House
Legislative
Analysis
Section

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PROPOSAL "A" IMPLEMENTATION

Senate Bill 1 (Substitute H-2)
Sponsor: Sen. Gilbert DiNello

Senate Bill 596 (Substitute H-1)
Senate Bill 597 (Substitute H-2)
Senate Bill 598 (Substitute H-2)
Senate Bill 599 (Substitute H-1)
Sponsor: Sen. Dan DeGrow

First Analysis (5-25-93)

THE APPARENT PROBLEM:

On June 2nd, voters will go to the polls throughout the state to decide the fate of Proposal A, a major revision of the state's school financing system featuring a reduction in the reliance on the local property tax with a limitation on school property taxes and a limit on assessment increases; a two cent increase in the sales and use taxes; and a guaranteed minimum amount of revenue for school districts. Proposal A would be an amendment to the state constitution and provides essentially an outline of the proposed new school financing system. Statutes need to be amended to fully implement the proposal in anticipation of its passage.

THE CONTENT OF THE BILL:

The bills would amend various statutes to implement changes to the state's school financing system and to the state tax structure contained in Proposal A should that proposal win voter approval. The bills are all tie-barred to one another and to Senate Bills 600, 601, and 602.

Senate Bill 1 would amend the General Property Tax Act (MCL 211.24c et al.) to do the following.

-- The assessment limit from Proposal A would be put into statute, specifying that for 1993 and years thereafter, the state equalized valuation (SEV) of each parcel of property could not increase by more than the increase in the immediately preceding year in the general price level or 5 percent, whichever was less, until ownership of the parcel was transferred. When ownership was transferred (after 1992), the parcel would be assessed on the December 31 following the transfer at the appropriate proportion of true cash value (currently 50 percent). The "general price level" refers to the U.S. Consumer Price Index.

-- The approval of Proposal A would not require that a second assessment notice be sent during 1993. In later years, the assessment notice would have to contain the tentative equalized valuation before application of the assessment cap (of inflation or 5 percent, whichever was less) and after application of the cap.

-- The tax roll also would have to contain the SEV of each parcel before and after the application of the cap, as would the tax statement sent to the taxpayer. The tax statement further would have to include either on the statement itself or on a separate notice accompanying the tax statement, the following sentence: "This tax bill reflects the applicable limitation in state equalized valuation and any change in millage rates resulting from the adoption of Proposal A on June 2, 1993."

-- Summer tax bills would be delayed so that the tax would become a lien against property on which it was assessed and would become due from the property owner on July 17, 1993. Notwithstanding any provisions in a city, village, or general law village charter or ordinance to the contrary, penalties and interest in 1993 would not be applicable before August 21, 1993, or 30 days after the tax statement was mailed, whichever was later.

-- The law requires that millage rates be rolled back (under the so-called Headlee Amendment) so that revenue from existing property will not increase

faster that the rate of inflation. For 1993 and years thereafter, the millage reduction calculations would be made using the SEV of each local unit after application of the assessment limitation. Calculations made before June 2, 1993, using the SEV of a local unit before the application of the assessment limitation would be invalidated and could not be used as the basis for any further calculations. The dates for calculating rollbacks would be moved back, with a special schedule or calendar provided for 1993.

-- Escrow accounts maintained for the payment of taxes by financial institutions (and other "designated agents") would have to be adjusted not later than October 1, 1993, using the 1993 summer tax statement if received or by using 1992 tax information less 20 percent if a 1993 summer tax statement had not been received by August 1, 1993.

-- The governing body of a city or village could in 1993 authorize a tax rate after the date provided for in its charter but not later than June 21, 1993.

Senate Bill 596 would amend the Property Tax Limitation Act (MCL 211.211) to specify that mills could not be allocated to local school districts for school operating purposes or levied pursuant to a separate tax limitation vote after December 31, 1992. It would allow, however, the allocation of .64 mills to a first-class school district (Detroit) to be passed on to the public library. (This permits the continuation of this pass-through.)

Senate Bill 597 would amend the School Code (MCL 380.1204a et al.) in a number of ways, some of which parallel provisions in the State School Aid Act (HB 4464). It would do the following.

-- The millage provisions associated with Proposal A would be put into statute. A school district could levy not more than 27 mills for school operating purposes. A district could levy 18 mills without voter approval and additional mills, up to 9 mills, with voter approval.

If a district had authorization as of June 2, 1993, to levy more than 18 mills, it could levy the mills needed to ensure that the district's per pupil revenue (combined state and local general revenue per pupil) was equal to 103 percent of its 1992-93 school fiscal year revenue. But the levy could not exceed 9 mills. If approved by voters on or after June 2, 1993, a district could levy additional mills up to the 27-mill limit. However, a school receiving state funds to meet the per pupil guarantee could not levy mills that would result in its per pupil revenue being greater that 110 percent of the revenue in the year before. Beginning in 1994, a school district could not hold more than 2 elections in a calendar year concerning an additional millage, regardless of the number of questions presented at the election. If a district levied millage for school operating purposes in excess of that allowed, the amount of the excess revenue would have to be deducted from the district's next regular tax levy.

-- No later than June 15, 1993, the Department of Treasury would have to certify each school district's combined state and local general revenue per membership pupil for the 1992-93 school year and not later than July 1, 1993, would have to certify the number of mills a school district could levy in 1993. In future years, the certification of millage would have to be carried out not later than June 15. If a district did not challenge the department's certification by June 30 (or by July 7 in 1993), the determinations would be presumed to be correct.

-- Certain taxes would be excluded from those categorized as "for school operating purposes." This would include taxes levied to operate a community college (in two K-14 systems); taxes levied to create a sinking fund; taxes levied to eliminate an operating deficit, although no new such bonds could be issued after June 2, 1993; taxes levied for the operation of a library under certain circumstances; and taxes paid by a first class school district to a public library commission (the .64 mills referred to in Senate Bill 596).

-- Taxes levied for a library would be excluded if the taxes were not reported to the Department of Education as school operating taxes as of April 1, 1993. However, a district that was certified to levy less than 27 mills for 1993-94 would have until July 7, 1993, to report to the department the number of mills for the operation of a library that were not included in operating millage for 1992-93 and those mills would not be included as school operating mills.

-- The code permits the establishment of sinking funds to be used to purchase real estate or to construct or repair school buildings. The bill would prohibit a sinking fund approved after June 15, 1993, from being used for the repair of school buildings. It would allow its use for renovation of

a building equaling at least ten percent of the replacement value of the building or $500,000, whichever was less. Also, the bill would require an annual independent audit of a school district's sinking fund, including a review of the uses of the fund. The audit would be submitted to the Department of Treasury. If the department determined the fund had been used for non-authorized purposes, the district would have to repay the fund from operating funds and could no longer levy a sinking fund tax.

-- School districts would be penalized by the withholding of state aid, as they are now, if they did not comply with requirements regarding the issuing of annual educational reports, the adoption and implementation of school improvement plans and processes, the offering of core curriculums, the gaining of accreditation, and operating schools for the minimum 180-day school year.

-- A school district's summer tax levies in 1993 and 1994 would have to be the same percentage of total taxes as in 1992. (However, a district whose authority for all or part of its school operating millage expires in 1993 could collect 50 percent of the maximum number of mills permitted under the code to ensure that its revenue was equal to 103 percent of 1992-93 revenue.)

-- A school board would be permitted to prepare alternative proposals for submission to the voters on the authorization of a tax rate and could withdraw by resolution one of the proposals before the date of the election. If the board withdrew a proposal, it would have to deliver a copy of the resolution to election officials at least one week before the election. A proposal withdrawn by the board could be removed from the ballot. If it remained on the ballot, the votes on the proposal would not be counted and would not affect the validity of any other proposal on the ballot.

Senate Bill 598 would amend the General Sales Tax Act (MCL 205.52 et al.) to reflect the change in rate from 4 cents to 6 cents per dollar, with the revenue from the increase going to the state school aid fund. The bill also would specify that the sale of material purchased by people engaged in the business of constructing, altering, repairing, or improving real estate for others would be exempt from the sales tax increase if the material was affixed and made a structural part of real estate or used and completely consumed in the fulfillment of a single contract that was either a fixed price contract entered into before June 3, 1993 and not subject to change or modification or a contract entered into pursuant to the obligation of a formal written bid made and accepted before June 3, 1993, that cannot be altered or withdrawn. The additional tax also would not apply to bona fide sales agreements made and accepted before June 3, 1993, if the agreement could not be withdrawn or altered, or contained a fixed price not subject to change or modification.

Senate Bill 599 would make similar amendments to the Use Tax Act (MCL 205.93 et al.).

Senate Bills 600-602, which remain in the Senate, would amend three tax abatement statutes that allow businesses to pay a specific tax in lieu of ad valorem property taxes equal (for new facilities) to one-half of the regular millage rate. As introduced, the bills would, generally speaking, say that for 1993 and thereafter, the tax levied would be determined using the local school district operating millage for that year or for 1992, whichever was greater (but the abated facilities could not pay more in school operating taxes than other taxpayers).

HOUSE COMMITTEE ACTION:

The House Taxation Committee adopted substitutes for the bills. As passed by the Senate, all the bills were tie-barred to each other (and, of course, depend on the passage of Proposal A). The House substitutes added tie-bars to Senate Bills 600, 601, and 602. Those bills address the tax rates to be used in calculating the tax liability for businesses that have received tax abatements under three different acts, the plant rehabilitation and industrial development act (known as PA 198), the Commercial Redevelopment Act (PA 255), and the Technology Park Development Act. The House substitute for Senate Bill 597 contains a number of differences. The Senate-passed version contained restrictions on bonding (including a prohibition on bonding for school buses); the House substitute does not address bonding. The Senate version would allow library millages to be approved under Section 1451 of the School Code only until June 15, 1993, and would not permit them beyond that date. The House substitute contains no such prohibition. The Senate version would have penalized school districts that had used a sinking fund for an unauthorized purpose by deducting the amount of misused funds from the district's next regular tax

levy (in addition to requiring the repayment of funds out of operating funds); the House substitute does not contain the additional penalty.

FISCAL IMPLICATIONS:

For the implications of Proposal A, see the analysis of House Joint Resolution G dated 5-15-93.

ARGUMENTS:

For:

The bills aim at implementing Proposal A, should the voters approve those constitutional amendments on June 2, 1993. Various statutes require amendment to reflect the changes the proposal would make in the state's tax structure and school financing system. Many of the provisions of these bills have already been approved by the legislature in passing the school aid bill, House Bill 4464.

Against:

The tie-barring of the bills could cause problems, particularly tie-barring bills to Senate Bills 600-602. Some of the bills in the package are essential for the administration of the tax system and should stand alone rather than be tied to bills that might not pass. Senate Bills 600-602, which address how to deal with existing tax abatements, are still in the Senate and might remain there. There is disagreement over this issue among proponents of Proposal A. (The question is whether businesses that enjoy abatements that allow them to be taxed at one-half the millage rate would, if Proposal A passes, be taxed at half of the new, lower rates or at the lesser of the full reduced rates or their current rates.) A representative of the Michigan State Chamber of Commerce has argued that the entire issue of existing business tax abatements be given a comprehensive review (along with tax reductions achieved through the homestead credit and farmland and open space credits). The chamber noted that there is no tie-bar to Senate Bill 146, which would freeze 1994 assessments and which they had understood to be part of the overall Proposal A package. So why should the abatement bills be part of the tie-bar? The bills should all stand alone, particularly those that are essential for the administration of the tax system should Proposal A pass.

Response:

The tie-bars should remain to keep the whole package intact. If tax abatements are not addressed, businesses with abatements will be taxed based on paying one-half of new, lower millage rates, resulting in about a $60 million unanticipated revenue loss. It could also lead to some currently out-of-formula school districts not receiving in 1993 a three percent increase in revenue over the previous year. This is because the abated property is outside the revenue base. This means that while they are guaranteed a three percent increase over their previous revenue from ad valorem taxes (regular property taxes) their revenue from specific taxes (from abated properties) would decline, and as a result, overall revenue would not increase three percent. Businesses should not get a windfall tax break from Proposal A. They should continue to pay at their current rate for the portion of their tax attributable to school operating taxes, unless that exceeds the regular school operating rate; in which case, they should pay at that rate.

Against:

Financial institutions are concerned about the escrow adjustment requirement in Senate Bill 1 for several reasons. They are given 60 days to make adjustments to all of their mortgage escrow accounts. This could prove difficult. It will be a costly and time-consuming administrative chore. (For some institutions it involves perhaps 100,000 new coupon books.) Further, financial institutions are required to reduce tax escrow payments by 20 percent from 1992 if they do not receive a summer tax statement from a local unit of government on which to base a more accurate reduction. It is anticipated that some local units will not send out summer tax statements for financial institutions to use in making adjustments. This could cause difficulties because some taxpayers will not get a 20 percent reduction in property taxes as a result of Proposal A. (Some will get no reduction, in fact.) Their escrow accounts will suffer shortfalls, and then escrow payments will have to be increased to compensate, causing disgruntlement. Some customers, further, may no want immediate escrow payment reductions, preferring to wait until the routine annual (or semi-annual) adjustment.

Response:

It is only fair that taxpayers see the effects of the property tax reduction immediately through a reduction in payments for taxes to financial institutions. The penalties on financial institutions that do not comply were removed from the House substitute by the Taxation Committee and ought to be reinstated. The penalty was $15 per month into each unadjusted account.

Against:

Some people object to the taxes that are not being considered school operating taxes. This will lead to millage rates above Proposal A's advertised 27-mill limit and will cause resentment and lead to greater distrust of government.

Response:

The 27-mill cap is clearly meant to be imposed on school operating taxes. It does not apply to taxes for other purposes. Districts should not be penalized for having gained voter approval for taxes for other purposes, such as the operation of public libraries or the creation of sinking funds. To treat these taxes as school operating taxes would impose a hardship on school districts.

Against:

Several other objections and concerns have been raised.

** A representative of the Michigan Townships Association has objected to the provision that allows for the submission on alternative ballot proposals and the subsequent last-minute withdrawal of proposals. While this is acceptable for this year when districts must plan for life with and without the passage of Proposal A, it should not be permitted as a standard procedure.

** The Michigan State Chamber of Commerce has objected to the narrowness of the "transition rule"; that is, the exemption from the sales tax increase for sales agreements entered into before the outcome of the vote on Proposal A was known. The chamber argues that the provision should be more general and should apply to more taxpayers.

** The package contains (in Senate Bill 1) the limitation on assessment increases. Assessments would be limited to five percent or the rate of inflation, whichever was less, until ownership of the property was transferred. However, the legislation contains no definition of the term "transfer." This subject needs to be addressed.

POSITIONS:

There are no positions at present.