

# Legislative Analysis



## JOBS PROVIDER BILL OF RIGHTS

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### House Bill 4244

Sponsor: Rep. Scott Hummel

### House Bill 5355

Sponsor: Rep. Fulton Sheen

### House Bill 5361

Sponsor: Rep. James Marleau

### House Bill 5356 and 5358

Sponsor: Rep. Lorence Wenke

### House Bill 5362

Sponsor: Rep. Leon Drolet

### House Bill 5357

Sponsor: Rep. Tom Meyer

### House Bill 5363

Sponsor: Rep. John Stakoe

### House Bill 5359

Sponsor: Rep. Judy Emmons

### House Bill 5364

Sponsor: Rep. Kevin Green

### House Bill 5360

Sponsor: Rep. Rick Jones

### House Bill 5386

Sponsor: Rep. Roger Kahn

Committee: Tax Policy  
Complete to 11-29-05

## A SUMMARY OF HOUSE BILL 4244 AS INTRODUCED 2-9-05, HOUSE BILLS 5355-5364 AS INTRODUCED 10-25-05, AND HOUSE BILL 5386 AS INTRODUCED 11-1-05

Most of the bills in this package of legislation, known as the Jobs Provider Bill of Rights, would amend the Revenue Act. One would amend the General Property Tax Act, and one the Use Tax Act. The bills are described below.

### House Bill 4244

The bill would amend the Revenue Act (MCL 205.21a) to specify that if a taxpayer provides the Department of Treasury with written notice within 60 days of the issuance of a credit audit, a refund denial, a denial of a consolidation request, or any decision of the department other than a final assessment that may be appealed under Section 22, the taxpayer would be entitled to an informal conference on the matter in the same manner as an informal conference regarding the liability of an assessment under Section 21 of the act.

### House Bill 5355

The bill would amend the Revenue Act (MCL 205.3) to specify that a rule or bulletin issued by the Department of Treasury would apply beginning on the following dates, whichever is earlier: (1) the date on which the rule or bulletin is filed with the Office of the Great Seal or (2) the date on which any notice substantially describing the expected contents of a rule or bulletin is issued to the public. (However, if a rule is issued within 18 months of the date of enactment of the statute to which the rule is related, then the first option would not apply.)

Additionally, the state treasurer could specify that any rule or bulletin apply retroactively to prevent abuse or to correct a procedural defect in the issuance of any prior rule or bulletin.

#### **House Bill 5356**

The bill would amend the Revenue Act (MCL 205.6) to require that a treasury department auditor notify a taxpayer subject to an audit of any refund opportunity identified during the course of the audit. The taxpayer could then claim the refund under the provisions of the act.

#### **House Bill 5357**

The bill would amend the Revenue Act (MCL 205.21a) to specify that a taxpayer has a right to claim credit amounts to offset debit amounts determined in an audit. A taxpayer, other than a taxpayer engaged in the business of making retail sales, could not claim an offset for a credit for sales taxes paid in excess of \$5,000.

#### **House Bill 5358**

The bill would amend the Revenue Act (MCL 205.21) to require the Department of Treasury to notify a taxpayer subject to an audit the amount of any refund identified during the audit and owed to the taxpayer. If the taxpayer disputes the findings of the audit and believes the amount of the refund is greater than the amount stated by the department, the taxpayer would have to notify the department within 30 days of the department's notice, and would be entitled to an informal conference.

#### **House Bill 5359**

The bill would amend the Revenue Act (MCL 205.21) to specify that during the course of an informal conference a taxpayer could convert a contest of an assessment into a claim for a refund, by providing the Department of Treasury with written notice. The notice would have to include payment of the contested amount. The informal conference would continue, and information and findings regarding the refund claim would be included in the decision and order of the conference.

#### **House Bill 5360**

The bill would amend the Revenue Act (MCL 205.21) to act in order to consider an informal conference denied, and allow the taxpayer further appeals of the issues in dispute, if the Department of Treasury fails to issue an order and determination within 180 days after a taxpayer serves the notice that is required to trigger an informal conference.

#### **House Bill 5361**

The Revenue Act (MCL 205.21) provides that taxpayers may request an informal conference with the Department of Treasury within 30 days of receiving a notice of intent to assess. The bill would increase the time limit to 60 days.

### **House Bill 5362**

The bill would amend the Revenue Act (MCL 205.6) to specify that a taxpayer could rely on a bulletin or private letter ruling issued by the department, and would not be penalized "in any way" for relying on that bulletin or ruling until it is revoked in writing by the department.

### **House Bill 5363**

The bill would amend the Revenue Act (MCL 205.30c) to permit the state treasurer (or a designee) to settle a civil tax matter that is in dispute by reducing the tax and/or penalties by an amount up to \$50,000. The state treasurer could settle a civil tax matter by reducing the tax and/or penalties by an amount exceeding \$50,000 if the treasurer submits the proposed settlement to the attorney general for review. The attorney general would have to review the settlement and submit a written reply to the treasurer within 30 days, indicated whether the settlement is reasonable.

If a settlement is made, a copy of the settlement would have to be maintained as a public record within the office of the state treasurer. The record would have to contain the names of the parties to the settlement, the total amount in dispute, the amount of the settlement, the reasons for the settlement, and the attorney general's opinion (if required), but would not include information that would, if disclosed, adversely affect the taxpayer or national defense. All settlements would be final and could not be appealed, unless there is a showing of fraud or misrepresentation of a material fact.

### **House Bill 5364**

The bill would amend the General Property Tax Act (MCL 211.53a et al.) to specify that if the local assessor and the owner of property subject to taxation under the General Property Tax Act, the Plant Rehabilitation and Industrial Development Act (P.A. 198), the Lessee-Users Tax Act, the Commercial Redevelopment Act, and Public Act 282 of 1905 (State Board of Assessors) agree that the property was incorrectly assessed for the current year and the one year immediately before date the incorrect assessment was discovered, the assessor would execute an affidavit verifying that "mutual mistake of fact" to the July or December Board of Review. The board of review would approve that mutual mistake of fact, and a taxpayer would receive a rebate for any overpayment or would be billed for any underpayment.

In addition, the bill would also specify that a taxpayer who is assessed and pays taxes in excess of the correct amount because of a clerical error or mutual mistake of fact made by the taxpayer in preparing the personal property tax statement could recover the excess amount paid, without interest, within three years from the payment date.

### **House Bill 5386**

The Use Tax Act (MCL 205.4) exempts property sold in Michigan "on which transaction a tax is paid" under the General Sales Tax Act. The bill would instead provide the exemption to property sold when "the transaction was subject to tax" under the General Sales Tax Act.

## **FISCAL IMPACT:**

House Bill 4244 has minimal fiscal impact on the State of Michigan, and no fiscal impact for local government. The bill adds additional administrative duties to the Department of Treasury, but the fiscal implications are indeterminate since it is unknown how many additional informal hearings might be granted.

House Bill 5355 has no fiscal impact on the State of Michigan or its local units of government.

House Bill 5356 would have minimal fiscal impact on state and local government. The bill's requirements for auditors to notify taxpayers of refund opportunities could result in additional refunds to taxpayers. The fiscal implications are indeterminate since it is unknown how many additional refunds might be identified by auditors and then claimed by taxpayers.

House Bill 5357 has no fiscal impact on state and local government.

House Bill 5358 has minimal fiscal impact on the State of Michigan and no fiscal impact on local government. The bill adds administrative duties to the Department of Treasury, but this has an indeterminate cost since it is unknown how many additional refunds or informal hearings might be granted.

House Bill 5359 has no fiscal impact on state and local government.

House Bill 5360 has no significant fiscal impact on state and local government since it provides procedural clarification.

House Bill 5361 has no fiscal impact on state and local government.

House Bill 5362 has no fiscal impact on state and local government.

The fiscal impact of House Bill 5363 is indeterminate at this time. An insufficient amount of information is available.

House Bill 5364 would have a no fiscal impact on the state and a potentially minimal fiscal impact on local units of government.

House Bill 5386 would have a minimal fiscal impact on the state and no direct fiscal impact on local units of government.

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