

House Joint Resolution G

House Bill 4146

Sponsor: Rep. Gary A. Newell

Committee: Land Use and Environment

Complete to 2-22-01

**A SUMMARY OF HOUSE JOINT RESOLUTION G AND HOUSE BILL 4146 AS
INTRODUCED 2-7-01**

House Joint Resolution G would amend Article IX, Section 3 of the state constitution to require the legislature to provide for an assessment system for qualified agricultural property based on agricultural use value, beginning with taxes levied in 2002. The resolution also would allow the legislature to provide for alternative methods of taxation for property removed from agricultural use. The resolution would be submitted to the voters at the next general election.

The provision would be an exception from the current constitutional requirement that the legislature provide for the "uniform general ad valorem taxation of real and personal property" (except for school operating taxes) and the requirement that property be assessed based on true cash value, subject to a limitation on annual increases in assessments. (The General Property Tax Act defines the "cash value" of property, generally speaking, as its usual selling price.)

House Bill 4146 would amend the General Property Tax Act (MCL 211.7dd et al.) to put the agricultural use value concept into statute. The bill would provide that, beginning December 31, 2001, qualified agricultural property would be assessed at 50 percent of its agricultural use value. The bill is tie-barred to House Joint Resolution G, meaning it would not take effect unless the constitutional amendment was approved.

Agricultural Use Value. Under the bill, the term "agricultural use value" would be defined to mean that value calculated using the method determined by the State Tax Commission after consultation with the Department of Agriculture. The method would have to include: 1) evidence of the productive capability of the qualified agricultural property for agricultural use, including soil characteristics; 2) the average annual net return in the immediately preceding five-year period for typical agricultural property in the county, discounted by an appropriate interest rate; and 3) the average rental income for typical agricultural property in the county. The method, however, could not include sales of comparable qualified agricultural property. The term "qualified agricultural property" would mean property exempt from local school operating taxes under Section 7ee of the act.

Taxable Value of Agricultural Property. Specifically, the bill would require that for taxes levied in 2002 and thereafter, the taxable value of each parcel of qualified agricultural property would be the lesser of a) the parcel's taxable value in the immediately preceding tax year, minus any losses, multiplied by the lesser of 1.05 or the inflation rate, plus all additions; b) the parcel's current agricultural use value; and c) the taxable value the property would have had if taxable value had been determined under Section 27a (which determines how the taxable value of other

kinds of property is determined). If property was transferred and remained qualified agricultural property, its taxable value would continue to be determined in the same way. If property was transferred and was no longer qualified agricultural property, then the taxable value would be based on market value (the state equalized valuation). Accordingly, the bill contains provisions that would put the notion of agricultural use value into the assessing process.

Definition of Agricultural Real Property. The bill would change the definition of agricultural real property found in Section 34c of the act, which describes the various classifications of property for assessment purposes. Agricultural real property currently includes parcels used partially or wholly for “agricultural operations”, and that term is defined in the act to include farming in all its branches, including cultivating soil; growing and harvesting any agricultural, horticultural, or floricultural commodity; dairying; turf and tree farming; and performing any practices of a farm incident to, or in conjunction with, farming operations. The bill would instead define agricultural real property as including parcels used partially or wholly for “agricultural use” and then would define that term.

The term “agricultural use” would refer to substantially undeveloped land devoted to the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use would include property enrolled in a federal acreage set-aside program or a federal conservation program. The term would not include substantially undeveloped land the primary purpose for which is the management and harvesting of a woodlot or a commercial storage, processing, distribution, marketing, or shipping operation. (This is the definition found in the Farmland and Open Space Preservation Act.)

Recapture Notice. An owner of qualified agricultural property would have to inform a prospective buyer that if the property was converted by a change in use to property no longer considered qualified agricultural property, it would be subject to the recapture tax provided in the Agricultural Property Recapture Act. For qualified agricultural property only, the tax statement mailed to the taxpayer or the taxpayer’s agent would have to include the recapture tax that would be imposed if the property were converted by a change in use.

The recapture tax was put in statute by Public Act 261 of 2000 as a companion to legislation exempting the transfer of agricultural property from the assessment “pop-up” that typically applies to the sale of property. Increases in property assessments are limited to five percent per year or the rate of inflation, whichever is less, but when a parcel of property is sold it is re-assessed based on market value. When agricultural property is transferred and converted to a use other than agricultural it is subject to the recapture tax; that is, a tax that recaptures the tax benefits the property has enjoyed over the previous seven years by virtue of being classified as agricultural.

Affidavit Date. The act currently requires the owner of qualified agricultural property that is not classified as such to file an affidavit with the local tax collecting unit by May 1 in order to qualify for the current exemption from local school operating taxes. Under the bill, for taxes

levied after December 31, 2001, this filing date would be moved to tax day as defined in Section 2 of the act. That section says, “The taxable status of persons and real and personal property for a tax year shall be determined as of each December 31 of the immediately preceding year, which is to be considered the tax day.”

New Property Tax Exemptions. The bill would exempt a greenhouse, but not the land on which it was located, and all flowering, nursery, or vegetable plants in the greenhouse from the property tax. The term “greenhouse” would refer to a structure or enclosure consisting of a wood, fiberglass, or metal frame with a glass, plastic, acrylic, polycarbonate, polyethylene, or similar covering, designed to regulate climatic conditions in order to germinate, grow, or store flowering, nursery, or vegetable plants.

The bill would also exempt “residential development property” from local school operating taxes to the same extent homestead property is exempt. (The exemption would apply to taxes levied after December 31, 2001.) This includes property that meets all of the following requirements: it is classified as residential real property under Section 34c; it has had a final plat recorded under the Land Division Act after the effective date of the bill or has had a condominium subdivision plan completed and a master deed for all or a portion of the real property recorded under the Condominium Act; and there had never been a fully completed and occupied residential dwelling unit or condominium located on the real property. Residential development property would include property on which was located a fully completed residential dwelling or condominium unit that had never been occupied. The term would not include property on which was located a residential dwelling or condominium unit used for commercial purposes or as an office, showroom, or model. (The current definition of developmental real property in the act would be deleted.)

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