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MEGA, TARGETED TAX CREDITS

House Bill 4494
Sponsor: Rep. Beverly Hammerstrom

House Bill 4495
Sponsor: Rep. John Llewellyn

Committee: Commerce

Complete to 3-7-95

A SUMMARY OF HOUSE BILLS 4494 AND 4495 AS INTRODUCED 3-1-95

The bills would 1) provide for the creation of the Michigan Economic Growth Authority (MEGA), whose primary purpose would be to "determine which eligible businesses meet [certain] criteria" and thus would be eligible to receive a tax credit under the provisions of House Bill 4494, and 2) amend the Single Business Tax Act to provide two tax credits to an "authorized business"--that is, a taxpayer determined by MEGA to qualify for the credit under the provisions of House Bill 4495. One of the tax credits would be based on the amount of income tax revenue attributable to new employees and the other on the increased SBT liability attributable to increased business activity and new jobs. A company certified by MEGA before December 31, 1998, could get the tax credits for up to 20 years.

House Bill 4495 would create the Michigan Economic Growth Authority Act to provide for the creation of MEGA, a seven-member board within the Michigan Jobs Commission. The commission would be charged with providing staff for the authority and would carry out the administrative duties and functions as directed by the authority, and the commission director would supervise budgeting, procurement, and related functions of the authority. The MEGA board would consist of the state treasurer and the directors of the Jobs Commission, Department of Management and Budget, and Department of Transportation, and three other members appointed by the governor with the advice and consent of the Senate who had knowledge, skill, and experience in academic, business, local government, labor, or financial fields.

MEGA powers. In addition to other powers specified in the bill, MEGA would be empowered and responsible to do the following:

* Determine which eligible businesses had met specific criteria and were eligible for the tax credits provided by House Bill 4494;

* Promulgate rules pursuant to the Administrative Procedures Act necessary to carry out the bill's purposes; and

* Assist eligible businesses to obtain the benefits of an incentive or inducement program provided by law and the benefits under the bill.

The bill would define an "eligible business" as one that, after the bill's effective date, created new jobs in the state in manufacturing, research and development, wholesale and trade, or office operations. The term, however, would not include retail establishments or that portion of an eligible business used exclusively for retail sales.

Criteria for authorization. An eligible business could apply to MEGA for designation as an authorized business if it met the following criteria:

* Created, within 12 months of opening a new facility, a minimum of 75 qualified new jobs if it were expanding in the state or 150 new jobs if it were newly locating here, and agreed to maintain these jobs for each year tax credits were received under the bill's provisions;

* Agreed to maintain, if it were expanding, a number of employees greater than the number maintained in the year immediately preceding when it opened a new facility;

* Paid for all qualified new jobs an average wage that was equal to or exceeded the average wage paid by private entities within that county;

* Certified that its expansion or location would not have occurred in the state without the bill's incentives;

* Had financial commitment from the local governmental unit in which it was located for its expansion or location;

* Committed to retain current employees along with the new people hired in its expansion or relocation; and

* Had not begun construction or publicly announced a specific siting of its facility.

An "authorized business" would be defined as "an eligible business that has been determined to be an authorized business and is eligible for the [tax] credit" provided in House Bill 4494.

Upon receiving an eligible business' application, MEGA would have to determine whether the business not only met the above criteria but also that 1) its expansion or location here would benefit the state's people by increasing their employment opportunities and improving the state's economy, 2) incentives offered by the bill were needed to offset a significant cost disparity, including economic incentives offered by another state, between this state and a competitor, and 3) the eligible business could show a sound financial record from its three previous years' financial statements.

Written agreement. Before an eligible business could become authorized, it would have to enter into a written agreement with MEGA that at least addressed 1) the conditional nature of the designation and 2) a statement by the business that misrepresenting itself in its application for authorized status or violating the written agreement could result in revocation of its authorized status and loss or reduction of its tax credits.

Determination of tax credits. Once MEGA determined that an eligible business had met all of the criteria and entered into a written agreement, the business would be authorized to receive tax credits as provided by House Bill 4494. Also, if MEGA authorized an eligible business to receive tax credits, it would have to determine how long the business could receive them, not to exceed 20 years, and what their percentage amount would be. If MEGA determined that an eligible business did not meet the criteria to become authorized, it would have to notify the business in writing within 30 days after making that determination, and a business could appeal the decision within 60 days of receiving it.

Report to legislature. The bill would require MEGA to report to both the House and Senate on October 1 of each year regarding its activities and provide them a list of all businesses it authorized under the bill's provisions.

House Bill 4494 would add two new sections to the Single Business Tax Act (MCL 208.37c and 208.37d) that would specify the following:

** For tax years beginning after December 31, 1994, an authorized business could credit against SBT liability an amount equal to the amount of income tax withheld attributable to wages paid to qualified new employees, as determined by MEGA. (The amount withheld, the bill says, would be determined by multiplying the average salary of a new employee by the number of new employees, and multiplying the product by the percentage of the effective tax rate. The term "effective tax rate," generally speaking, involves dividing the gross tax liability after credits of new employees by the aggregate adjusted gross income of new employees.) This would be a refundable credit; that is, any amounts exceeding total tax liability would be refunded to the taxpayer. The bill further specifies that an affiliated group, a controlled group of corporations, or an entity under common control would be entitled to only one of these credits whether or not a combined or consolidated return was filed.

** For tax years beginning after December 31, 1994, an authorized business could credit against SBT liability an amount equal to the tax liability attributable to authorized business activity. (That liability would be defined as the taxpayer's liability after existing allowable credits multiplied by a fraction, the numerator of which would be the ratio of the value of the new facility to all property located in the state plus the ratio of payroll attributable to new jobs to all payroll, and the denominator of which would be 2.)

A taxpayer could not claim the credits until MEGA certified that he or she was an authorized business and had opened a facility where qualified new employees were employed. A copy of the certification would have to be attached to any return filed for which a credit was claimed, and if the credit exceeded the taxpayer's tax liability for the tax year the excess would have to be refunded to the taxpayer.