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## BILL ANALYSIS



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Senate Bill 973 (as enacted)  
Sponsor: Senator Cameron S. Brown  
Senate Committee: Commerce and Tourism  
House Committee: Commerce

**PUBLIC ACT 448 of 2008**

Date Completed: 7-14-09

**RATIONALE**

Michigan is one of almost 30 states that offer a tax credit for the preservation of historic property. Under the Michigan Business Tax (MBT) Act, a business that owns and rehabilitates a historic resource may claim a credit against the tax if various criteria are met. The original credit equals 25% of expenditures that qualify for a historic preservation credit under the Internal Revenue Code (or that would qualify if the historic resource were eligible for the Federal credit). The Internal Revenue Code allows a taxpayer to claim a credit equal to 20% of the cost of rehabilitating a certified historic structure for commercial use. Under the MBT Act, if a taxpayer's expenditures qualify for the Federal credit, that credit must be taken first and the taxpayer's State credit must be reduced by the amount of the Federal credit. This has the effect of reducing the State credit to 5%. Some other states, however, allow a taxpayer to take the full amount of both the state and Federal credits (or "stack" the credits), increasing the total tax abatement for historic preservation. Many people believe that Michigan should take a similar approach, or allow additional tiers of tax credits for qualified expenditures, in order to promote economic development through historic preservation efforts.

A related issue involves a taxpayer's ability to assign, or transfer, the credit to another taxpayer, which then can claim the credit. Originally, a historic preservation credit could be assigned only by a partnership to a partner, by a limited liability company to a member, or by a subchapter S corporation to a shareholder. It was suggested that allowing any taxpayer to assign its historic

preservation credit would help developers to attract investors, who would provide the capital needed for rehabilitation projects.

**CONTENT**

**The bill amended the Michigan Business Tax Act to do the following in regard to the historic preservation tax credit:**

- **Allow a qualified taxpayer, for tax years beginning on and after January 1, 2009, to claim a tax credit in addition to the original credit for a percentage of the taxpayer's qualified expenditures for the rehabilitation of a historic resource, if the taxpayer has a preapproval letter issued by December 31, 2013 (called a Tier 2 credit, below).**
- **For a rehabilitation plan with \$1.0 million or less in qualified expenditures, require the Tier 2 credit to be at least 10% but not more than 15% of qualified expenditures, and be approved by the Director of the Department of History, Arts, and Libraries (HAL).**
- **For a rehabilitation plan with more than \$1.0 million in qualified expenditures, limit the Tier 2 credit to 15% of qualified expenditures and require the approval of the HAL Director and the president of the Michigan Strategic Fund (MSF).**
- **Provide that the total of all of approved Tier 2 credits may not exceed an amount ranging from \$8.0 million in 2009 to \$12.0 million in 2013, and require at least 25% of the amount to be allocated to**

- rehabilitation plans having \$1.0 million or less in qualified expenditures (unless all such approved credits for a year are less than the minimum allotted amount).
- Allow the HAL Director, subject to the approval of the MSF president and the State Treasurer, to approve three additional credits in 2009, and two each in 2010, 2011, 2012, and 2013 for "a high community impact rehabilitation plan" (called Tier 3 credits, below), and limit these credits to 15% of qualified expenditures.
  - Limit the amount of a Tier 3 credit that a taxpayer or assignee may claim in a tax year to \$3.0 million, but require the excess to be carried forward.
  - Regarding the original credit, delete a requirement that a certificate of completion be issued within five years after the rehabilitation plan was certified by the Michigan Historical Center; and provide that only those expenditures paid or incurred during the time periods prescribed for the Federal credit may be considered qualified expenditures.
  - For projects for which a certificate of completion is issued after December 31, 2008, allow a qualified taxpayer to assign all or any portion of the credit, and allow an assignee to reassign the credit.
  - For projects for which a certificate of completed rehabilitation is issued after December 31, 2008, and for which the credit amount is less than \$250,000, allow a qualified taxpayer to receive a refund of 90% of the amount of a credit that exceeds the taxpayer's tax liability for a year, instead of carrying forward the excess.
  - For tax years beginning after 2008, if a certificate of completed rehabilitation is revoked or a historic resource is sold or disposed of less than five years after the historic resource was placed in service, require between 20% and 100% of the credit amount previously claimed to be added back to the tax liability of the taxpayer who received the certificate (unless the taxpayer enters into an agreement with the State Historic Preservation Office

**allowing the sale or transfer of the historic resource).**

- **Include a historic resource that is subject to a historic preservation easement among those resources eligible for a credit, if other criteria are met.**

The bill took effect on January 9, 2009.

#### Existing Credit – Tier 1

The MBT Act allows a qualified taxpayer with a rehabilitation plan certified under the Act after December 1, 2007, or certified under the former Single Business Tax Act before January 1, 2008, for the rehabilitation of a historic resource, for which a certification of completed rehabilitation has been issued after the end of the taxpayer's last tax year, to credit against the MBT an amount determined under the MBT Act for the qualified expenditures for the historic resource's rehabilitation.

Previously, the credit could be claimed if the certification of completed rehabilitation was issued within five years after the Michigan Historical Center certified the rehabilitation plan. The bill deleted that criterion. Under the bill, only those expenditures that are paid or incurred during the time periods prescribed for the credit under Section 47(a)(2) of the Internal Revenue Code (IRC) and any related Treasury regulations may be considered qualified expenditures.

(Section 47(a)(2) of the IRC allows a rehabilitation credit of 20% of qualified rehabilitation expenditures with respect to any certified historic structure. "Certified historic structure" means any building (and its structural components) that is listed in the National Register, or is located in a registered historic district and is certified by the Secretary of the Interior as being of historic significance to the district.

The MBT Act defines "historic resource" as a publicly or privately owned historic building, structure, site, object, feature, or open space that is located within a historic district designated by the National Register of Historic Places, the State Register of Historic Sites, or a local unit acting under the Local Historic Districts Act, or that is individually listed on the State Register of Historic Sites or National Register of Historic Places. "Michigan historical center" means the State

Historic Preservation Office of the Michigan Historical Center of the Department of History, Arts, and Libraries.)

The amount of the historic preservation credit is 25% of the qualified expenditures that are eligible for the credit under Section 47(a)(2) of the IRC or, if the taxpayer is not eligible for the Federal credit, 25% of the qualified expenditures that would qualify under the IRC except that the expenditures are made to a historic resource that is not eligible for the Federal credit, subject to both of the following:

- A taxpayer with qualified expenditures that are eligible for the Federal credit may not claim a credit under the MBT Act for the same expenditures unless the taxpayer has claimed and received the Federal credit.
- An MBT credit must be reduced by the amount of the Federal credit the taxpayer received for the same qualified expenditures.

Under the bill, this also applies to qualified expenditures that would have been eligible under Section 47(a)(2) except that the taxpayer entered into an agreement with the State Historic Preservation Office (SHPO) allowing the transfer or sale of the historic resource.

Previously, a taxpayer with qualified expenditures eligible for the credit under Section 47(a)(2) of the IRC could not claim the MBT credit for those qualified expenditures unless the taxpayer had claimed and received a credit for them under the IRC. Under the bill, the taxpayer must have claimed and received a credit under the IRC or have entered into an agreement with the SHPO for the transfer or sale of the historic resource.

The Act defines "qualified expenditures" as capital expenditures that qualify for a rehabilitation credit under Section 47(a)(2) of the IRC if the taxpayer is eligible for the Federal credit or, if the taxpayer is not eligible for that credit, the qualified expenditures that would qualify under the IRC except that the expenditures are made to a historic resource that is not eligible for the Federal credit. The bill deleted a requirement under which the expenditures had to be paid within five years after the Michigan Historical Center approved the

certification of the rehabilitation plan that included those expenditures.

"Qualified taxpayer" means a person that either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource equal to or greater than 10% of the State equalized valuation of the property. Previously, this definition also included an assignee.

#### Additional Credits – Tier 2

(In the following provisions, references to the HAL Director or the MSF president mean that person or his or her designee.)

Total Credits. Under the bill, in addition to the original credit, for tax years beginning on and after January 1, 2009, a qualified taxpayer that has a preapproval letter issued by December 31, 2013, may claim an additional credit that has been approved (as described below). This credit will be equal to a percentage of the taxpayer's qualified expenditures for the rehabilitation of a historic resource, as established in the taxpayer's preapproval letter, or the actual amount of the taxpayer's qualified expenditures incurred during the completion of the rehabilitation of a historic resource, whichever is less.

The total amount of these approved credits may not exceed the following:

- \$8.0 million in 2009.
- \$9.0 million in 2010.
- \$10.0 million in 2011.
- \$11.0 million in 2012.
- \$12.0 million in 2013.

At least 25% of the allotted amount for these credits approved during each calendar year must be allocated to rehabilitation plans having \$1.0 million or less in qualified expenditures. On October 1 of each calendar year, however, if the total of all of these approved credits for the calendar year is less than the minimum allotted amount, the Department of History, Arts, and Libraries may use the remainder of that allotted amount to approve credit applications submitted for that year for rehabilitation plans having more than \$1.0 million in qualified expenditures.

To be eligible for a Tier 2 credit, a taxpayer must apply to HAL for approval and receive a preapproval letter (a letter indicating the date that the complete application was received and the amount of the credit allocated to the project based on the estimated rehabilitation cost included in the application).

For a rehabilitation plan having \$1.0 million or less in qualified expenditures, the HAL Director is authorized to approve the application and determine the percentage of the taxpayer's qualified expenditures for which an additional credit may be claimed. The percentage must be at least 10% but may not be more than 15%.

For a rehabilitation plan having more than \$1.0 million in qualified expenditures, the HAL Director, subject to the approval of the MSF president, is authorized to approve the application and determine the percentage of the taxpayer's qualified expenditures for which an additional credit may be claimed. The percentage may be up to 15%. An application must be approved or denied within 15 business days after the Director has reviewed it, determined the percentage amount of the credit, and submitted the application to the MSF president. If the MSF president does not approve or deny the application within 15 business days after receiving it, the application will be considered approved and the credit awarded in the amount determined by the HAL Director.

If a Tier 2 credit application is approved by the HAL Director or the MSF president, as applicable, the Director must issue the taxpayer a preapproval letter stating that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the rehabilitation plan when it is complete and a certification of completed rehabilitation is issued.

Criteria. Before approving a Tier 2 credit, determining the amount of the credit, and issuing a preapproval letter, or before considering an amendment to a preapproval letter, the Director must consider the following criteria to the extent reasonably applicable:

- The importance of the historic resource to the community.

- The physical condition of the historic resource.
- The taxpayer's financial need for the additional credit.
- The overall impact the renovation will have on the community.
- Any other criteria that the Director and the MSF president, as applicable, consider appropriate.

Preapproval Letter; Annual Cap. At any time before a certification of completed rehabilitation is issued for a Tier 2 credit for which a preapproval letter was issued, the Director may make amendments to the preapproval letter, which may include revising the amount of qualified expenditures for which the taxpayer may claim the credit. The Director also may revoke the preapproval letter if he or she determines that there has not been substantial progress toward completion of the rehabilitation plan or that the plan cannot be completed. The Director must give the taxpayer a notice of his or her intent to revoke the preapproval letter 45 days before the proposed date of revocation.

If a preapproval letter is revoked, the amount of the credit approved under it must be added back to the annual cap in the calendar year during which the letter is revoked. Also, after a certification of completed rehabilitation is issued, if the HAL Director determines that the actual amount of the additional credit to be claimed by the taxpayer for the calendar year is less than the amount approved under the preapproval letter, the difference must be added to the annual cap in the year that the certification is issued.

### Additional Credits – Tier 3

(In the following provisions, references to the HAL Director mean the Director or his or her designee.)

The bill authorizes the HAL Director, subject to the approval of the MSF president and the State Treasurer, to approve three additional credits during the 2009 calendar year, and two additional credits during the 2010, 2011, 2012, and 2013 calendar years, for certain rehabilitation plans that the Director determines are high community impact rehabilitation plans that will have a significantly greater historic, social, and economic impact than the plans for Tier 2

credits. A Tier 3 credit may be up to 15% of a qualified taxpayer's qualified expenditures.

The maximum amount of a Tier 3 credit that a taxpayer or an assignee may claim during a tax year is \$3.0 million. If the amount of the credit approved in the taxpayer's certificate of completed renovation exceeds \$3.0 million, the excess must be carried forward to offset tax liability in subsequent tax years until used up.

To be eligible for a Tier 3 credit, a taxpayer must to apply to and receive a preapproval letter from HAL. An application must be approved or disapproved within 15 business days after the Director has reviewed it, determined the percentage amount of the credit for that applicant, and submitted the application to the MSF president and the State Treasurer. If they do not approve or disapprove the application within 15 business days after receiving it, the application will be considered approved and the credit awarded in the amount determined by the HAL Director.

If the MSF president and the State Treasurer approve the application, the Director must issue the taxpayer a preapproval letter stating that the taxpayer is a qualified taxpayer and the maximum percentage of the qualified expenditures on which a credit may be claimed for the high community impact rehabilitation plan when it is complete and a certification of completed rehabilitation is issued.

Before approving a Tier 3 credit, the Director must consider all of the following criteria to the extent reasonably applicable:

- The importance of the historic resource to the community where it is located.
- Whether the rehabilitation of the historic resource will act as a catalyst for additional rehabilitation or revitalization of the community.
- The potential that the rehabilitation of the historic resource has for creating or preserving jobs and employment in the community.
- Other social benefits the rehabilitation will bring to the community.
- The amount of local community and financial support for the rehabilitation.
- The taxpayer's financial need for the additional credit.

- Whether the taxpayer is eligible for the credit allowed under Section 47(a)(2) of the IRC.
- Any other criteria that the Director, the MSF president, and the State Treasurer consider appropriate.

In addition, two of the three credits available during 2009 must be for an application that meets one of the following sets of criteria:

- The historic resource is at least 80 years old, comprises at least 75,000 total square feet, is located in a county with a population over 1.5 million, receives a Federal earmark appropriation, and is the former home of former professional sports team.
- The historic resource is at least 85 years old, comprises at least 120,000 total square feet, is located in a county with a population of more than 400,000 and less than 500,000, and is located in a city with a population of more than 100,000 and less than 125,000.

Also, in both cases, the historic resource must be in a city with an unemployment rate at least 2% higher than the current State average unemployment rate at the time of the application.

#### Application of Other Provisions

Unless otherwise specifically provided under the bill's provisions for additional credits, all other provisions of Section 435 (the section the bill amended), such as the recapture of credits, assignment of credits, and refundability of credits in excess of a qualified taxpayer's tax liability, apply to the additional credits issued under the bill.

#### Credit Assignment

The Act provides that, if a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or any portion of a historic preservation credit to its partners, members, or shareholders, based on the partner's, member's, or shareholder's proportionate share of the ownership or based on an alternative method approved by the Department of Treasury. A partner, member, or shareholder that is an assignee may not subsequently assign a credit or any

portion of a credit that is assigned to him or her.

Under the bill, these provisions apply to projects for which a certificate of completed rehabilitation is issued for a tax year beginning before January 1, 2009.

For projects for which a certificate of completed rehabilitation is issued after December 31, 2008, the bill allows a qualified taxpayer to assign all or any portion of the historic preservation credit. A credit assignment is irrevocable and must be made in the tax year in which a certificate of completed rehabilitation is issued.

A qualified taxpayer may claim a portion of a credit and assign the remainder. A taxpayer that does so must claim the portion claimed in the tax year in which a certificate of completed rehabilitation is issued. An assignee may subsequently assign the credit or any portion of the credit assigned to one or more assignees.

A credit assignment or reassignment must be made on a form prescribed by the Department. The Department or its designee must review and issue a completed assignment or reassignment certificate to the assignee or reassignee.

An assigned credit amount may be claimed against the assignee's tax liability under the MBT Act or under the Income Tax Act. An assignee or reassignee must attach a copy of the completed assignment certificate to the annual return filed under either Act for the tax year in which the assignment or reassignment is made and the assignee or reassignee first claims the credit, which must be the same tax year.

#### Carryforward or Refund

Under the MBT Act, if the historic preservation credit for a tax year and any unused carryforward of the credit exceed the taxpayer's tax liability for the tax year, the excess portion may not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.

Under the bill, for projects for which a certificate of completed rehabilitation is issued for a tax year beginning after December 31, 2008, and for which the credit

amount is less than \$250,000, a qualified taxpayer may elect to forgo the carryforward period and receive a refund of 90% of the amount of the credit exceeding the taxpayer's tax liability. An election under these provisions must be made in the year that a certificate of completed rehabilitation is issued, and is irrevocable.

#### Add-Back to Tax Liability

Under the Act, if a taxpayer sells a historic resource for which a historic preservation credit was claimed under the MBT Act or the SBT Act, or if the certificate of completed rehabilitation is revoked, less than five years after the year in which the credit was claimed, a percentage of the credit amount previously claimed must be added back to the taxpayer's tax liability in the year of the sale. The percentage ranges from 20% if the sale or revocation is at least four years but less than five years after the year in which the credit was claimed, to 100% if the sale or revocation is less than one year after the year in which the credit was claimed.

Under the bill, those provisions apply for tax years beginning before January 1, 2009.

For tax years beginning after December 31, 2008 (except as provided below), if a certificate of completed rehabilitation is revoked or a historic resource is sold or disposed of less than five years after the historic resource is placed in service as defined in Section 47(b)(1) of the IRC and related Treasury regulations, a percentage of the credit amount previously claimed must be added back to the tax liability of the qualified taxpayer that received the certificate of completed revocation, and not the assignee, in the year of the revocation. This also applies if a certificate of completed rehabilitation issued after December 31, 2008, is revoked during a tax year beginning after that date or a historic resource is sold or disposed of less than five years after the historic resource is placed in service during a tax year beginning after December 31, 2008.

As previously provided, the percentage to be added back ranges from 20% if the revocation is at least four but less than five years after the historic resource is placed in service, to 100% if the revocation is less than one year after the historic resource is placed in service.

These add-back requirements do not apply if the qualified taxpayer and the State Historic Preservation Office enter into a written agreement that allows the transfer or sale of the historic resource, and provides the following:

- Reasonable assurance that after the transfer the property will remain a historic resource during the five-year period after it is placed in service.
- A method for the Department to recover from the taxpayer an amount equal to the appropriate percentage of credit added back.
- An encumbrance on the title to the historic resource, requiring that the property remain a historic resource throughout the five-year period after it is placed in service.
- A provision for the taxpayer to pay all legal and professional fees associated with the drafting, review, and recording of the written agreement.

(Under Section 47(b)(1) of the IRC, qualified rehabilitation expenditures with respect to any qualified rehabilitated building must be taken into account for the taxable year in which the building is placed in service. Under U.S. Treasury regulations, a building generally is considered placed in service when the appropriate work that would allow occupancy has been completed.)

Under the MBT Act, a certification of completed rehabilitation may be revoked if the rehabilitation was not undertaken as represented in the taxpayer's rehabilitation plan or if unapproved alterations to the completed rehabilitation are made within five years after the tax year in which credit was claimed.)

#### Historic Preservation Easement

Under the MBT Act, in order for qualified expenditures for the rehabilitation of a historic resource to be used to calculate the credit, the historic resource must be individually listed on the National Register of Historic Places or the State Register of Historic Sites, a contributing resource located within a historic district listed on the National or State Register, or a contributing resource located within a historic district designated by a local unit under the Local Historic Districts Act. In addition, the

historic resource must be located in one of the following:

- A designated historic district in a local unit with an existing ordinance under the Local Historic Districts Act.
- An incorporated local unit that does not have an ordinance under that Act and has a population of less than 5,000.
- An unincorporated local unit of government.
- An incorporated local unit that does not have an ordinance under the Local Historic Districts Act, and within the boundaries of an association that has been chartered under Public Act 39 of 1889.

Under the bill, a historic resource must meet one of those additional criteria or be subject to a historic preservation easement.

MCL 208.1435

#### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Many historic structures are vacant or underused, which means that they generate little property tax revenue, reduce near-by property values, and sometimes provide a venue for criminal activity. Often, these structures are located in aging core communities that are struggling economically. According to developers, however, restoring a structure that is old and in disrepair can cost more than tearing it down and replacing it, or building in an outlying area. When a historic structure is demolished, the community loses the intrinsic cultural value of that resource, as well as the potential economic value that rehabilitation would produce. When a new structure is built on the outskirts of town, the development contributes to urban sprawl and the loss of green space.

The State and Federal credits can help make it affordable for developers to preserve historic structures. The credits support efforts to revitalize distressed neighborhoods, prevent or reverse urban flight and property abandonment, and create tourist destinations. A prominent example of these efforts in Michigan involves the

former State hospital in Traverse City. Before restoration began in 2003, the property had been abandoned for almost 20 years, was functionally obsolete and environmentally contaminated, and contained areas of acute deterioration and blight. Today, however, the grounds and buildings are being converted to a mixture of commercial and residential uses, including housing for a range of incomes. In the summer of 2008, the project was 28% complete and already had generated \$42 million in private investment and 425 full- and part-time jobs, according to the developers. When it is finished, they anticipate an additional \$110 million to \$130 million in private investment, 840 more jobs, and over 80 new businesses, including an upscale hotel and conference center.

In order for this to be accomplished, all of the economic development tools available must be applied. While the historic preservation tax credits provide one important incentive, the State's 25% credit amounts to only 5% after being reduced by the Federal credit. The bill significantly increases the value of Michigan's credit in two ways. First, with State officials' approval and subject to various criteria and limits, taxpayers may claim additional credits against their MBT liability for historic rehabilitation expenditures for five tax years. The bill essentially creates three tiers of tax credits: 1) the original credit; 2) additional credits for 10% to 15%, or up to 15%, of qualified expenditures, subject to an annual dollar limit on the total credits approved; and 3) for a small number of high-impact rehabilitation plans, additional credits of up to 15% of qualified expenditures, which are not subject to an annual cap. These Tier 3 credits may be approved for projects whose historic, social, and economic impact will be significantly greater than the impact of the projects receiving Tier 2 credits.

While reducing taxpayer's MBT liability helps promote historic rehabilitation and economic development, simply allowing additional credits would not give developers access to the up-front capital they need to get a project off the ground. Since the credit is claimed only after eligible expenses are incurred, developers need funds to pay for such costs as architecture, design, and contracting fees, as well as labor, equipment, and materials. The bill

addresses this need by making historic preservation tax credits fully assignable. This will attract national and international firms that will invest, and gain an equity interest, in a development project involving the rehabilitation of a historic resource. In exchange for the ability to claim all or part of the developer's tax credit when the project is completed, the investors will supply the necessary capital for the project to be realized.

The additional credits and assignability will benefit small as well as large historic preservation projects. Because "soft costs" (such as research, design, and engineering expenses) do not fluctuate on a cost-per-square-foot basis, as "hard" brick-and-mortar costs do, small projects have a higher soft-to-hard cost ratio, which can discourage developers from rehabilitating the two-, three-, and four-story buildings that tend to populate aging downtowns. While the bill's additional credits and credit assignment provisions can provide the jump-start needed by historic preservation projects of any size, the bill also requires that at least 25% of the Tier 2 credits be allocated to rehabilitation plans having \$1.0 million or less in qualified expenditures, and gives the HAL Director (or the Director's designee) sole authority to approve credits for these plans. In addition, for a credit under \$250,000, the bill allows a taxpayer to receive a refund of 90% of the amount exceeding the taxpayer's MBT liability. Apparently, credits of this size are more difficult to "sell" than larger credits are, and a refund will provide liquidity to developers of small projects.

In the case of all of the additional credits, State administrators will have control over the amount that may be claimed, as well as flexibility to award additional credits to projects having the greatest potential impact and likelihood for success.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill will increase the cost of the Michigan Business Tax's historic preservation credit by at least an estimated \$9.0 million by tax year 2012, and then this cost will increase gradually to an estimated \$14.0 million by the 2016 tax year. This loss in revenue could be higher than estimated due to the



uncertainty of how much one of the new credits will cost, given that the dollar limit on the amount that may be claimed in any one year is \$3.0 million. In addition, it is very likely that the cost of this bill will vary significantly from year to year due to annual fluctuations in both the number and the size of credits that will be claimed. Under the original State credit, which equals 25% of qualified expenditures less the Federal credit of 20% of expenditures, the number of credits that were claimed each year from 2003 to 2006 ranged from 12 to 25 and the total cost of the State portion of these credits ranged from \$1.7 million to \$2.7 million, a fluctuation of over 50%.

This bill will increase the cost of the State historic preservation tax credit for five major reasons: 1) The bill creates a new credit beginning in tax year 2009 for projects approved by December 31, 2013, equal to 10% to 15%, or up to 15%, of qualified expenditures, and the total amount of these credits is capped at \$8.0 million in 2009, \$9.0 million in 2010, \$10.0 million in 2011, \$11.0 million in 2012, and \$12.0 million in 2013; 2) this new credit, in combination with the existing 25% State/Federal credit, provides a total credit of up to 40% of qualified expenditures and this increase in the total credit percentage will make some currently marginal historic preservation projects more viable and therefore it will increase the number of taxpayers that will claim this credit; 3) the bill expands the ability of taxpayers to assign these credits to other taxpayers, which also will help improve the financial viability of current marginal projects and thus increase the number of credits granted; 4) for credits less than \$250,000, a taxpayer may receive a refund equal to 90% of the amount by which the credit exceeds tax liability; and 5) the bill creates new special credits (three credits in 2009 and two each year from 2010 to 2013), which may not exceed 15% of the project's qualified expenditures, and not more than \$3.0 million may be claimed as a credit in any given year. The loss of revenue under this bill will reduce the General Fund/General Purpose budget.

Fiscal Analyst: Jay Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.