



**House  
Legislative  
Analysis  
Section**

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**INDUSTRIAL PROPERTY TAX ASSESSMENTS**

House Bill 4379 with committee amendments  
First Analysis (3-31-87)

**RECEIVED**

Sponsor: Rep. H. Lynn Jondahl  
Committee: Taxation

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***THE APPARENT PROBLEM:***

In hearings before a subcommittee of the House Taxation Committee last session, representatives of numerous local units of government and school districts revealed their growing concern about the recent trend of large industrial taxpayers to appeal property tax assessments, at a cost of tens of millions of dollars in revenue for local services and education. A notable example is General Motors Corporation, which has launched a nationwide campaign to reduce assessments on its property. The company argues that its assessments have escalated over the years to the point where they are now substantially higher than true property values. While the right of all taxpayers to challenge their property assessments cannot be questioned, local governments say the appeal process is inadequate to allow them to defend large industrial assessments and puts them at risk of serious financial crises in the event that major appeals are successful.

A taxpayer must protest to the local board of review before appealing an assessment to the Michigan Tax Tribunal. However, representatives of assessing units charge that large industrial taxpayers all but disregard this process by simply filing an eleventh-hour protest demanding huge reductions in assessments without providing any information regarding the basis of the requested reduction or the taxpayer's estimate of the true cash value of the property. This practice renders the board of review powerless to make a meaningful evaluation of the taxpayer's claims, and thus allows the taxpayer to appeal to the tax tribunal, where, presumably, the odds are more favorable for the taxpayer to receive a reduction. While a reduction ordered by the board of review can be incorporated in the taxing units' budgeting process, subsequent reductions ordered by the tax tribunal (perhaps several years later) often must be paid out of a single year's revenue, placing the local units in serious financial jeopardy.

Moreover, both taxpayers and assessors report problems of communication and in obtaining information during the period before an assessment is finalized. Assessors say they are often denied access to the property and are not provided with the information they need to determine true cash value. Businesses say that they are not allowed the opportunity to meet with the assessor to discuss the valuation of their property or the basis for the assessment before it is placed on the tax roll.

***THE CONTENT OF THE BILL:***

The bill would amend the property tax act to establish a procedure for assessor-taxpayer conferences, which would be mandatory for a taxpayer who wanted to appeal the assessment of "designated real property" (industrial property with a state equalized value of \$500,000 or more). However, any industrial or commercial taxpayer could request a meeting with the assessor to discuss the valuation of property.

Inspection and Exchange of Information

An assessor could notify the owners and occupants of designated real property of his or her intent to inspect the property. The taxpayer would have to allow the assessor and his or her employees or agents to inspect the property and provide the assessor with a guide who was familiar with the property. The assessor would have to observe the same rules established for the taxpayer's employees concerning safety and confidentiality of manufacturing processes occurring on the property. Further, if the assessor was assisted by a person other than the assessor's employee, that person would only have access to the property subject to a contractual prohibition against disclosing the taxpayer's confidential information.

The assessor could request and receive information from the taxpayer, including the dates of acquisition of the property and construction of buildings and other improvements, the nature of the improvements, current use of the property, physical changes that had occurred in the previous tax year, architectural drawings, leases and the names of people leasing any part of the property, and unoccupied parts of the property.

Tentative Valuation and Conference

By the second Monday in September, the assessor would make a tentative determination of value, and notify the taxpayer that it could request an assessor-taxpayer conference to discuss the true value of the property. The initial meeting would have to be held by November 1, and the conference would have to be concluded at least 45 days before the first Monday in March. At the conference, the assessor would have to explain the basis of the tentative valuation, including the assessor's assumptions regarding the physical characteristics of the property, the current use and the highest and best use of the property, and the changes in the property in the previous tax year, approaches to value considered and relied upon in valuing the property, sources of data used, and general or special studies of the same class of property used by the assessor.

The taxpayer could object to the procedures used to value the property and point out specific factors affecting the value. The taxpayer would have to provide the assessor with its estimate of true cash value and information supporting the estimate, and allow the assessor to question the people responsible for developing the estimate. The assessor could also request additional information at this time. If the taxpayer had the requested information but did not provide it to the assessor, the taxpayer could not use the withheld information for any purpose in subsequent proceedings concerning the value of the property. Likewise, the assessor would be required to respond to the additional information provided by the taxpayer and share any information which refuted it. If the assessor did not share this information, he or she could not use it during subsequent proceedings.

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### **Agreement or Appeal**

At least ten days before the meeting of the board of review, the assessor would notify the taxpayer of any change in the tentative valuation of the property. If agreement was reached on the property's value, the agreement would be put in writing and submitted to the board of review, and would be binding on both parties. However, if the taxpayer continued to disagree with the modified valuation, it would have to appeal to the board of review. The appeal would have to include the taxpayer's objections to the tentative determination of value, the taxpayer's estimate and supporting facts. This statement would not be binding on the taxpayer in subsequent appeals. The assessor would also file a statement of the basis for the valuation with the board of review, and the board would use the statements to make a determination.

If the taxpayer did not request an assessor-taxpayer conference and the tentative valuation set by the assessor was used for the final assessment of the property, the taxpayer could not appeal the assessment further, unless there was a subsequent substantial physical change in the property (MCL 211.30).

### **FISCAL IMPLICATIONS:**

The Department of Treasury described a similar bill last session as having no fiscal implications for the state (6-5-86).

### **BACKGROUND INFORMATION:**

House Bill 4379 is part of a package of bills, including House Bills 4375 and 4380, that is very similar to a package of bills developed in the last session by a subcommittee of the House Taxation Committee (House Bills 5266, 5268, and 5269, respectively) and passed by the House. The bills are not tie-barred but all deal with problems associated with the assessing of large industrial property.

### **ARGUMENTS:**

#### **For:**

The bill would establish a procedure designed to promote communication between assessor and taxpayer and to produce an agreement on the value of large industrial property at the local level, with the goal of avoiding appeals to the tax tribunal where large reductions in assessment may jeopardize the fiscal stability of local units of government and school districts.

The assessor-taxpayer conference would be based on an early, tentative valuation, determined well in advance of the completion of the tax roll. The bill outlines a process for the exchange of information and interaction between the parties which could help reduce the "game playing" that occurs as assessors and taxpayers seek to outmaneuver each other through the steps of the appeals process.

Both parties stand to gain by shortening the appeal process and reaching a resolution at the board of review stage, thereby avoiding the legal and technical expenses incurred in further challenging and defending an assessment before the tribunal.

#### **For:**

The current system for valuation and appeals places assessing units at a disadvantage because there is no requirement or incentive for taxpayers to provide the information necessary for complex appraisals of large industrial property prior to the exchange of appraisals at the tribunal level. Thus, the local unit has no knowledge as to the basis for the taxpayer's appeal and no way of evaluating whether to offer an early settlement or pursue

a costly defense of the assessment. The bill would require taxpayers to allow the assessor access to the property to inspect it and take measurements, and would require the taxpayer to provide certain information that could help establish the value of the property. Further, the assessor could request additional information relating to the specific claims of the taxpayer regarding the tentative valuation.

#### **Against:**

The assessor's ability to obtain additional information during the assessor-taxpayer conference process outlined in the bill would be limited to those specific items in the tentative valuation to which the taxpayer objected. Thus, the taxpayer could choose to object to items for which he or she had evidence to support a lower value, while leaving intact certain items in the tentative valuation which the taxpayer knew had been underestimated. This could tend to skew the valuation to the taxpayer's advantage.

#### **Against:**

Critics of the bill have objected in two different ways to the fact that it applies only to taxpayers owning or occupying industrial property with an assessed value of \$500,000 or more. Some say the bill arbitrarily subjects one segment of taxpayers to burdensome new requirements that other taxpayers will escape, which is discriminatory. Why shouldn't other commercial and industrial taxpayers who request an assessor-taxpayer conference face these inspection and information requirements? Others object that since the problem being addressed results from appeals from very large taxpayers, the bill should only apply to those taxpayers and should have a much larger threshold than \$500,000.

#### **Against:**

Representatives of the business community have described this bill (and others in the package) as an attempt to protect the tax revenue base by discouraging industrial taxpayers from protesting unfair assessments rather than an effort to improve property tax administration. It is the fact that industry has succeeded in proving that its property is overtaxed that there is suddenly so much concern about the assessment and appeals processes. The business coalition involved in this issue advocates a long-term goal of reducing the dependence on the property tax as a source of revenue since it is in many ways an unfair, burdensome tax with inherent administrative problems, especially as it affects businesses, which are taxed on personal property. This package does not move in that direction but seeks to perpetuate the property tax system. The bills also fail to contain a statutory definition of real versus personal property. The business coalition has introduced its own package of bills dealing with assessing practices and the appeals process.

**Response:** The improvements to the assessment and appeal procedures made by this bill do not prevent the legislature from further study of the property tax system. In fact, the property tax will be under considerable scrutiny during this session on many fronts, legislative and otherwise, as school financing has become a major policy issue once again.

### **POSITIONS:**

The Michigan Assessors Association supports the bill (3-23-87).

The Michigan Townships Association supports the bill (3-23-87).

The Michigan Association of School Boards supports the bill (3-23-87)

The Michigan Education Association supports the bill (3-23-87).

The Michigan Municipal League supports the bill (3-25-87).

The Michigan Federation of Teachers supports the bill (3-23-87).

The Michigan Out-of-Formula School Districts Association supports the bill (3-23-87).

The Middle Cities Education Association supports the bill (3-23-87).

The Department of Treasury has no position on the bill (3-25-87).

The Michigan State Chamber of Commerce opposes the bill (3-27-87).

The Michigan Manufacturer's Association opposes the bill (3-27-87).

The Michigan Association of Realtors opposes the bill (3-30-87).

The Michigan Merchants Council opposes the bill (3-27-87).

The Greater Detroit Chamber of Commerce opposes the bill (3-27-87).

The Grand Rapids Area Chamber of Commerce opposes the bill (3-27-87).

The Michigan Association of Homebuilders opposes the bill (3-27-87).

The National Federation of Independent Business, Michigan Chapter, opposes the bill (3-27-87).