Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bills 1163 through 1166 (as reported without amendment)
Sponsor: Senator Bill Bullard, Jr. (S.B. 1163)
Senator Joel D. Gougeon (S.B. 1164)
Senator Dale L. Shugars (S.B. 1165)
Senator Loren Bennett (S.B. 1166)
Committee: Finance

Date Completed: 6-8-98

RATIONALE

Of the hundreds of votes cast by the Legislature each year, nearly all require a majority vote (50% plus one) in both houses to send legislation to the Governor for his or her signature and enactment. There are some votes, however, that require more than a simple majority for approval. (That is, a so-called supermajority is required.) For instance, a two-thirds vote is required to amend the Banking Code, pass a local act, or submit a constitutional amendment to the voters, and a three-fourths vote is required for the Legislature to amend a law that has been placed in statute by the initiative (the power of the people to propose and enact laws through petition). In addition, Article 9, Section 3 of the State Constitution requires the approval of three-fourths of the members of both houses of the Legislature to increase school operating millage rates.

Many people around the country have for some time argued that the power to establish or increase a tax should require a supermajority vote of Congress for Federal taxes, or the states' legislative bodies for state taxes. Proposals in Congress to require a supermajority vote have thus far failed regarding Federal taxes; however, 13 states besides Michigan have some form of supermajority requirement regarding tax increases. As the Governor proposed in his 1998 State of the State Address, some people believe that Michigan should enact further constitutional and statutory requirements for a supermajority vote to raise certain taxes or establish new taxes.

CONTENT

The bills would amend various Acts to require the concurrence of at least three-fifths of the members elected to and serving in each house of the Legislature to increase the rate, expand the base, or reduce or repeal an exemption, deduction, or credit of the single business tax, income tax, sales tax, or use tax, or any successor to those taxes.

Senate Bill 1163 would amend the Single Business Tax Act. Senate Bill 1164 would amend the Use Tax Act. Senate Bill 1165 would amend the Income Tax Act. Senate Bill 1166 would amend the General Sales Tax Act.

Proposed MCL 208.84 (S.B. 1163)
Proposed MCL 205.93b (S.B. 1164)
Proposed MCL 206.403 (S.B. 1165)
Proposed MCL 205.52b (S.B. 1166)

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

The power to tax should be used with great care, because it is an enormous power. Excessive taxation can have a damaging effect on the taxed, stifling people's initiative and fueling resentment toward the government. Excessive taxes also can lead to excessive government spending, leaving many to conclude that the taxes were not levied for a legitimate purpose, but instead, as a method to redistribute wealth. As such, for the protection of the taxpayers, as well as the institutions and people who depend upon them, taxes should not be established or increased with a simple majority vote; taxation is of such importance that a supermajority vote should be required.

The bills would have several positive benefits. They would help to avoid unnecessary and/or excessive tax increases in the future, simply by the fact that a greater proportion of votes would be needed than is currently required regarding tax measures. The supermajority requirement would require the Legislature to engage in more deliberation when considering a new tax or a tax increase, and likely would require a substantial amount of bipartisan support. For instance, at those times when both houses of the Legislature were dominated by one party, it would require votes from both parties to pass a tax increase. This would, in turn, require the State to work harder to solve its problems, rather than simply increasing revenues and throwing money at those problems.

Response: The bills would have limited effect if approved. First, rather than requiring a three-fifths vote, they should require a two-thirds vote to increase or establish a new tax. Further, the bills would address only four existing taxes; those taxes make up approximately 78% of State tax revenues. The bills should include all taxes, new taxes, and tax increases, so that the supermajority requirement could not someday be circumvented.

Supporting Argument

Even though the State has been successful in cutting taxes recently, many taxpayers feel that they still are taxed too much. If approved, the bills would ensure that it would be harder to achieve agreement on proposals to raise taxes further, thus requiring restraint and consideration regarding both taxation and spending policies. If in the future a tax or tax increase were proposed, the bills would require a broad consensus, and a higher level of accountability than is needed for a simple majority vote. The voters have a great sense of fairness, and deserve to be trusted. If a future tax increase were needed for a legitimate purpose, the public could be expected to accept and react reasonably to a vote increasing the tax, particularly if the people understood that the tax was increased after deliberation, extraordinary effort, and widespread support. The bills would give the voters a greater chance to express their feelings on taxes, and protect recent tax cuts from repeal or revision.

Response: The bills have an inherent weakness because they would impose a supermajority requirement only by statute. This means that the three-fifths requirement would have no effect if a simple majority wanted to raise a tax, because the simple majority could vote to delete the three-fifths requirement. A constitutional amendment to require a three-fifths vote, as proposed by Senate Joint Resolution A, also is needed to establish a true supermajority requirement.

Supporting Argument

Many agree that when term limits are fully implemented the institutional memory of the Legislature will be diminished. Some people feel that with fewer experienced legislators, and with many legislators not concerned about reelection, it will be easier in the future for special interests to advocate tax increases. By requiring a supermajority to increase taxes, the bills would make it more difficult for special interests to succeed.

Response: When term limits were first proposed, supporters often said that term limits would work against tax increases, because recently elected officials would be more informed by their constituents compared with long-time legislators who had lost touch with the people.

Opposing Argument

The bills would give a minority the ability to dictate tax policy. For instance, in the 38-member Senate, 23 affirmative votes would be required to pass a proposed tax increase, meaning that only 16 negative votes would be needed to defeat the proposal. This would promote minority rule and place great power in the hands of the few. While there currently are some votes that require the Legislature to achieve an extraordinary consensus, taxes and tax policies have a long history of requiring a majority vote only. It is questionable why this should be changed after all this time. The voters have the power to elect legislators to represent their wishes, and they authorize their legislators to make decisions regarding tax policy. The requirement of a supermajority would diminish that authority.

Opposing Argument

The bills would establish a bad public policy. Requiring a supermajority likely would lock in inequities that may now exist or surface in the future, and thus make it harder to amend various tax codes and move toward more equitable tax policy. Further, the national, and thus the State, economy could take a severe downturn. Because the State must balance its budget, important services, perhaps vital services, would have to be slashed if the State could not raise taxes. Perhaps before a supermajority requirement radically changed tax policy in the State, the experiences of other states with supermajority requirements should be closely examined.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bills would not have any measurable fiscal impact on State or local government.

Fiscal Analyst: J. Wortley

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