

From the Capitol

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House Passes New Tax Plan

Two and one half months after Governor Snyder unveiled his new tax plan, the Michigan House voted along party lines last week to approve a tax proposal very similar to the one that the Governor originally proposed.

The Substitute for HB 4361 repeals the current Michigan Business Tax (MBT) and replaces it with a corporate income tax of 6 percent on "C" corporations.

As currently written, the bill eliminates business tax credits, except for the small business tax credit. Credits that have already been awarded under the MBT, such as MEGA, brownfield redevelopment, film production, renaissance zone and others would be kept for the term of the agreements, but no additional credits would be awarded after 2011. Retention of business credits in some form is still being negotiated and may be part of the final product.

The House Fiscal Agency estimates that the combined MBT and corporate income tax changes proposed in the House-passed version of the tax package would reduce business taxes by \$1.03 billion in fiscal year 2011-2012 and \$1.67 billion in fiscal year 2012-2013.

For individuals, the House passed tax package would increase the income tax by approximately \$570 million in FY 2011-2012 and \$1.48 billion in FY 2012-2013.

The changes on the personal income tax side include:

- Keeping the current income tax rate of 4.35 percent until January 1, 2013 and then freezing it at 4.25 percent
- Restricting the current exemptions on pension income. Taxpayers born prior to 1946 would continue the same treatment of retirement income under current law. Taxpayers born in 1946 through 1952 could take an exemption of \$20,000 for a single return and \$40,000 for a joint return against retirement income until they turn 67, and then could take that same exemption amount against all types of income

However, the \$20,000/\$40,000 exemption would not be available where total household resources exceeded \$75,000 for a single filer or \$150,000 for a joint return. Taxpayers born after 1952 would receive no exemption from retirement income (except Social Security income) until age 67. Thereafter they would have a choice between the \$20,000/\$40,000 exemption against all income with no personal exemption and no exemption for Social Security, or continuing the Social

Security exemption along with other personal exemptions for which they are eligible. Again, those with "household resources" which exceeded \$75,000 for a single return or \$150,000 for a joint return would not qualify for the exemption.

- Elimination of the child deduction
- Eliminate miscellaneous subtractions from income such as political contributions and prizes
- Eliminate the city income tax credit
- Eliminate the public contribution credit
- Eliminate the homeless shelter/food bank credit
- Eliminate the college tuition and fees credit
- Eliminate the vehicle donation credit
- Eliminate adoption credit
- Eliminate the Earned Income Tax Credit
- Revamp and restrict the Homestead Property Tax Credit

It has been the changes to the personal income tax, especially the new tax on pensions, that has caused the Majority Republicans the most anxiety. House Republicans not only open themselves up to charges of favoring the rich and serving corporate interests, but also for being the ones to raise taxes, which is something GOP candidates pledged not to do.

Republicans are banking on this plan working. Otherwise, many GOP House members will have tough reelection campaigns in 2012.

Preparing For the Worst

Some in state government believe municipalities and school districts will be facing huge budget shortfalls as early as this year. Over objections from organized labor and advocates of home rule, HB 4214, the emergency manager law, was enacted. It says that, after a series of findings, a municipality may be declared to be in a financial emergency and the Governor would be required to appoint an Emergency Manager who would, among other things, be required to:

- Develop a financial and operating plan
- Allow for the termination, modification or renegotiation of contracts
- Authorize modification or rejection of a collective bargaining agreement
- Order millage elections
- Allow actions to make a municipal government's pension fund to become actuarially sound
- Prohibit the Chief Executive Officer and local legislative board from exercising any powers during the financial emergency
- Authorize disincorporation of a municipal government with the approval of the Governor

The Governor signed the bill on March 16, the same day one of the largest protests in years occurred at and in the Capitol. The demonstration was organized by public employee unions and, if nothing else, was loud. Several protestors were arrested when they would not leave the Capitol premises by 6 p.m.

Unemployment Benefits Trimmed

In order to extend federal unemployment benefits, states are required to enact their own agreement on legislation regarding their share. The legislature did just that, but in so doing trimmed the state's obligation from 26 weeks to 20 weeks, saving employers millions of dollars. Predictably, the vote was pretty much along party lines with Democrats backed by organized labor objecting.

The provision was added to HB 4408 which originally was introduced to amend the Michigan Employment Security Act to create a "Special Fraud Control Fund" for the prevention, discovery and collection of unemployment overpayments. Amounts obtained would first be used to acquire software with a proven record of detecting and collecting benefit overpayments.

Teachers Threaten to Strike Over Funding Cuts

With the Snyder Administration's call for a cut in K-12 funding of \$470 per pupil and passage of the Emergency Manager legislation which could alter collective bargaining agreements, the Michigan Education Association (MEA) rattled sabers by suggesting a full blown teacher strike could occur.

Of course, teacher strikes are illegal in Michigan. So, the choice facing the MEA and the Republican legislative majority is to up the ante (striking by the MEA, and the legislature enacting severe sanctions against the same). In fact, the legislature is now giving serious consideration to measures that would impose severe sanctions on school teachers that strike and their unions.

This and That

- Legislation that would ban the promulgation of separate state ergonomics rules has been signed by the Governor and is now Public Act 10 of 2011.
- Senate Bill 7, which would in most instances place an 80 percent cap on the amount a public employer could pay for an employee's health care benefits, has been reported from the Senate Committee on Reinvention and Reform this month and should pass the Senate next week.
- A measure providing relief from the gross receipts portion of the MBT for logistics companies that use subcontractors to haul freight was reported from the House Committee on Tax Policy.
- Legislators are still deliberating on whether to accept the Snyder Administration's recommendation of placing single source mental health drugs on the preferred provider list instead of exempting them from prior authorization altogether.
- Look for the Administration's 1 percent tax on unpaid healthcare claims to be spearheaded by Sen. Roger Kahn (R-Saginaw) and considered first by the Senate Department of Community Health

Subcommittee on Appropriations. The tax would replace the 6 percent use tax now imposed on certain Medicaid providers in order to draw down more federal dollars (\$800 million) for the program.

Introduction of the bill is imminent.

- Look for the New International Trade Crossing, formerly known as DRIC, to wait to receive public legislative attention until the second half of this year, after the budget and tax issues are settled.
- A recent Court of Appeals decision in the case of Attorney General v Merck expanded the so-called FDA Defense in pharmaceutical product liability actions to actions by Michigan under the False Claims Act.