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BILL ANALYSIS

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Senate Bills 1309 and 1310 (as introduced 5-8-08)
Sponsor: Senator Randy Richardville
Committee: Economic Development and Regulatory Reform

Date Completed: 6-11-08

CONTENT

Senate Bill 1309 would amend the Michigan Business Tax Act to allow dentists to claim a credit against the tax for the cost purchasing and installing a dental amalgam separator or \$3,000, whichever was less, for each separator purchased and installed during a tax year.

Senate Bill 1310 would amend the Public Health Code to do the following:

- Require dentists to install dental amalgam separators on wastewater drains.
- Require the Michigan Board of Dentistry to promulgate rules regarding dental amalgam collection, disposal, and recycling, and the retention and inspection of related dental records.
- Prohibit a local unit of government from enacting, adopting, or enforcing a conflicting, additional, or different ordinance or regulation.

The bills are tie-barred to each other.

Senate Bill 1309

The bill would allow a taxpayer who was a dentist to claim a credit against the Michigan business tax equal to 100% of the costs incurred during a tax year for the purchase and installation of each dental amalgam separator or \$3,000 for each dental amalgam separator purchased and installed during a tax year, whichever was less, if the taxpayer, within one year before or after the effective date of Senate Bill 1310, purchased a dental amalgam separator and installed it on a wastewater drain in the dental office that was used to discharge dental amalgam, as required by Section 16631 of the Public Health Code (which Senate Bill 1310 would add).

If the amount of the credit allowed for the tax year exceeded the dentist's tax liability for that tax year, the excess could not be refunded, but could be carried forward as an offset to the tax liability in subsequent tax years.

Senate Bill 1310

The bill would apply to dentists who use and dentists who remove dental amalgam. It would not apply to any of the following:

- Oral and maxillofacial surgeons.

- Oral and maxillofacial radiologists.
- Oral pathologists.
- Orthodontists.
- Periodontists.
- Dentists providing services in a dental school or a hospital.

By December 31, 2013, a dentist subject to the bill would have to install or have installed and use a separator on each wastewater drain in the dentist's office that was used to discharge dental amalgam. The separator would have to have an efficiency of at least 95% as determined through testing in accordance with standards published by the International Organization for Standardization in ISO 11143:1999 "Dental Equipment – Amalgam Separators".

Within 90 days after the bill's effective date, the Michigan Board of Dentistry would have to promulgate rules regarding best management practice for dental amalgam collection, disposal, and recycling, and the retention and inspection of dental office records regarding the following:

- The type of dental amalgam separator installed and in use in the office.
- The method used to dispose of or recycle the dental amalgam waste collected.
- The shipping or other delivery records documenting the transfer of the dental amalgam waste collected to licensed recyclers or disposers.
- The maintenance of the dental amalgam separator.
- Compliance with best management practices.

A violation of the bill or a rule promulgated under it would be a violation of Section 16221(h) of the Public Health Code. (Under Section 16221(h), a violation of Article 15, which governs health occupations, or aiding or abetting in a violation of Article 15 or of a rule promulgated under it, is grounds for the imposition of administrative sanctions by a health professional disciplinary subcommittee. The sanctions include reprimand, probation, denial, suspension, revocation, limitation, restitution, community service, or fine.)

Beginning on its effective date, the bill would preempt and supersede any local ordinance, regulation, or resolution that imposed on dentists standards or requirements that were conflicting, additional, or different than those contained in the bill or rules promulgated under it by the Board of Dentistry. A local unit of government could not enact, adopt, maintain, or enforce such an ordinance, regulation, or resolution, including a requirement to obtain a permit that limited the discharge of mercury into wastewater with a limitation greater than that capable of being achieved by full compliance with the bill.

Proposed MCL 208.1461 (S.B. 1309)
Proposed MCL 333.16631 (S.B. 1310)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 1309

The bill would generate a one-time loss in Michigan business tax revenue equal to an estimated \$5 million to \$7 million. This loss in revenue would most likely reduce revenue in both FY 2008-09 and FY 2009-10; however, how this loss in revenue would be distributed between these two fiscal years is difficult to estimate. Under Senate Bill 1309, the credit would be based on expenditures for amalgam separators incurred by dentists during the period beginning one year before the effective date of Senate Bill 1310 through one year after that effective date. Assuming these bills were to become law immediately and that most of the expenditures for amalgam separators would be incurred by dentists after these bills would go into effect, then it is estimated that about one-third of the cost of this credit

would affect FY 2008-09 and about two-thirds of the cost of this credit would affect FY 2009-10. On the other hand, if these bills were to become effective late in 2008, then the loss in revenue due to this credit primarily would affect FY 2009-10. The loss in revenue under this bill would reduce the General Fund/General Purpose budget. The bill would have no direct impact on local governments.

Senate Bill 1310

The bill would have a small, indeterminate fiscal impact on the State budget in the form of additional administrative and oversight costs. The Michigan Board of Dentistry would be charged with additional responsibilities, likely leading to a mild increase in expenditures.

Fiscal Analyst: Matthew Grabowski
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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.