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BILL ANALYSIS

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Senate Bill 1433 (as enacted)
Sponsor: Senator Tom George
Senate Committee: Local, Urban and State Affairs
House Committee: Intergovernmental, Urban and Regional Affairs

PUBLIC ACT 512 of 2008

Date Completed: 1-26-09

CONTENT

The bill amended the General Property Tax Act to do the following:

- **Require the city treasurer of an eligible city to return to the county treasurer all uncollected delinquent real property taxes levied after 2008, notwithstanding the city charter.**
- **Permit the city treasurer to return to the county treasurer all uncollected delinquent real property taxes levied before December 31, 2008.**
- **Permit the city treasurer, with the agreement of the county treasurer, to return to the county treasurer uncollected delinquent personal property taxes.**
- **Allow a county containing an eligible city to rescind a previous election to have the State foreclose tax delinquent property.**

The bill also provides that a foreclosure judgment that extinguishes any lien for unpaid taxes or special assessments does not extinguish the right of the city to bring an action to enforce personal liability for those unpaid taxes or special assessments.

The bill defines "eligible city" as a city with a population of more than 50,000 and less than 100,000 that is located in a county with a population of less than 350,000.

Delinquent Real & Personal Property Taxes

Under the bill, notwithstanding the provisions of the charter of a home rule city

to the contrary, the city treasurer of an eligible city must return to the county treasurer all uncollected delinquent taxes levied on real property after December 31, 2008, on the March 1 immediately following the year in which the taxes are levied. The city treasurer may return all uncollected delinquent taxes levied on real property before December 31, 2008, to the county treasurer for collection on March 1, 2010.

Notwithstanding the city charter, with the agreement of the county treasurer, the city treasurer of an eligible city also may return uncollected delinquent taxes levied on personal property after December 31, 2008, on the March 1 immediately following the year in which the taxes are levied. The city treasurer may return all uncollected delinquent taxes levied on personal property before December 31, 2008, to the county treasurer for collection on March 1 of the year in which the county treasurer agrees to the return of uncollected delinquent taxes under the bill.

A city treasurer must give the county treasurer written notice of his or her intent to return uncollected delinquent taxes levied before December 31, 2008, by the following dates:

- February 1, 2010, for real property taxes.
- February 1 of the year in which the county treasurer agrees to the return of uncollected delinquent taxes, for personal property taxes.

If uncollected delinquent taxes levied before December 31, 2008, are returned to the county treasurer for collection, the county treasurer must collect those taxes with taxes returned as delinquent in 2010 for real property taxes, and in the year agreed to for personal property taxes. After the uncollected delinquent taxes are returned to the county treasurer for collection, the provisions of the Act apply for collection of those taxes and for the issuance of notes in anticipation of their collection. After taxes on personal property are returned, the provisions of the Act apply for collection of these taxes.

Under the bill, the term "delinquent taxes" or "uncollected delinquent taxes" includes any taxes levied by and payable to the city treasurer in installments the balance of which remains unpaid on January 1 immediately following the year in which the taxes are levied, including all interest and penalties that accrue after July 31 of the year in which all taxes billed by the city are levied if that interest and those penalties remain unpaid on the date the delinquent taxes are returned to the county treasurer. With regard to the real property provisions, "delinquent taxes" or "uncollected delinquent taxes" also includes any liens for unpaid tax and assessment liability acquired by the eligible city after December 31, 1999, and before January 1, 2009, pursuant to provisions contained within the eligible city's charter.

Foreclosure Judgment

Under the bill, a judgment entered under Section 78k that extinguishes any lien for unpaid taxes or special assessments does not extinguish the right of the city to bring an in personam action under the Act or its charter to enforce personal liability for those unpaid taxes or special assessments. The city may bring an in personam action to enforce personal liability for unpaid delinquent taxes levied before January 1, 2009, or special assessments not returned as delinquent under the bill within 15 years after the taxes or special assessments are levied.

(Under Section 78k, a circuit court must enter final judgment on a petition for foreclosure filed under the Act. Among other things, the judgment must specify that all liens against the property, including any

lien for unpaid taxes or special assessments, except future installments of special assessments and liens recorded by the State or the foreclosing governmental unit pursuant to the Natural Resources and Environmental Protection Act, are extinguished, if all forfeited delinquent taxes, interest, penalties, and fees are not paid by the March 31 immediately succeeding the entry of a judgment foreclosing the property, or in a contested case within 21 days of the entry of a judgment foreclosing the property under the section.

An "in personam action" is a lawsuit against a person, rather than against the property.)

Rescission of Resolution

The Act allowed a county board of commissioners, by December 1, 1999, and during 2004, to adopt a resolution electing to have the State foreclose property forfeited to the State under Section 78g. Also during 2004, a county board of commissioners could rescind its prior election to have the State foreclose property forfeited to the county treasurer under that section. (Under Section 78g, certified abandoned property and property that is delinquent for taxes, interest, penalties, and fees for the immediately preceding 12 months or more is forfeited to the county treasurer for the total amount of those unpaid delinquent taxes, interest, penalties, and fees.)

Under the bill, beginning January 1, 2009, through March 1, 2009, the county board of commissioners of a county that contains an eligible city may, by resolution adopted at a meeting held pursuant to the Open Meetings Act, and with the written concurrence of the county treasurer and county executive, if any, rescind its prior resolution by which it elected to have the State foreclose property under the Act forfeited to the county treasurer under Section 78g.

Detroit

Under the Act, certain provisions pertaining to the return of uncollected delinquent taxes and solid waste fees and the collection of real and personal property taxes previously applied to a city containing a first class school district. Under the bill, these

provisions apply to a city with a population of 600,000 or more.

Under the Act, "solid waste fee" means that term as defined in the ordinance or resolution of the local tax collecting unit authorizing the assessment of the solid waste fee. The bill specifies that it includes all interest, penalties, and fees imposed on that solid waste fee.

MCL 211.78 et al.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill added two new sections that will increase State and local unit revenue by an unknown amount. Without regard to which cities have the affected charter provisions, the bill applies only to the Cities of Battle Creek, Kalamazoo, and Saginaw. Reportedly, Kalamazoo is the only city with the relevant charter provisions that prevent returning delinquent taxes to the county. The amount of any increase will depend upon the number of local units affected, the amount of any delinquent taxes, and the relative effectiveness of having a county, rather than the affected cities, collect delinquent taxes.

The bill's provisions regarding counties rescinding a resolution concerning the State's role in foreclosing property will likely have an indeterminate and negligible impact on State and local unit revenue, but may change the distribution of expenses and revenue associated with foreclosures. The counties potentially affected by the change include Genesee, Ingham, Kalamazoo, Kent, Macomb, Oakland, Ottawa, Washtenaw, and Wayne Counties.

The changes regarding a first class school district break the link between the City of Detroit's powers under the Act and the status of the Detroit Public School District as a first class school district. Prior to the change, changes in the school district's status had the ability to affect whether the City of Detroit could remand delinquent taxes to the Wayne County.

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.