire on December 31, 2018.

THE CONTENT OF THE BILL:

Currently under Section 437(9) of the act, a taxpayer can petition the Michigan Economic Growth Authority (MEGA)¹ to make amendments to a project or to a pre-approval letter at any time before a certificate of completion is issued, including amendments to extend the duration of time to complete the project, as long as that extension does not exceed 10 years from the date of the pre-approval letter.

¹ The Michigan Strategic Fund Board now carries out the functions of the MEGA Board, abolished in 2012.

House Bill 4420 would provide a longer extension if a project met the following criteria:

- (1) Was approved prior to December 31, 2008, for 20% of the taxpayer's qualified investment and a total of less than \$2 million for all credits for that project; and
- (2) That project has received a funding reservation for an allocation of the federal low-income housing tax credit administered by the Michigan State Housing Development Authority (MSHDA) of more than \$1.1 million.

In that case, under the bill, that project "may be amended to extend the duration of time provided to complete the project to the placed-in-service date of the carryover allocation agreement for the federal low-income housing tax credit."

BACKGROUND INFORMATION:

According to information provided to the House Tax Policy Committee, the Capitol Park Center project will offer commercial and office space on the 800 block of Ottawa Street, create 200 construction jobs and 40 permanent jobs, involve \$11 million in private equity sources, and will be a \$14 million development that includes the new headquarters of the Michigan Association of Broadcasters.

DISCUSSION:

According to the bill's supporters, the proposed legislation is targeted to address a specific project in Lansing, as described earlier, and would provide a seven-month extension to complete the project. If amended, the completion date for the project would be changed from May 28, 2018, to December 31, 2018. The tax credit has already been awarded, and does not represent a new obligation. Supporters say the project would have a positive impact on downtown Lansing by creating jobs and new development. Supporters believe the potential benefits to downtown Lansing are worth preserving with a simple legislative change that allows for a time extension to complete the project.

Some critics of the legislation pointed to the fact that other projects, with expired or soon-to-expire tax credits, may come forth and seek similar legislation for a project extension (or, that future projects may ask for future extensions). This could set a dangerous precedent by reintroducing tax credits that the state has worked to eliminate, and could further involve the picking of winners and losers in deciding which projects will have their legislative extension requests fulfilled. Further, a deadline extension such as that found in HB 4420 serves to erode the effectiveness and credibility of the caps, limits, and deadlines that are placed in statute to serve as accountability mechanisms for these types of economic development incentives.

The bill's supporters noted, however, that there are no other known entities or projects seeking a similar legislative change. They also noted that the bill is narrowly written to address this specific project, so as not to invite extensions from other projects.

POSITIONS:

A representative of LC Companies testified in support for the bill. (5-24-17)

The Michigan Association of Broadcasters indicated support for the bill. (5-24-17)

Legislative Analyst: Patrick Morris
Fiscal Analyst: Ben Gielczyk

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.