



**House
Legislative
Analysis
Section**

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**POLICE/FIRE ASSESSMENT:
SUMMER LEVY**

**Senate Bill 356 (Substitute H-1)
First Analysis (4-30-02)**

**Sponsor: Sen. George A. McManus, Jr.
House Committee: Tax Policy
Senate Committee: Finance**

THE APPARENT PROBLEM:

Public Act 33 of 1951 allows townships to levy a special assessment to support police and/or fire protection on the lands and premises to be benefited. (The act also applies to adjoining townships and incorporated villages and cities with under 15,000 inhabitants acting jointly.) The act says that "the assessment shall be distributed and shall become due and be collected at the same time as other township taxes are assessed, levied, and collected . . .". Tax specialists say that townships collect their property taxes in December, although some collect taxes in July for other units of government. (With the recent legislation to collect the state education tax in the summer, this is expected to be true of nearly all townships.) The fiscal year for most townships begins April 1 and for some others on July 1. When the special assessment for police and/or fire protection is only levied in winter, the result can be a significant cash flow problem for the local unit. Legislation has been drafted that would make it clear that a local unit that levies a July property tax could levy a Public Act 33 special assessment at the same time.

Another problem has arisen with Public Act 33. A February 2000 ruling by the attorney general said that lands exempted from ad valorem property taxes under the General Property Tax Act are not exempt under an act authorizing a special assessment unless the special assessment act specifically says so. This means that nonprofit organizations (including churches, to cite a particular sore point) are not exempt from Public Act 33 if they benefit from police and fire protection. Reportedly, this opinion has created conflict and consternation in some communities using Public Act 33. Legislation has been proposed to exempt from the act property that is exempt from property taxes.

THE CONTENT OF THE BILL:

The bill would amend Public Act 33 of 1951, which allows the imposition of a special assessment for police and fire services, to do the following:

- To allow not more than two mills of the special assessment to be collected with the July property tax levy, in a township that has a July property tax levy.
- To specify that lands and premises exempt from the collection of taxes under the General Property Tax Act would be exempt from the special assessment.

MCL 41.801

HOUSE COMMITTEE ACTION:

The House Committee on Tax Policy reported a substitute for the Senate-passed bill. The Senate-passed version had also allowed a local unit to collect more than two mills at the July levy but only if approved by voters. The House substitute removed this provision, limiting the July levy to two mills. The substitute also added the provision exempting property from the special assessment if it is exempt under the General Property Tax Act.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill should have no significant fiscal impact. (HFA floor analysis dated 4-24-02)

ARGUMENTS:

For:

The bill would address two problems that have arisen with Public Act 33 of 1951, which allows townships (primarily) to levy a special assessment to cover the costs of police and/or fire protection. For one thing, the bill would specifically permit the assessment to be collected with a summer tax levy. This should ease the cash flow for townships, whose fiscal years

Senate Bill 356 (4-30-02)

begin typically on April 1 or July 1, according to representatives of townships. Some communities must wait six months or more for the collection of the taxes to fund operations, creating a cash flow problem (and a need for increased borrowing). Under current law, it is not clear that townships can levy a Public Act 33 special assessment in the summer.

Second, the bill would respond to a recent attorney general's opinion that said nonprofit organizations are not exempt from these special exemptions as they are from property taxes. The special assessments, said the AG, are not taxes and any exemptions must be specifically cited in the authorizing statute. (There is a 1958 court of appeals decision upholding Public Act 33 as a legitimate special assessment and not a property tax, based in part on the fact that the assessment is levied only on real property and not on personal property.) The bill would make it clear that property exempt from general property taxes should be also exempt from the Public Act 33 special assessment. This would deal with the conflict said to be occurring in some areas over the taxing of churches and other nonprofits. It also eliminates the need for local assessors to assign a taxable value to churches and other nonprofits on which to base the levy.

Response:

It should be noted that some people look askance at this kind of special assessment, a unit-wide, ad valorem special assessment levied to provide a basic service of local government that arguably benefits everyone. Although called a special assessment, it looks a lot like a property tax (but without the restrictions imposed on property taxes).

POSITIONS:

A representative of the Michigan Townships Associations testified in support of the bill. (4-24-02)

A representative of the Northern Michigan Fire Chiefs Association testified in support of the bill. (4-24-02)

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.