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BILL ANALYSIS



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House Bill 6053 (Substitute H-3 as passed by the House)
House Bill 6054 (Substitute H-3 as passed by the House)
Sponsor: Representative Thomas A. Albert
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 12-11-18

CONTENT

House Bill 6053 (H-3) and House Bill 6054 (H-3) would amend the State Essential Services Assessment Act and the Alternative State Essential Services Assessment Act, respectively, to do the following:

- **Modify, from August 15 to October 15, the date by which each eligible claimant must electronically revise and certify a completed statement and make full payment of the assessment for that assessment year.**
- **Modify, from September 15 to November 15, the date by which the Department of Treasury must issue a notice to the eligible claimant if the claimant does not certify the statement and full payment of the assessment.**
- **Require an eligible claimant to submit the assessment payment in full by April 15 of the year following the assessment year, instead of October 15, along with the required penalty.**
- **Increase, from 1% per week to 5% per month, the penalty an eligible claimant would have to pay on the unpaid balance for each month payment that was not made in full, and increase, from 5% to 30%, the maximum penalty that could be paid on the total amount due and unpaid.**
- **Modify, from December to June of the immediately preceding assessment year, the dates by which certain exemptions must be rescinded if the eligible claimant does not submit payment in full and any penalty due.**

The bills are tie-barred.

Certification & Payment Deadlines

The "state essential services assessment" (or State ESA) is a specific tax on eligible personal property owned by, leased to, or in the possession of an eligible claimant (a person claiming an exemption for the property) on December 31 of the year immediately preceding the assessment year. The assessment took effect on January 1, 2016.

"Eligible personal property" means personal property that is exempt under Section 9m or 9n under the General Property Tax Act (which provide for the exemption of qualified new personal and qualified previously existing personal property, respectively); personal property that is eligible manufacturing personal property as defined in Section 9m and that has an approved exemption under Section 9f of the Act (which allows certain entities to adopt a resolution exempting from the collection of taxes under the Act all new personal property leased or

owned by an eligible business located in an eligible district) unless certain conditions are satisfied; personal property subject to an extended industrial facilities exemption certificate under Section 11a of the Plant Rehabilitation and Industrial Development Act (which specifies when a portion of a facility that is eligible manufacturing personal property must remain subject to the industrial facilities tax and exempt from ad valorem property taxes); and personal property that is subject to an extended exemption under Section 9f(8)(a) of the General Property Tax Act (which provides for continuation of an exemption issued before or on April 30, 1999).

The Alternative State Essential Services Assessment Act provides for the "alternative essential services assessment", which is a specific tax on eligible personal property owned by, leased to, or in the possession of an eligible claimant on December 31 of the year immediately preceding the assessment year. The assessment took effect on January 1, 2016, and is 50% of the State ESA.

Under the State Essential Services Assessment Act and the Alternative State Essential Services Assessment Act, not later than August 15 in each assessment year, each eligible claimant must electronically revise as necessary and certify a completed statement and make full payment of the assessment for that assessment year as calculated under the Acts. If an eligible claimant does not certify the statement and full payment of the assessment levied under the Acts by August 15, the Department of Treasury must issue a notice to the eligible claimant not later than September 15. The notice must include a statement explaining the consequences of nonpayment and instructing the eligible claimant of its potential responsibility. The bills would modify the dates in these provisions to reflect October 15, instead of August 15, and November 15, instead of September 15.

Penalties for Not Submitting Payment

Under the Acts, an eligible claimant must submit payment in full by October 15 of the assessment year along with a penalty of 1% per week on the unpaid balance for each week payment is not made in full, up to a maximum of 5% of the total amount due and unpaid. The bills would amend this provision to specify that an eligible claimant would have to submit payment in full by April 15 of the year following the assessment year along with a penalty of 5% per month on the unpaid balance for each month payment was not made in full, up to a maximum of 30% of the total amount due and unpaid. In calculating the penalty, a partial month would have to be considered a whole month and the penalty could not be prorated based on the day of the month the late payment was received.

The Acts specify that, for the eligible claimant's first assessment year, the penalty must be waived if the eligible claimant certifies the statement and makes full payment of the assessment levied under the Acts by September 15. The bills would modify this date to November 15.

Under the Acts, an eligible claimant may amend a certified statement for the current year up to September 15. Payments made due to an amended statement are subject to the penalties as described above. The bill would no longer subject amended statements to the penalties, and would modify the latest date, from September 15 to November 15, an eligible claimant could amend a certified statement.

Exemption Rescission Penalties

Under the Acts, for any assessment year in which an eligible claimant does not submit payment in full and any penalty due by October 15, or if the Department discovers that the

property is not eligible under Section 9m or 9n of the General Property Tax Act, all of the following must apply:

- The Department must issue an order to rescind no later than the first Monday in December for the assessment year any exemption described in Section 9m or 9n of the Act granted for any parcel for which payment in full and any penalty due have not been received or for which the Department discovers that the property is not eligible under those sections.
- Upon request of the Department, the State Tax Commission must issue an order to rescind no later than the first Monday in December for the assessment year any exemption under Section 9f of the Act after 2013 for any parcel for which payment in full and any penalty due have not been received or for which the Commission discovers that the property is not eligible personal property.
- Upon the request of the Department, the State Tax Commission must issue an order to rescind no later than the first Monday in December for the assessment year any exemption for eligible personal property subject to an extended industrial facilities exemption certificate under the Plant Rehabilitation and Industrial Development Act for any parcel for which payment in full and any penalty due have not been received or for which the Department discovers that the property is not eligible personal property.
- Upon the request of the Department, the State Tax Commission must issue an order to rescind no later than the first Monday in December for the assessment year any extended exemption for eligible personal property under Section 9f(8)(a) of the General Property Tax Act for any parcel for which payment in full and any penalty due have not been received or for which the Department discovers that the property is not eligible personal property.

The bills would modify, from October 15 to April 15 of the year following the assessment year, the date by which the above provisions would apply for any assessment year in which an eligible claimant did not submit payment in full and any penalty due or if the Department discovered that the property was not eligible under Section 9m or 9n of the Act. In addition, the bills would remove references to December and substitute June for the immediately preceding assessment year to the provisions above, as applicable.

MCL 211.1057 (H.B. 6053)
211.1077 (H.B. 6054)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bills would have an indeterminate, though minimal, impact on the State. The Essential Services Assessment and Alternative Essential Services Assessment currently bring in around \$100.0 million to the General Fund. The date change and increase in the penalty on late payments likely would increase the amount of payments made on time, which is not likely to increase revenue beyond current projections. Any additional penalties similarly would go into the General Fund. Revenue from penalties and interest is not disseminated by the revenue source the penalty is applied to, so it difficult to determine how much penalties and interest is due to the Essential Services Assessment. Currently, \$128.0 million is estimated to come in for penalties and interest revenue in fiscal year 2018-19 from all of the various revenue sources. With the relatively small amount of revenue the Essential Services Assessment brings into the State compared to other revenue sources, any changes as a result of these bills likely would be minimal to the penalties and interest revenue.

Fiscal Analyst: Cory Savino

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