Legislative Analysis

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AG PROPERTY ASSESSMENTS

House Bill 4702 as enrolled/vetoed
Sponsor: Rep. Bruce Caswell

House Committee: Tax Policy
Senate Committee: Finance
Second Analysis (9-1-04)

BRIEF SUMMARY: The bill would amend the General Property Tax Act to exclude certain sales of agricultural property from the sales data used by assessors, county equalization departments, and the State Tax Commission when assessing agricultural property, in those cases when there is no affidavit filed attesting that the property will remain as agricultural property and the sale is not representative of the class.

FISCAL IMPACT: Without knowing which sales would be excluded, it is not possible to determine a fiscal impact.

THE APPARENT PROBLEM:

For the purposes of assessing property values for property taxes, the state uses a market-value approach that relies largely on the property's true cash value (that is, its market value). The General Property Tax Act defines "true cash value" to generally mean the purchase price of a parcel of property that could be obtained at a private (arms-length) sale. The act provides that in determining the true cash value, the local assessor is to consider the property's location, soil quality, present economic income of structures, and present economic income of the land if the land is being farmed, among other things.

Assessing real property for the purposes of taxation is a three-step process that includes local assessment, county equalization, and state equalization. The intent of the equalization process is to assess a property at 50 percent of its true cash value and, therefore, provide a uniform assessed valuation within a given county and throughout the entire state. Assessors and equalization departments use sales ratio studies in making assessments and intracounty and statewide equalizations for particular classifications of property. These studies (which include a description of the property, its assessed value, and its purchase price) compare the assessed value and the sale price for each parcel of property sold.

Since the passage of Proposal A in 1994, there has been a limit on how much the assessment of a parcel of property can increase from one year to the next for the purpose of levying property taxes. (This is why property taxes are now based on "taxable value" rather than the "state equalized valuation".) Generally speaking, an assessment cannot increase by more than five percent or the rate of inflation, whichever is lower. However, when ownership of property is transferred, the assessment of property typically "pops up" to 50 percent of the market value (SEV).

The General Property Tax Act defines "transfer of ownership" for the purpose of revaluation and lists transactions that are included under that term and transactions that are not counted as ownership transfers. In the case of transfers of qualified agricultural property, the transaction does not count as a transfer of ownership if the purchaser files an affidavit attesting that the property will remain as qualified agricultural land with the local assessor and the county register of deeds.

It is generally asserted that when agricultural property is sold to be converted to a non-agricultural use, that property is sold at a higher price than if it were to remain in agricultural use. Thus, critics say, when these sales are included in the sales ratio studies to determine assessed and equalized values of agricultural property, the values typically increase and do not accurately represent the true value of property remaining in agricultural use. Legislation has been introduced that would exclude these types of sales from the sales data studies.

THE CONTENT OF THE BILL:

The bill would amend the General Property Tax Act to require a city or township assessor, a county equalization director, and the State Tax Commission to exclude certain sales of agricultural property from the sales data in making sales ratio studies and appraisals to assess real property classified as agricultural real property. The bill would exclude any sale of real property 1) for which no affidavit had been filed attesting that the property would remain qualified agricultural property and 2) that was not representative of the class.

MCL 211.8 and 211.27

ARGUMENTS:

For:

For some time now, there has been concern in the agricultural community that agricultural property should be valued at its current use, rather than its highest and best use. Indeed this was the subject of a number of bills during the previous two legislative sessions designed to tax farmland based on its agricultural use value. This bill, in a way, tries to achieve that same goal of assessing agricultural land based on its use for agricultural purposes rather than its development value, by only looking at sales data of agricultural property that will remain in agricultural use.

Currently, agricultural property, like other property classifications, is assessed at its true cash value (market value), based, generally speaking, on its highest and best use. To change that would require a constitutional amendment. This means agricultural property that is close to urban and suburban communities or near open spaces being developed is assessed (and sold) at the value it has to those who desire to purchase it not for its agricultural uses, but for residential, commercial, or industrial uses. This drives up the assessed value of agricultural land (though the actual taxable value is still subject to constitutional limitations). So, if those types of transfers are excluded from sales studies,

agricultural property sales data will only include sales of agricultural property remaining in agricultural use and not sales of property that will eventually be used to construct a housing complex or a strip-mall. The result is a set of sales data that more accurately reflects actual agricultural property sales, which has the effect of restraining annual increases in the property's assessed value.

For example, suppose there are two parcels of agricultural property sold for development that have a sales ratio of 30 percent (meaning that the assessed value is 30 percent of the sale price) and there are two parcels of agricultural property that will remain in agricultural use and have a sales ratio of 45 percent (meaning that the assessed value is 45 percent of the sale price). The average ratio for all four parcels is 37.5 percent. However, the optimum ratio is 50 percent, which means that a ratio other than 50 percent must be adjusted to equal the 50 percent mark. In this instance, the property values are under assessed by 12.5 percent and must be increased by that percentage in order to meet the 50 percent mark. However, looking only at the agricultural property that will stay in agricultural use, the property is only under assessed by five percent. In this example, then, the assessed value would be adjusted upward by five percent rather than 12.5 percent.

Against:

In vetoing this bill, Governor Granholm said:

House Bill 4702 is well intended. However, while I support efforts to encourage the preservation of farmland, this bill fails to account for the harmful effects that may result from its provisions. Changing assessment practices for agricultural property without also ensuring that the benefits are limited to those committed to the preservation of farmland is not consistent with Michigan's interest in preserving our state's valuable farmland.

This legislation, while promising new protection for farmers and farmland, instead could undermine existing preservation incentives. Although amendments added by the Senate mitigate somewhat the bill's potentially harmful effects, it is not certain that the changes eliminate those effects.

By failing to provide a penalty for withdrawing farmland from agricultural use, House Bill 4072 fails to reflect the explicit recommendations of the Michigan Land Use Leadership Council, which couple preservation incentives with "meaningful recapture provisions upon withdrawal." In fact, because of this shortcoming, the two Co-Chairpersons of the Council, former Governor William G. Milliken and former Attorney General Frank J. Kelley, have voiced their opposition to this legislation.

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