

Legislative Analysis



CHANGES TO TAX APPEAL PROCEDURE

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 100 (passed by the House as H-1)

Sponsor: Sen. Jack Brandenburg

House Committee: Tax Policy

Senate Committee: Finance

Complete to 6-3-15

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

(Enacted as Public Act 79 of 2015)

BRIEF SUMMARY: Senate Bill 100 alters the prerequisites for filing an appeal with the Court of Claims; increases the amount of time a taxpayer has to file an appeal with the Tax Tribunal from 35 days to 60 days; and appropriates \$200,000 of additional funds in Fiscal Year 2015-16 for the Court of Claims, in anticipation of the bill causing an increase in the court's expenses.

FISCAL IMPACT: As written, the bill should have no impact on total state tax revenues. While there will be some change in the flow of tax revenue to the state, the total amount of revenue should be unaffected by the changes. The Tax Tribunal is likely to see fewer cases under this legislation, which would decrease its operating costs, and by extension the costs of the Department of Licensing and Regulatory Affairs (LARA). The tribunal is an agency within LARA. Conversely, the Court of Claims will see its caseload and its costs rise due to the changes in this legislation. The \$200,000 appropriation in Fiscal Year 2015-16 is intended to offset these costs. There should be no impact on local government revenues.

THE APPARENT PROBLEM:

While both the Tax Tribunal and the Court of Claims can hear non-property tax assessment disputes, the Tribunal is exclusively charged with hearing property tax cases. Taxpayers who wish to bring their dispute to the Tax Tribunal must pay the amount of tax they are not disputing, while those who bring their dispute to the Court of Claims must pay all of the tax assessment, both the disputed and undisputed portion. Naturally this means many taxpayers choose to pay a small fee to have their case heard by the Tribunal. This is problematic, since the Tax Tribunal is intended to deal primarily with property tax cases, and is not bound by the same judicial rules as the Court of Claims.

THE CONTENT OF THE BILL:

Under current law, any taxpayer wishing to dispute their tax assessment must file that appeal with either the Tax Tribunal or the Court of Claims. While the Tax Tribunal has exclusive authority to hear cases related to property taxes (assessments, granting of principal residence exemptions, equalization, etc.), a taxpayer can have non-property tax cases heard for a \$250 fee. Importantly, in most circumstances the taxpayer does not have to pay the amount of tax liability under dispute before the case is heard.

However, for an appeal to be heard by the Court of Claims, a taxpayer must pay both the contested and uncontested portion of their tax liability. Senate Bill 100 would remove this requirement, allowing taxpayers to withhold payment of the contested portion of their tax

liability, paying only the uncontested portion, until the courts have decided their case. Following this change, taxpayers would find it easier to file a non-property tax related appeal with the Court of Claims, rather than the Tax Tribunal. In anticipation of an increased caseload due to the changes in this bill, SB 100 appropriates an additional \$200,000 in the next fiscal year (FY 2015-16) from the General Fund to the Court of Claims.

Finally, the bill would increase the time a taxpayer has to file an appeal with the tax tribunal. Senate Bill 100 would give a taxpayer 60 days after an assessment, decision, or order to file that appeal, up from 35 days under current law.

HOUSE ACTION:

House Substitute H-1 makes only one change to the version sent over by the Senate. The \$200,000 appropriate to the Court of Claims was moved from the current fiscal year (FY 2014-15) to Fiscal Year 2015-16.

ARGUMENTS:

For:

Bringing parity between the Tax Tribunal and the Court of Claims through removing the "pay-to-play" requirement, will create a fairer system for taxpayers. It will be easier to bring a non-property tax dispute to the more appropriate Court of Claims, while giving the taxpayer the protection of judicial standards not present in the Tax Tribunal system.

Against:

In removing the "pay-to-play" requirement, the state will incentivize large taxpayers to delay full payment of their tax assessments.

Response:

While the taxpayer may not have to pay the entirety of their tax assessment upfront, should the Court of Claims find they do, in fact, owe all or part of the disputed portion, Treasury may assess penalties and interest on that unpaid amount, as if it were delinquent.

POSITIONS:

The Michigan Chamber of Commerce testified in support of Senate Bill 100. (4-22-15)

A representative for the Honigman Law Firm testified in support. (4-22-15)

Legislative/ Fiscal Analyst: Adam Desrosiers

■ 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.