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Senate Bills 786 and 787 (as enrolled)  
Sponsor: Senator Bruce Caswell  
Senate Committee: Finance  
House Committee: Tax Policy

Date Completed: 1-12-15

### **RATIONALE**

Agriculture is considered Michigan's second-largest industry, and is said to be expanding. Relatively recent developments include growing produce at hydroponics facilities, where plants are cultivated in greenhouses without soil, and raising fish and other aquatic species at aquaculture production facilities. The climate in southwestern Michigan, in particular, apparently is conducive to hydroponics, but only a few facilities are currently in operation. Although aquaculture production facilities are located throughout the State, they are typically outdoor facilities, while indoor aquaculture production facilities are fairly new to the industry. Evidently, both hydroponics production facilities and indoor aquaculture production facilities require a significant investment in technology and infrastructure. Also, they reportedly are taxed at a higher rate in Michigan than imposed on such facilities elsewhere, at least when abatements are given. To encourage the growth of these industries in this State, it has been suggested that they be granted property tax relief.

### **CONTENT**

**Senate Bill 786** would amend the General Property Tax Act, and **Senate Bill 787** would enact the "Eligible Hydroponics and Eligible Aquaculture Production Facilities Specific Tax Act", to exempt real property used for eligible hydroponics production facilities and eligible aquaculture production facilities from the tax collected under the General Property Tax Act, for taxes levied after December 31, 2014; and impose on those facilities a specific tax that would be 25% of the property tax plus new millage approved by the local tax collecting unit after the effective date of the proposed Act.

The bills are tie-barred. Senate Bill 787 is described in detail below.

#### Specific Tax

The assessor of each local tax collecting unit in which an eligible hydroponics production facility or an eligible aquaculture production facility was located would have to determine annually as of December 31 the value and taxable value of each eligible facility.

The eligible hydroponics and eligible aquaculture production facilities specific tax would be levied upon the owner of every eligible hydroponics production facility or eligible aquaculture production facility. The amount of the specific tax would have to be determined as follows:

- a) Multiply the number of mills that would be assessed in the local tax collecting unit if the property were subject to the collection of taxes under the General Property Tax Act, and if the property were exempt under Section 7cc of the Act (which exempts a principal residence from local school operating taxes), by the facility's taxable value.
- b) Multiply the result of the first calculation by 0.25.

- c) If a new millage were approved in the local tax collecting unit after the effective date of the proposed Act, multiply the number of approved mills that would be assessed if the facility were subject to the General Property Tax Act, by the facility's taxable value; repeat this calculation for each individual millage approved in the local tax collecting unit after the effective date of the proposed Act.
- d) Add the result of the calculation under b) and the result of all calculations under c).

As used above, "new millage" would not include the renewal of some or all of a millage in existence on the Act's effective date.

The eligible hydroponics and eligible aquaculture production facilities specific tax would be an annual tax, payable at the same times, in the same installments, and to the same collecting officer or officers as taxes collected under the General Property Tax Act.

If the specific tax were unpaid, it would be subject to forfeiture, foreclosure, and sale in the same manner and at the same time as taxes returned as delinquent under that Act.

#### Disbursement

The collecting officer or officers would have to disburse the eligible hydroponics and eligible aquaculture production facilities specific tax to and among the State and cities, townships, villages, school districts, counties, or other taxing units, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the General Property Tax Act.

The collecting officer or officers would have to send a copy of the amount of disbursement made to each taxing unit to the State Tax Commission on a form provided by the Commission.

#### Definitions

"Aquaculture production facility" would mean real property used for an indoor aquaculture production operation using aquaculture techniques or practices for growing aquaculture species.

"Hydroponics production facility" would mean real property used for an indoor agriculture production operation using hydroponics techniques or practices for growing plants produced by agriculture that are useful to human beings, including forages, field crops, sod, berries, herbs, fruits, vegetables, flowers, seeds, and nursery stock. The term would not include an indoor agriculture production operation for growing plants that are illegal under Federal law.

An aquaculture production facility or a hydroponics production facility would include all of the following, to the extent they constituted real property:

- The pumps, tanks, controls, application systems, and related infrastructure (as well as indoor recirculating systems, in the case of an aquaculture production facility) required to grow aquaculture species using aquaculture techniques or practices, or agricultural crops using hydroponic techniques or practices, as applicable.
- Any warehouse or shipping area integrated into the operation.
- Offices integrated into the operation if the taxable value of the offices were less than 50% of the combined taxable value of the facility and the offices.

An "eligible" aquaculture production facility would be such a facility with a production area of at least 10,000 square feet. An "eligible" hydroponics production facility would be such a facility with a production area of at least one acre.

"Aquaculture" would mean the commercial husbandry of aquaculture species, including culturing, producing, growing, propagating, and harvesting aquaculture products under any applicable permits or registration.

"Hydroponics" would mean a system in which water-soluble nutrients are placed in intimate contact with a plant's root system, being grown in an inert supportive medium that itself supplies physical support for the roots and does not add or subtract plant nutrients.

Proposed MCL 211.7ww (S.B. 786)

## **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**

Growing plants hydroponically dates back thousands of years, but this is a relatively new industry in Michigan. Currently, only a handful of hydroponics production facilities are operating in the State. One of these is in Coldwater, where a facility began the hydroponic production of tomatoes in 2012. Originally on 30 acres, the operation was expected to complete an expansion to 60 acres in the summer of 2014. The company also expects to add up to 90 new jobs, doubling its workforce, according to WTVB news article ("Another expansion for Mastronardi Produce in Coldwater", 10-15-13). In Marshall, a facility on 12 acres plans to expand eventually to 50, and will be the first in the nation to produce red bell peppers hydroponically, according to testimony before the Senate Finance Committee. These and other hydroponics production facilities provide local workers with jobs that pay well, boost the economy in their communities, and supply retailers and restaurants with fresh, locally grown produce year-round.

Similarly, indoor aquaculture production facilities are a recent development in Michigan's agriculture industry, although outdoor aquaculture production--or fish farming--already is established in the State. The facilities are regulated by the Michigan Department of Agriculture and Rural Development and are restricted to raising approved aquaculture species. These include several species of bass, perch, salmon, and trout, as well as bluegill, cod, flounder, grouper, halibut, mackerel, mahi-mahi, snapper, tilapia, tuna, walleye, and others. Reportedly, consumption of seafood in the United States has reached record levels, and the reliance on aquaculture to meet the demand is increasing. Currently, Michigan has approximately 60 licensed aquaculture production facilities of various types but, as noted above, most of them are outdoors.

Indoor aquaculture production facilities avoid problems associated with soil, groundwater quality, and weather, and can be located in both urban and rural areas. Establishing these facilities, however, requires expensive technology and infrastructure. The same is true for hydroponics production facilities, which are limited in where they can be located due to the climate. In addition to the initial investment and ongoing costs of operation, local property taxes place a financial burden on these facilities. Reportedly, Michigan's taxes are higher than those of other states, particularly when the out-of-State facilities are granted local or state tax abatements.

The bills would encourage the growth of these new industries in Michigan by eliminating the property tax on the real property of eligible hydroponics production facilities and eligible indoor aquaculture production facilities, and instead imposing a significantly lower specific tax. The bills propose a statewide approach to granting tax relief, instead of requiring each facility individually to seek a tax abatement from the local government or the State. This would make Michigan competitive with other states as well as Canadian provinces. Considering the demand for fresh produce and safe, healthy seafood, and the desire to "buy local", hydroponics and aquaculture are integral to today's agricultural industry. Helping these facilities to become established in Michigan could put this State on the map for hydroponically grown produce and fish raised in modern indoor facilities.

### **Opposing Argument**

Under the bills, the affected facilities would pay only 25% of their current property taxes, plus any local millage approved in the future. This would have a negative impact on the revenue collected for local units of government.

**Response:** If the property tax abatement resulted in new or expanded facilities, it actually could have a positive revenue impact. In addition to the specific local tax that would be collected, there would be increased commercial activity and jobs for local workers.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bills would reduce State Education Tax revenue to the School Aid Fund by approximately \$150,000 and local property tax revenue by approximately \$675,000. For farms that engage in agricultural activities in addition to aquaculture and/or hydroponics, the impact assumes that the bills would affect only those portions of the farms engaged in aquaculture or hydroponics.

The bills likely would not increase School Aid Fund expenditures because most, if not all, of the affected facilities are already exempt from the 18-mill local school operating levy. As a result, there would be no reduction in local school operating revenue that the School Aid Fund would need to offset in order to maintain per-pupil funding guarantees.

Fiscal Analyst: David Zin

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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.