SFA BILL ANALYSIS

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Senate Bill 369 (as passed by the Senate)
Sponsor: Senator Phil Arthurhultz
Committee: Economic Development

Date Completed: 8-21-89

RATIONALE

In 1986, the Michigan Export Development Authority was established by Public Act 157 to promote the expansion of the export of Michigan goods and services by providing a source of guaranteed funding and insurance, not otherwise available, to support export development. Further, the Authority was to provide financial counseling to, and act as a clearinghouse for, potential and existing exporters. To finance its creation and operation, the Authority was authorized to issue up to $50 million in bonds. Recently, some have claimed that the enabling legislation for the Authority is insufficient to meet the exporting needs of Michigan's business community. For example, the Authority apparently does not have specific authority to participate in trade missions and shows, activities some consider essential to the Authority's success as an export promoter. Further, it has been suggested that the Authority specifically be allowed to sponsor a foreign sales corporation and establish export trading companies that would enable small and mid-sized companies to take advantage of Federal corporate income tax breaks for exporters and work together to set prices and facilitate export transactions without fear of antitrust charges.

In addition, some contend that changes in Federal law have increased the unattractiveness of the type of bonds the Authority currently is allowed to issue. To make the bonds more marketable, it has been suggested that their maximum life be extended and that the Authority be given greater flexibility in determining their interest rates and terms.

Finally, it has been suggested that changes be made to the provisions specifying the powers and duties of the Authority's governing board of directors that, according to some, would streamline and simplify the process by which the directors could vote on export development issues and approve guarantees of funds.

CONTENT

The bill would amend the Michigan Export Development Authority Act to allow the Authority to offer loans, grants, and export insurance in addition to guarantees; add to the Authority's powers; increase the maximum life of Authority bonds and exempt them from local taxes; and make general amendments to the provisions concerning the Authority's board of directors.

Guarantee/Export Insurance

Under the Act, the Michigan Export Development Authority may provide guaranteed funding for eligible export loans used to finance eligible export transactions through participating financial institutions. The term "guaranteed funding" means a guarantee against complete or partial loss of principal of or interest on an eligible export loan, including insurance against loss up to the maximum amount payable under the guaranteed funding. Eligible export loans are loans to participating financial institutions located in Michigan whose proceeds are used only to finance eligible export transactions. For export transactions to be eligible for financing, at least 51% of the value of the goods and services sold or developed for sale outside the U.S. must have been created within Michigan, and the sale or development of the goods must create or maintain employment in Michigan.

The bill specifies that, rather than provide guaranteed funding, the Authority could provide guarantees or export insurance for eligible export transactions, and the Act's provisions concerning guaranteed funding generally would apply to the guarantees and insurance. Further, under the bill, the Authority would be allowed to provide grants to nonprofit organizations for one or more of the following purposes:

-- To conduct market research to determine the potential for increasing goods and services from Michigan.
-- To encourage establishment or expansion of business operations related to exports that would create or maintain employment in Michigan.
-- To research industrial and commercial innovations that would be likely to increase exports from Michigan.

To be eligible for financing under the bill, a "sufficient portion" of the value of the goods and services would have to have been created in Michigan. The term "export insurance" would mean insurance provided by the Authority to protect an exporter against a foreign buyer's failure to pay for goods or services for political or commercial reasons. The amount of the loss covered for each transaction and particular risks would be determined by the Authority.

The bill would delete:

-- The requirement that a participating financial institution investigate an exporter's line of credit before providing financing for an eligible export transaction.
-- A requirement that the exporter has not or will not, as a condition to receiving funding from the Authority, receive more than $1.5 million in guaranteed funding in the 12 months preceding the date the guaranteed funding agreement was executed.
-- A provision specifying that loans made to exporters by participating financial institutions that were supported by guaranteed funding from the Authority bear a fixed interest rate and term as determined by the Authority.

Powers of the Authority

The bill would add to the Authority's powers the right to:

-- Charge and collect fees for its services and enter into contracts or agreements with the U.S. Export-Import Bank, the Federal Credit Insurance Association, or other Federal agencies or instrumentalities.
-- Lead, participate in, support, or otherwise cooperate in trade missions, trade shows, and related efforts to encourage the export of Michigan goods and services.
-- Sponsor or foster a foreign sales corporation and establish, participate, and secure Federal approval for an export trading company under the Federal Export Trading Company Act of 1982 or equivalent entities under similar Federal legislation. The Authority could, in connection with any such entities, acquire and transfer title to goods and corporate or partnership ownership interest and enter into joint ventures with other export trading companies.

Bonding Authority

The bill would:

-- Increase from five to 30 years the maximum life of a bond issued by the Authority.
-- Allow the interest rates for the bonds to be "set, reset, or calculated from time to time" and specify that bonds could bear no interest rate.
-- Specify that except as otherwise provided by the Act, bonds or notes issued by the Authority would not be subject to the Municipal Finance Act. The bonds issued by the Authority would not have to be registered, and filing of a bond of

the Authority would not be required under the Uniform Securities Act.
- Require bonds and notes issued by the Authority to be approved by the Department of Treasury prior to their issuance. The Department of Treasury would be required to determine that the amount of the proposed issue was sufficient, but not excessive, that the revenue and properties pledged for payment were sufficient, and that the bonds or notes and the proceedings authorizing the issue complied with the bill and other applicable law.
- Specify that bonds and notes issued by the Authority would be subject to the Act's provisions requiring the filing of resolutions or ordinances authorizing the sale of obligations that do not need prior approval, and concerning the issuance of obligations not requiring approval.

Currently, bonds and income from Authority bonds are exempt from all State taxes except for inheritance, estate, or transfer taxes; and property of the Authority is exempt from all State, franchise, corporate, business, and income taxes.

The bill specifies that not only the bonds but also the interest on the bonds and the transfer of bonds would be exempt from all State and local taxation except inheritance, estate, and gift taxes; and the property of the Authority, its income and operation would be exempt from all State and local taxes. The bill would delete a provision exempting security and financing agreements made under the Act from the State stamp and transfer taxes.

Administration of the Authority

The Authority is governed by a board of directors consisting of the Directors of the Departments of Agriculture and Commerce, the State Treasurer, and nine other members appointed by the Governor. The bill would:

- Allow board members to appoint representatives to serve as voting members in their absence, instead of allowing board members to vote by proxy, representative, or designee.
- Require the board to elect a vice-chairperson annually.
- Delete a requirement that at least six members approve resolutions authorizing guaranteed funding.
- Require the Authority to indemnify staff officers appointed by resolution of the board.
- Allow the board to appoint up to two employees to unclassified positions not included in the State civil service to serve for terms at the pleasure of the board.
- Delete language specifying that an action taken by the board takes effect when the resolution authorizing the action is signed by the chairperson. Instead, the bill provides that the action would take effect when the board approved the resolution.

Annual Report

The bill would add the following items to the information that the authority is required to submit to the Legislature annually: the number, value, type of product and destination of export transactions assisted, the type of assistance rendered for each by the Authority, grants made under the bill and the results of those activities, trade shows attended and trade missions led, and any other information considered necessary for a competent evaluation of the Authority's effectiveness.

FISCAL IMPACT

The Michigan Export Development Authority (MEDA) has been approved for two Federally sponsored export finance programs. The activities that would be authorized under this bill for these two projects would cost MEDA about $150,000 funded from industry support. The two unclassified positions authorized by the bill would cost an additional $79,600 for salaries and wages, plus $5,000 for contractual services, supplies, and material, and $5,000 for travel, while $89,600 would presumably be funded from GF/GP. The bill would generate indeterminate revenues to the State resulting from new jobs created by the exports. There would be no fiscal impact on local government.

ARGUMENTS

Supporting Argument

The bill would make necessary changes to the enabling legislation for the Michigan Export Development Authority that would permit the Authority to become more actively involved in promoting the export of Michigan products and to facilitate more effectively export transactions; make the Authority's bonds more marketable and provide additional means for the Authority to generate operating revenue; and grant the governing board greater flexibility in executing its duties.

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