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BILL ANALYSIS



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Senate Bill 520 (as introduced 5-27-03)
Sponsor: Senator Cameron S. Brown
Committee: Finance

Date Completed: 6-4-03

CONTENT

The bill would amend the General Property Tax Act to do the following:

- Allow a county treasurer or county equalization director to conduct an audit of homestead exemptions claimed in the local tax collecting units of the county.**
- Require the Department of Treasury to conduct annual audits of homestead exemptions in counties that elected not to conduct audits.**
- Allow a county treasurer or equalization director to file a recommendation for denial of a homestead exemption affidavit.**
- Allow a local assessor to accept or deny a recommendation for denial; require the assessor to notify the county treasurer and the Department of Treasury of the decision; and permit the Department of Treasury then to accept or reject the recommendation.**
- Allow a county treasurer to collect or retain 10% of the additional taxes, interest, and penalties if an exemption were denied and a corrected tax bill issued for previously unpaid taxes.**

Under the Act, taxpayers who own and occupy a homestead may file with the local tax collecting unit a homestead exemption affidavit, which exempts the property from local school operating taxes. Once an exemption is in place, it remains until the property is transferred or ceases to be a homestead. A "homestead" is a dwelling subject to property taxes and owned and occupied as the principal domicile by the owner. Under Section 7cc of the Act, if the assessor of the local tax collecting unit believes that the property is not the owner's homestead, the assessor may deny a new or existing claim by notifying the owner and the Department of Treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the Department. The Department must determine if the property is the owner's homestead, and may review the validity of exemptions for the current calendar year and for the three preceding calendar years. If the Department determines that the property is not the owner's homestead, the Department must notify the local tax collecting unit that the claim for exemption is denied, and the local treasurer must issue a corrected tax bill for previously unpaid taxes, with interest and penalties.

The bill provides that if a county treasurer (or his or her designee) or a county equalization director (or his or her designee) believed that property located in the county for which an exemption was claimed was not the homestead of the owner claiming the exemption, the treasurer or the equalization director could submit a recommendation for denial to the assessor of the local unit or to the Department for any affidavit filed with the local unit or forwarded to the Department, stating the reasons for the recommendation for denial. The county treasurer or equalization director could request eligibility documentation from a person claiming an exemption; documentation could include proof of voter registration and a copy of the person's driver license. Eligibility documentation could be used only to determine if the property was

the homestead of the person claiming the exemption. If the treasurer or equalization director submitted a recommendation for denial to the local assessor or to the Department, the assessor or the Department would have to make a determination regarding the denial and give the determination in writing to the county treasurer or equalization director within 90 days after the recommendation was submitted.

Each year a county treasurer or equalization director could elect to audit homestead exemptions claimed in all local units in the county by submitting an election to audit form (in a form prescribed by the Department) to the assessor of each local unit, and to the Department. If a county elected to audit the exemptions, the treasurer or equalization director would have to submit a recommendation for denial to the assessor of the local unit or to the Department, for any affidavit filed with the local unit or forwarded to the Department, that the treasurer or equalization director believed was not the homestead of the owner claiming the exemption, stating the reasons for the recommendation. The assessor or the Department would have to make a determination regarding the recommendation for denial and give the determination, in writing, to the county treasurer or equalization director within 90 days after the recommendation was submitted.

If a local assessor accepted a recommendation for denial, he or she would have to deny the exemption as provided under Section 7cc. If an assessor did not accept a recommendation for denial, he or she would have to provide a written explanation for that decision to the county treasurer or equalization director and to the Department of Treasury within 90 days after the recommendation for denial was submitted.

If the Department accepted a recommendation for denial, it would have to deny the exemption pursuant to Section 7cc. If the Department did not accept a recommendation for denial, the State Treasurer or his or her designee would have to provide a written explanation for that decision to the county treasurer or equalization director within 90 days after the county treasurer or equalization director submitted the recommendation for denial.

If, as a result of a denial, a local treasurer amended the tax roll and issued a corrected tax bill for previously unpaid taxes, interest, and penalties, he or she would have to transmit to the county treasurer 10% of any additional taxes, interest, and penalties received. If a county treasurer amended the tax roll and issued a supplemental tax bill for any additional taxes, interest, and penalties, he or she would retain 10% of any additional taxes, interest, and penalties received.

If a county treasurer or equalization director elected to audit exemptions each year, the Department would have to give the county treasurer or equalization director a list of all real property in the county for which multiple exemptions were claimed.

As mentioned above, the Act permits the Department to review the validity of exemptions for the current calendar year and the three preceding years. The bill provides, instead, that the Department annually would have to conduct an audit of exemptions for the current calendar, and could review the validity of exemptions for the three preceding years, for each county in which the county treasurer or equalization director did not elect to audit the exemptions claimed.

MCL 211.7cc & 211.53b

Legislative Analyst: George Towne

FISCAL IMPACT

The bill would increase school district and local unit revenues and reduce School Aid Fund expenditures. According to the Michigan Department of Treasury, the bill could increase school district revenues by approximately \$46 million in fiscal year (FY) 2003-04, \$24 million in FY

2004-05, and \$16 million per year after FY 2004-05. County revenues would increase by approximately \$5 million in FY 2003-04, \$3 million in FY 2004-05, and \$2 million per year after FY 2004-05. School Aid Fund expenditures would be reduced by \$51 million in FY 2003-04, \$27 million in FY 2004-05, and \$18 million per year after FY 2004-05.

Under the bill, it appears that counties would receive the estimated revenues (10% of the taxes, penalties, and interest assessed as a result of denying an exemption) whether an exemption denial resulted from an audit by the Department of Treasury or an audit by the county treasurer or equalization director. It is unclear whether the provision allowing a county to receive 10% of any additional taxes, interest and penalties would apply only to the initial assessment issued as a corrected tax bill or whether it would apply to all subsequent assessments, because denial of an exemption would increase taxes paid on the property in future years as well. To the extent that counties would be allowed to continue receiving the 10% amount into the future, school district revenues would be lower and county revenues would be higher than the estimated amount for future years.

Actual receipts under the bill would depend upon the extent of efforts to audit claimed exemptions. Sufficient staff may not be available either at the county level or in the Department of Treasury to obtain the estimated revenue. If a county elected to conduct the audit and, as a result, the Department did not conduct any audits for that county, and then did not devote sufficient staff to detecting the estimated number of exemptions that should be denied, then actual revenues would be lower than estimated. Similarly, if the Department were not able to devote adequate staff to fully auditing exemptions, the actual revenues would be lower than estimated. Because the bill would require audits for all counties that did not elect to perform the audits themselves, the bill could conceivably require the Department to divert staff from other tasks to fulfill the proposed requirement. The amount by which revenues might fall below estimated levels if inadequate or diverted staff at the county or State level occurred is unknown.

School Aid Fund expenditures would decrease because increases in locally generated revenues, such as through the up-to-18 mills levied for school operating purposes, are offset dollar-for-dollar by reduced School Aid Fund payments. School Aid Fund expenditures would fall by more than school district revenues would increase because counties would be allowed to keep 10% of the additional taxes but the calculation for School Aid Fund payments would not reflect the share of the taxes received by a county. When School Aid Fund payments are calculated, current law assumes that school districts receive 100% of the additional taxes, not 90%, as under the bill. Similarly, the bill appears to have some conflict with other sections of statute, which designate that the mills levied for school operating purposes be paid to schools, because school districts would receive only 90% of such levies.

This estimate is preliminary and will be revised as new information becomes available.

Fiscal Analyst: Bill Bowerman
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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.