

**Senate Bill 1345 (Substitute H-2)**  
**Sponsor: Sen. Joanne G. Emmons**  
**House Committee: Tax Policy**  
**Senate Committee: Finance**

**Senate Bill 1046 (Substitute H-1)**  
**Sponsor: Sen. Ken Sikkema**  
**House Committee: Economic Development**  
**Senate Committee: Economic Development,**  
**International Trade and Regulatory**  
**Affairs**

**First Analysis (12-6-00)**

***THE APPARENT PROBLEM:***

State economic development specialists are attempting to entice Covisint, which calls itself an automotive e-business trading exchange, to locate its headquarters in Michigan. It is in competition with other states to attract this new enterprise, which is supported by a consortium that includes General Motors, Ford, DaimlerChrysler, Nissan, and Renault. Covisint, according to company materials, is planning to create a single global portal providing an integrated business-to-business supplier exchange. The state would like to be able to offer the company a single business tax (SBT) credit under the Michigan Economic Growth Authority (MEGA) Act, which rewards firms for job creation and job retention. However, that act contemplates rewarding a company for jobs added after becoming an “authorized business”, meaning after having entered into a written agreement with MEGA. In the case of Covisint, many jobs will have been created prior to the firm’s becoming an authorized business. The company reportedly already has about 200 employees, many on loan from the participating automobile manufacturers, while it is in the process of being developed. (Economic development specialists say that this situation reflects a change in the way companies originate in such areas as high technology, life sciences, and e-commerce.) Legislation has been introduced that would allow a MEGA tax credit to be awarded in this kind of circumstance.

In another matter, Barron’s Dictionary of Insurance Terms describes a “reciprocal exchange” as “an unincorporated association with each insured insuring the other insureds within the association. (Thus, each participant in this pool is both an insurer and an

insured.) An attorney-in-fact administers the exchange to include paying losses experienced by the exchange, investing premium inflow into the exchange, recruiting new members, underwriting the inflow of new business, underwriting renewal business, receiving premiums, and exchanging reinsurance contracts. Members share profits and losses in the same proportion as the amount of insurance purchased from the exchange by that member.” Three well-known Michigan insurers are said to be organized in this way, AAA Michigan, Farm Bureau, and Farmers Insurance. Legislation has been introduced to clarify how such insurance companies are to be treated under the state’s single business tax. It would exclude the portion of the tax base attributable to the attorney-in-fact from the SBT on the grounds that the exchange portion of the organization includes those receipts in its own tax base and pays the tax on them.

***THE CONTENT OF THE BILLS:***

Senate Bill 1345 would amend the Single Business Tax Act (MCL 208.35 et al.) and Senate Bill 1046 would amend the Michigan Economic Growth Authority Act (MCL 207.803) to provide a new definition of “qualified new jobs” for the purpose of awarding MEGA credits. Currently, the term refers to the average number of full-time jobs at a facility of an authorized business for a tax year in excess of the average number of full-time jobs the authorized business maintained in the state prior to the expansion or location as determined by MEGA. After July 1, 2000, the term could additionally mean the average number of full-time jobs at a facility created by an

eligible business within 120 days before becoming an authorized business, that were in excess of the average number of full-time jobs that the business maintained in the state 120 days before becoming an authorized business, as determined by MEGA. The two bills are tie-barred.

Senate Bill 1345 would also specify that a taxpayer that claimed a MEGA credit based on qualified new jobs and that removed from the state 51 percent or more of those qualified new jobs within three years after the first year in which the credit was claimed would have to pay to the Department of Treasury the total of all credits claimed. The payment would have to be made no later than 12 months after the jobs were removed from the state.

Senate Bill 1345 would also do the following:

- Exempt from the SBT the portion of a firm's tax base attributable to the services provided by an attorney-in-fact to a reciprocal insurer under Chapter 72 of the Insurance Code.
- Specify that an insurance company would not be eligible for an investment tax credit under the SBT. (Insurance companies pay the SBT based on a different set of calculations from other business organizations, and tax specialists say they were not eligible to claim the capital acquisitions deduction or CAD, which has been replaced by the investment tax credit as a result of Public Act 115 of 1999.)

### **HOUSE COMMITTEE ACTION:**

The House Committee on Tax Policy reported a substitute for Senate Bill 1345 to add the provisions regarding the awarding of SBT credits under the MEGA Act. The House Committee on Economic Development adopted a substitute that made only technical drafting changes to the Senate-passed version of Senate Bill 1046.

### **FISCAL IMPLICATIONS:**

The House Fiscal Agency says the provisions regarding the treatment of an attorney-in-fact for a reciprocal insurer can be expected to reduce SBT revenues by a small, indeterminate amount. (12-4-00) Regarding the MEGA provisions, the House Fiscal Agency reports that the fiscal impact of the legislation to the state and to local governments is indeterminate for several reasons. First, the level of participation by businesses in the tax credit cannot be estimated with any degree of confidence. Clearly there will be a loss in single business tax revenue due to the credit, but as well it can

be argued that the loss will be offset to some degree by new income tax revenue. Loss of single business tax revenue would affect the General Fund/General Purpose revenue, and any gain in income tax revenue would affect both General Fund/General Purpose and School Aid Fund revenue. (12-6-00)

### **ARGUMENTS:**

#### **For:**

The bills would modify provisions in both the MEGA act and SBT act to allow the state to offer a tax credit to an emerging e-commerce firm put together by a consortium of automobile manufacturers. The state is attempting to get the firm, called Covisint, to locate its headquarters here, in competition with other states. The bills would modify the current credit-awarding process by allowing the state to "look back" no more than 120 days in counting the number of jobs that determine the availability of the credit.

#### **For:**

Proponents of the provision exempting the services of an attorney-in-fact for a reciprocal insurer from the SBT say that it codifies current practices and prevents double taxation of this form of insurance company. Such a company has two components, an exchange and an attorney-in-fact or administrator. The exchange portion pays the tax based on all the receipts of the company, including those of the attorney-in-fact, say industry representatives.

#### **Against:**

State economic development officials see the provision that would require a refunding of credits by a company if jobs are removed from the state as a disincentive to attracting new companies and new jobs to the state. It does not present a friendly face to companies seeking a new location or an expansion of operations.

#### **Response:**

Companies that essentially renege on the promises made when being awarded state tax credits should have to repay those credits. Indeed, some would say they should pay additional penalties, as well. When a tax credit is predicated on the creation of new jobs, companies should not be able to remove more than half of those new jobs from the state within a brief period of time without any consequences.

### **POSITIONS:**

The Department of Treasury supports the bills, but would prefer Senate Bill 1345 not contain the provision

requiring the paying back of credits by a company that removes jobs from the state. (12-6-00)

A representative of Ford, General Motors, and DaimlerChrysler testified in support of the bills. (12-6-00)

Farmers Insurance Group supports Senate Bill 1345. (12-4-00)

The Michigan Insurance Federation has indicated support for Senate Bill 1345. (12-5-00)

AAA Michigan has indicated support for Senate Bill 1345. (12-5-00)

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