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SBT: RECYCLING CREDIT

House Bill 4022 (Substitute H-3)

Sponsor: Rep. Paul Wojno

House Bill 4256 (Substitute H-3)

Sponsor: Rep. Charles LaSata

Committee: Tax Policy

First Analysis (5-5-99)

THE APPARENT PROBLEM:

During the 1997-98 legislative session, the House Tax Policy Committee appointed a special Subcommittee to Explore the Environmental Sensitivity of the Michigan Tax Code. One of the proposals that emerged from that subcommittee was a tax credit for companies that use recycled materials in the manufacturing process. This proposal has been introduced again, with some modifications. The idea behind this proposal is to provide an incentive for companies to invest in the machinery and equipment needed to take recycled materials and turn them into finished products. At the same time, say advocates, this would increase the demand for recovered and recycled materials, thereby reducing the amount of waste going to landfills and incinerators.

THE CONTENT OF THE BILLS:

The bills would amend the Single Business Tax Act to allow a credit of up to 20 percent of the amount paid in the tax year for the purchase and installation of machinery and equipment used exclusively in or on the premises of a manufacturing facility in Michigan and that is used to:

- 1) manufacture, process, compound, or produce items of tangible personal property from recyclable and compostable materials for sale;
- 2) to process post-consumer waste material used exclusively to produce finished products; or
- 3) to recover commercial products from processed brine that would otherwise be disposed of in disposal wells permitted under Part 625 of the Natural Resources and Environmental Protection Act. The term "brine" would refer to mineralized water, other than potable or fresh water, that contains rock salt or other readily soluble minerals and that is not produced in association with oil and gas production; and

"processed brine" would mean a brine in which one or more minerals or chemical products have been removed by a commercial or industrial process.

The credit would apply for tax years beginning after December 31, 1998 and before January 1, 2009. House Bill 4256 would address the purchase of machinery and equipment. House Bill 4022 would address the installation of machinery and equipment. The bills are tie-barred.

The total amount allowable as a credit for any tax year could not exceed 20 percent of the taxpayer's liability for that year (as determined before calculating the credits). If the credit exceeded 20 percent of the tax liability, the excess could be carried forward to offset tax liability in subsequent years for 10 years or until used up, whichever came first.

To qualify for a credit, a taxpayer would have to submit with the annual return 1) certification from the Department of Environmental Quality that the machinery and equipment were integral to the recycling process; and 2) purchase receipts, invoices, or other auditable documentation of the cost paid for the machinery and equipment and the cost of installation.

The costs of machinery and equipment used to calculate the credit created by the bill could not be used to calculate a credit under Section 23 (the capital acquisition deduction).

The bill contains definitions of the terms "manufacturing facility," "recyclable materials," "compostable material," "secondary waste material," as well as the definitions of "brine," and "processed brine" cited earlier. The term "manufacturing facility" would refer to buildings and structures the primary purpose of which is either 1) the manufacture

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of goods or materials or the processing of goods and materials by physical or chemical change; or 2) the provision of research and development laboratories of companies whether or not the company manufactures the products developed from their research activities. The term "recyclable materials" would refer to any product that has served its intended end use and that has been separated from solid waste for the purpose of collection, marketing, and disposition and that does not include demolition waste or more than 15 percent secondary waste material. "Secondary waste material" refers to waste material generated after the completion of a manufacturing process. "Compostable material" means organic source separated material that decomposes under controlled aerobic conditions.

MCL 208.39e

BACKGROUND INFORMATION:

Two similar bills, House Bills 6047 and 6172 passed the House during the 1997-98 session. Testimony before the House Tax Policy Committee produced the following illustration of how the tax credit would work. If a company spent \$15 million on eligible equipment and machinery, the provision allowing a credit for up to 20 percent of the cost would produce a tax credit of \$3 million. However, the credit also cannot exceed 20 percent of tax liability for any one tax year. If, for example, the company's SBT liability was \$1.2 million, the maximum tax credit would be \$240,000. The bill would allow any amounts over that to be carried forward for ten years or until used up, whichever occurred first. So, the amount of credit for the eligible equipment over the next ten years would be \$2.4 million (\$240,000 times ten years).

FISCAL IMPLICATIONS:

The House Fiscal Agency cites industry estimates that the bills would reduce revenues from \$10 million to \$20 million over ten years. (Fiscal Note dated 4-29-99)

ARGUMENTS:

For:

A recycling tax credit would provide the state with both environmental and economic benefits. It will provide an incentive for businesses to purchase the equipment to turn recycled materials (e.g. paper, plastic, metals, and glass) into marketable products. This will increase demand for recycled materials. The result will be less waste dumped in landfills. (And

encouraging the recovery of commercial products from brine will prevent waste from being injected back into the ground.) Also, the increased market for recycled materials could encourage more communities to establish or expand recycling programs. The purchase of new machinery and start-up of new manufacturing operations will preserve existing jobs and create new ones. A representative of an environmental organization told the House Tax Policy Committee that recycling waste and composting waste create more jobs than incinerating it or putting it in landfills. The proposal is a reasonable one, limiting the total credit by tying it to 20 percent of equipment costs and restricting the amount of the credit available in any one year to 20 percent of tax liability, as well as limiting the amount of time credits could be carried forward. Further, the credits would only be available for ten years. These elements limit the impact on SBT revenues.

One West Michigan company -- the Fort James Corporation -- told the House Tax Policy Committee that the proposed tax credit would tip the scales in favor of launching a new venture manufacturing products from recycled material. The project has been delayed because until now there has not been sufficient return on investment projected. This new tax credit would reduce costs just enough to make the project economically feasible, according to a company spokesperson.

Against:

A standard criticism of this kind of tax credit is that it is not a good idea to attempt to influence economic behavior and enact public policy through changes in the tax code that inevitably pick winners and losers. Some people believe that if the legislature is going to reduce SBT taxes and revenues, it should do so through broad-based tax cuts and not through narrowly targeted credits and exemptions. Furthermore, is a tax credit of this kind, for newly purchased and installed equipment, fair to those who are already engaging in similar activities? Companies that have equipment in place -- and may not need to replace or expand it in the near future -- do not benefit. Instead, new entrants into the field, new competitors, gain the benefit.

POSITIONS:

The Michigan Recycling Coalition and the Composting Council support the bills. (5-4-99)

A representative of the Fort James Corporation testified in favor of the bills. (5-4-99)

The Michigan Manufacturers Association has indicated support for the bills. (5-4-99)

The Michigan Environmental Council has indicated support for the bills. (5-4-99)

A representative of the Department of Treasury testified in opposition to the bill. (5-4-99)

Analyst: C. Couch

■ 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.