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Senate Joint Resolution Q (as reported without amendment)
Sponsor: Senator Leon Stille
Committee: Farming, Agribusiness and Food Systems

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RATIONALE

Many people have expressed concern in recent years over the steady conversion of farmland and open spaces to residential, commercial, and industrial uses, and much has been said about how agriculture has come under increasing economic pressures. To address this and other issues related to agriculture, the Senate Agriculture Preservation Task Force was created in the spring of 1999. The task force was asked to examine the condition of agriculture in Michigan and identify the challenges and threats it faces. The task force found, among other things, that economic pressures on farmers are causing agricultural resources, including land, to be removed from farm production. The task force concluded that low profits are the fundamental cause of the problems in farming, and that policies designed to address the issues facing agriculture should focus on profitability. In its report, the task force listed 12 specific recommendations for State action, including reducing taxes. In particular, the task force recommended that property taxes on farmland be based on the land's current use, and not its highest and best use.

Under Article 9, Section 3 of the State Constitution, the Legislature must provide for the determination of the true cash value of real and personal property. This process results in property assessments that are based on a determination of what a parcel would bring on the open market if sold (thus, its highest and best use), rather than on its current use. This can be particularly problematic for farmland. For instance, a farm near a fast-growing area may produce income to the farmer that is comparable to the same sized farm in another area, but because of the first farm's location, its acreage may be valued substantially higher than the second farm, and thus result in higher property taxes. It has

been pointed out that to assess farm property based upon something other than its highest and best use would require an amendment to the State Constitution.

CONTENT

The joint resolution proposes an amendment to Article 9, Section 3 of the State Constitution to require the Legislature, for taxes levied in 2002 and thereafter, to provide for an assessment system based upon agricultural use value for qualified agricultural property as defined by law. The Legislature would have to provide for alternative methods of taxation and, notwithstanding any other limitations of Article 9, Section 3, the adjustment of taxable value as provided by law for property that ceased to be qualified agricultural property.

Article 9, Section 3 contains a cap on assessment increases; that is, the taxable value of a parcel of property (adjusted for additions and losses) cannot increase each year by more than 5% or the rate of inflation, whichever is less. The cap remains in effect for a parcel until ownership of the parcel is transferred (at which time the property must be assessed at 50% of true cash value).

(Under the General Property Tax Act, "qualified agricultural property" is unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use. Related buildings include a residence occupied by a person who is employed in or actively involved in the agricultural use and who has not claimed a homestead exemption on other property. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or

commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of its acreage is devoted to agricultural use.)

The joint resolution would have to be submitted to the voters at the next general election, if two-thirds of the members elected and serving in each house of the Legislature approved the resolution.

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

Farming remains an enormous part of the overall economy of Michigan. According to the Michigan Agriculture Statistics Service, the agricultural sector adds over \$4 billion to the State's economy each year. Nevertheless, farmers are facing difficult times. Agricultural prices, adjusted for inflation, are at their lowest levels since the depression, according to the Agriculture Preservation Task Force report. Some food processing plants have closed or moved out-of-State. Low profitability in agricultural operations has caused many farmers to transfer their assets (land) to nonfarmers, usually developers. This has resulted in a steady reduction in the number of acres in farm production. Many people feel this will have long-term negative consequences for society in general, because it will reduce the nation's ability to provide food for an ever-increasing population, and increase dependence on foreign producers. By ensuring that farm property would be assessed based upon its current use, rather than its highest and best use, if adopted by the voters, the joint resolution would lower farmers' property taxes and thus improve their chances of remaining profitable.

Supporting Argument

Reportedly, Michigan is one of the few states that assess farm property based upon something other than actual use, and as a result, the State's farmers pay some of the highest property taxes in the country for farmland. Taxes must be included in the cost of production; therefore, higher taxes result in lower profits. Agricultural land that is taxed based on its market value, in areas where

residential and/or commercial development is nearby, incurs higher taxes because the land's value is assessed as developable property (its highest and best use) and not as farmland.

Further, in the case of a farm in a developing area, an assessment based upon the land's highest and best use may preclude future use of the land for farming; that is, when the property is transferred either by sale or to an heir, the revised assessment may raise the property taxes to the point at which the new owner can no longer make a viable profit by farming. The logical step for the new owner, then, is to sell the land to developers for residential, commercial, or industrial use, thus removing the land from farm production. Once this happens, the property is almost never returned to farmland.

The State should take steps to ensure that agriculture remains a vital part of Michigan's economy, and to do that the State must do what it can to help farmers. The joint resolution would implement one of several recommendations made by the Task Force to provide substantial tax relief to farmers, and thus would help to keep farmland as farmland.

Opposing Argument

The State Constitution requires the Legislature to provide for the determination of true cash value of property. The General Property Tax Act, in implementing this provision, defines cash value as the usual selling price of property "...being the price that could be obtained for the property at private sale...". The joint resolution would single out agricultural property from all other types in terms of determining a parcel's assessed value. This would undermine the principle of uniformity in assessments. Uniformity is an important concept, because it attempts to ensure that a property owner's share of the taxes collected for operating the government is proportional to the value of his or her property in relation to the value of other property in the taxing unit. Instead of amending the Constitution, the State could lower farm assessments and taxes by exempting farmland from property taxes and imposing a specific tax on farms.

Response: The joint resolution would create a very specific exemption to the principle of uniformity in assessments, and would take effect only if the voters saw fit to approve the proposed constitutional amendment.

Opposing Argument

Some people contend that there is a lack of clarity in current statutory provisions used to determine what is and what is not agricultural property for assessment purposes, and that resulting interpretations by local assessors may lead to a wide disparity among the classifications of parcels as agriculture. Further, the joint resolution would require the Legislature to provide for an assessment system based upon agricultural use value "as defined by law", and this has not yet been adopted in statute. It has been suggested that a better alternative would be to require all property to be assessed on its current use, rather than on highest and best use.

Opposing Argument

To ensure residents' quality of life, significant tracts of land must be preserved, for both farmland and open space. Some people believe that the only way this can be accomplished in a free society is to purchase land for permanent preservation. Public Acts 260, 261, and 262 of 2000 were enacted to help preserve farmland and open space. Public Act 260 exempts qualified agricultural property from the general requirement that a parcel's assessment revert to 50% of its true cash value upon a transfer (which can result in a sharp increase in property taxes). If the land ceases to be qualified agricultural property after it is transferred, however, it will be subject to a "recapture tax" under Public Act 261. Revenue from the recapture tax must be deposited in the Agricultural Preservation Fund, which was created by Public Act 262 and is to be used for the purchase of agricultural conservation easements and development rights.

Some people say, however, that the recapture tax is inadequate; will do little to discourage the development of farmland; and in fact may encourage developers to purchase farms now, keep them in farming to take advantage of the lower taxes, and develop the land later. Some believe that developed farmland should be subject to a higher penalty than just a repayment of the benefit received, in order not only to provide a stronger incentive to keep farmland in agricultural production, but also to supply the Fund with more money so that more land can be set aside for preservation. It has been suggested that the joint resolution perhaps should contain a provision to require a substantial fee for the conversion of agricultural land to other uses,

and that the fee revenue should be placed in the Fund.

Response: Some people oppose any form of recapture tax when agricultural property is converted by a change in use, arguing that it infringes upon property rights and restricts the owners' ability to do as they wish with their property. Others argue that a recapture tax penalizes not only those farmers who want to profit from the development of land, but also the developers and all others who benefit directly and indirectly through the construction of residential and commercial areas.

Regardless, the continued loss of agricultural land to other uses is a substantial problem that must be addressed. To start the process of assessing farmland based on use, the State Constitution must be amended so that legislation can be developed to implement such a system. The questions of whether the recapture tax is adequate and whether a possible conversion fee should be included are separate from the issue of assessing farm property based on use, and should not be included in a proposed constitutional amendment.

Legislative Analyst: G. Towne

FISCAL IMPACT

While the resolution would alter the Michigan Constitution, the fiscal impact of the changes would depend significantly on the statutes adopted to implement the constitutional amendment. Currently, no proposed legislation describes the implementation of the amendment offered in Senate Joint Resolution Q. A similar amendment was proposed during the 1999-2000 legislative session (Senate Joint Resolution M), and would have been implemented through proposed Senate Bill 1245 of the 1999-2000 session. That proposed legislation was estimated to reduce property tax revenue by at least \$86 million in 2002. Any implementation would likely have a fiscal impact on both State and local revenues, including the State School Aid Fund. Because property values have grown since 2000, the impact of a similar bill would likely be greater.

Fiscal Analyst: D. Zin

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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.