Legislative Analysis

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PERSONAL PROPERTY TAX (PPT) REVISIONS

Senate Bill 821 (Substitute H-1)
Sponsor: Sen. Jack Brandenburg

Senate Bill 822 (Substitute H-1)
Sponsor: Sen. Dave Hildenbrand

Senate Bill 823 (Substitute H-1)
Sponsor: Sen. John Proos

Senate Bill 824 (without amendment)
Sponsor: Sen. John Pappageorge

Senate Bill 825 (without amendment)
Sponsor: Sen. Dave Robertson

Senate Bill 826 (Substitute H-1)
Sponsor: Sen. Mark C. Jansen

Senate Bill 827 (Substitute H-1)
Sponsor: Sen. Steven Bieda

Senate Bill 828 (Substitute H-1)
Sponsor: Sen. Jim Ananich

Senate Bill 829 (Substitute H-1)
Sponsor: Sen. Rebekah Warren

Senate Bill 830 (Substitute H-1)
Sponsor: Sen. Mike Nofs

Senate Committee: Finance
House Committee: Tax Policy
Complete to 3-23-14

A SUMMARY OF SENATE BILLS 821–830 AS REPORTED FROM THE HOUSE TAX POLICY COMMITTEE

<u>Brief Summary:</u>

In December 2012, the legislature and the governor enacted a package of bills that aimed to phase out the personal property tax for certain eligible manufacturing personal property (including both industrial and commercial personal property), and provide a *partial* reimbursement (through the use tax) of the revenue that would be lost to local units of government.

The December 2012 package also allowed local units to impose a special assessment on industrial real property and commercial real property of taxpayers claiming the personal property tax exemption in order to defray the cost of providing "essential services" (i.e., police, fire, ambulance services, and jail operation).

Those changes in PPT taxation are only due to take effect if approved by voters at the August 2014 election.

This current package of bills would increase the amount of funding from the use tax dedicated to reimbursing local units, and impose the essential services special assessment at the state level, rather than the local level. If this new proposed

legislation is enacted, then it will become the subject of the August 2014 vote rather than the 2012 legislation.

DETAILED SUMMARY:

Senate Bill 822 (Use Tax Act)

The bill would increase the amount of revenue to be generated by the local use tax levied by the Local Community Stabilization Authority (LCSA). Under SB 822, the Use Tax would be split into (1) a state tax component (levied by the state) and (2) a local use tax component (levied by the LCSA). The rate of the two use taxes combined would be 6%, although the state-local split would depend on the amount to be raised by the local use tax component.

Basically, the local use tax would be at the rate necessary to generate an amount specified in statute, with the state rate being the difference between 6% and that calculated local rate. PA 408 established the local revenue amounts ranging from $41.7 million in FY 2015-16 to $362.4 million in FY 2022-23, with the amounts thereafter adjusted by a personal property growth factor determined by the Department of Treasury.

SB 822 instead establishes the local revenue amounts ranging from $96.1 million in FY 2015-16 to $572.6 million in FY 2027-28, with the amounts thereafter adjusted by a personal property growth factor calculated in the bill at 1%.

In other respects, SB 822 is not substantially different from 2012 PA 408.

- The state share would include the additional 2% rate added with the approval of Proposal A in 1994, which is dedicated to the School Aid Fund. Additionally, revenue from the state share would be deposited into the School Aid Fund to hold the SAF harmless from the resulting loss of State Education Tax revenue and the 18-mills (generally) levied for school operating purposes that results from the PPT exemptions. This hold harmless payment would not include the additional Proposal A 2%. Thus, the School Aid Fund would receive the 2% provided via Proposal A, plus a hold harmless amount.

- The bill also provides that the local share would not be a state tax, or state revenue. Rather, it would be a local tax, with revenue credited to the authority for distribution under the Local Community Stabilization Authority Act.

Senate Bill 821 (Local Community Stabilization Authority Act)

Senate Bill 821 would repeal 2012 PA 407. That act (created by HB 6025) established the Michigan Metropolitan Areas Metropolitan Authority (MAMA), which would have the authority to level the local component of the Use Tax, distributing the proceeds from the local share to municipalities based on any loss in property tax revenue debt service millages and other general millages attributable to the PPT exemptions. 2012 PA 407 provides the following reimbursement schedule:

— In FY 2013-14 and FY 2014-15, the legislature shall appropriate the amount to reimburse municipalities for the amount of "debt loss" resulting from the PPT exemption.

— Beginning in FY 2015-16, the authority shall provide reimbursement for 100% of any debt loss for local and intermediate school districts, 100% of the revenue loss for intermediate school districts (e.g. through special education or vocational education millages), and 100% of any school operating loss not reimbursed by the School Aid Fund (e.g. any hold harmless millage).

— Beginning in FY 2017-18, 5% of the remaining local share use tax revenue held by the authority would be distributed to municipalities that experience a loss due to the exemptions for Qualified New Personal Property (Sec. 9m) and Qualified Previously Existing Personal Property (Sec. 9n), based on their share of industrial real property. This excludes reimbursements already made for school debt, ISD revenue, and school losses not reimbursed by the SAF. This allocation would increase annually by 5 percentage points until it reaches 100%.

— After the allocations above, the remaining amount is distributed to "qualified" municipalities – that is, community colleges and other entities that experienced a reduction in taxable value of at least 2.3% due to the PPT exemptions, excluding the amount for essential services that is made up through the special assessment permitted under 2012 PA 406.

New Method of Distributing Revenues

Senate Bill 821 would, as noted earlier, repeal 2012 PA 407 and establish a similar authority known as the Local Community Stabilization Authority, which would distribute the local share of the use tax (as provided under SB 822) as follows:

— In FY 2014-15 and FY 2015-16, the legislature would appropriate an amount equal to the debt loss to municipalities (other than TIFAs), and an amount equal to the small taxpayer loss for TIFAs.

— Beginning in FY 2014-15, the legislature would appropriate an amount equal to the necessary expenditures of the authority and the Department of Treasury.

— Beginning in FY 2015-16, the authority would distribute revenue from the local share of the use tax to provide the following (in order of priority):
  - 100% of the debt loss experienced by school districts and ISDs, and 100% of the loss for school district sinking fund and recreation millages.
  - 100% of the loss for ISD taxes (e.g. special education and vocational education).
  - 100% of the school operating loss not reimbursed by the School Aid Fund.
  - 100% of the amount of the revenue loss related to the cost of providing "essential services."
  - The tax increment debt loss shortfall experienced by TIFAs.

- o 100% of the amount for the small taxpayer exemption loss.

— Beginning in FY 2019-20, after the distributions above, the authority would distribute 5% of the remaining balance to each municipality other than school districts, ISDs, or TIFAs based on the "acquisition cost" of all eligible personal property and applicable millage rates of each municipality (based on the lowest millage rate since 2012 for each millage).

Generally the acquisition cost would be the property's fair market value at the time it was acquired, including any freight costs, sales taxes, installation costs, and other capitalized costs (except capitalized interest), and (for the purposes of this distribution) multiplied by a percentage based on its acquisition date. That percentage is 100% for properties 1-5 years old; 52.1% for properties 6-10 years old; and 37.5% for properties at least 10 years old. This allocation would increase annually by 5 percentage points until it reaches 100%.[1]

— Beginning in FY 2020-21, after the two distributions above, any remaining funds would be allocated proportionally to municipalities that have a "qualified loss" (i.e., for millages that are not for debt, schools, essential services, etc.).

The term "municipality" as used in this package refers to cities, villages, townships, counties, local school districts, intermediate school districts, community college districts, libraries, local authorities, and other local and intergovernmental taxing units.

Senate Bill 829 (State Essential Services Assessment Act)

2012 PA 406 (HB 6024) provided that, beginning in 2016, a local government (city, township, or county) could impose a special assessment against taxpayers that claim an exemption under the PPT reforms to defray the cost of providing "essential services" (police, fire, ambulance, and jail operations) and related equipment.

Instead, SB 829 would establish a state-level special assessment against "eligible personal property" beginning in 2016. Eligible personal property would refer to personal property that was exempt from personal property taxes because it was exempt under a New Personal Property Exemption under PA 328, if granted after 2013, or extended because of the PPT reforms;[2] as Qualified New Personal Property;[3] as Qualified

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[1] Under the Senate-passed version, this distribution was based on each municipality's share of industrial real property (as a proxy for eligible personal property). But the data collected as part of the state essential services special assessment under SB 829 allows this distribution to be made based on the reported acquisition cost of eligible personal property.

[2] Section 9f of the General Property Tax Act, MCL 211.9f. This generally refers to property in distressed areas, exempted by resolution of the local governing body. The special assessment would apply to this property if the application for exemption under this section is approved after 2013. If, however, the application is approved before August 5, 2014, and the resolution approving the exemption states that the property would have new personal property valued in excess of $25 million within the 5 years, the property would not be subject to the special assessment.

[3] Section 9m of the General Property Tax Act, MCL 211.9m. This refers to property initially placed in service inside or outside of the state after December 31, 2012.

Previously Existing Personal Property;[4] or exempt under an industrial facilities exemption certificate extended because of the PPT reforms. Revenue from the special assessment would be credited to the General Fund.

The rate of the special assessment would depend on the length of time the taxpayer has owned the eligible personal property.

- 2.4 mills, for eligible personal property purchased by the claimant 1-5 years before the assessment year.
- 1.25 mills, for eligible personal property purchased by the claimant 6-10 years before the assessment year.
- 0.9 mills, for eligible personal property purchased by the claimant more than 10 years before the assessment year.

Taxpayers would pay the special assessment based on the acquisition cost of the eligible personal property. Generally the acquisition cost would be the property's fair market value at the time it was acquired, including any freight costs, sales taxes, installation costs, and other capitalized costs (except capitalized interest).

Special assessments would be sent out by the Department of Treasury not later than May 1, with payments due September 15. For delinquent payments, the department would send a notice out no later than October 15. Delinquent payments could be made until November 1, along with a penalty of 1% for each week the assessment is late. If the special assessment is not paid by November 1, the local assessor or the State Tax Commission (as appropriate) would be required to rescind the personal property tax exemption of the taxpayer. Any taxes due because of the rescission would be included in the winter tax bill.

A special assessment statement (completed by the claimant and remitted with payment of the special assessment) would include all eligible personal property in the state subject to the assessment. Beginning in 2019, the statement would specify the location of the property on December 31 of the prior years. A special assessment, a penalty, or the rescission of the exemption could be appealed by the department or the claimant to the State Tax Commission (STC). The decision of the STC could be appealed to the Michigan Tax Tribunal.

The Michigan Strategic Fund Board could exempt personal property owned by, leased to, or in the possession of an eligible claimant from the special assessment, subject to certain conditions. (This property would, instead, be subject to an alternative special assessment under SB 830 that imposes a special assessment equal to half of the special assessments under SB 829.)

[4] Section 9n of the General Property Tax Act, MCL 211.9n. This refers to property that has been subject to, or exempt from, the collection of taxes in the immediately preceding 10 years, or would have been had it been located in the state during that period.

Senate Bill 823 (General Property Tax Act)
The bill would amend the General Property Tax to do the following:

— Clarify that "eligible manufacturing personal property" exempt from taxation under the PPT reforms does not include utility personal property.
— Includes a reference to a public vote on SB 822 in the language that extends the property tax exemption for new personal property exempt under PA 328 (Section 9f of the GPTA), so that the PA 328-exempt property remains exempt through the PPT reforms.

— Require local assessors to report by June 5, 2014, to the county equalization department the 2013 and 2014 taxable values of commercial and industrial personal property, and the amount of the small taxpayer exemption loss for each local municipality within the city or township. County equalization departments would have to report this information to the Department of Treasury.

— Require municipalities to report their debt millage rates to the Department of Treasury by August 15, 2014, and require the department to calculate each municipality's debt loss or school debt loss.

Senate Bill 824 (METRO Act)
The bill would amend the Metropolitan Extension Telecommunications Rights-of-way (METRO) Act to transfer the powers of the existing Metro Authority to a new Local Community Stabilization Authority (LCSA), instead of the Metropolitan Areas Metropolitan Authority (MAMA) established under 2012 PA 407. As provided under SB 821, the LCSA would distribute revenue generated from the local community stabilization share of the use tax to reimburse local governments for the revenue lost because of the PPT exemptions. The bill would not take effect unless SB 822 is approved by the voters.

Senate Bill 825 (Amend 2012 PA 408, Enacting Section 1)
The enacting section of 2012 PA 408 (Use Tax amendments) required that the act be approved by the voters, with the other bills conditioning the December 2012 PPT reforms on voter approval of 2012 PA 408. Senate Bill 825 provides that 2012 PA 408 will not be submitted to the voters if SB 822 is enacted and submitted to the voters.

Senate Bill 826 (Amend 2012 PA 401, Enacting Section 1)
2012 PA 401 establishes an exemption for qualified new personal property (Sec. 9m), with the enacting section providing that if 2012 PA 408 is not approved by the voters, Section 9m is repealed. This bill adds a reference instead to a vote on SB 822.

Senate Bill 827 (Amend 2012 PA 402, Enacting Section 1)
2012 PA 402, as amended by 2013 PA 153, exempts from taxation commercial and industrial personal property owned by a taxpayer in a particular tax collecting unit if the true cash value of the property is less than $80,000 (Section 9o). 2012 PA 402 included

an enacting section providing that Section 9o is repealed if 2012 PA 408 is not approved by the voters. This bill adds a reference instead to a vote on SB 822.

Senate Bill 828 (Amend 2012 PA 403, Enacting Section 1)
2012 PA 403, as amended by 2013 PA 154, exempts from taxation eligible manufacturing personal property that is qualified previously existing personal property – meaning, generally speaking, that it has been subject to taxation for at least 10 years. (Section 9n of the General Property Tax Act). 2012 PA 403 included an enacting section providing that Section 9n is repealed if 2012 PA 408 is not approved by the voters. This bill adds a reference instead to a vote on SB 822.

Senate Bill 830 (Alternative State Essential Assessment Act)
This bill would impose an alternate state essential services assessment on eligible personal property that is specifically exempt from the State Essential Services Assessment (i.e., through adoption of a resolution by the Michigan Strategic Fund Board.) The alternative assessment would be equal to 50% of the special assessment under SB 829. Revenue from this alternative special assessment would also be credited to the General Fund.

FISCAL IMPACT:

Senate Bill 821 creates the Local Community Stabilization Authority (LCSA), and charges the Department of Treasury with additional responsibilities. Both of these changes will increase state administrative costs relative to current levels. For FY 2014-15 and FY 2015-16 the Authority will be charged with disbursing a $19.3 million appropriation to local units, for the purposes of reimbursing debt loss incurred from the small taxpayer exemption, including school debt loss. This is amounts to a loss to the state.

The disbursement of the portion of the use tax levied by the LCSA in FY 2015-16 and FY 2016-17 would be according to the actual losses to local units, based on their reporting of the taxable value of industrial and commercial personal property.

Senate Bill 822 will effectively transfer revenue from the state to local units, resulting in a loss to the state. The amount of this transfer, referred to as the community stabilization share tax, is specified in the bill for FY 2015-16 through FY 2027-28. Compared to current law, this levy is intended to replace 100% of local unit revenue loss from the exemption of qualified personal property. The statutory amounts are compared in the table below:

Table 1: Use Tax Levied for Local Units		
Fiscal Year	Under Current Law	Proposed SB 822
2015-16	$41.7 million	$96.1 million
2016-17	$257.5 million	$380.6 million
2017-18	$277.1 million	$410.5 million

2018-19	$293.8 million	$437.7 million
2019-20	$311.3 million	$465.9 million
2020-21	$326.8 million	$491.5 million
2021-22	$ 345.2 million	$521.3 million
2022-23	$362.4 million	$548.0 million
2023-24		$561.7 million
2024-25		$569.8 million
2025-26		$571.4 million
2026-27		$572.2 million
2027-28		$572.6 million

After FY 2027-28 the dollar amount of use tax levied by the LCSA would increase 1% per year. While these annual use tax levies are intended to provide 100% reimbursement for local units, using statutory amounts may not achieve this aim in practice. The amounts are estimates; therefore, they could be too low or too high in any given year. However, since the use tax levy is specified in statute, a future legislature and governor could change these amounts.

Senate Bill 829 creates the state essential services assessment. This levy on exempt eligible manufacturing personal property would increase state revenues, relative to current law. Personal property will be assessed based on its acquisition cost, and taxed at a rate of 2.4 mills in the first five years after it is acquired, 1.25 mills for the next five years, and 0.9 mills thereafter. Senate Bill 830 allows for an adjustment to the state essential services assessment. A firm that has an approved plan to invest in $25 million worth of new eligible personal property in the state (as stipulated in Section 9 of SB 829) would pay half the millage rates of the state essential services assessment established in SB 829.

Senate Bills 823 through 828 have no fiscal impact, except in the sense that they enable the impacts of the other bills in the package.

Table 2, on the following page, summarizes the estimated fiscal impacts of these bills. The total impact of exempting eligible manufacturing personal property (EMPP, line 1) is also the total amount the LCSA will reimburse both local units and the School Aid Fund (SAF). These reimbursements are intended to replace 100% of the revenue loss resulting from the exemption; therefore, they are interchangeable, less a few small reimbursements to tax increment financing authorities. The use tax levy and SAF reimbursements are also included in the table (lines 2 and 3), and are summed to give the total impact on the General Fund in line 4 (note the FY 2014-15 and FY 2015-16 numbers include debt loss reimbursements appropriated for those years only).

The net state revenue impact (line 6) is the total losses to GF/GP, plus the revenue from the state essential services assessment (line 5). Senate Bills 821 through 830 would reduce GF/GP revenue by a greater amount than the original personal property tax exemption package enacted by the legislature and signed into law by the governor in 2012—the difference is shown on line 7.

The overall loss from exempting eligible manufacturing personal property will be somewhat mitigated by an increase in General Fund revenue resulting from the expiration of existing certificated tax credits. However, because the revenue realized from expiring tax credits would have accrued to the General Fund anyway, identifying it as a funding source to offset the revenue loss from exempting EMPP means that it would no longer be available for any other General Fund purpose. Regardless, even with the additional General Fund revenue attributable to expiring certificated credits, the net impact of exempting EMPP would still reduce overall GF/GP revenue by $75 million to $125 million per year on an annual basis through FY 2024-25. As the 10-year phase-in of EMPP becomes complete, the annual revenue losses will drop to around $50 million.

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Table 2
Estimated Revenue Impacts
(in millions of dollars)

		FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
1	Total EMPP Exemption Impact	($9.9)	($39.2)	($127.2)	($414.4)	($443.1)	($469.1)	($496.4)	($520.7)	($549.4)	($576.6)	($590.8)	($599.2)	($601.1)	($602.4)	($603.3)
2	Use Tax Impact	$0.0	$0.0	($76.9)	($380.6)	($410.5)	($437.7)	($465.9)	($491.5)	($521.3)	($548.0)	($561.7)	($569.8)	($571.4)	($572.2)	($572.6)
3	GF Transfer to SAF	($9.9)	($19.9)	($30.9)	($42.0)	($42.4)	($42.9)	($43.3)	($43.8)	($44.2)	($44.7)	($45.2)	($45.7)	($46.1)	($46.6)	($47.1)
4	GF/GP Revenue Impact	($9.9)	($39.2)	($146.3)	($422.6)	($452.9)	($480.6)	($509.3)	($535.3)	($565.6)	($592.7)	($606.9)	($615.4)	($617.5)	($618.8)	($619.7)
5	State Essential Services Assessment	$0.0	$0.0	$20.0	$73.1	$79.2	$85.1	$91.2	$96.8	$103.3	$109.6	$112.9	$115.1	$116.0	$116.8	$117.5
6	Net State Revenue Impact	($9.9)	($39.2)	($126.3)	($349.5)	($373.7)	($395.5)	($418.0)	($438.5)	($462.3)	($483.1)	($494.0)	($500.3)	($501.5)	($502.1)	($502.2)
7	Net Change from Current Law	$0.0	$0.0	($34.4)	($49.9)	($54.2)	($58.9)	($63.4)	($67.9)	($72.8)	($76.1)	($78.3)	($79.9)	($80.7)	($81.4)	($81.9)

Source: Office of Revenue and Tax Analysis, Michigan Department of Treasury