SFA BILL ANALYSIS

Senate Fiscal Agency • Lansing, Michigan 48909 • (517) 373-5383

House Bill 5538 (Substitute S-2 as reported)
Sponsor: Representative Ken DeBeaussaert
House Committee: Taxation
Senate Committee: Finance

Date Completed: 11-1-90

RATIONALE

Michigan's property tax system and the burden that it places on the taxpayers have long been the target of considerable complaint; the tax has been called the State's most onerous by some, an impediment to business and economic development by others. Traditionally, Michigan property taxes have ranked among the highest when compared to property tax levels in other states. This has spawned a debate that has been lengthy and continuing. In an attempted response to the problems, there have been both legislative and citizen-initiated proposals, some of them considered drastic, to alter the State's property tax system and the local government and school financing system.

Almost all the proposals, with the exception of the 1978 Tax Limitation Amendment (known as the Headlee Amendment), have been soundly defeated by the voters. In 1989, Proposal B, which if approved would have made substantial changes in the property tax system and replaced reduced revenue by increasing the sales tax by 2 cents, was defeated by a wide margin. Some people have taken this defeat, coupled with continuing calls for property tax relief, to mean that taxpayers want property taxes reduced, not shifted to another type of tax. In both his State of the State Message and budget message, the Governor proposed reducing the burden of local school property taxes on homeowners by limiting future assessment increases to the rate of inflation. Numerous property tax reduction bills incorporating this idea and other proposals have passed one house of the Legislature or the other. Thus far, none has passed both houses.

Meanwhile, a group led by Richard Headlee and called Taxpayers United for Assessment Cuts has collected signatures for a citizen-initiated law that would reduce property tax assessments by 20% after two years. On September 11, the group turned in to the Secretary of State a reported 222,607 signatures. If 191,726 of the signatures are validated by the Secretary of State's Office, the initiative will be eligible to be placed on the ballot (if not approved by the Legislature). The signatures were submitted too late for the initiative to be included on this year's general election ballot (since the required number of signatures has not yet been validated), so the initiative will appear on the 1992 ballot if there are enough valid signatures. It has been suggested that since the initiative apparently has enough signatures to be placed on the ballot eventually, and it appears that the public would support a substantial property tax cut, the Legislature simply put the initiative proposal (to cut property assessments by 20%) in bill form and adopt it.

CONTENT

The bill would amend the General Property Tax Act to provide that property would be assessed at 45% of its true cash value on December 31, 1990, and 40% of its true cash value each year thereafter. Currently, property is assessed at 50% of its true cash value, which is the maximum allowed under Article 9, Section 3 of the State Constitution.

The bill would require the State to reimburse local taxing units from the General Fund for revenue lost due to the reduction in true cash value.

Any taxpayer would have standing to bring suit, including a class action, in the circuit court where the property was located, to enforce the bill. A taxpayer who prevailed on any point of such litigation would have as damages from the defendant the actual expenses of the litigation, including attorney fees, times 150%. No cost of any kind could be levied against a plaintiff taxpayer.

MCL 211.27a

SENATE COMMITTEE ACTION

As passed by the House, the bill would have prescribed the duties of local assessors and treasurers in supplying information to the owners of residential and agricultural property, in order for those taxpayers to claim a new credit against income tax liability as proposed in House Bill 5537 (H-2).

FISCAL IMPACT

The bill would lead to an estimated gross reduction in property taxes of $826 million in 1991 and $1,751 million in 1992. As property taxes are reduced, homestead property tax credits are automatically lowered. Therefore, net property taxes would be reduced by an estimated $703 million in 1991 and $1,488 million in 1992.

Estimated Fiscal Impact
(Millions of Dollars, Calendar Year)

Year	Gross Property Tax Reduction	Homestead Credit Offset	Net Tax Reduction
1991	$ 826	$ (123)	$ 703
1992	$1,751	$ (263)	$1,488

It is not clear what unit of government would lose tax revenues. Although the bill would require the State to reimburse local units of government for the reduction in property taxes, prior case law has established that legislative action cannot bind future legislative appropriations. The reimbursement language would express legislative intent only.

ARGUMENTS

Supporting Argument

The initiative proposal advocated by Taxpayers United for Assessment Cuts is clearly something the property taxpayers could support. Tax-cut sentiment has been rising in recent years, fueled by double-digit assessment increases, and the time has come for real property tax relief. Both houses of the Legislature and the Governor have for years offered one proposal after another to reduce the property tax burden, but nothing has happened. While everyone seems to agree that there is a need for reform, a consensus on how to accomplish that goal has thus far been unattainable. Meanwhile, the taxpayers keep paying ever-increasing property taxes. The bill would eliminate the need for a two-year delay in allowing the voters to decide the issue, and would give taxpayers real relief in the immediate future.

Supporting Argument

Periodically, over the last 15 years, dissatisfaction with the property tax system has peaked, and each time efforts have been made to find better ways to raise and distribute tax dollars for those units that rely on them the most: the schools and local governments. Time and again, attempts at creating lasting reform have been frustrated by the enormous complexity of the task and by the competing and conflicting goals of the parties involved. In 1989, the latest attempt to address the problems of property taxes, school finances, and local government finances, saw the placement of two proposals on the ballot. The voters soundly rejected both Proposal A (to increase school funding by increasing the sales tax by 1/2 cent) and Proposal B (to raise the sales tax by 2 cents, and dedicate 1-1/2 cents to property tax relief and 1/2 cent to school funding). From 1978 on, voters have been confronted with, and (except for the Headlee Amendment) have rejected various ballot proposals that would have slashed property taxes drastically in an effort to reduce the size and influence of government, and others that would have shifted reliance on the property tax to either the sales or the income tax. Repeated attempts in the Legislature to resolve the issues also have failed.

Though ballot proposals and legislation have come and gone, high property taxation is an issue that has not gone away. One common theme remains: the people want property tax relief. The bill would cause a substantial lasting reduction in the amount of property taxes that taxpayers pay, and thus at long last would provide real property tax relief.

Opposing Argument

While the bill offers real property tax relief, at least initially, at what cost? And who would end up paying? Although the bill would require the State to reimburse local units of government for revenue lost by the reduction in property taxes, there is a serious concern that the requirement would not work. Simply put, what if the State just didn't have enough money to reimburse locals units? Where would the money come from? Selling off assets and reducing or closing departments would capture some revenue, but would it be enough to pay the approximate $1.5 billion cost projected for 1992? And what of future years, after assets had been sold and departments trimmed?

Further, the bill may contain flaws that would not allow for the intended reimbursement of local units, but instead would result in a huge legal headache. Although the bill would require the State to reimburse locals for the revenue loss caused by the bill, "revenue loss" is not defined. Would "revenue loss" be based upon a fixed value of a property in 1991, or would valuation increases from year to year be included in the calculation to determine the loss? In addition, and perhaps more importantly, there is some question of whether the State would have to provide reimbursement to local units after the first year of the proposal. Case law has supported the notion that a legislative action in one year cannot bind legislative appropriations in a future year. Further, the State Constitution provides that total appropriations cannot exceed total estimated revenues in a given year. If the State simply didn't have enough money to appropriate to locals for their revenue loss, it is likely that the local units would not get the revenue upon which they based their budgets, causing widespread problems.

The bill, in order to succeed without causing more problems than it solved, needs an earmarked source of revenue to reimburse locals for lost revenue, and needs to pinpoint exactly what "revenue loss" is for locals.

Response: Whenever tax cuts are proposed, there are shouts of protest that say, "Where will the money come from?" But individuals ask themselves that question each time they are faced with an increased tax bill. It is time to worry about and address the concerns of the people who pay the taxes, and force the State to deal with its now bloated expense account.

Opposing Argument

The bill would offer only a short-term solution and revenue enhancement for the taxpayers, leaving them to suffer anew as property values rose in future years. A better idea than that offered by the bill would be to cap assessment increases to the rate of inflation. Such a proposal would, over the long-term, reduce the property tax burden more than slashing assessments one time, and would allow the State and local units a greater opportunity to adapt to and deal with the gradual revenue loss it would cause.

Response: The taxpayer wants real relief now, not the possibility of relief in five or 10 years.

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