



**House
Legislative
Analysis
Section**

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PROPERTY TAX: EXEMPT POLYHOUSES

House Bill 4341 as enrolled
Second Analysis (4-4-88)

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MAY 05 1988

Sponsor: Rep. Alvin Hoekman
House Committee: Taxation
Senate Committee: Finance

Mich. State Law Library

THE APPARENT PROBLEM:

Controversy has arisen over whether "polyhouses" or "nursery stock seasonal protection units" should be treated as real property subject to the property tax or as personal property eligible for the agricultural processing exemption. According to a memorandum from the staff of the House Taxation Committee, "polyhouses consist of plastic sheeting stretched over poles which are anchored to railroad ties, concrete, or poles in the ground. They are used for part of the year to protect winter-dug or container-grown plants from frost and winter weather." A spokesman for the segment of the nursery industry that uses polyhouses says that this new technology has made it possible for Michigan's nursery industry to compete successfully with Oregon and California. Michigan now is the number three producer of conifers, say nursery industry representatives, and the fourth largest producer of general nursery stock. The industry's competitiveness, however, is hindered by the decision of some local governmental units to tax polyhouses as real property and to treat them like glass and steel greenhouses. Attempts to clarify the tax status of polyhouses have only created more confusion. Last October 7, the State Tax Commission advised assessors in a bulletin that polyhouses should be assessed as real property. On the same day, the tax tribunal ruled in two cases that polyhouses are personal property, not real property. Both the commission and the tribunal based their decisions on the same court-established tests of what constitutes personal property. The legislature has been asked to help resolve this issue.

THE CONTENT OF THE BILL:

The bill would amend the General Property Tax Act to exempt "nursery stock seasonal protection units," but not the land on which they are located. To be exempt, a structure would have to:

- Be covered for less than 34 weeks each year by nonreusable plastic sheeting, shade cloth, or other similar removable material;
- Be used exclusively for winter protection of fall dug or container grown plants; and,
- Not have a concrete base greater than ten inches deep or flooring.

MCL 211.7bb

FISCAL IMPLICATIONS:

The Senate Fiscal Agency said the bill would lead to an indeterminate loss of local property tax revenue. Statewide, the impact would be minor, but some districts have as much as six percent of their state equalized valuation exempted by the bill. (2-1-88)

ARGUMENTS:

For:

The bill would resolve confusion over the tax status of polyhouses by granting them an exemption from the property tax. These structures, which are essential to Michigan's nationally competitive nursery industry, are flimsy, temporary, movable units used only part of the year to protect plants from the cold. Surrounding states exempt these units from taxation, the industry says. In two recent cases, the Tax Tribunal agreed with petitioners that polyhouses should not be taxed as real property, in great part because they are movable and not permanent elements of a freehold. (Further evidence of this is provided by the testimony of one nurseryman that he intended to remove all his polyhouses from their existing location to another location.)

Against:

It should be noted that the State Tax Commission has instructed assessing units that polyhouses should be treated as real property based on the commission's understanding of court-established tests for what constitutes "fixtures" to be taxed as real property. The bill does not declare polyhouses to be personal property, so on what grounds are these structures to be exempted? Because the plastic roof is removable? Because they are used only part of the year? Further, some polyhouses have utilities (plumbing, electricity, etc.); perhaps the exemption should only apply to units that do not.

H.B. 4341 (4-4-88)