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BILL ANALYSIS



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House Bill 6049 (Substitute H-1 as passed by the House)
Sponsor: Representative James Lower
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 12-11-18

CONTENT

The bill would amend the General Property Tax Act to do the following:

- **Require the State Tax Commission to audit the assessing districts in Michigan to determine if they complied with certain requirements, such as employing or contracting with an assessor of record that oversaw and administered an annual assessment of all property liable to taxation in the assessing district, beginning on and after December 31, 2021.**
- **Require the State Tax Commission to develop and implement an audit program to determine whether an assessing district was in substantial compliance with the bill's requirements.**
- **Allow the State Tax Commission to initiate a process to ensure that an assessing district achieved and maintained substantial compliance with the bill's requirements after December 31, 2021.**
- **Require the State Tax Commission to develop and implement a process to ensure that all assessing districts in the State achieved and maintained substantial compliance with the bill's requirements, and list what that process would have to include.**
- **Require every county to have a designated assessor on file with the State Tax Commission beginning December 31, 2020, subject to further requirements and provisions listed under the bill.**
- **Allow the governing bodies of two or more contiguous cities or townships, by agreement, to appoint a single board of review to serve as the board of review for each of those cities or townships for the purposes of the Act.**
- **Allow a village that was located in more than one assessing district to request State Tax Commission approval that the assessment of property within the village be combined with the assessment of property in one of those assessing districts.**
- **Require all assessing officials to maintain land value maps only through calendar year 2018.**
- **Require the State Tax Commission to adopt and publish guidelines to implement the bill.**

The bill states the following: "It is the intent of the legislature to appropriate sufficient money to address start-up and training costs associated with this amendatory act, including, but not limited to, necessary costs incurred to train board of review members, increase the number of assessors qualified to serve as assessors of record, facilitate initial designated assessor designations, respond to assessor requests for technical assistance, enhance staff and

programming within the State Tax Commission to improve technical support for assessors of record, and transition some assessment services to designated assessors."

State Tax Commission Audit

Under the bill, on and after December 31, 2021, the State Tax Commission would have to audit the assessing districts in Michigan to determine if they did all of the following:

- Employ or contract with an assessor of record that oversaw and administered an annual assessment of all property liable to taxation in the assessing district, in accordance with the Michigan Constitution and Michigan law.
- Use a computer-assisted mass appraisal system that was approved by the State Tax Commission as having sufficient software capabilities to meet the requirements of the Act and to store and back up necessary data.
- Subject to State Tax Commission guidelines, have and follow a published policy under which its assessor's office was reasonably accessible to taxpayers.
- If a city or township building within the assessing district were in an area with broadband internet access, provide taxpayers online access to information regarding its assessment services, including parcel information, land value studies and documentation, and economic condition factors.
- Include certain contact information in notices to taxpayers concerning assessment changes and exemption determinations, including notices issued under Section 24c of the Act (which concerns notices of increases in tentative State equalized valuation or tentative taxable value).
- Ensure that its support staff was sufficiently trained to respond to taxpayer inquiries, require that its assessors maintain their certification levels, and require that its board of review members receive board of review training and updates required and approved by the State Tax Commission.
- Comply with the Act with respect to any property tax administration fee collected under Section 44 of the Act (which concerns the collection of taxes and property tax administration fees, among other things).
- Have all of the following: 1) properly developed and documented land values, 2) an assessment database for which not more than 1% of parcels were in override, 3) properly developed and documented economic condition factors, 4) an annual personal property canvass and sufficient personal property records according to developed policy and statutory requirements, 5) a board of review that operated in accordance with the Act, 6) an adequate process for determining whether to grant or deny exemptions according to statutory requirements, and 6) an adequate process for meeting the requirements outlined in the State Tax Commission's publication entitled, "Supervising Preparation of the Assessment Roll", as those requirements existed on October 1, 2018.
- Comply with any other requirement that the State Tax Commission lawfully promulgated in the exercise of its authority under the Act that expressly stated that it was intended as an additional requirement.

As used above, "area with broadband internet access" would mean an area determined by the Connect Michigan Broadband Service Industry Survey to be served by fixed terrestrial service with advertised speeds of at least 25 megabits per second downstream and three megabits per second upstream in the most recent survey available.

For an assessing district that amended its corrective action plan, its assessor of record would have to be an advanced assessing officer or a master assessing officer.

A published policy as described above would have to include, at a minimum, the items listed below and should include the final item listed:

- A designation, by name, telephone number, and electronic mail address, of at least one official or employee in the assessor's office to whom taxpayer inquiries could be submitted directly by telephone or electronic mail.
- An estimated response time for taxpayer inquiries submitted under the provision above, not to exceed seven business days.
- Information about how a taxpayer could arrange a meeting with an official or employee of the assessor's office for purposes of discussing an inquiry in person.
- Information about how requests for inspection or production of records maintained by the assessor's office should be made by a taxpayer and how those requests would be handled by the assessor's office.
- Information about any process that the assessor's office could have to informally hear and resolve disputes brought by taxpayers before the March meeting of the board of review.

The State Tax Commission would have to develop and implement an audit program to determine whether an assessing district was in substantial compliance with the bill's requirements. If, after December 31, 2021, the State Tax Commission determined that an assessing district was not in substantial compliance with the requirements, it could initiate the process described below to ensure that the assessing district achieved and maintained substantial compliance with those requirements.

State Tax Commission Compliance Process

The State Tax Commission would have to develop and implement a process to ensure that all assessing districts in the State achieved and maintained substantial compliance with the bill's requirements. At a minimum, that process would have to include the actions and procedures below.

If the State Tax Commission determined that an assessing district was not in substantial compliance with the requirements and elected to initiate the process described below, the Commission would have to provide the assessing district with a notice of noncompliance setting forth the reasons the assessing district was not in substantial compliance with the bill's requirements and request that the assessing district develop a corrective action plan approved by its governing body to address those deficiencies. Unless stated otherwise, an assessing district would have to file a corrective action plan with the State Tax Commission within 60 days after receipt of the notice of noncompliance. The State Tax Commission would have to approve a corrective action plan or request changes to the plan within 60 days after filing.

No earlier than May 1 and no later than September 1 of the calendar year immediately following the year of the notice described above, or, in the case of a corrective action plan approved by the State Tax Commission that extended beyond one year, no earlier than May 1 and no later than September 1 of the calendar year that was the second calendar year following the year of the notice described above, the State Tax Commission would have to conduct an initial follow-up review with the assessing district and, within 90 days following that review, provide the district with an evaluation of its progress in implementing its corrective action plan and a notice of substantial compliance or noncompliance with the requirements listed in the bill.

Except as otherwise provided, an assessing district that had received a notice of noncompliance as part of an initial follow-up review would have to elect to either contract with the designated assessor for the county to serve as the district's assessor of record or amend its corrective action plan with the approval of the State Tax Commission to provide that the assessing district would employ or contract with a new assessor of record, who would

have to be an advanced assessing officer or a master assessing officer, to achieve and maintain substantial compliance with the requirements of the bill.

If an assessing district amended its corrective action plan, no earlier than May 1 and no later than September 1 of the following calendar year, the State Tax Commission would have to conduct a second follow-up review with the assessing district and, within 90 days following that review, provide the district with an evaluation of its progress in implementing its corrective action plan and a notice of substantial compliance or noncompliance with the bill's requirements.

If the State Tax Commission provided an assessing district a notice of substantial compliance with the bill's requirements, no further follow-up reviews would be required.

Except as otherwise provided, if the State Tax Commission provided an assessing district a notice of noncompliance in regards to a second follow-up review or notified an assessing district that it had fallen out of substantial compliance less than five calendar years after the calendar year a notice of substantial compliance was issued, the State Tax Commission could require the assessing district to contract with the designated assessor for the county to serve as the district's assessor of record. If the State Tax Commission notified an assessing district that it had fallen out of substantial compliance with the bill's requirements more than four calendar years after the calendar year a notice of substantial compliance was issued, that notice of noncompliance would have to be treated as an initial determination of noncompliance.

Within 30 days after receiving a notice of noncompliance, an assessing district could file a written petition with the State Tax Commission challenging the determination. The State Tax Commission would have to arbitrate the dispute based on the documented facts supporting the notice of noncompliance and the information contained in the written petition and could request additional information as needed from the assessing district. If a petition were properly filed, the requirements applicable to an assessing district above would not apply until the State Tax Commission notified the assessing district of the results of the arbitration. With respect to the corrective action plan filing requirement, the 60-day window for filing the plan would run from the date of this notice.

Unless earlier times were agreed to by the State Tax Commission and the designated assessor, an assessing district that was under contract with a designated assessor could petition the State Tax Commission no sooner than three years after commencement of the contract to end its contract with the designated assessor and could subsequently terminate the contract, subject to State Tax Commission approval, no sooner than five years after commencement of the contract. The State Tax Commission would have to approve termination of a contract if it determined that the assessing district could achieve and maintain substantial compliance with the bill's requirements using a different assessor of record.

Notwithstanding any other provision, the State Tax Commission could immediately require an assessing district to contract with the designated assessor for the county to serve as the district's assessor of record if after the expiration of 90 days following a second notice of noncompliance or the issuance of a notice of arbitration results, whichever was later, the assessing district had not either contracted with the designated assessor for the county or employed or contracted with a new assessor of record or if both of the following applied:

- The assessing district had failed to file an acceptable corrective action plan with the State Tax Commission within 180 days following an initial notice of noncompliance or had failed to make a good-faith effort to implement a corrective action plan approved by the State Tax Commission within 240 days following an initial notice of noncompliance.

-- The failure was likely to result in assumption of the assessing district's assessment roll.

A designated assessor could charge an assessing district that was required to contract with the designated assessor, and that assessing district would have to pay, for the reasonable costs incurred by the designated assessor in serving as the assessing district's assessor of record, including the costs of overseeing and administering the annual assessment, preparing and defending the assessment roll, and operating the assessing office. The State Tax Commission would have to develop guidelines, which, at a minimum, would have to provide for the ability of an assessing district to protest a charge to the State Tax Commission and the ability of the State Tax Commission to resolve disputes between the designated assessor and the assessing district regarding costs and charges.

A designated assessor would be a local assessing unit for purposes of the provisions in Section 44 concerning the division and use of any collected property tax administration fees.

Designated Assessor

Beginning December 31, 2020, every county would have to have a designated assessor on file with the State Tax Commission, subject to the provisions below.

Except as otherwise provided, to designate an assessor as a designated assessor, a county would have to provide the State Tax Commission with an interlocal agreement that designated an individual who would serve as the county's designated assessor and would have to petition the State Tax Commission to approve of the individual as the designated assessor for that county. The interlocal agreement would have to be executed by the board of commissioners for that county, a majority of the assessing districts in that county, and the individual put forth as the proposed designated assessor. For the purposes of these provisions, an assessing district would be considered to be in the county where all of, or in the case of an assessing district that had State equalized value in multiple counties, the largest share of, that assessing district's State equalized value was located.

Except as otherwise provided, if the State Tax Commission determined that an individual named in a petition was capable of ensuring that contracting assessing districts achieved and maintained substantial compliance with the bill's requirements, it would have to approve the petition. Except as otherwise provided, if the State Tax Commission determined that an individual named in a petition was not capable of ensuring that contracting assessing districts achieved and maintained substantial compliance with the bill's requirements, it would have to reject the petition and request the submission of additional interlocal agreements until a suitable assessor had been presented.

Except as otherwise provided, an approved designated assessor designation could not be revoked and no new designation could be made earlier than five years following the date of the approved designation. The State Tax Commission could designate and approve, on an interim basis and under a formal agreement, an individual to serve as a county's designated assessor and, if applicable, revoke the approved designation of the current designated assessor under the following circumstances and subject to the following time limit:

- If the designated assessor died or became incapacitated.
- If the designated assessor was designated and approved based on his or her employment status and that status materially changes.
- If it determined at any time that the designated assessor was not capable of ensuring that contracting assessing districts achieved and maintained substantial compliance with the bill's requirements.

- If, as of December 31, 2020, it had not been provided an interlocal agreement, executed as provided above, that presented a suitable individual to serve as the county's designated assessor.
- An approved designation would be effective only until a new assessor had been designated and approved.

Joint Board of Review

The governing bodies of two or more contiguous cities or townships could, by agreement, appoint a single board of review to serve as the board of review for each of those cities or townships for the purposes of the Act. Existing provisions under the Act would serve as a guide in determining the size, composition, and manner of appointment of a board of review.

State Tax Commission Request for Approval

Under the Act, every lawful assessment roll must have a certificate attached signed by the certified assessor who prepared or supervised the preparation of the roll. In addition, the bill would allow a village that was located in more than one assessing district, in a form and manner prescribed by the State Tax Commission, to request State Tax Commission approval that the assessment of property within the village be combined with the assessment of property in one of those assessing districts.

Land Value Maps

Beginning with the tax assessing year 1978, the Act requires all assessing officials to maintain records relevant to the assessments, including appraisal record cards, personal property records, historical assessment data, and tax maps. The assessing officials also must maintain land value maps, consistent with standards set forth in the assessor's manual published by the State Tax Commission. The bill would require maintenance of land value maps only through calendar year 2018.

State Tax Commission Guideline Publication

Not later than two years after bill's effective date, the State Tax Commission would have to adopt and publish guidelines to implement the bill. The guidelines would have to include, at a minimum, minimum standards and model policies to be followed for substantial compliance with the bill's requirements and would have to identify those deficiencies that could lead to a finding of noncompliance and those deficiencies that were technical. The State Tax Commission could update the guidelines as needed to implement the bill.

MCL 211.10d et al.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have an indeterminate, minimal impact on the State and local units of government. The requirements could increase costs to new local assessing districts and counties. However, due to the unknown number of districts that could contract with counties to perform assessment duties, a local unit taking over assessment responsibilities, and the staff availability, it is impossible to determine an overall statewide costs. If there were additional costs at the local level, the property tax administrative fee could offset most of those costs. There is intent language for the Legislature to appropriate sufficient money address start-up training costs associated with the bill. However, since this is intent language, the State is not required to pay for any or all of the additional costs.

The changes to auditing and approving local districts by the State Tax Commission could increase costs to the Department. With the two-year time line to implement these changes, the costs are likely to be within current appropriations. If costs went above current appropriation, the costs could be offset by the assessor training fee or other local fees charged to local assessing districts.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.