

Legislative Analysis



TAX TRIBUNAL JURISDICTION

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House Bill 5854 (Substitute H-1)

Sponsor: Rep. Fulton Sheen

Committee: Tax Policy

First Analysis (4-18-06)

BRIEF SUMMARY: The bill would amend the Tax Tribunal Act to allow business property tax disputes to be appealed directly to the Michigan Tax Tribunal, rather than requiring such appeals to be first heard before the March Board of Review.

FISCAL IMPACT: There is no measurable fiscal impact on the State of Michigan or its local units of government. The bill is designed to make the operations of the local Boards of Review and the Tax Tribunal more efficient, but it is unclear whether this increased efficiency will result in a true savings of state or local expenditures. Such a savings would only occur if the state or local staffing level were to decrease as a result of this legislation.

THE APPARENT PROBLEM:

The Tax Tribunal Act generally requires that before the Michigan Tax Tribunal (MTT) acquires jurisdiction of a property tax dispute, the dispute must first be protested before the local March Board of Review. This applies to all types of property, whether it is an individual taxpayer's principal residence or a large manufacturing plant. Many in the business community, however, feel that the requirement to appeal to the board of review is unnecessary, particularly where the dispute involves highly complex property assessments. Legislation has been introduced to allow disputes concerning business property to be appealed directly to the MTT, and to make other clarifying amendments.

THE CONTENT OF THE BILL:

The bill would amend provisions in the Michigan Tax Tribunal Act concerning when the jurisdiction of the tribunal is invoked and when petitions for appeal are considered to be filed.

Jurisdiction

The Tax Tribunal Act generally requires that before the Michigan Tax Tribunal (MTT) acquires jurisdiction of an assessment dispute concerning the valuation or property or an exemption, the assessment must first be protested before the March Board of Review in the local unit of government. Appeals of the Board of Review's decision to the MTT must be made by June 30.

The bill provides that assessed valuation and exempt status disputes concerning real property classified as commercial, industrial, or developmental (i.e., business property) could be protested before the local board of review or directly to the MTT, bypassing the board of review. The bill further provides that assessed valuation and exempt status disputes concerning personal property classified as commercial, industrial, or utility could be protested before the local board of review or directly to the MTT, if a personal property tax statement is filed prior to commencement of the board of review. Appeals concerning commercial, industrial, development, or utility property would have to be made by May 31 of the tax year involved.

Additionally, the bill would push back the date, from June 30 to July 31, by which appeals of the board of review's decision concerning agricultural, residential, and timber-cutover property must be made to the MTT.

The act also provides that the jurisdiction of the MTT is invoked if an appeal pursuant to the Revenue Act is made within 35 days after the final decision, ruling, determination, or order is issued or within 30 days for "all other matters." The bill provides that appeals concerning "all other matters" would have to be filed 35 days, rather than 30 days, after the final decision, ruling, determination, or order. ["All other matters" includes property tax appeals and special assessment appeals. The MTT has accepted appeals after the June 30 deadline in cases, for example, where the taxpayer did not receive the assessment notice from the local unit and first realized that the assessed or taxable value changed when they received their summer property tax bill. In this instance, if the taxpayer appeals within 30 days of receiving the tax bill, the MTT would accept the appeal even though it is after June 30.]

Filing

The act provides that to be considered filed by the appropriate deadline date, a petition for a property tax appeal must be sent by certified mail on or before June 30, although appeals to the MTT's residential property and small claims division must be postmarked by first class mail or delivered in person by June 30. For appeals under the Revenue Act and "all other matters," the petition must be sent by certified mail or delivered in person on or before the due date, although appeals to the residential property and small claims division must be postmarked by first class mail or delivered in person.

The bill would delete the above provisions and provide that for a petition to be considered filed, it must be postmarked by the U.S. postal service, delivered in person, or given to a "designated delivery service" for delivery on or before the appropriate due date. The bill retains a provision allowing petitions to be filed on the next business day, if the MTT is not open for business on the due date.

A designated delivery service would be a delivery service that is available to the general public, is at least as timely and reliable as the USPS, maintains an electronic database of, or marks on the petition, the date it received the petition for delivery, and meets any other

requirements set by the MTT. The MTT would have to issue a notice by December 31 of each year listing the designated service agencies through which petitions may be sent.

ARGUMENTS:

For:

The bill is intended to streamline the property tax appeals process, making it easier for both local governments and businesses to manage appeals. During the course of committee testimony, many large employers in the state testified that the requirement that property tax appeals be first protested to the local board of review was a waste of time and resources. They argue that property tax assessments concerning business property is quite complex, and many local boards of review do not have the expertise to properly review business property tax disputes. For most of these businesses, appealing to the local board of review has simply become a formality, in order to preserve their appeal rights to the tax tribunal. They note that they "never get anywhere" with the board of review, making the dispute process inefficient and ineffective. Moreover, for many businesses, protesting an assessment before the local board of review requires a multitude of filings, each requiring a great deal of time and resources to prepare. A representative from Meijer noted that the company maintains 379 parcels, including office complexes, stores, distribution centers, and gas stations, and a representative from Consumers Energy stated that the company maintains 9,200 parcels and must file 2,640 personal property tax statements. For these (and other) businesses, protesting before the local board of review is a tremendous waste of time and money.

For:

The bill also clarifies when a petition is considered to be filed. Under current law, petitions may be sent by first class mail, certified mail, or delivered in person, depending on the type of appeal. Property tax appeals must be sent by certified mail, where as non-property tax appeals made pursuant to the Revenue Act may be sent by certified mail or delivered in person. For appeals sent to the small claims division, they may be sent by first class mail or delivered in person. The varying requirements can be confusing taxpayers and the tribunal. The bill provides some clarification in this regard, by providing that a petition is to be considered filed if it is postmarked by the U.S. postal service, delivered in person, or given to a "designated delivery service" (e.g., UPS, FedEx), for delivery on or before the appropriate due date.

POSITIONS:

The Department of Treasury supports the bill in concept. (3-29-06)

The Michigan Chamber of Commerce supports the bill. (3-29-06)

The Building Owners and Managers Association supports the bill. (3-29-06)

The Michigan Association of Realtors supports the bill. (3-29-06)

DaimlerChrysler AG supports the bill. (3-29-06)

Ford Motor Company supports the bill. (3-29-06)

Meijer, Inc. supports the bill. (3-29-06)

Consumers Energy supports the bill. (3-29-06)

John Bernard LLC, a business tax firm based in Royal Oak, supports the bill. (3-29-06)

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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.