

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 606 (as enrolled)
Sponsor: Senator Leon Stille
Senate Committee: Finance
House Committee: Tax Policy

Date Completed: 7-13-98

RATIONALE

The General Property Tax Act exempts from property taxes property owned and occupied by a nonprofit charitable institution, nonprofit theater, library, educational or scientific institution, or memorial home or post, if the property is used solely for the purposes for which the institution is incorporated. Further exempted are houses of public worship and the land on which they stand, and parsonages owned by religious societies and occupied as parsonages; charitable homes of fraternal or secret societies; and nonprofit corporations wholly owned by religious or fraternal societies that own and operate facilities for the aged and chronically ill. In recent years, a dispute has arisen regarding the application of the exemption to new construction.

Reportedly, a consortium of 18 churches in the Muskegon area started construction of a home for the aged in Muskegon Township in 1992. Under the Act, the facility is exempt from property taxes; however, when the building was only partially completed on tax day (December 31) the assessor declared the property taxable for the 1993 tax year because it was not owned and occupied for a tax-exempt purpose. A protest by the churches to the local board of review, and a subsequent appeal to the Michigan Tax Tribunal, were both denied.

Reportedly, there are other isolated incidents around the State in which assessors have assessed or are attempting to assess partially completed construction that, when completed, will be tax exempt. Many people contend that property under construction that will be exempt from taxation when completed should not be subject to the property tax prior to that time, and that the Act should be amended to address both past and future situations regarding such assessments.

CONTENT

The bill would amend the General Property Tax Act to exempt from the tax, after 1997, partially

completed new construction if the completed construction would be exempt when put to use; and to exempt for tax year 1992 through 1997 partially completed construction, if certain conditions were met.

The bill provides that for taxes levied after 1997 the assessment roll for each tax year would have to be corrected to reflect that improvements to real property assessed on that tax roll as partially completed new construction, and the land on which the improvements were located, were exempt from taxation if the improvements and the land were determined to be exempt on tax day in the year construction was completed and the property put to use. The bill provides that "new construction" would mean the term as defined in Section 34d of the Act; that is, property not in existence on the immediately preceding tax day and not replacement construction, including the addition of equipment and furnishings that are not considered normal maintenance.

Further, the bill provides that for taxes levied after 1991 and before 1998, the assessment roll for each tax year would have to be corrected to reflect that improvements to real property assessed on that tax roll as partially completed new construction, and the land on which the improvements were located, were exempt from taxation if the following conditions were satisfied:

- The improvements and the land were determined to be exempt from taxes on tax day in the year construction of the improvements was completed and the property was put to use.
- The property owner claimed before January 1, 1998, that partially completed

new construction and the land were exempt in a formal protest to the assessor, as provided under a local ordinance or charter; or in a protest to the first board of review that met after a certificate of occupancy for the completed new construction was issued and that board of review denied the property owner's protest, and the property owner subsequently filed an appeal with the Michigan Tax Tribunal and that appeal was denied.

For any tax year after 1991 in which the tax roll was corrected, a corrected tax bill would have to be issued by the local tax collecting unit, if the local tax collecting unit had possession of the tax roll, or by the county treasurer if the county had possession of the tax roll. If granting the exemption resulted in an overpayment, a rebate, including any interest and penalties paid, would have to be made to the taxpayer by the local tax collecting unit (if it possessed the tax roll) or by the county treasurer (if the county possessed the tax roll), within 30 days of the date the exemption was granted. The rebate would be without interest.

The bill would be retroactive and effective December 31, 1991.

Proposed MCL 211.53d

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

It makes no sense for land and buildings that will be tax exempt once in full use to be considered taxable while under construction. Apparently, assessors rarely assess partial construction of nonprofit and/or religious organizations, which is vivid testimony that the majority of people believe that property owned and used by such entities is tax exempt, whether under construction or not. The bill would make it clear that property that eventually becomes exempt when in use should not be liable for taxes levied while it is under construction.

Opposing Argument

It is unusual tax policy to make the current tax status of property contingent on something that is expected to happen in the future. The bill raises a concern about cases in which property is not put to its intended use by a tax-exempt organization, or is sold after completion.

Response: The final version of the bill removes concerns about property not used as intended.

Under the bill, the assessment for each tax year would have to be corrected to reflect that real property assessed as partially completed new construction would be exempt *if* the improvements and the land were determined to be exempt in the year the construction was completed and the property put to use. This would allow a local unit, if concerned about the final tax status of property, to assess partial construction; however, an organization that owned the property could obtain a refund of any overpayment of the tax after the property was determined to be exempt.

Legislative Analyst: G. Towne

FISCAL IMPACT

This bill is designed to exempt, retroactively, a building owned and operated by a nonprofit charitable institution from property taxes assessed in 1993 when this building was under construction. Once this building was completed and occupied, it was granted a property tax exemption. The State, school, and local government property taxes and penalties that would be refunded under this bill amount to about \$75,000.

Fiscal Analyst: J. Wortley

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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.