Legislative Analysis

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RETURN OF PROPERTY TAXES COLLECTED

House Bills 5724-5726
Sponsor: Rep. Brian Palmer
Committee: Tax Policy

Complete to 5-25-04

A SUMMARY OF HOUSE BILLS 5724-5726 AS INTRODUCED 3-30-04

House Bill 5724 would amend the General Property Tax Act (MCL 211.52a) to require local tax collecting units to return to other local taxing units or to the state treasurer any amount of tax erroneously collected or an amount required to be returned by court order in a bankruptcy proceeding, upon the request of the taxing unit or state treasurer.

House Bill 5726 would amend the State Education Tax Act (211.905) to require the state treasurer to return, upon request, any amount of taxes erroneously collected or an amount required to be returned by court order in a bankruptcy proceeding to local tax collecting units, school districts, or intermediate school districts.

House Bill 5725 would amend the Plant Rehabilitation and Industrial Development Act, commonly known as P.A. 198. Under that act, local governmental units may provide new, renovated, or expanded industrial facilities with property tax abatements for up to 12 years. Facilities are exempt from general property taxes, but pay a specific tax (the industrial facilities tax).

The amount of the industrial facilities tax due is a lien on the property until the tax is paid. The act provides, however, that foreclosure proceedings may begin only after the local unit files with the county register of deeds a certificate of nonpayment of taxes and affidavit of proof of service of the certificate to the property owner.

House Bill 5725 would eliminate the current language (MCL 207.563) about foreclosure proceedings and instead provide that the industrial facilities tax becomes a lien on the property on the date the tax is levied, except in circumstances described by the bill. Under the bill, the treasurer of the county, township, city, or village could designate "tax day" (December 31 of the preceding year) as the day on which the industrial facilities tax becomes a lien by filing an affidavit with the county register of deeds and by attesting at least one of the following has occurred: (1) the owner or person assessed has filed a bankruptcy petition under the federal bankruptcy code, (2) a secured lender has brought a foreclosure action to enforce an interest secured by the property, (3) personal property has been liquidated or is in the process of being liquidated, (4) the property is subject to receivership under state or federal law, (5) the property has been assigned for the benefit of creditors, (6) the property has been seized by local, state, or federal authorities, or (6) there is an on-going judicial action that could impair the ability of the taxing unit to collect taxes due in the absence of a lien.

In addition, the bill specifies that the affidavit would have to include the year the taxes were levied, the date on which the taxes were assessed, the names of the owner and other persons identified in the tax roll, and the tax identification number of the real and personal property assessed.

FISCAL IMPACT:

In the few instances in which the circumstances described by the bill occur, revenues that have been erroneously collected or that have been ordered refunded by a court would be transmitted from one level of government to another.

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