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## BILL ANALYSIS



Telephone: (517) 373-5383  
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House Bill 6007 (Substitute H-1 as reported without amendment)  
House Bill 6008 (Substitute H-1 as reported without amendment)  
House Bill 6009 (Substitute H-1 as reported without amendment)  
House Bill 6010 (Substitute H-1 as reported without amendment)  
House Bill 6011 (Substitute H-1 as reported without amendment)  
House Bill 6012 (Substitute H-1 as reported without amendment)  
Sponsor: Representative Matt Huuki  
House Committee: Tax Policy  
Senate Committee: Economic Development

**CONTENT**

House Bill 6007 (H-1) would amend the General Property Tax Act to do the following:

- Exempt from the collection of taxes under the Act any mineral located at an open mine, beginning December 31, 2012, and specify that the exemption would not apply to the surface property or rights in it, surface improvements, or personal property at that open mine.
- Exempt from the collection of taxes under the Act any mineral-producing property subject to the mineral severance tax under the Nonferrous Metallic Minerals Extraction Severance Tax Act (proposed by House Bill 6008 (H-1)).
- Exempt low-grade iron ore and low-grade iron ore mining property subject to taxation under Public Act 77 of 1951, and iron ore or ore property subject to taxation under Public Act 68 of 1963, from the collection of taxes under the General Property Tax Act.
- Delete a provision under which the State Geologist must determine the true cash value of the metallic mining properties and mineral rights consisting of metallic resources that are producing or developed, or have known commercial mineral value for the purpose of assessing property values and taxation under the General Property Tax Act.

The bill also would repeal Sections 6a and 6b of the Act, which specify that mineral rights in property are assessed separately from surface rights.

House Bill 6008 (H-1) would create the "Nonferrous Metallic Minerals Extraction Severance Tax Act" to provide for an interim mineral severance tax on open mines, and to levy a minerals severance tax on taxable minerals extracted or beneficiated in Michigan.

Beginning January 1, 2013, and through December 31 in a year in which the Department of Treasury declared property at an open mine to be mineral-producing property, an interim mineral severance tax would be levied on all minerals that were valued by the State Geologist under the General Property Tax Act for open mines opened beginning January 1, 2011, through June 30, 2013. The amount of the interim tax would be equal to 50% of the general ad valorem taxes levied on that open mine in 2012 attributable to those minerals valued by the State Geologist under the General Property Tax Act. The interim tax would be in addition to any general ad valorem taxes levied on the mine's surface property, surface improvements, and personal property.

The minerals severance tax would be levied on taxable minerals that a taxpayer extracted from the earth in Michigan or that a taxpayer beneficiated in Michigan. A mineral extracted from the earth in Michigan that was shipped outside of the State for beneficiation or otherwise removed from Michigan before actual sale or transfer would be considered to have been sold immediately before the shipment or removal and would be subject to the minerals severance tax. Except as otherwise provided, the minerals severance tax would be 2.75% of the taxable mineral value for the immediately preceding calendar year.

The taxable mineral value would have to be computed as of the time of sale or transfer. In the first calendar year following the year in which the Department determined the property was mineral-producing property, the taxpayer would have to pay a partial mineral severance tax equal to the summer levy of the ad valorem taxes levied on that property under the General Property Tax Act in the preceding calendar year.

If a producing mine began operation in 2014 or 2015, for the first five years in which the mine was subject to the minerals severance tax, the taxpayer could claim a credit of up to 20% of the amount of the ad valorem property tax levied on that open mine in 2012 attributable to those minerals valued by the State Geologist under the General Property Tax Act in 2012 plus the amount of the interim minerals severance tax paid for each year through the end of the year in which the Department of Treasury determined the property to be mineral-producing property, plus interest.

In the first year that a minerals severance tax was levied on a taxpayer, the total minerals severance tax for that year would be equal to the greater of the following, less the amount of the partial minerals severance tax:

- The 2.75% minerals severance tax.
- The amount of general ad valorem property tax that was levied on the mineral-producing property in the immediately preceding year.

The Department would have to allocate the minerals severance tax and determine all deductible costs against the property, and the local tax collecting unit would have to collect the tax. Minerals severance tax collections would have to be distributed as follows:

- 65% by the local tax collecting unit to school districts, the State, and local governmental units in the same proportion as the general ad valorem property taxes.
- 35% to the Department for deposit into the Rural Development Fund (proposed by House Bill 6009 (H-1)).

The bill also would do the following:

- Require a taxpayer to submit an annual report to the Department and the local tax collecting unit.
- Require the Department to determine when property was classified under the Act as mineral-producing property.
- Require the Department to notify the taxpayer and local assessing authorities if it determined that property previously determined to be mineral producing property was no longer considered as such.
- Require the State Geologist to give the Department a list of all mineral-producing properties as of the end of the previous calendar year.
- Require a taxpayer to notify the Department in writing, within seven days, if it ceased operations of a producing mine for 30 or more consecutive days.
- Require each taxpayer to prepare and preserve a complete record for each tax year of all minerals extracted from the earth in Michigan or beneficiated in Michigan, and allow that record to be open to the Department for inspection.

"Beneficiation" would mean milling, processing, grinding, separating, concentrating, pelletizing, and other processes necessary to prepare nonferrous metallic mineral ore for sale or transfer. "Mineral" would mean a naturally occurring solid substance that can be extracted from the earth in Michigan primarily for its nonferrous metallic mineral content for commercial, industrial, or construction purposes. Mineral would not include gypsum, lime, limestone, salt, dolomite, basalt, granite, sandstone, shale, clay, stone, gravel, marl, peat, sand, gemstones, coal, substances extracted from potable water or brine, substances extracted from oil or natural gas, iron ore or low-grade iron ore, or any other substance not extracted primarily for its nonferrous metallic mineral content.

"Mineral-producing property" would mean real and personal property in Michigan that is part of a producing mine or used directly in association with a producing mine on a parcel on which the shaft, incline, or adit is located, or a parcel contiguous or appurtenant to such a parcel.

House Bill 6009 (H-1) would create the "Rural Development Fund Act" to do the following:

- Create the "Rural Development Fund" within the State Treasury.
- Create the Rural Development Fund Board within the Michigan Department of Agriculture and Rural Development (MDARD), and outline the Board's procedures and responsibilities.
- Allow the State Treasurer to receive money or other assets from any source for deposit in the proposed Fund, including funds generated under the proposed Nonferrous Metallic Minerals Extraction Severance Tax Act.
- Require the Board to develop, and annually review and update, criteria for evaluating project proposals for funding with money from the Fund and post the criteria on the MDARD website and on printed materials before issuing any request for funding proposals.
- Require the criteria to include a preference for projects in the region in which revenue was generated under the Nonferrous Metallic Minerals Extraction Severance Tax Act.
- Require the criteria to include support for projects that addressed the expansion and sustainability of land-based industries; worker training related to those industries; and energy, transportation, communications, water, and wastewater infrastructure to benefit rural communities.

The bill would require money in the Fund to be spent, upon appropriation, for grants, loans, and loan guarantees identified under the bill; MDARD's administrative expenses in implementing the Act; and the transfer of up to \$250,000 each fiscal year to the Nonferrous metallic Mineral Surveillance Fund. The Department would have to solicit requests for project proposals to be funded with money from the Fund from individuals, organizations, businesses, local units of government, federally recognized tribes, and educational institutions. With the advice of the Board, MDARD would have to determine which projects should be funded. Grants from the Fund could be used to provide matching funds for other available grants, as allowed by law.

The bill also would do the following:

- Require MDARD to provide the Board with personnel sufficient to perform its powers, duties, and functions under law.
- Specify that Board members would be considered public servants and public officers under the law.
- Prohibit a Board member from making or participating in making or in any way attempting to use his or her position to influence a matter before the Board regarding a grant, loan, loan guarantee, or other expenditure.
- Prohibit a Board member from engaging in a conflict of interest.

House Bill 6010 (H-1) would amend the General Sales Tax Act to specify that a person subject to the general sales tax could exclude from the gross proceeds used for the

computation of the sales tax the sale of tangible personal property to a qualified taxpayer for use at a producing mine or a facility where beneficiation of minerals occurred. The property would be exempt only to the extent that it was used for those purposes. The exemption would be limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the Department of Treasury.

"Qualified taxpayer" would mean a taxpayer that purchases tangible personal property for use at a producing mine or at a facility where beneficiation of minerals occurs.

House Bill 6011 (H-1) would amend the Use Tax Act to specify that the Use Tax would not apply to the storage, use, or consumption of tangible personal property sold to a qualified taxpayer for use at a producing mine or at a facility where beneficiation of minerals occurred. The property would be exempt only to the extent that it was used for those purposes. The exemption would be limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the Department of Treasury. "Qualified taxpayer" would mean a taxpayer that purchases tangible personal property for use at a producing mine or at a facility where beneficiation of minerals occurs.

House Bill 6012 (H-1) would amend Part 2 (Corporate Income Tax) of the Income Tax Act to specify that, for the 2013 tax year and each year after that, a taxpayer subject to the minerals severance tax under the proposed Nonferrous Metallic Minerals Extraction Severance Tax Act could deduct, to the extent included in adjusted gross income, any income derived from a producing mine or beneficiation of minerals, or both.

House Bills 6007 (H-1), 6009 (H-1), 6010 (H-1), 6011 (H-1), and 6012 (H-1) are tie-barred to House Bill 6008. House Bill 6008 (H-1) is tie-barred to House Bill 6007.

MCL 211.24 et al. (H.B. 6007)

Legislative Analyst: Patrick Affholter

Proposed MCL 205.54dd (H.B. 6010)

Proposed MCL 205.94aa (H.B. 6011)

MCL 206.623 et al. (H.B. 6012)

## **FISCAL IMPACT**

The bills would change the distribution of revenue received from mining activities associated with certain minerals, by exempting many activities from a variety of taxes and effectively converting taxation of these minerals from an ad valorem property tax-based system to a severance-based system. As a result, the bills would reduce State revenue from the Corporate Income Tax, the individual income tax, the sales tax, the use tax, and the State Education Tax, and local unit revenue from local property taxes. The revenue reductions would be offset by revenue from a new severance tax, and revenue from the tax would be split between the State and local units. However, the State's revenue losses would reduce both General Fund and School Aid Fund revenue, while the new severance tax revenue would be directed to the proposed Rural Development Fund. Additionally, a portion of the reduced local unit revenue from school operating millages would be offset by increased School Aid Fund expenditures if per-pupil funding guarantees were not affected by the bills.

Revenue lost by the State would lower both General Fund and School Aid Fund revenue by an unknown amount, depending on the specific characteristics of affected properties. During tax years ending between July 2008 and June 2009, income tax liabilities under the Michigan Business Tax for all mining and extraction firms totaled approximately \$9.2 million before credits. While this amount represents a likely liability under the Corporate Income Tax, the total includes revenue from certain quarrying activities not affected by the bills, as well as oil and gas extraction, which also would not be affected by the bills. However, revenue losses under the Corporate Income Tax (and possibly the individual income tax, particularly for taxpayers not organized as traditional corporations and/or taxpayers receiving dividends or capital gains associated with affected taxpayers), would likely be non-negligible.

The other exemptions from State taxes would reduce State General Fund and School Aid Fund revenue by an unknown amount. Due to existing exemptions for iron ore mining and property, as well as existing sales and use tax exemptions for industrial processing, the exemption provisions for these taxes are estimated to be minimal.

The total taxable value of all properties affected by the property tax changes is unknown, but the Kennecott mine in Marquette County reportedly has a current taxable value of approximately \$95 million and faces an average millage rate of approximately 47.5 mills. As a result, the mine's total property taxes currently average approximately \$4.5 million per year, of which \$1.7 million is attributable to local school operating taxes, and \$0.6 million in attributable to the State Education Tax. The remainder reflects revenue to other local units, such as the township and county. The taxable value of the mine is expected to rise as production increases. The severance tax from the mine would total an estimated \$83.2 million to \$99.7 million over the approximate life of the mine, or about \$10.4 million per year. Based on the distribution of severance tax revenue under the bills, if the revenue totaled \$10.4 million per year, the State's Rural Development Fund would receive approximately \$3.6 million. Local school districts would receive approximately \$2.9 million of the amount distributed to local units. As a result, the bills would appear to generate more revenue under the severance tax than under current property tax provisions. However, at the State level, the additional revenue would not be directed to the funds experiencing the revenue losses.

The distributions to local public school districts would appear not to be included in the calculation for School Aid Fund distributions. As a result, it is possible that the property tax reductions would trigger increased School Aid Fund payments to offset the loss of revenue from the 18 mills levied for school operating purposes, but the local school district could actually receive more than the lost property tax revenue from the severance tax distribution. Consequently, some local school districts could be "double reimbursed" for property tax losses under the bills.

In addition, House Bill 6009 (H-1) would have a minimal fiscal impact on MDARD, as it would create responsibilities--such as establishment of the Rural Development Fund and Board--which would be supported by existing resources, including funding for an additional 10.0 FTEs that were added to the MDARD budget for FY 2012-13 (Article 1 of Public Act 200 of 2012) expressly for rural development initiatives.

The bill also could increase local revenue should grants created under the bill be made available to the local units from the Fund. The balance of the Fund would depend upon deposits made to it, an amount that cannot be determined at this time.

In addition, the Department of Treasury would incur increased costs of an indeterminate amount to carry out the additional responsibilities related to administration of the proposed severance tax. These responsibilities would include classification of property, development of reporting procedures, notifications to taxpayers and local governments, promulgation of rules, and compliance with reporting requirements.

Local units of government with mineral-producing property also would have collection and administrative responsibilities for the minerals severance tax. The amount of these costs is unknown. A local unit of government with responsibility for collecting and distributing minerals severance tax revenue would be subject to possible deductions from State revenue sharing payments under the Glenn Steil State Revenue Sharing Act of 1971, if the local unit failed to make a required distribution of severance tax revenue to another entity.

Date Completed: 12-11-12

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