



Senate Fiscal Agency  
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BILL ANALYSIS

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Senate Bills 1267 and 1268 (as enacted)  
Senate Bill 1270 (as enacted)  
House Bills 5972 and 5973 (as enacted)  
House Bill 5976 (as enacted)  
Sponsor: Senator Tony Stamas (S.B. 1267)  
Senator Jim Barcia (S.B. 1268)  
Senator Roger Kahn, M.D. (S.B. 1270)  
Representative Andy Coulouris (H.B. 5972)  
Representative Jeff Mayes (H.B. 5973)  
Representative Kenneth Horn (H.B. 5976)  
Senate Committee: Commerce and Tourism  
House Committee: Energy and Technology

**PUBLIC ACTS 265 & 266 of 2008**  
**PUBLIC ACT 262 of 2008**  
**PUBLIC ACTS 263 & 267 of 2008**  
**PUBLIC ACT 264 of 2008**

Date Completed: 8-29-08

## **CONTENT**

**Senate Bills 1267 and 1268 and House Bills 5972, 5973, and 5976 amended the Michigan Business Tax (MBT) Act to allow a manufacturer of polycrystalline silicon for solar cells and semiconductor microchips, that will construct and operate a new or expanded facility in Michigan, to claim an MBT credit for 12 years beginning in 2012 for certain energy consumption costs. If the credit exceeds the taxpayer's MBT liability for the tax year, the taxpayer may elect to have the excess refunded or carried forward to offset the tax liability in subsequent years, for 10 years or until used up, whichever occurs first.**

**Senate Bill 1270 amended the Michigan Economic Growth Authority (MEGA) Act to authorize MEGA to determine the eligibility of, and issue certificates to, a taxpayer for the MBT credits allowed under Senate Bills 1267 and 1268 and House Bills 5972, 5973, and 5976.**

House Bills 5972, 5973, and 5976 were tie-barred to Senate Bills 1267, 1268, and 1270. All of the bills took effect on August 6, 2008.

A detailed description of the bills, except Senate Bill 1270, follows.

### **House Bill 5972**

The bill added Section 432 to the MBT Act to allow a qualified taxpayer that enters into an agreement with MEGA providing that the taxpayer will construct and operate a new or expanded facility described in the agreement for the manufacture of polycrystalline silicon, to claim a credit against the MBT for 12 years, calculated as provided in Sections 432a to 432d (enacted by House Bill 5973, Senate Bills 1267 and 1268, and House Bill 5976, respectively). This credit must be taken after all other credits provided under the MBT Act. The Authority may not enter into more than one agreement under the bill and may not enter into an agreement after December 31, 2008.

A qualified taxpayer may not claim a credit under Sections 432a to 432d unless MEGA has issued a certificate to that taxpayer. The taxpayer must attach the certificate to its annual return. The certificate must state all of the following:

-- The taxpayer is a qualified taxpayer.

- The amount of the credit for the qualified taxpayer for the designated tax year.
- The taxpayer's Federal employer identification number or the Michigan Department of Treasury number assigned to the taxpayer and, for a taxpayer that is a unitary business group, the Federal employer ID number or Michigan Department of Treasury number assigned to the member of the group engaged in Michigan in the manufacture of polycrystalline silicon for solar cells and semiconductor microchips.

For purposes of Sections 432 to 432d, "qualified taxpayer" means a taxpayer whose business activity conducted in Michigan includes the manufacturing of polycrystalline silicon for solar cells and semiconductor microchips.

Also, for purposes of those sections, "guaranteed cost of electricity" means the amounts shown in [Table 1](#), and "projected cost of electricity" means the amounts shown in [Table 2](#).

**Table 1**  
"Guaranteed Cost of Electricity"

Beginning of Tax Year	Cents Per Kilowatt Hr
After 12-31-11 and before 1-1-19	4.85
After 12-31-18 and before 1-1-21	5.20
After 12-31-20 and before 1-1-24	6.00

**Table 2**  
"Projected Cost of Electricity"

Beginning of Tax Year	Cents Per Kilowatt Hr
After 12-31-11 and before 1-1-13	6.49
After 12-31-12 and before 1-1-14	6.66
After 12-31-13 and before 1-1-15	6.84
After 12-31-14 and before 1-1-16	7.02
After 12-31-15 and before 1-1-17	7.20
After 12-31-16 and before 1-1-18	7.40
After 12-31-17 and before 1-1-19	7.59
After 12-31-18 and before 1-1-20	7.79
After 12-31-19 and before 1-1-21	8.00
After 12-31-20 and before 1-1-22	8.21
After 12-31-21 and before 1-1-23	8.43
After 12-31-22 and before 1-1-24	8.65

**House Bill 5973, Senate Bills 1267 & 1268, and House Bill 5976**

Under House Bill 5973, for tax years beginning after December 31, 2011, and before January 1, 2016, a qualified taxpayer that receives a certificate under Section 432

of the MBT Act (as enacted by House Bill 5972) may claim a credit equal to the product obtained by multiplying the qualified consumption of electricity times the difference between the guaranteed cost of electricity and the actual delivered price of electricity billed to the qualified taxpayer under a tariff rate approved by the Public Service Commission or the projected cost of electricity, whichever is less.

Under Senate Bill 1267, for tax years beginning after December 31, 2015, and before January 1, 2022, a qualified taxpayer that receives a certificate may claim a credit equal to the product obtained by multiplying the qualified consumption of electricity times the difference between the projected cost of electricity and the guaranteed cost of electricity.

Under Senate Bill 1268, for the 2022 tax year, a qualified taxpayer that receives a certificate may claim a credit equal to the product obtained by multiplying 50% of the qualified consumption of electricity times the difference between the projected cost of electricity and the guaranteed cost of electricity.

Under House Bill 5976, for the 2023 tax year, a qualified taxpayer that receives a certificate may claim a credit equal to the product obtained by multiplying 25% of the qualified consumption of electricity times the difference between the projected cost of electricity and the guaranteed cost of electricity.

These bills define "qualified consumption of electricity" as up to 1,445,400 megawatt hours of electricity consumed during the tax year at a facility described by an agreement entered into under Section 432 of the MBT Act.

- MCL 208.1432b (S.B. 1267)
- 208.1432c (S.B. 1268)
- 207.806 (S.B. 1270)
- 208.1432 (H.B. 5972)
- 208.1432a (H.B. 5973)
- 208.1432d (H.B. 5976)

**BACKGROUND**

Hemlock Semiconductor Corporation, a subsidiary of Dow Corning located in Saginaw Valley, is the world's largest producer of hyper-pure polycrystalline silicon

for the semiconductor and solar energy industries. The company has proposed an expansion that reportedly could include \$1.4 billion in capital investment and result in 270 new plant jobs for workers making more than \$60,000 per year. The project also is expected to generate over 300 new related jobs and 1,000 to 1,500 construction jobs.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The new refundable credit created by these bills will reduce Michigan business tax revenue for 12 years beginning in tax year 2012. Based on the provisions in the bills that effectively establish a maximum credit each year, and assuming that the Hemlock Semiconductor Corporation facility, for which this credit is designed, will operate on average at 87% of its capacity, then it is estimated that the maximum credit that will be claimed by this corporation will range from \$20.6 million to \$35.2 million annually for tax years 2012 through 2021, and then decline to an estimated \$15.3 million in 2022 and \$8.3 million in 2023. According to the Department of Treasury, this facility may qualify for a special economic development price for electricity that is well below the projected price levels contained in these bills. If electricity is available to the facility at this lower price, then the cost of the credit will decline dramatically. For example, during the first four years of this new credit, the lower price for electricity will reduce the cost of the credit from an estimated total of \$95.7 million to only \$8.6 million. The estimated maximum loss in Michigan business tax revenue under this new credit is presented in the following table. The loss in revenue will reduce General Fund/General Purpose revenue. Local governments will not be directly affected by this legislation.

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.

**Estimated Maximum Cost of MBT Credit in SB 1267, 1268 & 1270 and HB 5972, 5973 & 5976**

Tax Year	Guaranteed Cost of Elec. (Cents per Kilowatt Hr)	Projected Cost of Elec. (Cents per Kilowatt Hr)	Difference (Cents per Kilowatt Hr)	% of Qualified Consumption Eligible for Credit	Maximum Qualified Consumption (megawatt hrs)	Maximum Cost of Credit (millions)	Cost at 87% of Capacity (millions)
2012	4.85	6.49	1.64	100%	1,445,400	\$23.7	\$20.6
2013	4.85	6.66	1.81	100%	1,445,400	26.2	22.8
2014	4.85	6.84	1.99	100%	1,445,400	28.8	25.0
2015	4.85	7.02	2.17	100%	1,445,400	31.4	27.3
2016	4.85	7.20	2.35	100%	1,445,400	34.0	29.6
2017	4.85	7.40	2.55	100%	1,445,400	36.9	32.1
2018	4.85	7.59	2.74	100%	1,445,400	39.6	34.5
2019	5.20	7.79	2.59	100%	1,445,400	37.4	32.6
2020	5.20	8.00	2.80	100%	1,445,400	40.5	35.2
2021	6.00	8.21	2.21	100%	1,445,400	31.9	27.8
2022	6.00	8.43	2.43	50%	722,700	17.6	15.3
2023	6.00	8.65	2.65	25%	361,350	9.6	8.3
Total	----	----	----	----	----	\$357.4	\$310.9

Source: Senate Fiscal Agency (4-22-08)