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BILL ANALYSIS

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House Bill 5545 (Substitute S-1 as reported)
Sponsor: Representative John Moolenaar
House Committee: Local Government and Urban Policy
Senate Committee: Local, Urban and State Affairs

Date Completed: 4-27-04

RATIONALE

When the collection date for the State education tax (SET) was moved to the summer beginning in 2003, the State paid local governments collecting the tax \$2.50 per parcel to help defray their cost, for a total of \$4.2 million from the State's General Fund. Local taxing authorities have not been reimbursed for collecting the SET for the 2003-04 fiscal year, however, and some people are concerned that there is no longer an incentive for local units to collect the tax. The collection of the SET was moved from the time that most local property taxes are collected (primarily in winter), to the summer by Public Act 244 of 2002 to speed up revenue collection during a budget shortfall. Local treasurers were given the opportunity to opt out of collecting the tax, but the Act encouraged them not to by offering them \$2.50 per parcel upon which the SET was collected.

If local treasurers do not collect the SET, the State Treasurer is responsible for collecting it. Although the local units are subject to a 1% administration fee, many believe that the fee, in itself, is not enough to encourage local collection of the tax.

CONTENT

The bill would amend the State Education Tax Act to require that cities, counties, and townships collecting the tax retain \$2.50 for each parcel of property upon which the tax is levied under the Act, before transmitting the remainder of the funds as provided in the Act. The bill also would require county treasurers to give the State Treasurer annual statements regarding SET collections.

Tax Collection

Under the Act, cities and townships collecting the State education tax transmit the SET collected to the county treasurer. County treasurers collecting the SET, or receiving tax collections from cities and townships, must remit the funds to the State Treasurer for deposit in the State School Aid Fund. The Treasurer then transmits to the city, township, or county \$2.50 for each parcel of property in that local unit on which the SET is levied.

Under the bill, counties, cities, and townships collecting the State education tax would have to retain \$2.50 for each parcel of property in the city, county, or township on which the tax was levied, before transmitting the remainder of the funds collected to the State Treasurer (in the case of counties) or as provided in the Act (in the case of cities and townships).

Statements

By June 1 each year, a county treasurer collecting the SET would have to deliver to the State Treasurer a statement of the total amount of the prior year's tax levy not returned as delinquent that was collected by the county treasurer and collected and remitted to the county treasurer by each city or township treasurer. For the county and for each city or township, the county treasurer also would have to deliver a statement of the number of parcels from which the SET was collected, the number of parcels for which the tax was billed, and the total amount retained by the county treasurer and by the city or township treasurer as permitted by the bill.

BACKGROUND

The State Education Tax Act was enacted in 1993 as part of a school finance reform package. The Act imposes a tax of six mills on all nonexempt real and personal property subject to the general property tax. Originally, the SET was collected at the same time as other taxes levied by a school district are collected. Depending on where they lived, some taxpayers paid the SET in their winter tax levy; some paid in the summer tax levy; and others paid three mills in winter and three in summer. Public Act 244 of 2002 amended the SET Act to require the collection of the tax in the summer of 2003 and each summer thereafter. The 2002 Act also reduced the SET for 2003 only from six to five mills, and provided an opportunity for cities, townships, and counties to opt out of collecting the tax. If a county, city, or township does not collect the SET, the State Treasurer must collect it under the provisions of the General Property Tax Act. The tax collected by the State Treasurer is subject to a 1% administration fee.

The SET Act requires local treasurers to collect the State education tax. The local treasurers then remit the tax to county treasurers, who must deliver it to the State Treasurer for deposit in the State School Aid Fund. Under Public Act 244, cities and townships had the opportunity to opt out of collecting the SET if, by November 1, 2002, their legislative body passed a resolution declining to collect the tax. Each January, the legislative body of a city or township that declined to collect the SET may pass a resolution rescinding the earlier decision. A copy of the original resolution and a subsequent resolution must be sent to the State and county treasurers.

A county that received a copy of a resolution declining to collect the SET must collect the tax, unless, before February 1, 2003, the county board of commissioners adopted a resolution declining to collect the tax, the county treasurer concurred with the decision, and a copy was sent to the State Treasurer. Each February, 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.

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

Although Public Act 244 of 2002 did not limit the \$2.50 per parcel payments to 2003, no money was allocated to local treasurers collecting the SET in the 2003-04 budget. Without the payments from the State, there is no incentive for cities, townships, or counties to collect the tax, which is the preference of the Department of Treasury.

Additionally, many local treasurers do not like the disbursement procedures used by the State Treasury and would prefer simply to keep their share. The bill would ensure that the \$2.50 per parcel payments were made without annual appropriations. Local treasurers then could be confident the payments would continue when making their budgeting decisions. At the same time, the Treasury Department would be relieved of having to collect the tax or remit payments.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

The bill would reduce State education tax revenues, and thus School Aid Fund revenues, by approximately \$4.2 million per year. In FY 2002-03, \$4.6 million from the General Fund was appropriated to make the payments to local tax collecting units required under current law, and approximately \$4.2 million was actually spent. No funds were appropriated for FY 2003-04 and no payments have been made. Compared with the allocation of funds in FY 2002-03, the bill would reduce School Aid Fund revenues and increase General Fund revenues.

Fiscal Analyst: David 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.