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BILL



ANALYSIS

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House Bill 6022 (Substitute S-1 as reported)
House Bill 6024 (Substitute S-1 as reported)
House Bill 6025 (Substitute S-1 as reported)
House Bill 6026 (Substitute S-1 as reported)
Sponsor: Representative Jud Gilbert, II
House Committee: Tax Policy
Senate Committee: Finance

CONTENT

House Bill 6022 (S-1) would amend the Metropolitan Extension Telecommunications Rights-of-Way Oversight (METRO) Act to transfer responsibilities of the METRO Authority to the Metropolitan Areas Metropolitan Authority (proposed by House Bill 6025 (S-1)) on October 1, 2013, and abolish the METRO Authority on that date.

The bill is tie-barred to House Bill 6025.

House Bill 6024 (S-1) would enact the "Local Unit of Government Essential Services Special Assessment Act" to allow the legislative body of a local unit of government to propose, by resolution, that all or a portion of the costs of essential services equipment, maintenance of essential services equipment, and the provision of essential services be defrayed by a special assessment levied on industrial real property and commercial real property located in that local unit, which property would be conclusively presumed to be benefited by the provision of the essential services and the essential services equipment. The bill also would:

- Require a local unit of government to hold a public hearing on the questions of creating a special assessment district and defraying all or part of the essential services costs by special assessment on industrial and commercial real property.
- Specify that the creation of a special assessment district, the levy of a special assessment, and the exercise of other powers under the proposed Act would not be subject to a referendum vote of a local unit's electors.
- Require the boundaries of a special assessment district to be coterminous with the boundaries of the local unit.
- Require a local unit to calculate the amount of a special assessment levy on each parcel of industrial real property and commercial real property located in the district, according to a formula prescribed in the bill.
- Limit the special assessment levy for each parcel to an amount calculated according to a formula in the bill.
- Provide that the limitation would not apply unless a property owner submitted an affidavit claiming it, and require the affidavit to include a statement of the estimated true cash value of personal property that would be subject to proposed tax exemptions in the year the limitation was claimed.
- Allow a local unit to issue bonds or other obligations in anticipation of the collection of special assessments.

From the amounts collected under the proposed Act, a local unit first would have to replace the amount of ad valorem property taxes specifically levied for the payment of principal and interest of essential services obligations incurred before 2013 pledging the unlimited or limited taxing power of the local unit, that were lost due to tax exemptions for industrial and commercial personal property provided by Sections 9m, 9n, and 9o of the General Property Tax Act (proposed by Senate Bills 1069, 1071, and 1070, respectively, for qualified new personal property, qualified previously existing personal property, and eligible personal property).

The bill states the following legislative intent: "that the special assessment levied under this section results in a proportionate allocation of the financial cost of essential services and essential services equipment across all classes of real property and that the amount of the special assessment levied...accurately corresponds to the benefit received by the industrial real property and commercial real property that is conclusively presumed to be benefited by the essential services equipment and the essential services provided under this act".

"Local unit of government" would mean a county, township, village, or city, or any authority created to provide essential services. "Essential services" would mean ambulance services, fire services, and police services. "Essential services equipment" would mean motor vehicles, apparatus, equipment, housing, and other items necessary to provide essential services.

House Bill 6025 (S-1) would enact the "Michigan Metropolitan Areas Metropolitan Authority Act" to do the following:

- Create the Metropolitan Areas Metropolitan Authority as a metropolitan government.
- Create the Metropolitan Areas Council as the governing body of the Authority.
- Provide that the Authority would have the exclusive power to levy the metropolitan areas component tax under the Use Tax Act (as provided in House Bill 6026 (S-1)).
- Require the Department of Treasury to administer the receipt and collection of the metropolitan areas component tax on behalf of the Authority.
- Specify that money generated by the metropolitan areas component tax would be money of the Authority, not State funds.
- Require each municipality that is not a local school district or intermediate school district (ISD), each local school district, and each ISD, by June 15 every year beginning in 2016, to make certain calculations based on the total taxable value of all industrial personal property and commercial personal property in the municipality, school district, or ISD and its millage rate, and submit the amount calculated to the Department.
- Require the Legislature, for fiscal year (FY) 2013-14 and FY 2014-15, to appropriate an amount equal to all debt mill loss for municipalities, school districts, and ISDs, and require the Authority to distribute the funds appropriated.
- Require the Authority, beginning in FY 2015-16, to distribute metropolitan areas component tax funds to municipalities in the percentages and according to the priority set forth in the bill (described below).
- Require a municipality, from the amount distributed, to first replace debt loss or school debt loss, and provide that a municipality could not receive a distribution if it had increased its millage rate to replace a debt loss or school debt loss.
- Require the Department, beginning in FY 2015-16, to determine the amount of distributions.
- Require each municipality to submit to the Department sufficient information for it to make its calculations.
- Require the Legislature, for FY 2013-14 and each subsequent fiscal year, to appropriate an amount equal to the expenses of the Authority and the Department in implementing the proposed Act.

In distributing metropolitan areas component tax funds, the Authority first would have to distribute to each municipality an amount equal to 100% of its debt loss and 100% of its school operating loss not reimbursed by the School Aid Fund. (For a municipality other than a school district or ISD, debt loss would be the amount of ad valorem property taxes required to pay principal and interest of obligations incurred before 2013 pledging the unlimited or limited taxing power of the municipality, that would be lost due to the exemptions under Sections 9m, 9n, and 9o of the General Property Tax Act. School operating loss not reimbursed by the School Aid Fund would be based on the loss of taxes levied under the Revised School Code due to the tax exemptions, for mills other than basic school operating mills.)

Beginning in FY 2017-18, the Authority would have to distribute 5% of the amount remaining after the first distribution to each municipality according to a calculation described in the bill (which is based on a municipality's total taxable value of all industrial real property on which was located exempt personal property, the individual millage levied by the municipality between 2012 and the year before the current year, and the sum of this calculation for all municipalities). The percentage amount used in this formula would have to be increased by an additional 5% each year, not to exceed 100%, for FY 2018-19 and each subsequent fiscal year.

After the first two distributions, the Authority would have to distribute the remaining balance of that fiscal year's metropolitan areas component tax funds to each qualified municipality in an amount based on its qualified loss as a portion of total restricted qualified loss.

"Municipality" would include, but not be limited to counties, cities, villages, townships, authorities (except the proposed Authority), local school districts, ISDs, community college districts, libraries, and other intergovernmental taxing units.

"Qualified municipality" would mean a municipality that experienced a reduction in taxable value of more than 2.5% as a result of the exemption of industrial personal property and commercial personal property under proposed Sections 9m, 9n, and 9o of the General Property Tax Act. A municipality's reduction in taxable value would have to be calculated as described by the bill.

The bill would take effect on January 1, 2013.

House Bill 6026 (S-1) would amend the Use Tax Act, which levies the use tax at a rate equal to 6% of the price of property and services specified in the Act, to do the following (subject to voter approval):

- Provide that, beginning on October 1, 2015, the use tax would include both a State component tax levied by the State and a metropolitan areas component tax levied by the Metropolitan Areas Metropolitan Authority.
- Provide that the rate of the metropolitan areas component tax would be the rate calculated by the Department of Treasury sufficient to generate specific dollar amounts for FY 2015-16 through FY 2021-22 (shown in Table 1, below).
- Provide that, for FY 2022-23 and each subsequent fiscal year, the metropolitan areas component rate would be the rate calculated by the Department sufficient to generate the amount distributed under the bill in the preceding year adjusted by an industrial and commercial personal property growth factor calculated by the Department.
- Provide that the State component rate would be the rate determined by subtracting the metropolitan areas component rate from 6%.
- Specify that the State component would include the portion of the use tax imposed at the additional rate of 2% approved by the electors in March 1994 and dedicated for aid to schools under the Act.

- Specify that the total combined rate of the tax levied by the State and the Authority could not exceed 6%.
- Require the Department to administer the receipt and collection of the metropolitan areas component on behalf of the Authority.
- Provide that, from the money collected for the State component, an amount equal to all revenue lost under the State Education Tax Act and all revenue lost from basic school operating mills as a result of the exemption of personal property under proposed Sections 9m, 9n, and 9o of the General Property Tax Act, would have to be deposited into the School Aid Fund.
- Require all money collected for the metropolitan areas component to be transmitted to the Authority for deposit in the treasury of the Authority, for distribution as authorized under the proposed Michigan Metropolitan Areas Metropolitan Authority Act.
- Specify that the metropolitan areas component would be a local tax, not a State tax, and money collected for that component would be money of the Authority, not the State.

Table 1

Revenue to be Generated by the Metropolitan Areas Component

Fiscal Year	Amount
2015-16	\$46,200,000
2016-17	\$249,000,000
2017-18	\$267,400,000
2018-19	\$283,500,000
2019-20	\$300,200,000
2020-21	\$315,100,000
2021-22	\$332,700,000

The proposed Act would not take effect unless it were approved by a majority of the qualified electors of the State voting on the question at an election to be held on the August regular election date in 2014. The bill describes the language of the ballot question. If approved by the electors, the Act would take effect on January 1, 2015.

MCL 484.3102 & 484.3103 (H.B. 6022)
205.93 et al. (H.B. 6026)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

House Bill 6022 (S-1) would have no impact on State or local revenue, and no effect on local unit expenditures. The bill would likely have a negligible impact on State expenditures, given that it would transfer the responsibilities and functions of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority to the Metropolitan Areas Metropolitan Authority proposed by House Bill 6025 (S-1), to which the bill is tie-barred.

House Bill 6024 (S-1) would have no impact on State revenue or expenditures. Beginning in 2016, the bill could increase local unit revenue by an unknown amount that would depend on the specific characteristics of affected local units. The bill would allow local units, by resolution, to propose a special assessment on commercial and industrial real property. The creation of the assessment district or the levying of the assessment would not be subject to referendum. Only cities, villages, townships, and counties could levy the special assessment. The bill is not tie-barred to any other bills, including the bills that would create exemptions under Sections 9m, 9n, and 9o of the General Property Tax Act. (Those bills are Senate Bills 1069, 1071, and 1070, respectively.)

To levy the assessment, a local unit would have to know how much revenue it did not receive in 2014 as a result of the personal property exemption under Section 9o, both in terms of the loss from total property taxes and from any millages dedicated to essential services. (Section 9o would exempt, for a taxpayer that owned less than \$40,000 of commercial and industrial personal property within a local unit, that commercial and industrial personal property.) If a local unit were able to determine these amounts, and the bill does not specify how the amounts would be determined, the assessment would essentially equal the revenue loss, from both general and dedicated millages, attributable to exemptions other than the \$40,000 exemption in Section 9o. (Therefore, the assessment could not offset losses resulting from the exemption in proposed Section 9o.) Furthermore, the bill does not specify how the local unit would determine the percentage of the general operating millage used to fund essential services, which also would be necessary to compute the assessment.

The bill would limit the amount of any assessment against an individual taxpayer, if the taxpayer submitted an affidavit showing the true cash value of personal property exempted under proposed Sections 9m and 9n of the General Property Tax Act. (These sections would exempt new eligible manufacturing personal property and a portion of existing eligible manufacturing personal property from taxation.) There would be no cap on the assessment on a taxpayer that did not submit the affidavit.

Based on the 2010 Census of State and Local Government Finances, local unit expenditures in Michigan on police and fire protection totaled slightly more than \$3.0 billion. (Data are not available on expenditures for ambulance services.) If a levy to pay for these police and fire expenditures were assessed on total real property, the millage rate would average 10.6 mills. If it were assessed only against industrial and commercial real property, the millage rate would average approximately 48.0 mills. The mills for such an assessment would not be subject to millage limits placed on property taxes. As indicated above, the calculation of the allowable levy under the bill would not generate assessments of this magnitude. Based on Senate Fiscal Agency estimates of these losses under the versions of Senate Bills 1069, 1070, and 1071 that passed the Senate, and assuming that funding for essential services from dedicated and general millages would represent approximately 10% of the losses, the millage rate under the assessment would average 0.6 mill.

House Bill 6025 (S-1) would not affect existing State or local government revenue or expenditures. The bill would effectively create a new layer of local government, although that layer would span the State, and this new form of government would require revenue and have expenses. The magnitude of any revenue or expenses is unknown, as is any funding source for required revenue. While the bill would provide the Authority exclusive power to levy the metropolitan areas component tax (provided for under House Bill 6026 (S-1), to which the bill is not tie-barred), the language regarding the revenue from the tax indicates it would be for distribution to local units. The bill would require the Legislature to appropriate, beginning in FY 2013-14, sufficient revenue to cover both the operational expenses of the Authority and any expenses the Department of Treasury would incur implementing the law. The bill does not identify the magnitude or funding source of these operational expenses and cannot compel a future Legislature to make an appropriation. The bill is not tie-barred to any other bills.

Based on the formulas in the bill, and projected revenue under House Bill 6026 (S-1), the bill would redistribute \$46.2 million in FY 2015-16 and \$249.0 million in FY 2016-17. The amount would increase by approximately \$15.0 million to \$20.0 million per year, reaching \$332.7 million in FY 2021-22. For later fiscal years, the FY 2021-22 amount would be adjusted by an "industrial and commercial personal property growth factor" (which is not defined under the bill or current law). Redistributions would be made to local units authorized to levy taxes. However, the language apparently would not authorize

reimbursing tax increment financing authorities, such as downtown development authorities.

Under the bill, the amount an individual local unit would receive would equal 100% of any loss associated with debt mills on obligations incurred before 2013. However, in FY 2013-14 and FY 2014-15, this reimbursement would have to be appropriated by the Legislature. These losses are estimated to total approximately \$13.0 million per year. Beginning in FY 2015-16, the total reimbursement to school districts would equal 100% of the school debt loss plus certain other reimbursements, while local units other than school districts would receive only these other reimbursements. (Debt losses for these local units would be included with other losses.)

The other reimbursements would differ based on whether the local unit was a school district. Local units that are not school districts would calculate an amount equal to the change in the taxable value of personal commercial and industrial property, compared with 2013, multiplied by the lowest millage levied by the unit since 2012, and then reduced by any revenue received under the assessment authorized (whether or not it was actually enacted) under House Bill 6024 (S-1). The computation for school districts is similar but only would use the millage rates for sinking funds and recreation mills for local school districts and millage rates excluding debt mills for intermediate school districts. School districts also would be required to compute "school debt loss" in determining reimbursement amounts, although the bill's definition for "school debt loss" is based on the "revenue lost" from the exemptions in proposed Sections 9m, 9n, and 9o, and the bill does not indicate how such "revenue lost" would be calculated.

Beginning in FY 2017-18, the bill would gradually phase-in a new distribution formula based on the taxable value of real industrial property containing personal property that would be exempt under proposed Section 9m or 9n in a local unit, relative to the State total. In FY 2017-18, 5% of the payments would be weighted under this distribution method and the weight would increase by 5% in each subsequent year until eventually all distributions would be made with the new formula in FY 2037-38.

House Bill 6026 (S-1) would reduce State General Fund revenue through several factors. The bill would reduce General Fund revenue by \$46.2 million in FY 2015-16 and \$249.0 million in FY 2016-17, by creating a local use tax levied by the Authority created in House Bill 6025 (S-1), to which the bill is not tie-barred. The bill also would reduce General Fund revenue by requiring a portion of use tax revenue to be directed to the School Aid Fund for losses associated with exempting personal property from taxation under proposed Sections 9m, 9n, and 9o of the General Property Tax Act. Based on the versions of those exemptions contained in Senate Bills 1069, 1070, and 1071, as passed by the Senate, those reimbursements are expected to total approximately \$20.0 million in FY 2013-14, and increase to approximately \$33.0 million in FY 2015-16, and \$45.0 million in FY 2016-17. The bill apparently would not provide for reimbursement to the School Aid Fund for losses on State-assessed and other similar property, such as property under the industrial and commercial facilities taxes.

The bill is not tie-barred to any other bills and would take effect only if approved by a vote of the people in an August 2014 election.

If all four bills were enacted, along with the Senate-passed versions of Senate Bills 1065 through 1072, and the use tax changes were approved by voters and all local units established special assessments for essential services, local units would experience revenue losses in FY 2013-14 of approximately \$64.6 million, which would be offset by approximately \$18.0 million in payments from the Authority (assuming the debt reimbursement funds were appropriated) and higher School Aid Fund payments (assuming per-pupil funding guarantees were not affected by the bills), for a net loss of \$46.6 million.

In FY 2013-14, the State would experience a revenue loss of approximately \$15.7 million in School Aid Fund revenue, face increased School Aid Fund expenditures of \$5.1 million and expenditures from an unidentified source of approximately \$13.0 million per year, for a net State impact of a negative \$33.8 million.

By FY 2016-17, the fiscal impact would grow, with local units experiencing losses of approximately \$364.9 million that would be offset by approximately \$68.9 million in special assessments, \$249.0 million in use tax revenue distributions, and \$28.6 million in higher School Aid Fund payments, for a net loss of approximately \$18.4 million. The impact on the State would include a loss of \$88.7 million in School Aid Fund revenue, plus \$28.6 million in higher School Aid Fund payments and the loss of \$249.0 million in use tax revenue, for a net reduction in General Fund revenue of \$366.3 million. These losses would increase in future years as the proposed property tax exemptions included additional property, and the specified local use tax revenue amounts increased.

Date Completed: 12-12-12

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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.