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BILL ANALYSIS

Senate Fiscal Agency

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House Bill 4210 (Substitute H-1 as reported without amendment)

House Bill 4212 (as reported without amendment)

Sponsor: Representative Victor E. Krause

House Committee: Taxation

Senate Committee: Finance

Date Completed: 5-24-89

RATIONALE

Under the General Property Tax Act, local units must each year send to property owners notice of the assessment on their property. The notice must contain several items of information, including the time and place of the meeting of the local board of review. When taxpayers wish to dispute their property tax assessment, they must do so by protesting to the local board of review. The Tax Tribunal Act provides that a taxpayer can appeal an assessment dispute to the State Tax Tribunal; however, for the Tribunal to assume jurisdiction of a dispute, the dispute first must have been protested to the local board of review. It has been pointed out that a protest of a special assessment (an assessment, for example, for construction of a sewer, drain, or sidewalks) does not follow the same procedures as those required for a regular assessment. The Tax Tribunal Act does not require that a special assessment dispute first be protested at the local level; therefore, a taxpayer can protest a special assessment directly to the Tribunal. Further, while Public Act 162 of 1962 requires a local unit to notify a taxpayer by mail of a pending special assessment and of a hearing on the special assessment, there is no requirement that the notice contain information about how a special assessment can be appealed. It has been suggested that the notification and appeals process for special assessments should be made to conform with the standard procedures followed for regular assessments; that is, that a special assessment should have to be appealed at the local level before it could be appealed to the Tribunal, and that the notice of a special assessment should include information on how the assessment could be appealed.

CONTENT

House Bill 4210 (H-1) would amend Public Act 162 of 1962 to require that notices sent to property owners subject to a special assessment include a statement that an appearance and protest at the required hearing for the special assessment were necessary in order to appeal the amount of the assessment to the State Tax Tribunal. The notice would have to describe the manner in which an appearance and protest would be made. The bill provides that an owner, or his or her agent, could appear in person at the hearing to protest, or file a protest by letter.

Further, the bill would require the local governing body to maintain a record of parties appearing to protest at the hearing. If a hearing were terminated or adjourned for the day before a person was provided the opportunity to be heard, the person would be considered to have protested the special assessment in person if his or her appearance had been recorded.

The bill also would require that the notice of a special assessment contain a notification that a written appeal of the special assessment could be filed with the State Tax Tribunal within 30 days after confirmation of a special assessment roll if the special assessment had been protested at the local hearing.

House Bill 4212 would amend the Tax Tribunal Act to specify that before the Tribunal could acquire jurisdiction of a special assessment dispute, the special assessment would have to

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be protested at the hearing held to confirm the special assessment roll.

MCL 211.741 and 211.744 (H.B. 4210)
205.735 (H.B. 4212)

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

While the requirements for notification of and protesting property tax assessments are well established in law, the procedures for notification and protest of special assessments are not clearly defined. Though there is a requirement that property owners be notified of a special assessment and of a hearing on the assessment, there are few requirements as to what information the notice should contain, and there is no requirement that a taxpayer be given information on how to appeal the special assessment. While it may at first appear advantageous that a taxpayer can appeal directly to the Tribunal in a special assessment dispute, as is currently the case, since taxpayers are not routinely notified of their option to appeal few of them are aware that they can appeal a special assessment at all, much less appeal directly to the Tribunal. The bills would establish a system of notification and appeal for special assessments that would mirror the system for regular assessments, thus standardizing the process of appeal to the Tribunal, and ensuring that taxpayers were aware of the appeals process.

Opposing Argument

House Bill 4210 contains a provision that would allow a taxpayer to protest in person at the special assessment hearing, or send a letter of protest. For regular property assessments, persons must appear in person to register their protest unless the local unit agrees to accept protests by letter. The bill should allow locals the option to accept protests by letter rather than requiring acceptance. Often, requiring a person to present his or her case to the local board of review results in the taxpayer and the board finding a middle ground, and eliminates the need for appealing the dispute to the Tribunal. If all taxpayers were allowed to

register their protest by letter, and have that count as an appearance before the local board, the Tribunal could find itself with a substantial increase in appeals that had as background only some vague written communications.

Response: It must be pointed out that, as the law stands now, a person can appeal a special assessment directly to the Tribunal before making any effort at the local level. Special assessment cases should be treated somewhat different from regular assessments in regard to appeals. To levy a special assessment, a local unit only has to hold one public hearing. If the bill required that a person appear at that one meeting to protest an assessment, then many people could be precluded from further appeal of the assessment because circumstances prevented them from attending the meeting at that particular time.

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