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BILL ANALYSIS

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Senate Bills 615 and 623 (as reported without amendment)
Sponsor: Senator Ken Horn
Committee: Economic and Small Business Development

CONTENT

Senate Bill 615 would add Chapter 8F to the Michigan Strategic Fund Act to do the following:

-- Require the Michigan Strategic Fund (MSF) to create and operate the Michigan Employment Opportunity Program to authorize the transfer of the dedicated portion of withholding tax capture revenue to authorized businesses that provided certified new jobs in the State.
-- Allow an eligible business to apply to the MSF to enter into a written agreement that authorized the payment of withholding tax capture revenue under the proposed Chapter.
-- Allow the MSF to enter into an agreement with an eligible business for withholding tax capture revenue if the MSF found, among other things, that the eligible business proposed to create and maintain the minimum number of certified new jobs at a facility in the State and to pay an average annual wage as required by the bill.
-- Specify that the duration of the withholding tax capture revenue could not exceed five or 10 years, whichever was applicable as determined by the bill, from the date the authorized business created the certified new jobs.
-- Prescribe the requirements of a written agreement between an eligible business and the MSF.
-- Require the MSF to determine the duration and amount of the withholding tax capture revenue for an authorized business based upon the tier of the county in which the business created certified new jobs, the number of certified new jobs created, and the average annual wage of those jobs created.
-- Require the State Treasurer to calculate the amount of withholding tax capture revenue collected for each calendar year and the percentage of that amount needed to be transferred from the General Fund.
-- Prohibit the MSF from committing an amount of total withholding tax capture revenue that exceeded $300.0 million and from executing more than 40 new written agreements each calendar year for authorized businesses.
-- Create the "Employment Opportunity Fund" within the State Treasury.
-- Prescribe the process by which an authorized business could receive withholding tax capture revenue payments from the Fund.
-- Prohibit the MSF from designating an authorized business or entering into a new written agreement on or after December 31, 2026.

Senate Bill 623 would amend the Income Tax Act to do the following:

-- Require an amount equal to that portion of the withholding tax capture revenue attributable to certified new jobs and due to be paid to an authorized business under a written agreement entered into under proposed Chapter 8F (see Senate Bill 615) of the Michigan Strategic Fund Act to be deposited each State fiscal year into the Employment Opportunity Fund.

-- Require an employer who has entered into a written agreement under the Michigan Employment Opportunity Program to delineate in a return or report to the Department of Treasury the portion of those taxes withheld and paid to the State that were attributable to certified new jobs, for as long as a written agreement remained in effect.

Senate Bill 623 is tie-barred to Senate Bill 615.

MCL 125.2009 et al. (S.B. 615)
206.51f & 206.711 (S.B. 623)

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

Revenue Impact

The bills would reduce General Fund revenue by a maximum of $300.0 million over the life of the program, although it is impossible to know how much of the impact would fall in any given fiscal year. The actual revenue reduction in any given year would depend on the number of agreements the MSF entered into, the specific terms of those agreements, the location of the activities covered by the agreements, and the tax capture rates approved under any agreements. While the bills would require the MSF to determine that an agreement would result in an "overall positive fiscal impact to the state", the bills would not require agreements to exhibit a net positive impact on the General Fund; thus, any net positive impact could include increased revenue to funds other than the General Fund. Without considering any overall net positive impact on State revenue, the bills would not limit the reduction in General Fund revenue in any given year but would provide a $300.0 million limit on the total reduction over the life of all agreements entered into under the bills.

The specific withholding capture under an agreement would depend on the average wage in the area covered by the agreement, as well as the wage for any certified new job. While the bill references average wages for prosperity zones, the Bureau of Labor Market Information and Strategic Initiatives publishes median wage data for prosperity zones. The difference between the median and the average wage can be substantial; for the State as a whole the average wage rate was $53,390 ($25.67 per hour) in 2020, slightly more than 30% above the median wage of $40,920 ($19.67 per hour). Average wage rates can be calculated based on data published by the Bureau of Labor Market Information and Strategic Initiatives, and those calculation produce slightly different results, with a statewide average wage in 2020 of $59,409 (compared to the current US Bureau of Labor Statistics estimate of $59,432).

Statewide, the median wage in 2020 ranged from $15.91 per hour ($33,102 annually) in the Northeast Prosperity Region, Muskegon to $21.86 per hour ($45,460 annually) in the Detroit Prosperity Region. For calculated annual wage rates, the averages ranged from $42,917 in the Northeast Prosperity Region to $66,728 in the Detroit Prosperity Region. Based on a statewide average wage rate of $53,390, and assuming an effective 3.0% withholding rate after accounting for personal exemptions, the minimum annual withholding subject to the bills would total $1,602 per employee. For firms located in a tier 1 county required to provide at least 3,000 certified new jobs, the minimum withholding subject to the bills would total approximately $4.8 million per year (or $48.1 million over the maximum ten-year life of the agreement). As a result, approximately six agreements at the maximum level, located in tier 1 counties, could exhaust the $300.0 million cap.

To the extent that the certified new jobs represented actual new employment that would not have occurred absent the bills (and Senate Bill 615 would require that taxpayers entering into an agreement to state such a condition, and does not appear to allow agreements for "jobs retention"), the bills likely would result in a net positive fiscal impact on the State, especially in cases in which the captured portion of withholding could not exceed 50% of the withholding from jobs covered by the agreements. However, the bills would result in a change in the way revenue would be split between funds. Under current law, a new job paying $55,000 (approximately 3% more than the statewide average wage) and subject to an effective 3.0% ate (after exemptions) would increase General Fund revenue by $1,257 and School Aid Fund revenue by $393. Under the bills, a new job covered by an agreement would generate $825 at the 50% capture rate, or $1,650 at the 100% capture rate, in revenue for the Employment Opportunity Fund, to be paid to the taxpayer. However, revenue to the Employment Opportunity Fund would be disbursed after distributions to the School Aid Fund and the Michigan Transportation Fund. As a result, the net impact would be a $393 gain to the School Aid Fund, but either a $432 gain or a $1,650 loss to the General Fund, depending on whether the wages were subject to capture at a 50% or 100% rate. Excluding most other secondary effects, presumably a portion of the $55,000 in income would be spent on items taxable under the sales tax. If 35% of the income were spent on items subject to the sales tax, it would increase sales tax revenue by $1,155, of which $847 would be directed to the School Aid Fund, $115 to constitutional revenue sharing to local units of government, and the remaining $193 to the General Fund. Accounting for such an increase in sales tax revenue, and combined with the impact on individual income tax revenue, the bills would increase School Aid Fund revenue by $1,239 but the impact on the General Fund would either be a $625 increase or a $1,457 loss, again depending on the capture rate. In comparison, under current law, the General Fund would increase by $1,450 and the School Aid Fund would increase by $1,239 (a net increase of $2,687). This example serves to illustrate that the expected fiscal impact of the bills on the General Fund could be negative, even if the overall fiscal impact on the State were positive and the jobs were new jobs that would not exist absent the bills.

Senate Bill 615 would place several requirements on proposals covered by the agreements, but some of these requirements lack definitions or details. For example, plans for an expansion would have to be "economically sound", but that term is not defined in the bill. Similarly, the bill would require the use of an industry-recognized regional economic model cost-benefit analysis, but does not indicate who would be responsible for conducting the analysis (the taxpayer, the Michigan Strategic Fund, the Department of Treasury, a disinterested third party, etc.). Also, although a variety of additional assumptions often are required in order for a model to produce accurate results, the bill does not indicate what factors and assumptions should be included in the analysis. As a result, some of the requirements likely would not represent barriers to entering into an agreement. For example, if the analysis assumed that any jobs covered by an agreement would not otherwise exist at any wage rate, it would be almost impossible to argue any project failed to represent an overall positive impact to the State.

Finally, while the bill would earmark revenue to the Employment Opportunity Fund, any payments from the Fund to businesses participating in agreements could require appropriation.

Administrative Impact

The bills would result in the need for additional appropriations for the Department of Treasury and the Department of Labor and Economic Opportunity. The Department of Treasury would incur additional administrative expenses due to administering the Employment Opportunity Fund. Under a similar program with the Good Jobs Fund, Treasury calculated administrative costs of up to $125,000 to administer the Fund, assuming it received the full withholding tax capture revenue. The Department of Treasury also would have similar one-time costs associated with creating the Fund, which would be minimal. Since the Department of Treasury would not be guaranteed any of the 5% of the Fund allowed for administration, the

Department of Treasury would need to bill the Department of Labor and Economic Opportunity an administrative fee or cover those costs within current appropriations.

The Department of Labor and Economic Opportunity, which houses the Michigan Strategic Fund, also would incur additional expense in order to develop and administer the application, approval, and compliance process. Senate Bill 615 would allow up 5% of the proposed Fund to be used for the MSF's administrative costs; this allocation would equate to $15.0 million if the full $300.0 million were received. This allocation likely would be more than sufficient to cover the administrative costs of the Department of Labor and Economic Opportunity, even when split 50% with an economic development organization that assisted eligible businesses.

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