

WPW FIX: PROPERTY ADDITIONS/LOSSES

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House Bill 4477

Sponsor: Rep. Andrew Meisner

Committee: Tax Policy

Complete to 6-21-05

A SUMMARY OF HOUSE BILL 4477 AS INTRODUCED 3-9-05

House Bill 4477 is the second bill in a two-bill package that implements the Governor's proposed tax code changes. This bill would amend the General Property Tax Act to address an issue stemming from the Michigan Supreme Court's 2002 decision in *WPW Acquisition v. City of Troy*. The other bill, House Bill 4476, the Michigan Jobs and Investment Act, would make changes to the Single Business Tax Act. The bills are tie-barred to each other. House Bills 4476 and 4477 are identical to Senate Bills 296 and 295, respectively.

Under the state constitution, as amended by Proposal A, year to year increases in the taxable value of a parcel of property are generally limited to five percent or the rate of inflation, though the value of the property may be adjusted for certain additions and losses irrespective of the assessment cap. Under the General Property Tax Act, "losses" include, among other things, an adjustment in value because of a decrease in a property's occupancy rate. Similarly, the act provides that "additions" include an increase in the value attributable to a property's occupancy rate if either a loss because of a decrease in occupancy rate was previously allowed or if the value of new construction was reduced because of a below market occupancy rate.

In *WPW Acquisition v. City of Troy*, the state Supreme Court held that the additional value attributable to an increase in a property's occupancy rate was not consistent with Proposal A and, therefore, was unconstitutional. At the time Proposal A was approved by the voters, the terms "additions" and "losses", as defined in the General Property Tax Act, did not encompass any increase or decrease in value because of a change in a property's occupancy rate. The current definitions of "additions" and "losses", as applied to tax years after 1994, were added to the General Property Tax Act with the enactment of Public Act 415 of 1994, after the approval of Proposal A. The court noted that if the legislature were free to classify increases in value as "additions", it could undermine one of the intended purposes of Proposal A – to limit property taxes.

As a result of the court's opinion, under current law a property's taxable value can be reduced because of a decrease in occupancy rate but does not increase when the occupancy rate subsequently increases.

House Bill 4477 would specify that the additions and losses attributable to an increase or decrease in a property's occupancy rate would only apply prior to December 31, 2001.

FISCAL IMPACT:

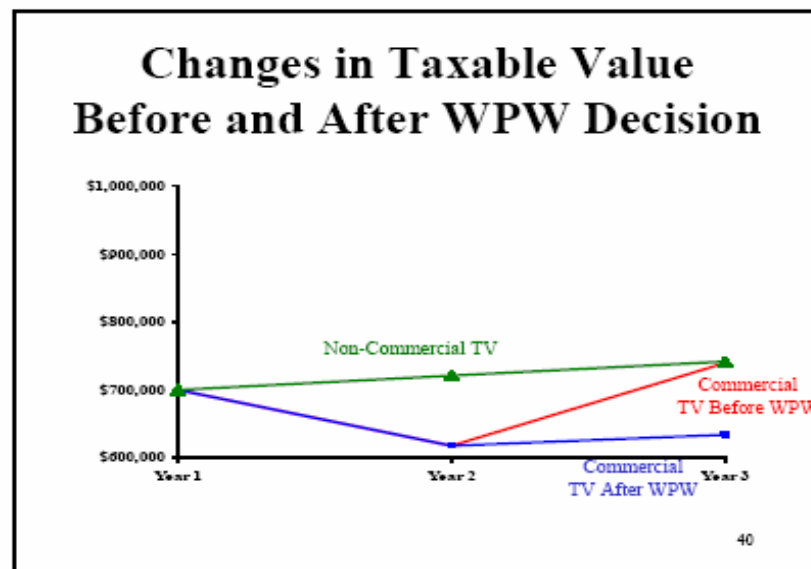
House Bill 4477 would amend the General Property Tax Act to prohibit reductions in occupancy for commercial property from lowering taxable values. According to the Department of Treasury, the bill would increase School Aid Fund (SAF) sources by an estimated \$30.0 million (\$7.5 million increase in State education tax revenue and a decrease in expenditures of \$22.5 million). In addition, property tax revenue for local units of government would increase by an estimated \$35 million.

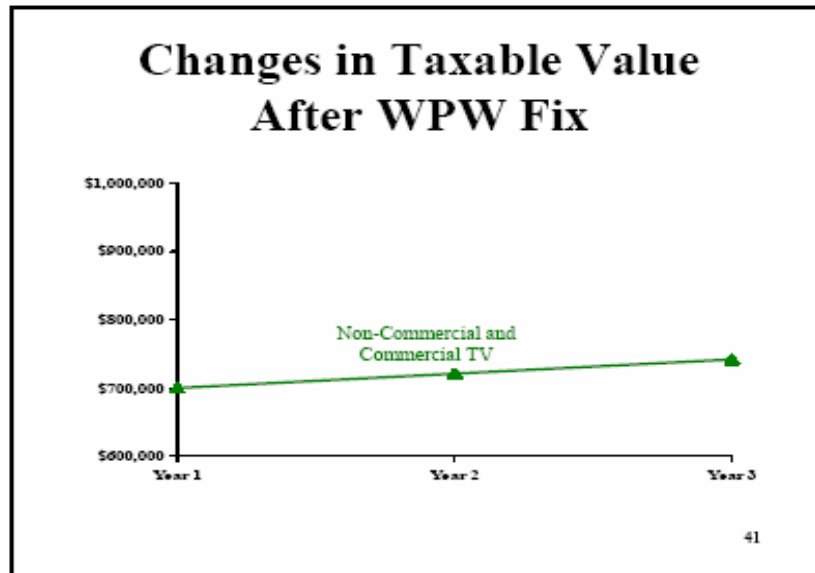
A related bill, House Bill 4476 would amend the Single Business Tax Act to add language referred to as the "Michigan Jobs and Investment Act." The bill would provide for rate changes, new credits, the elimination of deductions and credits, and other changes to existing provisions. According to the Department of Treasury, the bill would reduce SBT revenue by an estimate \$30.0 million. All SBT revenue is General fund/General Purpose revenue.

See the summary of House Bill 4476 for more detail on the SBT proposal and its fiscal impact.

BACKGROUND INFORMATION:

In testimony provided to the Committee on Tax Policy on April 13, 2005, the Department of Treasury provided the following graphs illustrating the changes in taxable value resulting from increases and decreases in occupancy rate, the effect of the WPW decision, and the effect of the bill.





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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.