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BILL ANALYSIS

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Senate Bill 1239 (Substitute S-2 as reported) *(as passed by the Senate)*
Sponsor: Senator Cameron S. Brown
Committee: Finance

Date Completed: 5-27-08

RATIONALE

Under the General Property Tax Act, a county may elect to audit exemptions claimed for principal residences in the local tax collecting units in that county. If a county chooses not to audit the exemptions, the Department of Treasury is responsible for doing so. Currently, a county may decide every two years whether it will conduct the audits for the next two years. The election must be made by October 1 of the year preceding the new two-year period. Some people believe that the two-year audit election cycle is too short and causes instability in the auditing process. To address this concern, it has been suggested that the time between each election should be lengthened. It also has been suggested that three months is not enough time for the Department to prepare to audit tax collecting units in a county, and that notice of a county's decision to opt out of auditing exemptions should be given earlier in the year.

CONTENT

The bill would amend the General Property Tax Act to require a county that elected to audit property tax exemptions for principal residences to make a subsequent election to audit exemptions every five years instead of two, beginning in 2009. The election would have to require five annual audit periods, rather than two.

Under the Act, a county may elect to audit the exemptions claimed for a principal residence under Section 7cc in all local tax collecting units located in that county. The election to audit exemptions must be made by the county treasurer, or by the county equalization director with the concurrence by resolution of the county board of commissioners. The initial election to audit exemptions must require an audit period of two years. Subsequent elections to audit exemptions must be made every two years and must require two annual audit periods.

Under the bill, beginning in 2009, a subsequent election to audit exemptions would have to be made every five years and would have to require five annual audit periods.

A county must make an election to audit exemptions by submitting an election to audit form to the assessor of each local tax collecting unit in that county and to the Department of Treasury by October 1 in the year in which an election to audit is made. If a county elects to audit the exemptions, the Department may continue to review the validity of exemptions as provided in the Act. If a county does not elect to audit the exemptions, the Department must conduct an audit of exemptions in the initial two-year audit period for each local tax collecting unit in that county unless the Department has entered into an agreement with the assessor for a local tax collecting unit.

Under the bill, a county would have to submit an election to audit form to the assessor and the Department by April 1 preceding October 1 in the year in which an election to audit was made.

(Under Section 7cc of the Act, a principal residence is exempt from the tax levied by a school district for school operating purposes to the extent provided under the Revised School Code. To claim the exemption, an owner of property must file an affidavit by May 1 with the local tax collecting unit in which the property is located. The affidavit must state that the property is owned and occupied as a principal residence by that property owner. A person may not claim the exemption if any of the following apply:

-- The person's spouse has claimed the exemption.
-- The person or his or her spouse has claimed a substantially similar exemption, deduction, or credit on property in another state that is not rescinded.
-- The person has filed a nonresident Michigan income tax return and is not an active duty military personnel stationed in this State with his or her principal residence in Michigan.
-- The person has filed an income tax return in a state other than Michigan as a resident, and is not an active duty military personnel stationed in this State with his or her principal residence in Michigan.

A person also may not claim the exemption if he or she previously rescinded an exemption for the same property, there has not been a subsequent transfer of ownership of that property, and either 1) the person has claimed an exemption for any other property for that tax year or 2) the person has rescinded an exemption on other property, the exemption remains in effect for that tax year, and there has not been a transfer of ownership of that property.)

MCL 211.7cc

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

The bill would improve the stability and continuity of the exemption auditing process by increasing the time between counties' elections to audit. Through regular audits of exemptions for principal residences in a local tax collecting unit, the auditor -- either the Department of Treasury or a county -- develops an understanding of and familiarity with issues in that local tax collecting unit. After the Department or the county has conducted a few audits in a local tax collecting unit, the process becomes more efficient and the audits are easier to perform.

Supporting Argument

The bill would give the Department six more months to prepare to conduct an audit in a county that elects not to conduct its own audit. Currently, a county may decide not to audit exemptions three months before an audit must be conducted. Three months is not an adequate amount of time for the Department to prepare to conduct audits of exemptions in a county in which it may not have recently conducted audits. Nine months would be a more reasonable amount of time for the Department to prepare.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill likely would have a minimal impact on both State and local revenue and State and local expenditures. Because the bill would require a longer time commitment to perform audits, local units that elected to perform the audits themselves potentially would have higher expenditures while the State would face lower expenditures. Similarly, it is possible that fewer local units would elect to perform the audits, reducing local unit expenditures and increasing State expenditures.

Interest assessed as a result of the audits is distributed differently depending on the entity that denies an exemption. As a result, if the bill altered the entity performing the audits, the distribution of revenue also would be changed. To the extent that the State performed more audits, local units would receive less revenue from the interest and the State would receive more. Conversely, if the State performed fewer audits because more were performed at the local level, the State would receive less revenue and local units would receive more revenue.

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.