

# Legislative Analysis



## PERSONAL PROPERTY TAX EXEMPTION FOR CERTAIN AGRICULTURE-RELATED MACHINERY

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**House Bill 4582 (Substitute H-2)**

**Sponsor: Rep. Kevin Daley**

**House Bill 4583 (Substitute H-1)**

**Sponsor: Rep. Harvey Santana**

**First Committee: Tax Policy**

**Second Committee: Agriculture**

**First Analysis (10-7-11)**

### ***BRIEF SUMMARY:***

House Bills 4582-83 would specifically add to the list of exempt property under the General Property Tax Act: **machinery used to install land tile** and **machinery used to install or implement soil and water conservation techniques** on property exempt under Section 7EE as qualified agricultural property.

### ***FISCAL IMPACT:***

Because the taxable values and millage rates of the affected property cannot be identified, the actual fiscal impact cannot be determined. However, the state would lose the 6-mill State Education (SET) levy, local schools would lose the 18-mill non-homestead levy, and local units of government (including counties) would lose generating operating, police, fire, etc. levies. Because the School Aid Fund (SAF) provides the difference between the amount of revenue collected for schools and the foundation allowance, the SAF would have to offset this loss of revenue.

### ***THE APPARENT PROBLEM:***

Generally speaking, personal property (as opposed to real property, such as land and buildings) is property that is not affixed to a structure, and includes machinery and equipment. Personal property is categorized based on use and includes agricultural, commercial, industrial, residential, and utility. Business personal property is subject to the property tax, but residential and agricultural personal property is exempt from property taxes. It is common for machinery used for agricultural operations to also be used for other kind of work. Under that scenario the machinery is only exempt during the time it is actually used for agricultural operations. According to committee testimony, the personal property tax exemption is applied inconsistently around the state, and in particular when dealing with equipment used to install land tile and to implement water conservation techniques. It appears the inconsistent application has led to instances of inconsistent self-reporting by property owners and general confusion over what taxes are

owed, if any, on equipment. Apparently, the agricultural exemption varies based on where the land improvement contractor is located. These bills seek to make the exemption by local units consistent by adding specific language exempting equipment used to install land tile and water conservation techniques from personal property taxes when used on agricultural property.

#### ***THE CONTENT OF THE BILLS:***

Section 9 of the General Property Tax Act contains a wide-ranging list of personal property that is exempt from the act. Included is property "actually used in agricultural operations and farm implements held for sale or resale by retail servicing dealers for use in agricultural production."

House Bill 4582 would specifically add to the list of exempt property: **machinery used to install land tile** on property exempt under Section 7EE as qualified agricultural property.

House Bill 4583 would specifically add to the list of exempt property: **machinery used to install or implement soil and water conservation techniques** on property exempt under Section 7EE as qualified agricultural property.

Under both bills, if machinery is used to install land tile or to install or implement soil and water conservation techniques on property other than qualified agricultural property, the machinery would only be exempt to the extent it is used on qualified agricultural property. A person claiming an exemption would be required to indicate the machinery's percentage of exempt use in the statement of personal property that must be submitted to local units under Section 19.

Currently, the term "*agricultural operations*" is defined as farming in all its branches, including cultivation of the soil, growing and harvesting of an agricultural, horticultural, or floricultural commodity, dairying, raising of livestock, bees, fur-bearing animals, or poultry, turf and tree farming, raising and harvesting of fish, collecting, evaporating, and preparing maple syrup if the owner of the property has \$25,000.00 or less in annual gross wholesale sales, and any practices performed by a farmer or on a farm as an incident to, or in conjunction with, farming operations, but excluding retail sales and food processing operations.

"*Land Tile*" would be defined to mean fired clay or perforated plastic tubing used as part of a subsurface drainage system for land.

"*Soil and water conservation techniques*" would be defined to mean techniques for the conservation of soil and water described in the field office technical guide published by the Natural Resources Conservation Service of the United State Department of Agriculture.

MCL 211.9

## **ARGUMENTS:**

### **For:**

#### **The bills would provide consistency in the application of personal property taxes.**

According to committee testimony, not all land improvement contractors are receiving a personal property tax exemption even though current law seems to suggest they are eligible for such a benefit. These bills would provide explicit language for land improvement contractors who engage in agricultural operations to be exempt. This would ensure they are all treated fairly and attempt to level out the playing field from county to county. The bills apply specifically to machinery used to install land tile and machinery used to install or implement soil and water conservation techniques because that is the problem that has been identified.

### **Against:**

#### **The language is specific to one industry and discriminates against other industries.**

There is concern that not all contractors engaging in agricultural operations are afforded personal property tax relief under these bills. Many examples were given during committee testimony, including a general contractor constructing a pole barn or silo, and farmers that build certain storage tanks. Some feel it is unfair to provide specific language for one industry while not addressing similar concerns for other industries.

**Reporting language in the bill is ambiguous.** The bill requires individuals claiming an exemption to report the machinery's percentage of exempt use. Concerns were raised regarding how that percentage would be collected; would it be based on the actual number of hours used or would it be calculated by the number of days it engaged in any type of agricultural operation?

**Personal property taxes should be addressed on a broader scale.** The Governor and legislative leadership have expressed a desire to significantly alter or eliminate personal property taxes altogether. Opponents of this bill would prefer the Legislature to seek a comprehensive solution to the issue instead of addressing smaller portions of it. While they may not oppose a personal property tax exemption for this type of equipment, they would prefer it to be part of the larger discussion on the future of personal property taxes.

## **POSITIONS:**

The Land Improvement Contractors of America, Michigan Chapter supports the bills. (9-14-11)

Michigan Farm Bureau supports the bills. (9-14-11)

Michigan Sugar Company supports the bills. (9-21-11)

Michigan Department of Treasury is neutral on the bills. (9-21-11)

Michigan Assessors Association opposes the bills. (9-14-11)

Michigan Townships Association opposes the bills. (9-14-11)

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