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## PAY LOCALS FOR AFFIDAVITS

House Bill 4712 with committee  
amendments  
First Analysis (5-2-95)

Sponsor: Rep. Harold S. Voorhees  
Committee: Tax Policy

### **THE APPARENT PROBLEM:**

One element in the state's new school financing plan is a restructuring of the property tax system. With some exceptions, owners of homesteads and qualified agricultural property pay 6 mills in school operating taxes and owners of other kinds of property, such as manufacturing, commercial, and residential rental property, pay 24 mills. This is accomplished by granting homesteads and qualified agricultural property an exemption from the 18-mill local school tax (leaving only the 6-mill state tax to pay). Owners of homesteads must file an affidavit by May 1 with their local unit claiming the exemption. (Owners of agricultural property need not file an affidavit except in special circumstances.) Local units of government are required to process the affidavits and send them on to the Department of Treasury. Upon receipt of an affidavit, the local assessor would exempt the property through the 1998 tax year. New affidavits will have to be filed in 1999. For taxes levied in 1994, the assessor could recommend a denial to the treasury department. For taxes levied after 1994, an assessor could deny a new or existing claim if he or she believed that the property was not the homestead of the person claiming the exemption. That decision could be appealed to the treasury department. (An assessor could instead recommend a denial to the department.) The law also permits taxpayers to seek exemptions at the July and December boards of review based on a claim that an affidavit was filed but not acted upon. (Although, in 1994 only, taxpayers could simply make late exemption claims at those boards of review.) Representatives of local units say that the state has an obligation under the state constitution to pay for the increased costs local governments are incurring in carrying out these new responsibilities.

### **THE CONTENT OF THE BILL:**

The bill would amend the General Property Tax Act to require, in 1995 and each year thereafter, the

state treasurer to pay \$2 to each local tax collecting unit for each homestead exemption affidavit and qualified agricultural property exemption affidavit that the unit forwarded to the Department of Treasury in the immediately preceding year. The payment would have to be made on or before June 1 of each year. A local unit that sought reimbursement for qualified agricultural property affidavits would be required to submit a statement to the state treasurer on or before May 15 setting forth the number of such affidavits received after May 15 of the immediately preceding year.

MCL 211.123

### **FISCAL IMPLICATIONS:**

The House Fiscal Agency reports that about 2.7 million affidavits will be processed in fiscal year 1993-94 and about 600,000 in 1995-96. This would mean the costs of this bill would be about \$5.4 million in 1993-94 and \$1.2 million in 1995-96. (Fiscal note dated 4-25-95)

### **ARGUMENTS:**

#### **For:**

The legislature has a responsibility under the constitution to reimburse local units of government for the additional costs associated with processing homestead affidavits and qualified agricultural affidavits under Public Act 237 of 1994. Article 9, Section 29 of the state constitution (added by what is known as the Headlee Amendment) says, "A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs." It is hard to see how anyone could argue that the processing of some 2.7 million of the

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newly required affidavits for 1994 does not represent an increase in the level of an activity or service. A similar level of activity will recur in 1999 and every four years thereafter. In between, there will still be more than half-a-million affidavits to process (for transfers of property or new housing). Further, the act imposes additional duties on assessors and on boards of review. Boards of review are to hear certain appeals for homestead exemptions at the July and December boards of review, and in 1994, local units were required to hold a July board of review for this purpose even though they otherwise would not have held one. An assessor must recommend (to the Department of Treasury) the denial of a claim for an exemption if he or she believes the property is not the homestead of the person making the claim (unless the assessor has already denied the claim locally). And there are other new record keeping functions that are involved in administering different tax rates for different kinds of property and that are related to the different values assigned to property under the new assessment cap. A representative of the Michigan Townships Association testified that the association surveyed members to determine an appropriate fee; costs varied, she said, from \$1.50 to \$3.80 per affidavit, depending upon the size of the unit, the amount of additional staff needed, and the number of new forms involved. The \$2 figure is seen as a happy medium. For some communities, it will not cover the additional costs.

***Against:***

Some people question whether this reimbursement is justified. For one thing, the amount is purely arbitrary. No hard evidence has been provided to demonstrate that the \$2 per affidavit reimbursement, or any level of reimbursement for that matter, is appropriate based on increased expenditures by local units of government. The new property tax legislation, taken as a whole, will mean many changes in property tax administration, some of which might reduce costs and some of which might increase costs. The overall lower property tax burden could lead to fewer appeals of assessments and to less litigation in some locales, for example. If legislation results in savings in some activities and services and increased costs in others, is it fair to focus only on the increased costs and demand state funding? Local units of government are able to impose a one percent property tax administration fee, which is described in statute as a fee to offset costs incurred in assessing property, collecting taxes, and in the review and appeal processes. Perhaps

local units should be allowed to adopt a larger fee based on their own local determination of costs.

***POSITIONS:***

The Michigan Townships Association supports the bill. (4-27-95)

The Michigan Municipal League supports the bill. (4-27-95)

The Michigan Assessors Association supports the bill. (4-27-95)

The Department of Treasury is opposed to the bill. (4-27-95)

The Department of Management and Budget is opposed to the bill. (4-26-95)