

MICHIGAN TAX TRIBUNAL

House Bill 4433 (Substitute H-1)

Sponsor: Rep. Steve Bieda

House Bill 4434 (Substitute H-1)

Sponsor: Rep. Coleman Young

House Bill 4436 as introduced

Sponsor: Rep. Tim Melton

House Bill 4435 as introduced

Sponsor: Rep. Fulton Sheen

House Bill 4437 as introduced

Sponsor: Rep. Brian Calley

Committee: Tax Policy

Complete to 5-15-07

A SUMMARY OF HOUSE BILLS 4433-4437 AS REPORTED FROM COMMITTEE

The bills would make several amendments to the Tax Tribunal Act (1973 PA 186, MCL 205.701 et seq.) with the aim of improving the efficiency, accessibility, and effectiveness of the Michigan Tax Tribunal (MTT), an administrative court within the Department of Labor and Economic Growth that hears disputes in property and non-property tax matters. Currently there is a backlog of more than 10,500 appeals pending before the tribunal, with an additional 8,000 appeals filed annually. This backlog of cases lengthens the time to process appeals, and increases the costs imposed both on taxpayers and on the state and local units to challenge or defend a tax assessment.¹

House Bill 4433 would allow for mediation of disputes. House Bill 4434 would direct fees and other charges of the MTT to the Michigan Tax Tribunal Fund (created by the bill) to be used solely for the operations of the MTT. House Bill 4435 would eliminate a prohibition on having more than three members of the MTT from the same profession. House Bill 4436 would expand the scope of hearings that may be heard before the small claims division. House Bill 4437 would eliminate the requirement that the small claims division hold evening hearings if requested by the petitioner.

House Bill 4433

The bill would amend the Tax Tribunal Act to allow for the mediation of disputes and the certification of mediators by the MTT. The bill would require the MTT to promulgate rules setting forth certification requirements of mediators. The requirements would include, at a minimum, a requirement that a person have at least five years of experience in state and local tax matters. Certification would be valid for one year, and the MTT could charge an annual certification fee. The MTT would have to maintain and publish a list of certified mediators that shows for each mediator their hourly rate, experience, types of taxes that may be mediated, and the forum in which the mediator is certified to practice.

¹ In addition to these bills, the tribunal is also in the process of amending its rules concerning practice and procedure in an effort to streamline its procedures and shorten the time it takes for the tribunal to dispose of a case. In general, the rules emulate the best practices provided in Michigan Court Rules, U.S. Tax Court Rules, and standards proposed by the American Bar Association.

The MTT would mediate a proceeding in which it has jurisdiction if the parties agree to mediation and the mediator, and the MTT issues an order designating the proceeding for mediation.

The mediator would have no authoritative decision-making power to resolve a dispute in mediation (unlike arbitration, for example). If an agreement is reached, the tribunal would accept the agreement if it comports with the tribunal's requirements. Statements made during a mediation hearing (including written statements) would not be admissible in other proceedings, and statements made between the parties and the mediator would be confidential and could not be disclosed without the written consent of the parties. Statements would also be exempt from disclosure under the Freedom of Information Act, except for the report of the mediator, information reasonably required by the tribunal to administer the mediation program, information necessary to resolve disputes concerning the mediator's fee, and consent judgments. Mediation conferences would also be exempt from the Open Meetings Act.

House Bill 4434

The act permits the tribunal, by rule, to set the amount of filing fees and other fees charged for a proceeding before the tribunal. The bill would strike a provision that states that the fees shall be sufficient to cover the costs of the tribunal except for the salaries of tribunal members, the chief clerk, and the cost of principal residence appeals. The bill also provides that fees charged by the tribunal would be deposited into the Michigan Tax Tribunal Fund, created by the bill, and would be used for the operations of the tribunal. Money in the fund would not lapse to the General Fund at the close of the fiscal year.

The bill also specifies that in matters before the small claims division, a proposed decision of a hearing officer shall be considered and decided by one or more members of the tribunal.

House Bill 4435

The Tax Tribunal Act specifies that of the seven members of the MTT, at least two shall be attorneys, at least one shall be a certified assessor, at least one shall be a real estate appraiser, and at least one shall be a certified public accountant. (Any additional appointee who is not a member of one of those professions must have five years' experience in state or local tax matters.) The act further provides that not more than three of the seven members shall be members of the same profession. The bill would eliminate this provision.

House Bill 4436

The act creates a small claims division of the MTT to hear disputes concerning residential property, other property where the state equalized value or taxable value in dispute is not more than \$100,000, principal residence exemptions, agricultural real property, qualified agricultural exemptions, income-producing residential property consisting of fewer than four rental units, and non-property tax matters where the amount in dispute is less than \$6,000 (not including penalties and interest). The bill would increase the cap on non-property tax cases from \$6,000 to \$20,000, and further specify that a proceeding before the entire tribunal may be heard in the small claims division by leave of the tribunal and consent of the parties. (Hearings before the small claims division are more informal than hearings before the entire

tribunal. Typically, the presiding judge is an administrative law judge, taxpayers represent themselves, there is no formal record, and the hearing takes less than a half hour.)

The act also specifies that hearings of the small claims division concerning property tax matters shall be held in the county where the property is located or an adjoining county. The bill further provides that, by leave of the tribunal and consent of the parties, a proceeding could take place at a mutually agreed upon location or by video or telephone conference.

The bill also clarifies that within 20 days after issuance of a proposed order and judgment by a hearing officer or referee, a party may file exceptions (objections) to the proposed order and judgment requesting modification of the proposed order and judgment or a rehearing. The tribunal, then, shall adopt the proposed order as a final order, modify the proposed order and issue a final order, or rehear the dispute. Current law provides that within 20 days after an order issued by a hearing officer, a party may request a rehearing (The bill appears to codify existing practice.)

House Bill 4437

The bill would repeal Section 66 of the Tax Tribunal Act (MCL 205.766), which requires the MTT to hold a hearing in the residential property and small claims division after 6 p.m. at the request of the petitioner in the initial petition.

This section was added with the enactment of 1994 PA 254. In committee testimony, the MTT stated that they have never received a request for an evening hearing.

FISCAL IMPACT:

The bills will reduce the expenditures of the Michigan Tax Tribunal through greater efficiency in operations. The reduced expenditures combined with dedicating all MTT fees to its operations should also eliminate the need to use approximately \$460,000 in corporations and securities fees to partially fund MTT operations. These fees will then be available to replace General Fund dollars used to fund administrative functions of the Department of Labor and Economic Growth.²

POSITIONS:

A representative of the Tax Tribunal, within the Department of Labor and Economic Growth, testified in support of the bills. (5-9-07)

Legislative Analyst: Mark Wolf
Fiscal Analyst: Jim Stansell
Richard Child

■ 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.

² Additionally, the tribunal is in the process of amending its rules to increase the fees it charges. According to the Regulatory Impact Statement completed by the department, the fees would increase by an average of \$45 per case.