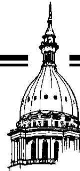

Senate Fiscal Agency
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BILL ANALYSIS

Telephone: (517) 373-5383
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Senate Bills 1065 through 1071 (as passed by the Senate)
Senate Bill 1072 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Jack Brandenburg (S.B. 1065 & 1072)
Senator Dave Robertson (S.B. 1066 & 1068)
Senator Bruce Caswell (S.B. 1067)
Senator Dave Hildenbrand (S.B. 1069)
Senator Mike Nofs (S.B. 1070 & 1071)
Committee: Finance

Date Completed: 8-7-12

RATIONALE

The General Property Tax Act, enacted in 1893 by the State of Michigan, established the principal revenue stream for local governments. Among other things, this Act gives the government the authority to tax personal property that is not exempt. The personal property tax (PPT) is collected annually and taxes a number of items including furniture, tools, computers, machines, manufacturing equipment, and objects or parts of business operations that are detachable and transportable. This tax applies only to businesses; residential property is exempt. Motor vehicles, equipment and/or machinery used for research and development, property belonging to businesses engaged in wholesale trade, and agricultural equipment also are not subject to the personal property tax. Manufacturers encounter the PPT more than other businesses do because of the need for expensive and plentiful equipment in the manufacturing process. This ad valorem tax (based on the value of the property) is collected by local taxing units, such as cities and townships, and the revenue benefits local communities in the form of education, public safety programs, community programs, and more. The personal property tax raises substantial revenue for local governments and school districts. In 2010, the PPT levy was estimated at $1.9 billion statewide.

Many people believe, however, that the tax is costly and administratively burdensome, and harms Michigan's chances of attracting and retaining businesses. In particular, compared with other Great Lakes states, Michigan has higher personal property taxes for businesses. It has been suggested that phasing out the personal property tax would make Michigan a more attractive state for businesses.

CONTENT

The bills would amend various acts and create a new act to provide tax exemptions for commercial personal property, industrial personal property, and new and previously existing manufacturing personal property; retain specific taxes and existing property tax exemptions for manufacturing personal property until it became eligible for a new exemption; and require the reimbursement of local taxing units for revenue lost as a result of the personal property tax exemptions, as follows:

<u>Senate Bill 1070</u> would amend the General Property Tax Act to provide an exemption, beginning December 31, 2012, for commercial and industrial personal property if the combined taxable value of all such property owned by the taxpayer were less than $40,000 in the local tax collecting unit.

<u>Senate Bill 1069</u> would amend the General Property Tax Act to provide an

exemption, beginning December 31, 2015, for eligible manufacturing personal property purchased after December 31, 2011.

Senate Bill 1071 would amend the General Property Tax Act to provide an exemption, beginning December 31, 2015, for eligible manufacturing personal property that had been subject to or exempt from taxation for 10 years.

Senate Bills 1065, 1066, and 1068 would amend the plant rehabilitation and industrial development Act (also known as P.A. 198), the Technology Park Development Act, and the Enterprise Zone Act, respectively, to provide for eligible manufacturing personal property to remain subject to a specific tax, and exempt from the property tax, until the property became exempt under Senate Bill 1069, 1070, or 1071.

Senate Bill 1067 would amend the General Property Tax Act to provide for currently exempt new personal property that was eligible manufacturing personal property to remain exempt until it was otherwise exempt under Senate Bill 1069, 1070, or 1071.

Senate Bill 1072 (S-2) would create the "Personal Property Tax Exemption Reimbursement Act" to do the following:

-- Require the Department of Treasury, beginning in fiscal year (FY) 2012-13, to determine the amount of local taxing units' debt mill loss and voter-approved qualified mill loss resulting from the personal property tax exemptions.
-- Require the Department, beginning in FY 2015-16, to estimate the amount by which revenue lost due to the exemptions exceeded 2% of local taxing units' general fund revenue in FY 2011-12, plus tax increment financing authorities' lost tax capture.
-- Provide that the revenue loss estimate would not include debt mill loss, voter-approved qualified mill loss, or the loss of school operating mill revenue.
-- Create the "Personal Property Tax Reimbursement Fund".
-- Require the Legislature to appropriate to the Fund each year the amount of debt mill loss and voter-approved qualified mill loss determined by the Department beginning in FY 2012-13, and at least the estimated amount of revenue loss beginning in FY 2015-16.
-- Require the Department each year, beginning in FY 2012-13, to pay local taxing units from the Fund the amount of debt mill loss and voter-approved qualified mill loss determined by the Department.
-- Require the Department each year, beginning in FY 2015-16, to pay local taxing units and tax increment financing authorities from the Fund the amount appropriated for the loss of revenue or lost tax capture.
-- Express an intent that the amount appropriated be derived from an anticipated revenue increase upon the expiration of certificated credits under the Michigan Business Tax Act.

The bill would define "eligible manufacturing personal property" as all personal property that is located on a parcel of real property if that personal property is used more than 50% of the time in industrial processing or in direct integrated support (research and development, testing and quality control, engineering, and warehousing functions necessary for personal property that is the result of industrial processing). This definition would apply to the term as used in the other bills.

Senate Bills 1065 through 1071 would not apply if the Legislature did not appropriate the amount of revenue lost to each local taxing unit as provided in the proposed Act.

Below is a detailed description of each of the bills.

Senate Bill 1070

The bill would add Section 9o to the General Property Tax Act to provide that, beginning December 31, 2012, eligible personal

property would be exempt from the collection of taxes under the Act. "Eligible personal property" would mean personal property that meets both of the following conditions:

-- It is classified as industrial personal property or commercial personal property under the Act.
-- The combined taxable value of all industrial personal property and commercial personal property owned by or under the control of the owner claiming the exemption is less than $40,000 in that local tax collecting unit.

An owner of eligible personal property would have to claim the exemption by filing an affidavit with the local tax collecting unit in which the property was located and with the Department of Treasury by May 1 each tax year. The affidavit would have to require the owner to attest that the combined taxable value of all industrial personal property and commercial personal property owned by or under the control of that owner was less than $40,000 in that local tax collecting unit.

If an affidavit claiming the exemption were filed, the owner would not have to file a statement of personal property otherwise required under the Act.

Section 9o would not apply if the Legislature failed to appropriate the amount of revenue lost to each local taxing unit as provided in the Personal Property Tax Exemption Reimbursement Act.

Senate Bill 1069

The bill would add Section 9m to the General Property Tax Act to exempt qualified new personal property from the collection of taxes under the Act, beginning December 31, 2015. "Qualified new personal property" would mean property that is eligible manufacturing personal property and was new personal property after December 31, 2011.

"New personal property" would mean property that meets all of the following conditions:

-- Before January 1, 2012, was not subject to or exempt from the collection of property taxes, except exempt inventory, and was not in place or placed in service in this State.
-- Before January 1, 2012, was not in use or placed in service outside of this State.
-- Was initially purchased from the manufacturer, dealer, distributor, or other vendor of new property after December 31, 2011.

An owner of qualified new personal property would have to claim the exemption by filing an affidavit with the local tax collecting unit in which the property was located and with the Department of Treasury by May 1, 2016. The affidavit would have to be filed only in 2016.

Beginning in 2017 and each subsequent year, if an affidavit were filed, the owner would not have to file a statement of personal property otherwise required under the Act for that qualified new personal property. The owner would have to give the local assessor, upon request, documentation of the date of purchase of that property.

Section 9m would not apply if the Legislature failed to appropriate the amount of revenue lost to each local taxing unit as provided in the Personal Property Tax Exemption Reimbursement Act.

Senate Bill 1071

The bill would add Section 9n to the General Property Tax Act to provide that qualified previously existing personal property would be exempt from the collection of taxes under the Act, beginning December 31, 2015.

"Qualified previously existing personal property" would mean personal property that is eligible manufacturing personal property and that meets any of the following conditions:

-- Has been subject to or exempt from the collection of taxes under the Act for the previous 10 years.
-- If located both outside of and within this State in the previous 10 years, was subject to or exempt from the collection of taxes under the Act, or would have been subject to or exempt from the collection of taxes if located in this State, for the previous 10 years.
-- If located outside of this State in the previous 10 years, would have been subject to or exempt from the collection

of taxes under the Act for the previous 10 years if the property had been located in this State.

An owner of qualified previously existing personal property would have to claim the exemption by filing an affidavit with the local tax collecting unit where the property was located and the Department of Treasury by May 1. The owner would have to file the affidavit only in the first year in which the exemption was claimed for that property.

If an affidavit were filed, the owner would not have to file a statement of personal property for the exempt property in that tax year or any following tax year.

Section 9n would not apply if the Legislature failed to appropriate the amount of revenue lost to each local taxing unit as provided in the Personal Property Tax Exemption Reimbursement Act.

Senate Bills 1065, 1066, and 1068

The plant rehabilitation and industrial development Act authorizes local units of government, with the approval of the State Tax Commission, to grant industrial facilities exemption certificates to new and speculative buildings and replacement facilities located in a plant rehabilitation or industrial development district. The Technology Park Development Act authorizes a city, village, or township to establish a technology park district near a public four-year university, and grant a technology park facilities exemption certificate to a land owner for eligible property. An exemption certificate under either Act exempts the facility from taxation under the General Property Tax Act. The facility owner must pay a specific tax that is lower than the standard property tax.

The Enterprise Zone Act allows an eligible local governmental unit to create an enterprise zone and certify a business located in the zone as a qualified business. If approved by the Michigan Enterprise Zone Authority, a facility owned by the qualified business is exempt from the property tax and subject to a lower specific tax.

Under Senate Bills 1065, 1066, and 1068, if a facility were subject to an industrial facilities exemption certificate or a technology park facilities exemption certificate, or were certified as a qualified business, on December 31, 2011, the portion of the facility that was eligible manufacturing personal property would remain subject to the specific tax and exempt from ad valorem property taxes, until that property otherwise would be exempt from the collection of property taxes under Section 9m, 9n, or 9o of the General Property Tax Act.

The provisions of the bills would not apply if the Legislature failed to appropriate the amount of revenue lost to each local taxing unit as provided in the Personal Property Tax Exemption Reimbursement Act.

Senate Bill 1067

Section 9f of the General Property Tax Act allows the governing body of an eligible local assessing district, or the board of a Next Michigan Development Corporation in which an eligible local assessing district is a constituent member, to exempt from the collection of taxes under the Act all new personal property leased or owned by an eligible business located in an eligible district (e.g., an industrial development district, a renaissance zone, an enterprise zone, or a brownfield redevelopment zone). (An "eligible local assessing district" is a city, village, or township that contains an eligible distressed area, or that is located in a county that borders another state or Canada and meets other criteria.)

Under the bill, if new personal property exempt under Section 9f on December 31, 2011, were eligible manufacturing personal property, that property would remain exempt until it otherwise would be exempt from the collection of property taxes under Section 9m, 9n, or 9o.

This amendment would not apply if the Legislature failed to appropriate the amount of revenue lost to each local taxing unit as provided in the Personal Property Tax Exemption Reimbursement Act.

Senate Bill 1072 (S-2)

Determination of Millage Loss

Beginning in fiscal year 2012-13 and each subsequent fiscal year, the Department of Treasury would be required to determine the debt mill loss and voter-approved qualified

mill loss for each local taxing unit as a result of an exemption first effective after 2012 of industrial personal property, eligible manufacturing personal property, and commercial personal property.

The Department would have to submit the total amount of debt mill loss and voter-approved qualified mill loss determined for all local taxing units in the State to the chairperson and minority vice-chairperson of the Senate and House Appropriations Committees.

"Local taxing unit" would mean any political subdivision of this State that, before January 1, 2016, collected ad valorem taxes levied on commercial personal property or industrial personal property that is exempt from the collection of ad valorem property taxes under the General Property Tax Act after December 30, 2015.

"Debt mill loss" would mean revenue loss associated with debt mills that were levied in FY 2011-12 and that have not expired or been subsequently renewed.

"Voter-approved qualified mill loss" would mean revenue lost associated with "voter-approved qualified mills", which would mean a millage that was levied in FY 2011-12 or that will be levied in a subsequent fiscal year for a specific purpose or activity as stated in the question presented to and approved by the voters before FY 2012-13 and that is not a general operating millage for a county, city, village, or township.

Estimate of Lost Revenue

Beginning in FY 2015-16 and each subsequent fiscal year, the Department of Treasury would be required to prepare an estimate, for each category of political subdivision of this State, of the aggregate amount by which revenue lost in that fiscal year by each individual local taxing unit in that category, as a result of an exemption first effective after 2012 of industrial personal property, eligible manufacturing personal property, and commercial personal property, exceeded 2% of the general fund revenue in FY 2011-12 of that local taxing unit, plus the aggregate amount of lost tax capture for each tax increment financing authority in that category in the fiscal year as a result of the exemption.

In the case of an economically distressed local taxing unit (defined below), the Department could consider the amount by which revenue lost exceeded 1% of the general fund revenue in FY 2011-12 of that local taxing unit.

In preparing the estimates, the Department could consolidate one or more categories of political subdivisions if it determined that there was a logical basis for doing so and that consolidation was reasonable and necessary for the effective administration of the proposed Act.

The estimate of the aggregate amount of revenue lost by each category of political subdivision or consolidated category could not include debt mill loss, voter-approved qualified mill loss, or revenue lost from the levy of school operating mills.

The Department would have to apply best practices in preparing the estimates for each category of political subdivision or consolidated category. The Department also would have to consider all relevant data available at the time, relevant historical data, and any other factors it reasonably determined to be relevant to its estimate.

The Department would have to include on its website a summary of the methodology used to make the estimate, and submit the estimate to the chairperson and minority vice-chairperson of the Senate and House Appropriations Committees.

"Category of political subdivision of this state" would include at least all of the following: counties, cities, villages, townships, authorities, intermediate school districts, community college districts, libraries, and other local taxing units.

"Lost tax capture" would mean a reduction in captured tax increment finance revenue to the extent that the amount of the reduction does not exceed the authority's debt service obligation for that fiscal year for obligations issued in or before FY 2011-12.

"Economically distressed local taxing unit" would mean a local taxing unit that meets one or more of the following conditions:

-- Has entered into a consent agreement or has an emergency manager appointed under the Local Government and School

District Fiscal Accountability Act, or an successor statute.
-- Has a projected general fund deficit for the current fiscal year in excess of 5%.
-- Has a bond rating that is less than investment grade.
-- Has had a smaller increase or greater decline in taxable valuation than the statewide change in taxable valuation in three of the preceding five years.
-- Is determined to be economically distressed by the Department.

Personal Property Tax Reimbursement Fund

The Fund would be created in the State Treasury. The Department of Treasury could spend money from the Fund, upon appropriation, only to reimburse local taxing units and tax increment financing authorities for any reduction in revenue resulting from the exemption of certain personal property from the collection of taxes under the General Property Tax Act.

The State Treasurer could receive money or other assets from any source for deposit into the Fund. The Treasurer would have to direct the investment of the Fund and credit to it interest and earnings from investments. Money in the Fund at the close of the fiscal year would remain in the Fund and not lapse to the General Fund. The Department would be the administrator of the Fund for auditing purposes.

Appropriation & Payment Requirements

Beginning in FY 2012-13 and each subsequent fiscal year, the Legislature would have to appropriate to the proposed Fund an amount equal to the total amount of debt mill loss and voter-approved qualified mill loss determined by the Department of Treasury, and the Department would have to pay the amount of those losses to each local taxing unit.

Beginning in FY 2015-16 and each subsequent fiscal year, the Legislature would have to appropriate to the proposed Fund, at a minimum, an amount equal to the estimate of revenue loss prepared by the Department for each category of political subdivision of the State, including consolidated categories. The Legislature could appropriate an additional amount as it determined to reflect any additional factors considered relevant.

Beginning in FY 2015-16 and each subsequent fiscal year, the Department would have to pay annually from the Fund an amount determined by law to each local taxing unit and tax increment financing authority. The total amount paid to all local taxing units and tax increment financing authorities within a category of political subdivision or consolidated category would have to equal the amount appropriated for that category or consolidated category.

The bill states, "It is the intent of the legislature that the amount appropriated to the personal property tax reimbursement fund…will be derived from an anticipated revenue increase resulting from the elimination of certain tax expenditures upon the expiration of certificated credits."

("Certificated credits" are select credits allowed under the Michigan Business Tax Act for certain taxpayers who choose to continue filing returns under that Act, rather than paying the Corporate Income Tax. Certificated credits include, among others, brownfield redevelopment credits, film production credits, historic preservation credits, renaissance zone credits, and Michigan Economic Growth Authority credits, including battery manufacturing credits.)

Eligibility for Reimbursement

To be eligible for reimbursement under the proposed Act, each local taxing unit would have to submit the following to the Department within 180 days after the end of its 2011-12 fiscal year:

-- The number of debt mills levied in FY 2011-12 and the number of voter-approved qualified mills approved by the voters before FY 2012-13 that were levied in FY 2011-12 or would be levied in a subsequent fiscal year.
-- The ad valorem and specific taxes levied on and the revenue collected from commercial personal property and industrial personal property by that taxing unit in the 2011-12 fiscal year.
-- The dollar amount equal to 2% of that local taxing unit's general fund revenue in its 2011-12 fiscal year.

Also, beginning in 2013 and each subsequent year, the local taxing unit would have to submit the amount of ad valorem and specific taxes levied on and the revenue

collected from commercial personal property and industrial personal property by that local taxing unit in that year.

Each tax increment financing authority, to be eligible for reimbursement, would have to submit both of the following to the Department within 180 days after the end of its 2011-12 fiscal year:

-- The amount of ad valorem and specific taxes levied by each local taxing unit on commercial personal property and industrial personal property that the authority captured and retained in the fiscal year.
-- The amount that the authority's tax increment revenue in the fiscal year was insufficient to make the required payments due in that year on obligations incurred before the end of its 2011-12 fiscal year.

"Tax increment financing authority" would mean an authority or other entity that captures taxes under one or more of the following:

-- The downtown development authority Act.
-- The Tax Increment Financing Authority Act.
-- The Local Development Financing Act.
-- The Brownfield Redevelopment Financing Act.
-- The Corridor Improvement Authority Act.
-- The Historical Neighborhood Tax Increment Finance Authority Act.
-- The Neighborhood Improvement Authority Act.
-- The Water Resource Improvement Tax Increment Finance Authority Act.
-- The Private Investment Infrastructure Funding Act.

Proposed MCL 207.561a (S.B. 1065)
Proposed MCL 207.712a (S.B. 1066)
MCL 211.9f (S.B. 1067)
Proposed MCL 125.2121d (S.B. 1068)
Proposed MCL 211.9m (S.B. 1069)
Proposed MCL 211.9o (S.B. 1070)
Proposed MCL 211.9n (S.B. 1071)

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 personal property tax is expensive for both businesses and local governments. This tax costs companies and individual business-owners a great deal, not only in the taxes they pay, but also in compliance costs. It has been estimated that the private sector incurs compliance costs equal to 37% of the total personal property tax revenue, while the cost of government administration is 4% to 5% of the total revenue.[1] Phasing out this tax would greatly reduce expenses for Michigan businesses, especially small businesses, as well as local governments. By cutting costs, businesses could put that new revenue toward other endeavors. This could mean expanding existing facilities and acquiring new capital. With more factories and more machines, businesses would need to employ more workers to operate and maintain these plants and equipment. Also, increased business investment and expansion would put more money in the hands of Michigan residents.

This package of bills would make Michigan more competitive as a state. If other Great Lakes states are more attractive to businesses than Michigan, there is the potential for a flight of jobs and businesses out of this State. Of the Great Lakes states --Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin-- Michigan is said to have the most unattractive business climate. Indiana is consistently ranked as one of the best states for businesses because of overall lower business taxes and other business-friendly maneuvers the state has done. The magazine *Site Selection* voted Indiana as having the sixth best business climate, while Michigan came in at number 15.[2] *Business Facilities* magazine also estimated that Indiana had the sixth best business climate (but did not rank Michigan).[3] Illinois, New York, and Pennsylvania do not have any kind of personal property tax. In Minnesota, the PPT applies only to utility property. In Ohio, much personal property is exempt from the

[1] *Personal Property Tax Reform in Michigan – The Fiscal and Economic Impact of SB 1065-1072*, Anderson Economic Group (AEG), by Jason Hurwitz and Alex Rosean, 4-24-12; citing a 1998 study by the AEG.
[2] "A Better Mousetrap", November 2011.
[3] "2011 Rankings: UT, TX Have Best Business Climate", 8-1-11.

tax, including: property not used directly in business; property of insurance dealers, financial institutions, and other similar service organizations; any equipment not capable of operation; energy conversion facilities; any manufacturing machinery and equipment first placed in service in Ohio on or after January 1, 2005; and any personal property belonging to telephone, telegraph, or inter-exchange telecommunications companies. In Wisconsin, any machinery or equipment used exclusively and directly in the manufacturing process is exempt from personal property taxes. Especially in manufacturing, Michigan has a disadvantage competing against other Great Lakes states. If the personal property tax were removed, Michigan would no longer have that disadvantage and could potentially have a better business climate than the other Great Lakes states.

Also, the personal property tax penalizes capital investments. Because every piece of manufacturing equipment is taxable, a business is "punished" for any capital investment it makes. With every new piece of equipment or machinery come higher taxes, which do not encourage businesses to grow and acquire more capital. Generally, with an increase in profits, there is a desire to increase production, but the PPT encourages businesses either to keep output static or to open new facilities out-of-State. This tax not only discourages the growth of the manufacturing sector but also harms those businesses that produce business-to-business equipment and supplies, as producers of machinery and equipment in Michigan are not able to sell as many products as their out-of-State counterparts.

The personal property tax is particularly harmful to Michigan's largest and most productive sector: manufacturing. As previously mentioned, manufacturers are those hit hardest by personal property taxes. The industrial sector alone pays $425.2 million in personal property taxes, and more than one in 10 manufacturing jobs in the United States are in Michigan. Over half a million Michigan workers are in manufacturing and this industry produces 19% of Michigan's gross state product. Eliminating the personal property tax would enable manufacturing businesses to employ even more Michigan workers and help expand the State's economy.

Furthermore, the personal property tax gives businesses an incentive to leave the State. This tax applies only to items that are, by definition, moveable. If tax rates are especially high, businesses can pack up their personal property and either open new facilities in states with lower rates or put all of their equipment in out-of-State facilities they already own.

Opposing Argument

The bills could have devastating financial consequences for municipalities, school districts, libraries, and other local taxing units. Nearly every community, school district, and library in Michigan relies on the revenue from the personal property tax. Various school districts and others received $623.6 million in 2010 for educational programs. The PPT also is an important source of revenue for safety programs. Local governments already are struggling to fund programs and have had to lay off police officers, firefighters, and other individuals whose occupation protects the public safety and welfare. Without the revenue from the personal property tax, even more of these positions and associated programs would have to be cut.

Taxes are not the only thing businesses consider when seeking a state in which to do business. There are many other important factors including highway accessibility, availability of skilled labor, availability of land, a low crime rate, support for higher education, and ratings of public schools. If money is taken out of the schools, then the workforce will be less well-educated and will not have the skills the job-providers need. Not only is it to the benefit of the State as a whole to educate individuals, but this investment in people can draw businesses to Michigan.

Although Michigan could be turned into a tax-free haven for businesses, if there are inadequate educational or other community programs, then the people will not be here to work for the businesses.

Also, many individual businesses would not save very much money from the proposed tax cuts. Presumably, businesses would not relocate to Michigan in order to save inconsequential amounts, especially if the workforce elsewhere is skilled and educated.

In addition, the burden of replacing lost personal property tax revenue could shift to middle-class families, who cannot afford any additional taxation. If local units want to ensure that programs are not cut, they will need to procure funds from another source, such as increased real property taxes or income taxes. While a few hundred or thousand dollars in savings for a business could be helpful, the same amount of tax increase for a middle-class family could be overwhelming. Individual taxpayers have already been subjected to the income tax "reform" enacted in 2011, which reduced or eliminated numerous credits and exemptions and extended the tax to pensions. It would be simply unfair to ask them to pay more.

Opposing Argument

A constitutional amendment should be approved in order to protect local governments and communities from extensive cuts and losses of funding. Regardless of any statutory language, one Legislature cannot bind a future Legislature to make appropriations, which means that only a constitutional amendment would guarantee that the State would replace funds lost from elimination of the personal property tax.

Response: The amendments proposed by Senate Bills 1065 to 1071 would not be implemented unless appropriations were made as required by Senate Bill 1072 (S-2).

Legislative Analyst: Sarah Stanley

FISCAL IMPACT

The bills would reduce revenue to the State and local property tax revenue by a significant amount that by fiscal year 2021-22 would increase to approximately $600.0 million (assuming current taxable values and millage rates remained unchanged). Once fully phased in, the bills would reduce State revenue by approximately $120.0 million; roughly two-thirds of that amount would reduce revenue directed to the School Aid Fund and the remainder would reduce General Fund revenue. The balance of the revenue loss would affect local units. The bills also would increase School Aid Fund expenditures by an amount that would grow to approximately $110.0 million (again assuming current taxable values and millage rates), in order to meet per-pupil funding guarantees. In addition, the bills would increase local unit revenue by an unknown amount that would likely be less than the revenue loss.

The table at the end of this analysis illustrates the bills' potential fiscal impact on local units of government and the State between 2013 and 2022.

The bills would reduce property tax revenue through three general approaches:

1) For taxes levied after December 31, 2012, all commercial and personal property within a local tax collecting unit owned or under the control of a single owner would be exempt if the total value were less than $40,000.
2) For taxes levied after December 31, 2015, eligible manufacturing personal property purchased before 2006 would be exempt. In each subsequent year, the 2006 threshold would advance by one year, such that for taxes levied in 2022, property purchased in 2011 would be exempt.
3) For taxes levied after December 31, 2015, new eligible manufacturing personal property would be exempt. New property would be property acquired after December 31, 2011.

The first provision, which would exempt property if the total value were below $40,000, would reduce State and local unit property tax revenue by approximately $80.0 million per tax year. The actual reduction could be greater if taxpayers took advantage of the $40,000 threshold to avoid high effective marginal tax rates on personal property. For example, if a taxpayer had personal property within a local tax collecting unit totaling $39,999, the taxpayer would be eligible for a full exemption on the property. If the taxpayer were to acquire (before 2016) additional personal property with a taxable value of one dollar, the taxpayer would lose the exemption (until 2016) and pay personal property taxes on the entire $40,000 of property. At a millage rate of 50 mills, the increase in taxes would equal $2,000—meaning that an additional dollar of property increased property taxes by $2,000. Taxpayers could seek to avoid such increases, or to reduce their liability, by reorganizing their operations such that

portions of the property were owned by different business entities. For instance, a firm with $100,000 of personal property could reorganize into three subsidiaries with $35,000, $35,000, and $30,000 of the property, respectively, and effectively exempt all property. While the bills would attempt to restrict this practice by limiting the exemption to all property a taxpayer controlled, the bills would not provide local units with information necessary to police such claims, and the degree to which the limitation could be enforced is unclear given the complexity of some business organization structures.

It is expected that the exemption for property under $40,000 would affect a substantial number of taxpayers. Based on aggregate averages, only four counties exhibit average taxable values per business greater than $40,000: Calhoun, Dickinson, Midland, and Van Buren. Out of 426 local units where the number of businesses could be estimated, only 62 exhibited an average taxable value per taxpayer of $40,000 or more. In most local units, the average per taxpayer is affected significantly by a limited number of taxpayers with large amounts of personal property. As a result, a substantial number of taxpayers would likely be exempt from personal property taxes under the bills, and the impact could be greater than estimated even absent taxpayer attempts to manipulate their property holdings to take advantage of the exemption.

While the $40,000 threshold would affect all commercial and industrial personal property, the other two exemptions would affect eligible manufacturing personal property, which is defined such that it would generally include all industrial personal property but also some property currently classified as commercial. The fiscal impact assumes that approximately 40% of the revenue from commercial personal property is derived from property that would meet the definition of eligible manufacturing personal property. The bills also provide that certain existing property tax provisions, such as for the industrial facilities tax, would continue for personal property that would eventually qualify as eligible manufacturing personal property until it would be exempt, even if the provisions would no longer be applicable (such as when an industrial facilities exemption certificate expired). As a result, much of the property covered by these provisions would eventually be exempt under the three approaches.

Senate Bill 1072 (S-2) would create a fund to reimburse local units for a portion of their revenue losses attributable to the bills. The Department of Treasury would estimate losses in excess of 2% of each local unit's general fund revenue (or 1% in the case of distressed local units) during the each local unit's 2012 fiscal year, plus captured tax increment revenue and losses attributable to debt mills or voter-approved qualified mills. The 2% limit means that for local units where personal property taxes represent less than 2% of total general fund revenue in the 2012 fiscal year, the local units would receive no reimbursement at all. Based on Census data, property taxes average about 33% of total local unit revenue, and Senate Fiscal Agency estimates indicate that at the county, city, and township levels, personal property taxes on commercial and industrial property represent about 7.25% of property taxes levied for operating purposes and 9.73% of property taxes levied for debt purposes. Assuming that property taxes represent 33% of total local unit general fund revenue, property taxes for operating purposes on commercial and industrial personal property represent less than 2% of total general fund revenue in 1,278 cities, counties, and townships (out of 1,617 cities, counties, and townships, with each county portion of multicounty units counted separately).

As a result, it is estimated that the majority of local units would be unlikely to receive any reimbursement under the provisions of the bill. For example, using the assumptions that approximately 40% of commercial personal property would qualify for the exemption and that property taxes represent 33% of local unit general fund revenue, only 212 counties, cities, and townships would receive any reimbursement for local operating mills and the reimbursement would offset approximately 23.6% of the total losses across all counties, cities, and townships. To the extent that property taxes represent a lesser share of general fund revenue for other types of local units, such as community colleges, school districts and intermediate school districts, reimbursements would represent an even lower share of total losses.

Senate Bills 1065 through 1071 state that the exemption provisions would not apply if the Legislature failed to appropriate the amount of revenue to each local taxing unit as provided under Senate Bill 1072 (S-2). However, it is unclear how the timing of the provisions would be reconciled and how that might affect the exemptions. Senate Bill 1072 (S-2) indicates that the Department would have to determine the revenue losses for each year and the losses would be estimated rather than based on actual losses. As a result, Treasury would be required to estimate the portion of each local unit's commercial property that could qualify as eligible manufacturing personal property or fall under the $40,000 exemption. To the extent that Treasury's estimates differed from the actual experiences of local units, there is the possibility that reimbursements would not match actual losses, especially given that taxpayers claiming the exemptions would not be required to submit information regarding the acquisition cost or taxable value of exempt property.

Furthermore, it is unclear when the Treasury estimates would have to be delivered to the Legislature so that an appropriation could be made and how that timing would match up with when local units assess any taxes, especially given that the fiscal year covered by the appropriation would have to be contemporaneous with the local unit's losses. While the State fiscal year runs from October through September, local units have a variety of fiscal years, with some running from July through June; others match the calendar year and some others match the State fiscal year. Property tax levies are made in July (due in September) and December (due in February), based on taxable values determined on the prior December 31. As a result, a local unit may levy taxes during a single fiscal year that spans two State fiscal years. If the Legislature appropriated funds for State FY 2013-14, it is unclear if that appropriation would cover levies that would be assessed in December 2013 and July 2014, regardless of the fiscal year to which the local unit would otherwise credit those assessments. It is also unclear when the payments would be made, meaning that while the State could make an appropriation, the local unit might not receive the payments during the fiscal year that the property tax payments would have been applied. As a result, even those local units that would qualify for payments could experience substantial revenue losses, particularly in the first fiscal year the bill was effective.

Under the bill, reimbursements would begin in fiscal year 2012-13 (although the bill does not specify if this would be the local unit's fiscal year or the State fiscal year), but only for losses associated with debt mills and voter-approved qualified mills. It is unknown what portion of the approximately $80.0 million per year in revenue loss from tax years 2013 through 2015 would be reimbursed. Beginning in 2016, all losses would be included in the reimbursement calculation, but there is no provision to reimburse local units retroactively for losses during 2013 through 2015 from the exemption for property under $40,000 from levies other than debt mills or voter-approved qualified mills.

Based on Census data, local government revenue in Michigan during 2009 totaled $37.5 billion. Of this figure, 2% totals $750.5 million, which would exceed the value of the exemptions granted by the bills—implying that no reimbursements would be required. However, because Senate Bill 1072 (S-2) would require the losses to be calculated on a unit-by-unit basis, and a substantial portion of the personal property tax is paid in relatively few local units, it is expected that the reimbursement amount estimated by Treasury would be several hundred million dollars. At this time, it is not possible to provide a more exact estimate of the amount that would be calculated for deposit into the reimbursement fund.

The bill would direct the Legislature to appropriate an amount equal to the total of the Department of Treasury's loss estimates to a reimbursement fund, although no existing funding source is identified. Similarly, no distribution mechanism or timing is specified in the bill, meaning that it is impossible to determine the impact of any reimbursement on local units. Furthermore, the bill does not specify an adjustment process if the Legislature did not appropriate the full amount estimated by the Department, although the language would suggest that if the full amount recommended by Treasury were not appropriated, the exemptions would not apply. As indicated earlier, even in years

when the full amount was appropriated, the majority of local units would not be likely to receive reimbursement for any losses other than debt mills, voter-approved qualified mills, and lost tax increment captures needed to cover debt service payments.

The bill indicates an intent to use anticipated revenue increases from the expiration of certificated credits to fund reimbursements. According to the May 2012 Consensus Revenue Estimates, certificated credits are expected to total $623.0 million in FY 2013-14. While the Consensus estimates would suggest that sufficient revenue would potentially be available to meet the intent provision, the bill would not actually earmark that revenue, or any specific revenue source, to cover reimbursements from the fund.

Another issue indicates that a portion of the intended revenue might not be available for appropriation. While some of the certificated credits are refundable credits, others are not. Furthermore, taxpayers must continue to file their taxes under the Michigan Business Tax (MBT) Act in order to claim the credits. As a result, in some cases, after the credits expire, the subsequent revenue may be substantially less than the value of the credits. For example, a taxpayer might have a liability of $30.0 million under the MBT and receive $35.0 million in refundable certificated credits. However, once the credits expire, the taxpayer will file under the Michigan Corporate Income Tax (CIT). The income tax portion of the MBT base averages one-third of the base before credits, suggesting that the taxpayer's liability under the CIT would total $10.0 million. Thus, while the State's revenue loss under the certificated credit was $35.0 million, the replacement revenue in this example would total only $15.0 million (the $10.0 million of revenue plus elimination of the $5.0 million refund). It is unknown if the actual revenue generated from the expiration of certificated credits would be sufficient to fund reimbursements at the level suggested by the bill.

The bills propose substantial new responsibilities for the Department of Treasury which would increase the administrative costs of the Department by an unknown amount. These costs would begin in FY 2012-13 when Treasury would receive detailed data from local taxing units and tax increment financing authorities and would be required (subject to appropriation) to make reimbursements of the total amount of debt mill loss and voter-approved qualified mill loss. Duties would expand in FY 2015-16 when the Department would be required to estimate reimbursable revenue losses for each local taxing unit and lost tax capture for each tax increment financing authority and, subject to appropriation, make personal property tax reimbursement payments. These responsibilities would require additional staff for the Department and development of a database to track data and support determination of payments. While the operational details are not yet known, it can be assumed that the program would operate in a manner similar to revenue sharing and the Economic Vitality Incentive Program. (The budget for FY 2012-13 includes $200,000 in additional administrative funding for that program.) The proposed personal property tax reimbursement program would deal with a much larger number of local governmental units, authorities, and tax increment financing districts. This suggests that the estimated cost to staff the proposed program when fully implemented would be approximately $500,000 to $1.0 million annually with additional expenses of an unknown amount for information technology systems and support.

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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.

Personal Property Tax Proposal
Summary Impact of Senate Bills 1065-1072 (S-2) of 2012, As Passed by the Senate
(dollar amounts in millions)

Type of Local Unit	Calendar Year (CY) 2010 Revenue	Estimated Losses CY 2013	CY 2014	CY 2015	CY 2016	CY 2017	CY 2018	....	CY 2022
Counties	$92.9	$12.4	$12.5	$12.6	$70.3	$74.5	$79.0	....	$98.6
Cities	$153.4	$20.4	$20.6	$20.7	$116.1	$123.1	$130.5	....	$162.9
Townships	$26.0	$3.5	$3.5	$3.5	$19.7	$20.9	$22.1	....	$27.6
Villages	$7.8	$1.0	$1.0	$1.1	$5.9	$6.3	$6.6	....	$8.3
Community College	$25.8	$3.4	$3.5	$3.5	$19.5	$20.7	$22.0	....	$27.4
ISD	$52.0	$6.9	$7.0	$7.0	$39.4	$41.7	$44.2	....	$55.2
School Debt*	$70.4	$9.4	$9.4	$9.5	$53.3	$56.5	$59.9	....	$74.7
School Operating**	$37.8	$5.0	$5.1	$5.1	$28.6	$30.3	$32.2	....	$40.1
State***	$117.1	$15.6	$15.7	$15.8	$88.7	$94.0	$99.6	....	$124.3
All Other****	$16.0	$2.1	$2.1	$2.2	$12.1	$12.8	$13.6	....	$17.0
Total	**$599.2**	**$79.7**	**$80.3**	**$81.0**	**$453.6**	**$480.8**	**$509.7**	....	**$636.2**

Reimbursement Provisions

	CY 2013 – CY 2015	CY 2016 – CY 2022
Included in Treasury's Calculation for Deposit in Reimbursement Fund	Losses from debt mills and voter-approved qualified mills.	Losses from debt mills, voter-approved qualified mills, and captured mills plus portion of the remainder (excluding revenue from local school district operating mills) that exceeds 2% of general fund revenue.

	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017	CY 2018	....	CY 2022
Reimbursement to Local Units	As Appropriated	As Appropriated	As Appropriated	As Appropriated	As Appropriated	As Appropriated	....	As Appropriated

Notes:

* Also includes sinking fund mills.
** Includes hold-harmless mills and recreation mills. The portion attributable to regular operating mills levied on commercial personal property would require higher School Aid Fund expenditures in order to maintain per-pupil funding amounts.
*** Includes Industrial Facilities Taxes for all units, not just the State's share, as well as the State Education Tax.
**** Primarily revenue collected by authorities, such as a library or transportation authority.

Prepared by: Michigan Senate Fiscal Agency