SFA BILL ANALYSIS

Senate Fiscal Agency • Lansing, Michigan 48909 • (517) 373-5383

Senate Bill 905
Sponsor: Senator Norman Shinkle
Committee: Human Resources and Senior Citizens

Date Completed: 8-2-88

SUMMARY OF SENATE BILL 905 as introduced 5-26-88:

The bill would create a new act to authorize counties to defer property taxes for certain senior citizens; to require the establishment of property tax deferment revolving funds in counties that deferred property taxes; and to provide for such counties to borrow money and issue revolving fund notes.

Much of the language in the bill parallels provisions in Public Act 225 of 1976, which provides for the deferment of homestead special assessments for senior citizens, and the General Property Tax Act, which provides for the establishment of delinquent tax revolving funds.

Conditions for Deferment

Specifically, the bill would allow counties, by resolution, to provide for the deferment of property taxes for senior citizens, i.e., individuals of 65 years of age or older and unremarried surviving spouses of persons 65 years old or older. Payment of property taxes on a homestead in a year in which the owner met all the terms and conditions of the bill could be deferred until one year after the owner's death, until the homestead or a part of the homestead was conveyed or transferred to another person, or until a contract to sell the homestead was entered into. The death of a spouse would not terminate the deferment of property taxes for a homestead owned by husband and wife under tenancy by the entireties as long as the surviving spouse did not remarry. Property taxes deferred under the bill could be paid in full at any time. The amount of property taxes plus interest deferred under the bill could not exceed 80% of the owner's equity in the property as determined by the local assessing officer.

If the collecting officer or the Department of Treasury determined that all or part of a homestead for which property taxes were deferred was conveyed or transferred or a contract to sell the homestead was entered into and deferment was not terminated, the owner or owner's estate would be subject to an interest rate of 1% per month or fraction of a month on the amount deferred, in addition to the annual interest due on the payment of property taxes deferred, i.e., 6% per year or the rate of borrowing by the county that year, whichever was greater.

Eligibility and Application

An owner of a homestead who was a senior citizen, a United States citizen, a Michigan resident for five or more years, and the sole owner of the homestead for five or more years would be eligible for deferment of the property taxes on the homestead and could apply to the local assessing officer for deferment by filing an affidavit. Anyone making a false affidavit would be guilty of perjury. Spouses jointly owning a homestead each would have to sign and file the affidavit. If the homestead were encumbered by a mortgage or a land contract, the tax deferment could not be made without the written consent of the mortgagee or the land contract vendor. The affidavit would have to be filed with the local assessing officer at least 30 days after the due date of the property taxes for which deferment was requested.

The officer would have to examine the affidavit promptly to determine if the applicant met the requirements of the bill; inspect the property and property records; and if necessary, conduct an investigation and survey of the property. Applicants would not be compelled to supply information not reasonably essential to a proper determination of the eligibility of the owner and the homestead for the deferment. The officer would have to notify the applicant of the officer's decision no later than the date the property taxes would be due. The officer's decision would be final.

Upon approval of a deferment, the county clerk would have to record a lien in favor of the county with the register of deeds and notify the county treasurer and the Department of the deferral. The lien would include the 6% annual interest rate on the deferred taxes. Upon termination of a deferment, the collection procedures of the General Property Tax Act and any provisions of applicable local laws, which had been suspended during the deferment would again apply.

Establishment of Deferment Revolving Fund

The bill would require the county board of commissioners of a county that provided for property tax deferments for senior citizens to create a property tax deferment revolving fund. Upon establishment of a fund, all deferred taxes would be due and payable to the county after deferment. The local taxing units would have the primary obligation to pay the county the amount of taxes and interest on the taxes. If, for any reason, the county did not receive the deferred taxes, the county would have full right of recourse against the taxing unit to recover the amount of the taxes and interest at the rate of 1% per month or fraction of a month until the taxes were repaid. If the county borrowed funds for the payments, however, the interest rate could not exceed the highest interest rate paid on that borrowing.

Within 20 days after sufficient funds were deposited in the fund, the county treasurer would have to pay from the fund any property taxes due and payable to the county, school district, intermediate school district, community college district, city, township, or other political unit for which property tax payments were due. Treasurers of counties with a population of more than 1.5 million would have 30 days in which to pay the property taxes.

Generally, if a single school district existed within a political unit, the county treasurer would have to pay directly to the district its share of the Fund. If, however, a local taxing unit, i.e., a city, village, or township, borrowed money in anticipation of collecting taxes for any school district or other municipality and the county treasurer had been notified in writing, the county treasurer would pay the unit the shares of the fund for that school district or municipality. Interest charges, penalties, and county property tax administration fee rates established under the General Property Tax Act would remain in effect and would be payable to the fund. Any surplus in the fund could be transferred to the county general fund by appropriate action of the county board of commissioners.

Issuance of Notes

A county that created a property tax deferment revolving fund could borrow money and issue its revolving fund notes to establish or continue the fund and pay the expenses of the borrowing. In the resolution authorizing the borrowing and issuance of notes, the deferred property taxes from which the borrowing was to be repaid would have to be pledged to the payment of the principal and interest of the notes. The proceeds of the property taxes pledged and interest on those taxes would have to be placed in a segregated fund or account and could not be used for any other purpose until the notes and interest were paid in full. The segregated fund or account would have to be established as part of the property tax deferment revolving fund and accounted for separately on the county treasurer's books. The proceeds of the notes would be placed in and used as all or part of the fund after the expenses of borrowing had been deducted.

Before a county could issue notes under the bill, it would have to apply to the Municipal Finance Commission for permission and attach to the application a certified copy of the resolution authorizing the issuance of the notes. The application would have to specify the actual amount of the notes or the maximum amount which the notes could not exceed, the maturity of the notes, and the maximum interest rate. An order by the Commission permitting issuance of the notes would not be considered approval of the legality of the notes, but rather would imply that the Commission had made the determination of facts or circumstances, given the approvals, and reached the opinions necessary before issuance of the order.

The notes issued under the bill would have to be in an aggregate principal amount that did not exceed the aggregate amount of the deferred property taxes pledged, exclusive of interest; bear a maximum interest rate of 11.5% per year except as provided in Section 89 of the General Property Tax Act which governs the issuance of notes in home rule counties; be in the denominations as stated in the resolution; and mature within six years after their date of issue.

The notes could be prepaid if provided in the resolution governing the notes. The treasurer of the county issuing the notes would be responsible for selling or awarding them at a public or private sale. The notes could be sold subject to the option of the treasurer who could withhold part of the issue from delivery if sufficient funds were available to make full delivery unnecessary to the purposes of the borrowing.

The notes would be full faith and credit obligations of the county issuing them. If the proceeds of the taxes pledged were not sufficient to pay the principal and interest of the notes when due, the county would have to impose a general ad valorem tax without limitation as to rate or amount on all taxable property in the county to pay the notes and could then reimburse itself from property taxes collected. If the resolution so provided, the notes could be designated general obligation tax notes. The notes would be exempt from all State and local taxes.

Referendum on the Fund

If a county determined to borrow, it could submit to its voters the question of issuing notes and, if a majority of the voters agreed, issue the notes as general obligation unlimited tax notes. If the voters did not agree to the issue or if the question of the issue were not submitted to the voters, the county could issue the notes under the following conditions:

- The notes would have to be designated general obligation limited tax notes.
- The deferred property taxes and interest on the taxes would be pledged to repay the notes.
- The resolution authorizing the issuance of the notes could establish a special fund to secure the notes and pay into it any proceeds of the sale of the notes to the extent provided in the resolution. Money in the note reserve fund would have to be withdrawn for payment of principal and interest on notes before other county general funds were used to make the payments.
- The resolution establishing a note reserve fund could provide for an additional borrowing of up to the amount of the reserve.
- The notes would be full faith and credit obligations of the county issuing them. If the proceeds of the taxes and interest, county property tax administration fees, or note reserve fund were not sufficient to pay the principal and interest on the notes, the county would have to pay them from its general funds or any additional tax it was within its statutory and constitutional limits to levy. The county could reimburse itself from deferred property taxes collected.

Prior Approval, Reissuance and Registration

The requirement for obtaining prior approval of the Municipal Finance Commission would be subject to the provisions of the Municipal Finance Act. The Department of Treasury would have the authority to issue an order providing or denying an exception from the prior approval by the Municipal Finance Commission as required for notes issued under the bill. If the exception existed for notes that could be reissued or renewed, the exception could continue to exist for all subsequent reissues or renewals of the notes if the reissuance or renewal note did not exceed the original note and would not mature more than three years after the date the original note was issued, and if an annual report were made to the Department stating the amount of the original reissued or renewal notes then outstanding.

If the borrowing resolution so provided, a county treasurer could enter into a contract for the registration of notes with a bank or trust company having trust powers. The contract could include provisions for the issuance, reissuance, transfer or exchange of notes on behalf of the county by the bank or trust company.

Legislative Analyst: L. Burghardt

MORE

FISCAL IMPACT

Fiscal information is not available at this time.

Fiscal Analyst: N. Khouri

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.