

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

• (517) 373-5383

Senate Bill 930

Sponsor: Senator Norman D. Shinkle

Committee: Finance

JUL 26 1990

Date Completed: 5-8-90

SUMMARY OF SENATE BILL 930 as introduced 4-25-90:

The bill would create the Taxpayer Grievance Council Act to establish a taxpayer grievance council within the Legislative Council. The bill would allow the grievance council to investigate the Department of Treasury's actions in tax disputes, including examining the administrative and judicial records in a dispute; identify legal or administrative failings in the collection of a tax; award the payment of costs to a taxpayer in a dispute; and recommend statutory or administrative changes. The bill also would require the grievance council to file an annual report with the Legislature.

The Legislative Council would be required to recommend to the Legislature individuals for appointment to the five-member grievance council. The individuals would have to be citizens of the State who were not employed in the public sector. An appointee could take office when approved by a legislative resolution, and would serve until the end of the legislative session during which the resolution was adopted or until a successor was appointed, whichever was later. A grievance council member would serve without compensation, but would be reimbursed for actual expenses incurred in the performance of grievance council business, as determined by the Legislative Council.

Upon receipt of a written complaint or upon the grievance council's own initiative, the grievance council could investigate the Department's actions in a tax dispute. The grievance council could not consider a complaint unless the dispute had otherwise been finally resolved. In considering a complaint, the grievance council could examine the administrative and judicial records of the dispute and, upon request, would have to be given access to all information, records, and documents of the Department that the grievance council considered necessary to consider the complaint. The Department would have to assist the grievance council in obtaining the necessary releases for a document that was specifically restricted or privileged for use.

A person or the Department could make informal presentations to the grievance council, including testimony and documentary or other evidence that the council considered necessary. As a result of an investigation of a complaint, the council could identify "legal or administrative failings" in the collection of a tax. The grievance council would have to report those failings to the Legislative Council along with any statutory, administrative, or other changes the grievance council believed would correct the failings. Before announcing a conclusion or recommendation that expressly or by implication criticized a person or the Department, the grievance council would have to consult with that person or the Department. When publishing an adverse opinion, the grievance council

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would have to include in the publication a statement made to the council by the Department or the person in defense or mitigation of the action. The grievance council could request notification from the Department, within a specified time, of action taken on a recommendation. The grievance council would have to notify interested persons of the action taken by the council and by the Department.

Upon request of the grievance council the Legislative Council could hold a hearing as authorized by the Legislative Council Act. The Legislative Council could administer oaths, subpoena witnesses, and examine the books and records of the Department or the person involved in a matter that was the proper subject of investigation by the grievance council.

If a person showed to the satisfaction of the grievance council that he or she had incurred uncompensated expenses as a result of an unfair or unjustified tax collection action by the Department, the council could award the person compensation up to the actual costs relative to expenses incurred by the taxpayer.

Correspondence with the grievance council would have to be processed as privileged correspondence in the same manner as that between a person and a court, attorney, or public official. The council would have to maintain secrecy with respect to all matters and the identity of a person from whom information was acquired, except so far as disclosures could be necessary to enable the council to perform its duties and to support a recommendation resulting from an investigation.

The grievance council would have to submit an annual report on the conduct of the office to the Legislative Council and the Legislature.

The Department would be prohibited from penalizing in any way a person who filed a complaint or cooperated with the grievance council in investigating a complaint. A person or the Department would be prohibited from hindering the lawful actions of the grievance council and could not intentionally refuse to comply with the lawful demands of the grievance council.

Legislative Analyst: G. Towne

#### FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government.

Fiscal Analyst: N. Khouri

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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.