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Senate Bills 1165 and 1166 (as enrolled)
Sponsor: Senator John J. H. Schwarz, M.D. (S.B. 1165)
Senator Harry Gast (S.B. 1166)
Senate Committee: Finance
House Committee: Finance

PUBLIC ACTS 244 & 243 of 2002

Date Completed: 2-4-03

RATIONALE

Governor Engler's budget recommendations for fiscal year (FY) 2002-03 included a proposed \$200 per pupil increase in the school aid foundation grant. In order to fund this increase, in light of the State's economic conditions, the Governor also proposed that the collection of the State education tax (SET) be accelerated.

The State Education Tax Act levies six mills on all nonexempt real and personal property subject to the general property tax. The SET is collected at the same time as other taxes levied by a school district are collected. Depending on where they live, some taxpayers paid the six mills in their winter tax levy (due in February); some paid the six mills in their summer tax levy (due in September); and some paid three mills in the winter and three mills in the summer. Local treasurers are required to collect the SET and remit it to their county treasurers, who must deliver the tax to the State for deposit in the State School Aid Fund. The Governor suggested that moving the collection of the six mills to the summer of 2003, thereby capturing all of the tax at that time, would increase revenue to the State School Aid Fund in FY 2002-03 sufficiently to allow for the increased per pupil grant.

CONTENT

Senate Bill 1165 amended the State Education Tax Act to require collection of the State education tax in the summer of 2003 and each summer thereafter; reduce the SET for 2003 from six mills to five mills; and provide for the collection of the SET by local taxing units, counties, and the State. Senate Bill 1166 amended

the General Property Tax Act to prohibit a local taxing unit from increasing the proportion of mills it levies in the summer of 2003.

Senate Bill 1165

The bill added Section 905b to the State Education Tax Act to provide for the summer collection of the SET. Under the bill, beginning in 2003, the SET must be collected in the summer levy. Except as otherwise provided, the tax must be collected by each city and township. If a city or township collects the SET, the State must transmit to that city or township \$2.50 for each parcel of property in the city or township on which the SET is collected.

In a city or township (or that portion of a city or township) in which no property taxes other than the SET or village taxes are levied in the summer of 2003 and any summer thereafter, the city or township must collect the SET unless, before November 1, 2002, the legislative body of the city or township adopted a resolution declining to collect the SET. (For a township, the township treasurer had to concur with the resolution.) The appropriate assessing officer had to send a copy of the resolution (and the concurrence) to the State Treasurer and the local county treasurer before November 1, 2002. In January 2004 and each January thereafter, the legislative body of a city or township that declined to collect the SET may, by resolution, rescind the earlier decision. The city or township immediately must send a copy of the resolution to the State Treasurer and the county treasurer.

A county that receives a copy of a resolution declining to collect the tax (and for a township the written concurrence) must collect the tax unless, before February 1, 2003, the county board of commissioners adopted a resolution declining to collect the tax, and the county treasurer concurred in writing with that resolution. The county treasurer then had to send a copy of the resolution and the concurrence to the State Treasurer before February 1, 2003. In February 2004 and each February thereafter, a county board of commissioners that declined to collect the SET may, by resolution, with the written concurrence of the county treasurer, rescind the earlier decision. The county treasurer must immediately send a copy of the resolution and the written concurrence to the State Treasurer. If a county collects the SET, the State must transmit to the county \$2.50 for each parcel of property in the county on which the tax is levied.

If a county, city, or township does not collect the SET, the State Treasurer must collect the tax under the provisions of the General Property Tax Act. The collection of the SET is not subject to the revenue Act. The tax is subject to a 1% administration fee.

The following apply to the collection of the SET by a county treasurer or the State Treasurer, as applicable:

- By June 1, the township or city for which the tax is being collected must deliver to the county treasurer or the State Treasurer a certified copy of each assessment roll for taxable property located in the township or city. Each assessment roll must include the taxable value of each parcel subject to the collection of the tax. The county treasurer or State Treasurer must remit the necessary cost incident to the reproduction of the assessment roll to the township or city.
- By June 30, the county treasurer or the State Treasurer must spread the millage levied under the SET Act against the assessment roll and prepare the tax roll.
- The county treasurer or the State Treasurer may impose all or a portion of the fees and charges authorized under Section 44 of the General Property Tax Act, on taxes paid before March 1. The county treasurer or the State Treasurer may retain the fees and charges regardless of whether the township or city has waived all or part of

the fees and charges.

(Section 44 of the General Property Tax Act allows a local unit to collect a property tax administration fee for property taxes paid on time, and a higher property tax administration fee, late penalty charge, and interest on taxes paid late. A local unit also may waive fees, charges, or interest under certain circumstances.)

Under the bill, a county treasurer or the State Treasurer, as applicable, has powers and duties similar to those prescribed by the General Property Tax Act for township supervisors, township clerks, and township treasurers regarding the assessment, collection, and spreading of taxes. The bill specifies, however, that Section 905b of the SET Act may not be considered to transfer any authority over the assessment of property.

A county treasurer or the State Treasurer collecting taxes under Section 905b must be bonded for tax collection in the same amount and in the same manner as a township treasurer would be for undertaking the duties prescribed by the bill.

If a county treasurer or the State Treasurer collects the SET, all payments from the State for collecting the tax in a summer levy, and all revenue generated by the administration fee, must be deposited in a restricted account designated as the "State Education Tax Collection Account". The county treasurer or the State Treasurer, as applicable, must direct the investment of the account, and credit to it interest and earnings from investments. Proceeds in the account may be used only for the cost of collecting the SET. A county board of commissioners must appropriate sufficient money from the account to the county treasurer to cover the cost of collection.

The SET collected by a city under the bill, on a date other than a date it collects city taxes, is subject to the same fees and charges a city may impose under Section 44 of the General Property Tax Act, except that a city may impose the administration fee on the tax even if the city's administration fee is not imposed on taxes billed in December. The SET collected on or before September 14 of each year, by a city that collects school taxes on a date other than the date it collects city taxes, must be without interest, but the SET collected after September 14 must bear

interest at the rate imposed by Section 59 of the General Property Tax Act on delinquent property tax levies that become a lien in the same year. (In general, under Section 59, interest is charged at 1% per month on the unpaid amount.)

Under the bill, the SET collected by a city becomes a lien against the property on which it is assessed in the same manner and on the same date as city taxes or, if the city approves the collection of the SET on a date other than the date it collects the city taxes, on July 1. The SET that is collected with the city taxes is subject to the same penalties, interest, and collection charges as city taxes and must be returned as delinquent to the county treasurer in the same manner and with the same interest, penalties, and fees as city taxes, except as provided in Section 89a of the General Property Tax Act. (Under Section 89a, notwithstanding the provisions of a county charter or the charter of a home rule city to the contrary, the treasurer of a city that does not return delinquent real property taxes levied by the city to the county treasurer must return all delinquent SET to the county treasurer, on March 1 in the year following the year in which the taxes are levied. After the delinquent taxes are returned to the county treasurer for collection, the provisions of the General Property Tax Act apply for collection of those taxes and for the issuance of notes in anticipation of their collection.)

The SET collected by a township on or before September 14 each year must be collected without interest. The SET collected after September 14 must bear interest at the rate imposed by Section 59 of the General Property Tax Act on delinquent property tax levies that become a lien in the same year. The SET collected by a township is subject to the same fees and charges the township may impose under Section 44 of the General Property Tax Act, except that a township may impose the administration fee on the tax even if the township's administration fee is not imposed on taxes billed in December.

All interest and penalties that are imposed before the date the SET is returned as delinquent, other than the administration fee, must be transmitted to the State Treasurer for deposit into the State School Aid Fund. If imposed, the administration fee must be retained by the township or city, as applicable.

Beginning in 2003, if a school district or intermediate school district (ISD) collects taxes in the summer, under the Revised School Code, the school district or ISD must collect the SET in the summer and distribute the tax collected as provided in the SET Act.

Senate Bill 1166

The bill provides that a local taxing unit that levied part or all of its 2002 property taxes in December in a city or township, may not increase the proportion of its mills levied in the summer in that city or township in 2003.

If a county treasurer or the State Treasurer collects a summer property tax levy (as provided in Senate Bill 1165), the county treasurer or the State Treasurer may retain all administration fees collected in that summer property tax levy.

MCL 211.903 et al. (S.B. 1165)
211.44d (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 State has remained steadfast in its commitment to education. Since the passage of Proposal A in 1994, the per pupil foundation grant has been increased, significantly, every year except one. Because of declining State revenues and widespread predictions of budget shortfalls, at the time the FY 2002-03 budget was being developed, many feared that the State would not be able to increase funding to public schools as it had in recent years, and that school districts would suffer as payments from the State remained stagnant or were reduced.

Senate Bill 1165 enables the State to continue its commitment to the State's school children and the education community. Moving collection of the SET forward to the summer of 2003 will result in a net increase to the State School Aid Fund of nearly \$450 million, thus helping to ensure funding for the 2002-03 school year.

Opposing Argument

Senate Bill 1165 will cause two significant problems. First, taxpayers who have escrow

accounts, or those who set aside money on their own, to pay property taxes may find that they do not have enough in their accounts to pay the full tax. This may be a burden for many taxpayers.

Second, while acceleration of the tax will increase funding for the first year, after that the legislation may cause the State cash flow problems. Under the bill, payment of the SET is due each year by September 14, just two weeks before the end of the State's fiscal year; however, schools are paid monthly, beginning in October. The SET paid in September 2003 will be used for the FY 2002-03 school year. For the 2003-04 school year, the State must begin monthly payments in October 2003, but will not collect the SET until September 2004. It is unclear how the State will obtain the money necessary to make these payments.

Response: The bill will reduce the SET by one mill for the 2003 tax year, thus saving money for taxpayers. In effect, while the SET will be collected sooner than usual, the tax will be less than is normally paid. Further, the accelerated payment will not be due until September 2003. Mortgage companies and lending institutions that collect escrow payments for homeowners, and taxpayers with their own escrow accounts, will have time to plan for the accelerated payment.

Legislative Analyst: George Towne

FISCAL IMPACT

These bills will generate an estimated \$450 million in net new State education property tax revenue in FY 2002-03. The major components of the fiscal impact of these bills are summarized below.

Acceleration of the Collection of the State Education Property Tax. Local governments have collected the State education property tax for the State at the same time they collected their own property taxes, which are collected in the summer (bill issued in July) and/or in the winter (bill issued in December). Senate Bill 1165 provides for the collection of the SET only in the summer by means of a July bill. Given that the State fiscal year runs from October through the following September, the State education property tax collected in any fiscal year previously equaled the amount collected through the winter bill issued in December of the calendar year in

which the fiscal year began and the amount collected in the summer bill issued in July of the calendar year in which the fiscal year ended. Accelerating the collection of the State education property tax beginning in 2003 by collecting in the summer (July bill) the amount that would have, under previous law, been collected in the winter (December bill), will result in an estimated \$725 million increase in the SET collected in FY 2002-03.

Reduction in Tax Rate. These bills also will reduce the State education property tax rate from 6 mills to 5 mills during 2003 only. (A mill is equal to \$1 per \$1,000 of taxable value). This temporary tax rate reduction will reduce State education property tax revenue by an estimated \$270 million in FY 2002-03.

Payment to Local Governments. The State is required to pay local governments that previously did not collect any property taxes in the summer, \$2.50 for every parcel of property from which they collect the State education property tax. This payment from the State is intended to cover the new costs these local governments will incur in collecting the tax in the summer. There are approximately 914 local governments that previously did not collect any property taxes in the summer. This \$2.50 per parcel payment to local governments will cost the State an estimated \$4.6 million.

Estimated Fiscal Impact of Senate Bills 1165 and 1166 (dollars in millions)

Enacted Change	FY 2002-03
Accelerating Tax Collection from December to July	\$724.9
Temporary Reduction in Tax Rate from 6 mills to 5 mills	(270.2)
One-time Revenue Gain to SAF	454.7
\$2.50/Parcel Payment to Locals	(4.6)
Net Revenue Gain	\$450.1

Fiscal Analyst: Jay 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.