

Legislative Analysis



HYDROPONICS AND AQUACULTURE PRODUCTION FACILITIES TAX

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Senate Bills 786 & 787 (Substitute H-1)

Sponsor: Sen. Bruce Caswell
House Committee: Tax Policy
Senate Committee: Finance

Complete to 12-4-14

A SUMMARY OF SENATE BILLS 786 & 787 AS REPORTED FROM HOUSE COMMITTEE 11-12-14

Senate Bill 786 would amend the General Property Tax act to exempt eligible hydroponics production facilities and eligible aquaculture production facilities from property taxes collected under the act. Senate Bill 787 would create the "Hydroponics and Aquaculture Production Facilities Specific Tax Act," which would levy a new reduced replacement tax. The bills are tie-barred, meaning neither can take effect unless both are enacted. These changes would take effect for tax years starting after December 31, 2014.

Under Senate Bill 787, eligible hydroponics production facilities and aquaculture production facilities would pay a new specific tax based on the taxable value of their property and the local millage rates, but at a reduced rate relative to the taxes that would have been collected under the General Property Tax Act. The new specific tax would equal the taxable value of the facility, multiplied by the local millage rate, excluding all school operating millages (typically 18-mills), then multiplied by 0.25. The exclusion of the school operating millage is in line with the current tax treatment of qualified agricultural property.

For a hydroponics or aquaculture production facility to be classified as "eligible" they must meet minimum size thresholds. Aquaculture production facilities are eligible if the production area is not less than 10,000 square feet, while hydroponic production facilities are eligible if the production area is no less than 1 acre in size.

Any new millages passed by local tax collecting units would be assessed on the facility at the full rate, which would then be added to the result of the previous calculation. New millages would not include the renewal of some or all of a millage that exists when the act takes effect. The specific tax is an annual tax, due at the same time, in the same installments, and to the same tax collecting unit as taxes assessed under the General Property Tax Act. The specific tax would be disbursed in the same manner and proportions as under that act, and delinquent taxes are subject to the same penalties.

Senate Bill 787 also would define the terms, *aquaculture*, *aquaculture production facility*, *hydroponics*, and *hydroponic production facility*.

Generally speaking, a *hydroponics production facility* is an indoor agriculture production operation using hydroponics techniques or practices for growing plants (although not plants illegal under federal law). An *aquaculture production facility* is an indoor aquaculture production operation using aquaculture techniques or practices for growing aquaculture species (e.g., fish, crustaceans, mollusks and aquatic plants). In both cases the facility includes pumps, tanks, controls, application systems, and related infrastructure, and includes any warehouse or shipping area integrated into the production operation. The exempt facilities also would include offices if the taxable value of the offices was less than 50% of the combined taxable value of the aquaculture production facility and the offices.

FISCAL IMPACT:

As written, the bills could reduce State Education Tax (SET) revenue by at least \$155,000 and local property tax revenue by at least \$700,000. Reduced SET revenue results in a School Aid Fund (SAF) revenue loss. However, since these facilities are already exempt from the school operating millage due to the qualified agricultural properties exemption (MCL 211.7ee), there would not be an additional increase in SAF expenditures. The tax base for local school operating funds would not change; therefore, SAF expenditures will not be needed to maintain guaranteed per-pupil funding levels.

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