

Legislative Analysis



SBT: ALTERNATIVE SALES FACTOR, PERSONAL PROPERTY TAX CREDIT, TRANSFERRED JOBS CREDIT

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**Senate Bill 203 as passed by the Senate
Sponsor: Sen. Shirley Johnson**

**Senate Bill 909 as passed by the Senate
Sponsor: Sen. Bill Hardiman**

**Senate Bill 910 as passed by the Senate
Sponsor: Sen. Laura Toy**

**Committee: Tax Policy
Complete to 12-12-05**

A SUMMARY OF SENATE BILLS 203, 909, AND 910 AS PASSED BY THE SENATE 12-6-05

Senate Bill 203

Generally speaking, the bill would amend the Single Business Tax Act (MCL 208.54) to extend for four years a provision allowing a "spun off" corporation to exclude sales made to its immediately preceding former parent corporation when calculating its sales factor used in apportioning its business activities to Michigan.

Under the act, firms that have business activity in Michigan and other states must calculate how much of their total business activity is apportioned to Michigan. The apportionment formula takes the weighted average of three factors: payroll, property, and sales. Generally, the sales factor is determined by dividing a firm's total amount of sales in Michigan by its total sales.

Under the act, a spun off corporation may use an alternative sales factor calculation, whereby it excludes from Michigan and total sales, those sales that are made to its immediately preceding former parent corporation. The spun off corporation may use this alternative calculation for a period of five years, if certain conditions are met, and for an additional two years if, among other requirements, the spun off corporation makes a commitment to make at least \$200 million in capital investment in the state during that two-year period. Senate Bill 203 would add that the spun off corporation could also use the alternative calculation for the two additional years if it, alternatively, commits to make \$700 million in capital investment within the seven-year period beginning with the year in which the "restructuring transaction" was completed (i.e., the year in which the corporation is "spun off" from its former parent corporation.) Under the act, if a spun off corporation does not live up to its commitment, it must file an amended SBT return and pay additional taxes and interest, based on the standard sales factor calculation, for the years in which it used the alternative calculation.

Further, Senate Bill 203 would add that a spun off corporation could, upon request, use the alternative calculation for four more years—beyond the additional two years currently provided by the act. To continue using the alternative calculation, the firm would have to have met its commitment for the previous two-year period. Additionally, the spun off corporation would have to commit to make at least an additional \$200 million in capital investment in the state during that additional four-year period and maintain at least 80 percent of the number of full-time equivalent (FTE) employees in the state at the beginning of that four-year period. The number of FTE employees would include (1) those that are on temporary leave other than a temporary layoff or strike, (2) those that are transferred by the spun off corporation to a related entity or its immediately preceding former parent corporation, and (3) those that are transferred by the spun off corporation to another employer due to a sale in the employees' worksite.

If the spun off corporation does not live up to its commitment for that four-year period, the corporation would file an amended SBT return for the four tax years, irrespective of any statute of limitations provided under the Revenue Act, and would be subject to additional taxes and interest, based on the standard sales factor calculation.

Senate Bill 909

The bill would amend the Single Business Tax Act (MCL 35f) to establish a refundable credit against the SBT equal to 15 percent of property taxes paid on industrial personal property. The credit would be available to firms whether or not they are required to file an SBT return. The credit would be available for tax years that begin on or after January 1, 2007 and before January 1, 2008. House Bills 4982, 5460, and 5461 would provide the same credit for tax years 2006, 2008, and 2009.

Under the bill, "property taxes" would mean taxes paid under the General Property Tax Act, the Plant Rehabilitation and Industrial Development Act, the Obsolete Property Rehabilitation Act, as well as the amounts of payments made to the Michigan Strategic Fund related to a renaissance zone used to reimburse local taxing units and payments made under contract with certain local assessing districts that contain a distressed area.

Senate 910

The bill would amend the Single Business Tax Act (MCL 208.35i) to provide taxpayers that transfer jobs into the state with a credit against the SBT equal to 100 percent of personal property taxes directly related to the transferred jobs. The credit would only be available for taxes paid in the first year related to the transferred jobs, and could only be claimed for taxes paid in the 2007 or 2008 tax year.

To claim the credit, the taxpayer would have to enter into an agreement with the Michigan Economic Growth Authority (MEGA) that specifies the following: (1) the taxpayer will transfer jobs into the state in excess of what the taxpayer maintained in the state in the previous year; (2) related personal property will be located in the state; and (3) the relocation of the jobs and property could not be reasonably done before January 1,

2007. The MEGA would issue the taxpayer a certificate, which the taxpayer would attach to its annual return.

If the taxpayer does not maintain the number of transferred jobs in the state for any of the three years after it claims the credit, a portion of the credit received would be added back to the taxpayer's tax liability, as follows: (1) 100 percent, if fewer jobs during the first year; (2) 67 percent, if fewer jobs in the second year, or (3) 33 percent, if fewer jobs in the third year.

Personal property used to calculate the credit available under House Bills 4982, 5460, and 5461, and Senate Bill 909 could not also be used to calculate the credit provided under Senate Bill 910.

The bill defines "property taxes" to mean taxes paid under the General Property Tax Act, the Plant Rehabilitation and Industrial Development Act, the Obsolete Property Rehabilitation Act, as well as the amounts of payments made to the Michigan Strategic Fund related to a renaissance zone used to reimburse local taxing units.

"Transferred jobs" would have be all of the following: (1) manufacturing jobs or jobs performing a high technology activity; (2) jobs that were located in a different state or country before being moved to the state in the immediately preceding tax year; (3) jobs that represent an overall increase in full-time equivalent jobs of the taxpayer in the immediately preceding tax year; (4) a job where the employee did not transfer into that job if the employee worked in the state prior to being transferred; and (5) jobs where the employee is provided with certain health benefits.

House Bill 5459 would provide the same credit for property taxes paid in the 2009 tax year.

Each of the bills is tie-barred to each other and House Bills 4982 and 5459 – 5461.

FISCAL IMPACT:

The combined impact of Senate Bills 909 and 910 can be expected to reduce Single Business Tax revenue by an estimated \$144 million in FY2006-07 and approximately \$25 million in FY2007-08. No estimate is available for Senate Bill 203, which would extend an existing credit for spin-off corporations. The credit is currently claimed by a very small number of taxpayers, which presents confidentiality concerns.

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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.