

# Legislative Analysis



## BROWNFIELD TAX CREDITS

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<http://www.house.mi.gov/hfa>

**Senate Bill 1097 as enrolled**

**Sponsor: Sen. Wayne Schmidt**

**House Committee: Tax Policy**

**Senate Committee: Economic and Small Business Development**

**Complete to 1-6-22**

Analysis available at  
<http://www.legislature.mi.gov>

*(Pocket vetoed 1-5-21)*

## SUMMARY:

Senate Bill 1097 would amend section 437 of the Michigan Business Tax Act (MBTA), which deals with brownfield tax credits, to extend the time within which development projects located in Traverse City and Detroit could be completed and still be eligible, without penalty, for preapproved brownfield tax credits.<sup>1</sup>

Under section 437(10) of the act, if a multiphase project is not completed within 10 years after the date of the taxpayer's preapproval letter, the taxpayer must pay back to the state an amount equal to all the credits claimed and assigned for all components of the project and no credits based on that project can be claimed from then on.

The bill would create two exceptions:

- A qualified taxpayer that was approved for a credit based on a multiphase project by Resolution 2008-178 of the Michigan Economic Growth Authority (MEGA) Board and issued a preapproval letter on March 14, 2011, would have until September 14, 2022, to complete that project and claim the credit without penalty.

Resolution 2008-178 provided a credit to Pine Street Development ONE for a two-phase project located at 305 W. Front Street in Traverse City.

Currently, to claim the credit without penalty, this project would have to be completed before March 14, 2021.

- A qualified taxpayer that was approved for a credit based on a multiphase project by Resolution 2020-046 of the MEGA Board<sup>2</sup> and issued a preapproval letter on June 11, 2011, would have until September 14, 2022, to complete that project and claim the credit without penalty.

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<sup>1</sup> While the Michigan brownfield tax credit program no longer issues new awards, existing credits are still honored; these credits began under the Single Business Tax and were continued under the Michigan Business Tax, and certain "certificated" credits can continue to be claimed under the MBT, even with the advent of the Corporate Income Tax, until they expire. However, the MBTA is repealed effective for tax years beginning after December 31, 2031.

<sup>2</sup> Executive Order 2012-9 abolished the MEGA Board and transferred its powers and duties to the board of directors of the Michigan Strategic Fund, which adopted Resolution 2020-046 on April 14, 2020.

Resolution 2020-046 amended the scope of a two-phase project located at 3750 Woodward Avenue in Detroit for which a tax credit was provided by the adoption of Resolution 2010-219 on December 14, 2010.

Currently, to claim the credit without penalty, this project would have to be completed before June 11, 2021.

MCL 208.1437

**Pocket veto 1-5-21:**

If the governor does not sign a bill within 14 days after getting it and the legislature has adjourned to end the legislative session, the bill does not take effect and is said to have been “pocket vetoed.” Unlike a regular veto, a pocket veto does not oblige the governor to provide the legislature with his or her objections to the bill.

Senate Bill 1097 was pocket vetoed on January 5, 2021, when it was still unsigned 14 days after it was presented to the governor on December 22, 2020. The legislature adjourned *sine die* (without day) to end the legislative session on December 23, 2020.

Legislative Analyst: Rick Yuille

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.