

BUSINESS LAW SECTION

LEGISLATIVE REVIEW DIRECTORSHIP REPORT

Prepared for December 3, 2011 Council Meeting

(Report as of November 23, 2011)

I. PUBLIC ACTS

- A. Public Act 15 of 2011. The “shopping reform and modernization act” included a repeal of the consumer item pricing act and requires the price of an item to be displayed where the item was located. A person who suffered a loss as a result of a violation could bring an individual or class action to recover actual damages or \$250, whichever was greater, for each day a violation was found. (HB 4158; effective 9/1/2011)
- B. Public Act 38 of 2011. The Act provides for elimination of the modified gross receipts tax component of the Michigan Business Tax and changes the rate of the remaining corporate income tax portion to 6 percent. (HB 4361, effective 10/1/2011)
- C. Public Act 39 of 2011. The Act provides "grandfather" status for a range of special business tax breaks and subsidies that were granted to particular firms under targeted exemptions and credits. The "grandfather" status would be available only for firms with already certified tax breaks or subsidies. This bill is part of the Governor's proposal to convert the Michigan Business Tax into a 6 percent corporate income tax. (HB 4362; effective 10/1/2011)
- D. Public Act 77 of 2011. The Act amends the Michigan Business Tax Act to provide for the awarding of smaller film credits as part of tax restructuring. The MBT will be repealed effective January 1, 2012. A \$25 million appropriation for film credit grants for FY 2011-12 will replace the tax credit as contained in the MBT.
- E. Public Act 170 through Act 194 and Act 209 of 2011. These Acts were described by the Department of Treasury as follow-up or clean-up bills to the recently enacted comprehensive changes to the state Income Tax Act. These Acts are aimed at "clarifying" certain existing provisions, including the definition of key terms. As such, these Acts are intended to aid in the implementation of newly enacted tax legislation rather than make substantive changes. (HB 4946-4947, 4951-4958, 4964, 4966-4968 and SB 650, 654-655, 660, 669-672, 674, 677-680; effective 1/1/2012)

Public Act 181 of 2011. The Act adds section 673 to the Income Tax Act so that the new Corporate Income Tax will contain a provision that allows the recapture of part or all of certain tax credits if the taxpayer that claimed the credit failed to satisfy the conditions of the credit. (HB 4967; effective 1/1/2012)

II. NEW BILLS AND STATUS OF PENDING BILLS

- A. Senate Bill 0359 of 2011. The Bill would amend the Business Corporation Act (MCL 450.1101, et. seq) by adding a chapter 9A authorizing Benefit Corporations which articles shall include "creating general public benefit". The Bill was introduced on May 4, 2011 and referred to the Committee on Economic Development. The Bill was sponsored by Mark Jansen (primary).
- B. Senate Bill 0360 of 2011. In conjunction with the SB 0359, the Bill would amend 1972 PA 284, entitled Business Corporation Act, by amending sections 105, 106, 202, 211, and 911 (MCL 450.1105, 450.1106, 450.1202, 450.1211, and 450.1911), to include, among other things, a definition of "Benefit Corporation" as a domestic corporation that meets the requirements for being a benefit corporation under chapter 9A and has not terminated its status as a benefit corporation under that chapter. The Bill was introduced on May 4, 2011 and referred to the Committee on Economic Development. The Bill was sponsored by Mark Jansen (primary).
- C. Senate Bill 0374 of 2011. The Bill would amend the Municipal Health Facilities Corporations Act to revise procedures for filling positions on the board of a municipal health facilities corporation or subsidiary corporation. The Bill was sponsored by John Moolenaar (primary).
- D. Senate Bill 0634 of 2011. The Bill would amend 1893 PA 206, entitled The General Property Tax Act, by amending section 51 (MCL 211.51), as amended by 2009 PA 189 to permit a partnership to defer summer property taxes on agricultural property it owned, if income criteria were met and the individual partners qualified for a deferment before they formed the partnership. The Bill was introduced on September 8, 2011 and referred to the Committee on Finance. The Bill was sponsored by Joe Hune.
- E. House Bill 4091 of 2011. The Bill would provide, for the 2011 tax year, elimination of the modified gross receipts tax component of the Michigan Business Tax and change the rate of the remaining corporate income tax portion to 6 percent. The Bill was sponsored by Ken Horn (primary).
- F. House Bill 4240 of 2011. The Bill would prohibit state departments from promulgating rules more stringent than required by federal standards, unless specifically required to by state statute. The Bill would require state agencies to consider exempting small businesses from adopted rules and identify and estimate the number of small businesses affected by the proposed rule if not exempted. The Bill was sponsored by Ken Goike (primary).
- G. House Bill 4377 of 2011. The Bill would amend the Michigan consumer protection act by amending section 3 (MCL 445.903) by adding section 3J to preclude the sale of window blinds in this state without "all of the following:(a) cleats, hardware, and instructions for installation that would allow the window blind cord to be secured [and] (b) a warning about the danger of accidental hanging or strangulation from a

window blind cord that is not secured." The Bill was sponsored by Lisa Brown and referred to the Committee on Regulatory Reform.

- H. House Bills 4615 and 4616 of 2011. The Bills are tie barred to amend the Business Corporation Act to permit the formation of "Benefit Corporations" for any specific public benefit purpose set forth in the articles. Bill 4615 was sponsored by Wayne A. Schmidt (primary) and Bill 4616 was sponsored by Vicki Barnett (primary). See Senate Bills 0359 and 0360.
- I. House Bill 4637 of 2011. The Bill would create certain offices in the executive branch; and to impose certain duties and responsibilities on a small business office and officers and on certain state employees and public employees. The Bill was sponsored by Judson Gilbert.
- J. House Bill 4823 of 2011. The Bill would amend MCL 445.772 to require certain motor fuel terminal operators and wholesalers to make gasoline without ethanol available to watercraft fuel dealers. The Bill was sponsored by Richard LeBlanc.
- K. House Bill 5054 of 2011. The Bill would amend 1984 PA 270, entitled Michigan Strategic Fund Act (MCL 125.2001 to 125.2094) by adding chapter 5A to create and operate a program called The Michigan Business Corps. to assist small businesses located within the state. The Bill was sponsored by Jim Townsend (primary).
- L. House Bill 5168 of 2011. The Bill would create the Endowment Funds Investment Act and authorize the investment of certain endowment funds and other state funds; to authorize certain investments and programs; and to prescribe the powers and duties of certain state officials. The Bill was sponsored by Vicki Barnett (primary) and referred to the Committee on Banking and Financial Services.
- M. House Bill 5169 of 2011. The Bill would provide for the organization, regulation, and certification of business development corporations; to provide for the powers and duties of business development corporations and their stockholders, directors, and loan participants; and to prescribe the powers and duties of certain state governmental officers and entities. The Bill was sponsored by Vickie Barnett (primary) and referred to the Committee on Banking and Financial Services.

Respectfully submitted,

Eric I. Lark / Alicia W. Parr
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November 28, 2011