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CHURCH CONSTRUCTION: SALES/USE TAX EXEMPTION

House Bill 4163 (Substitute H-1)
Sponsor: Rep. Jessie Dalman

House Bill 4743 (Substitute H-1)
Sponsor: Rep. Kirk A. Profit

Committee: Tax Policy
First Analysis (6-19-97)

THE APPARENT PROBLEM:

Churches, synagogues, mosques, temples, and other houses of worship are exempt from the sales and use taxes when purchasing goods and supplies for their use (as are other non-profits). For example, if church members buy construction materials and a volunteer work crew undertakes a construction project, no sales or use taxes are due on those materials. However, if a church hires a contractor to carry out a project at church property, the contractor is obligated to pay sales or use taxes on materials used or consumed in the undertaking. According to testimony before the House Tax Policy Committee, such exemptions were available from 1949 to 1970, when they were repealed. Today, exemptions exist only for materials purchased by contractors working on nonprofit hospitals and nonprofit housing. Health and shelter are important human needs, but churches and other houses of worship also serve important spiritual and material needs. Indeed, reportedly, more than ever, churches are taking on an expanded role in addressing community problems. Some people believe that the current sales and use tax exemptions for construction materials be extended to those cases when contractors are working on church property.

THE CONTENT OF THE BILLS:

The bills would exempt from the sales and use taxes the purchase of tangible personal property purchased by a person engaged in the business of constructing, altering, repairing, or improving real estate for others if the property is to be affixed to or made a structural part of real estate owned or occupied by a regularly organized church or house of religious worship.

At the time of transfer of property for which an exemption is claimed on that basis, the transferee would have to sign an affidavit, on a form approved by the Department of Treasury, that the property was to be used in that way.

House Bill 4163 would amend the General Sales Tax Act (MCL 205.54p). House Bill 4743 would amend the Use Tax Act (MCL 205.94m). The two bills are tied to one another.

FISCAL IMPLICATIONS:

The House Fiscal Agency has estimated the annual revenue loss from the two bills at \$8 million to \$10 million. (Fiscal Note dated 5-5-97)

ARGUMENTS:

For:

The bills would extend to churches and other houses of religious worship the sales and use tax exemptions currently enjoyed by nonprofit hospitals and nonprofit housing. This restores an exemption that tax specialists say was available to churches (and some other entities) from 1949 to 1970. The bills require contractors to sign an affidavit attesting to the fact that the property they are purchasing is to be affixed to or made a structural part of church property, in order to avoid abuses of the exemption. The bills provide tax relief (at a small cost to the state) to churches -- valuable and unique institutions that are carrying out all manner of important work for the people of the state.

Against:

A number of concerns have been expressed about this bill. For one thing, it provides the tax exemption not to a church or religious organization, but to a contractor. Providing a tax exemption to a business based on the nature of the customer is quite rare and problematic. Second, there is the issue of which organizations (or buildings) qualify as churches. It is possible for people to create or become part of churches by mail order. This could lead to abuse, as has been the case in the past when there was a tax break (since modified) on

church vehicles. Also, the exemption applies to real estate "owned or occupied by a regularly organized church or house of religious worship." This language also complicates matters. A "church" could hold its meetings in a hotel, for example. Would the exemption then apply to the hotel? The building could be owned by a church but not used as a church, or exclusively as a church. Moreover, churches sometimes own commercial enterprises. Reportedly, this and similar exemptions were eliminated in 1970 because of contractor abuse. Further, there are proposals to apply this kind of exemption to many other entities, including schools, universities, local government, airports, and others. Taken together, these exemptions will result in significant revenue losses.

POSITIONS:

A representative of the Michigan Catholic Conference testified in support of the bills. (6-18-97)

Representatives from the Central Wesleyan Church of Holland testified in support of the bill. (6-18-97)

The Department of Treasury is opposed to the bill. (6-18-97)

The Michigan Education Association has indicated its opposition to the bill. (6-18-97)

Analyst: C. Couch

■ 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.