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BILL ANALYSIS

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Senate Fiscal Agency

• Lansing, Michigan 48909

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State Law Library**House Bill 4341 (Substitute H-2 as reported with amendment)****Sponsor: Representative Alvin Hoekman****House Committee: Taxation****Senate Committee: Finance****Date Completed: 2-1-88*****RATIONALE***

A question has arisen over whether nursery stock seasonal property units, known as "polyhouses", should be treated under the General Property Tax Act as real property subject to property tax, or as personal property eligible for the agricultural processing exemption allowed by the Act. According to committee testimony, "polyhouses" are temporary structures of plastic sheeting stretched over arches and anchored to a concrete base, railroad ties, or poles in the ground. Polyhouses are used for part of the year to prevent plants dug in the fall, container-grown plants, and the soil they are grown in, from freezing. The nursery industry points out that use of polyhouses has enabled growers to market their products during a greater portion of the year and to improve their products, and thus compete successfully with nurseries in 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 claims, however, that it is being 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. On October 7, 1987, the State Tax Commission advised assessors in a bulletin that polyhouses should be assessed as real property. On the same day, the State 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. Thus, has been suggested that polyhouses be statutorily exempted from property taxes.

***CONTENT***

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 meet the following conditions:

- 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.
- Not have have a concrete base greater than 10 inches deep or flooring.

MCL 211.7bb

**SENATE COMMITTEE ACTION**

As passed by the House, to qualify for tax exempt status a polyhouse could not have a concrete base greater than

six inches deep or flooring. The Senate Finance Committee amended the bill to allow a maximum depth of 10 inches.

***FISCAL IMPACT***

The bill would lead to an indeterminate loss of local property tax revenue. Statewide, the State Equalized Valuation (SEV) exemption under this bill would have only a minor revenue cost. Particular districts, however, have as much as 6% of SEV in property which would be exempt under this bill.

***ARGUMENTS******Supporting Argument***

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 structures; in fact, one nurseryman testified that he intended to remove all his polyhouses from their existing location to another location.

Legislative Analyst: G. Towne

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.

H.B. 4341 (2-1-88)