



Senate Fiscal Agency
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**BILL ANALYSIS**

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House Bill 4433 (Substitute S-1 as reported)
House Bill 4434 (Substitute H-1 as reported without amendment)
House Bill 4435 (as reported without amendment)
House Bill 4436 (Substitute S-2 as reported)
House Bill 4437 (as reported without amendment)
Sponsor: Representative Steve Bieda (H.B. 4433)
Representative Coleman Young (H.B. 4434)
Representative Fulton Sheen (H.B. 4435)
Representative Tim Melton (H.B. 4436)
Representative Brian Calley (H.B. 4437)

House Committee: Tax Policy
Senate Committee: Finance

CONTENT

The bills would amend the Tax Tribunal Act to do the following:

- Provide for the mediation of disputes before the Tax Tribunal.
- Authorize the Tax Tribunal to promulgate rules for mediation and for the certification of mediators to facilitate claims in the Court of Claims and in the Tribunal.
- Create the "Michigan Tax Tribunal Fund", to be used solely for the operation of the Tribunal, and require fees to be deposited in the Fund, rather than the General Fund.
- Increase the jurisdiction of the residential property and small claims division.
- Revise provisions concerning the Tribunal's review of a proposed order of the residential property and small claims division.
- Allow hearings of the division to be held via teleconferencing by leave of the Tribunal and with the parties' consent.
- Repeal a requirement that the residential property and small claims division hold a hearing after 6 p.m. upon request.
- Delete a provision under which more than three members of the Tribunal may not be of the same professional discipline.
- Allow the assessment of property under certain statutes to be protested before the board or review or appealed directly to the Tribunal without protest before the board of review.

House Bill 4433 (S-1) would give the Tribunal jurisdiction over mediation of a proceeding before the Tribunal over which it currently has exclusive and original jurisdiction, as well as the certification of a mediator in such a tax dispute. The Tribunal also would have jurisdiction over any other proceeding provided by law. (Currently, the Tax Tribunal has exclusive and original jurisdiction over a proceeding for direct review of a final decision or order of an agency relating to assessment, valuation, rates, special assessments, allocation, or equalization under property tax laws; and a proceeding for refund or redetermination of a tax under the property tax laws.)

The bill would extend the Tribunal's powers to promulgating rules for mediation; mediating a proceeding before the Tribunal; and certifying mediators to facilitate claims in the Court of Claims and in the Tribunal. The Tribunal could charge a fee for mediation.

The bill would require the Tribunal to mediate a proceeding in which it had exclusive and original jurisdiction if all of the following conditions were satisfied:

- The parties had filed with the Tribunal a stipulation that they agreed to participate in mediation.
- The parties agreed to a mediator.
- The Tribunal issued an order designating the proceeding for mediation.

A person could apply to the Tribunal to be certified as a mediator. The Tribunal would have to promulgate rules establishing requirements for an applicant to be certified. The Tribunal would be required to maintain and publish a list of certified mediators.

Under the Act, except as otherwise provided, an assessment must be protested before the board of review before the Tax Tribunal acquires jurisdiction of the dispute. Under the bill, for an assessment dispute as to the valuation of property subject to taxation under the plant rehabilitation and industrial development Act (known as PA 198), the Commercial Redevelopment Act, the Enterprise Zone Act, the Technology Park Development Act, the Obsolete Property Rehabilitation Act, the Commercial Rehabilitation Act, or Public Act 189 of 1953 (which provides for the taxation of lessees or users of tax-exempt property), the assessment could be protested before the board of review or appealed directly to the Tax Tribunal without protest before the board of review.

House Bill 4434 (H-1) would create the Michigan Tax Tribunal Fund in the Department of Labor and Economic Growth as a separate interest-bearing fund. All fees collected pursuant to the Act would have to be deposited in the Fund. The bill would delete the current requirement that fees be paid directly into the General Fund.

Under the Tax Tribunal Act, the Tribunal may appoint one or more hearing officers to hold hearings. Hearings, except as otherwise provided in Chapter 6 of the Act, must be conducted pursuant to Chapter 4 of the Administrative Procedures Act and the Open Meetings Act. In matters other than before the small claims division under Chapter 6, a proposed decision of a hearing officer must be considered and decided by one or more members of the Tribunal. The bill would delete reference to matters other than before the small claims division, and would require a proposed decision of a hearing officer or referee to be considered and decided by one or more Tribunal members.

(Chapter 6 of the Tax Tribunal Act establishes the residential property and small claims division of the Tribunal. Chapter 4 of the Administrative Procedures Act describes procedures to be used in contested cases.)

Under the bill, in matters before the residential property and small claims division, a proposed decision of a hearing officer or referee also would have to be considered and decided by one or more members of the Tribunal.

House Bill 4435 would delete a requirement that not more than three members of the Tribunal be members of the same professional discipline.

House Bill 4436 (S-2) would increase the jurisdiction of the residential property and small claims division. Currently, the division has jurisdiction over a proceeding, otherwise cognizable by the Tribunal, in which residential property is exclusively involved. Property other than residential property may be included in a proceeding before the division if the amount of that property's taxable value or State equalized valuation in dispute is not more

than \$100,000. The division also has jurisdiction over a proceeding involving an appeal of any other tax over which the Tribunal has jurisdiction if the amount of the tax in dispute is \$6,000 or less. The bill would increase that amount to \$20,000, adjusted annually by the inflation rate.

Also under the bill, within 20 days after a hearing officer or referee issued a proposed order, a party could file exceptions to the proposed order. The Tribunal would have to review the exceptions to determine if the proposed order would be adopted as a final order. Upon a showing of good cause or at the Tribunal's discretion, the Tribunal could modify the proposed order and issue a final order or hold a rehearing by a Tribunal member.

Under the bill, by leave of the Tribunal and with the mutual consent of all parties, a residential property and small claims division proceeding could take place at a location mutually agreed upon by all parties or could take place by the use of amplified telephonic or video conferencing equipment.

House Bill 4437 would repeal Section 66 of the Act, which requires a Tax Tribunal hearing in the residential property and small claims division to be held after 6 p.m. if the petitioner requests an evening hearing in his or her initial petition.

MCL 205.703 et al. (H.B. 4433)
205.726 et al. (H.B. 4434)
205.722 (H.B. 4435)
205.762 (H.B. 4436)
205.766 (H.B. 4437)

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bills would decrease the operating costs of, and provide an additional source of revenue for, the Tax Tribunal within the Department of Labor and Economic Growth. The proposed options for mediation and greater use of the small claims division would tend to decrease the operating costs of the Tax Tribunal by offering alternative methods to resolve a dispute. The potential savings from the bills would depend on the number of cases using the proposed alternatives.

To implement a mediation program, the Tax Tribunal would be required to certify mediators and publish and maintain a listing of mediators. The Tax Tribunal also would be required to promulgate rules establishing certification criteria for mediators. The Tax Tribunal would be permitted to charge a fee for mediation. The revenue from this fee would be available to offset the additional costs of the regulation.

The bills would create the Michigan Tax Tribunal Fund to receive all of the Tax Tribunal's filing fees and other fees. The proposed Fund would be used for the operations of the Tax Tribunal. Any balance in the Fund at the end of the fiscal year would carry forward into the next fiscal year. Currently, the Tax Tribunal has the authority to establish the level of fees to cover certain costs and this revenue partially funds Tax Tribunal operations. In FY 2007-08, the Tax Tribunal has a budget of \$2,006,900. Of that amount, \$1,487,000 or 74% is provided from Tax Tribunal fees, \$220,500 is from corporation fees, and \$299,400 from securities fees.

Date Completed: 2-19-08

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