Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 821, 822, and 823 (Substitutes H-1 as passed by the House) *(enrolled version)*
Senate Bills 824 and 825 (as passed by the House) *(enrolled version)*
Senate Bills 826 through 830 (Substitutes H-1 as passed by the House) *(enrolled version)*
Sponsor: Senator Jack Brandenburg (S.B. 821)
Senator Dave Hildenbrand (S.B. 822)
Senator John Proos (S.B. 823)
Senator John Pappageorge (S.B. 824)
Senator Dave Robertson (S.B. 825)
Senator Mark C. Jansen (S.B. 826)
Senator Steven Bieda (S.B. 827)
Senator Jim Ananich (S.B. 828)
Senator Rebekah Warren (S.B. 829)
Senator Mike Nofs (S.B. 830)
Senate Committee: Finance
House Committee: Tax Policy

Date Completed: 3-26-14

CONTENT

The bills would amend, enact, and replace various statutes to revise legislation that was enacted in 2012 to create tax exemptions for eligible industrial and commercial personal property, and provide mechanisms to replace a portion of the revenue lost by local units of government. Like the enacted legislation, many of the proposed bills would require voter approval of an August 2014 ballot question in order to take effect.

The proposed legislation would retain a measure providing for a local share of the use tax, and reducing the State use tax commensurately, but would raise the annual increases in the amount the local use tax may generate between fiscal year (FY) 2016-15 and FY 2022-23, and would extend the years in which the amounts increase to FY 2027-28.

The proposed changes also would revise the distribution of local use tax revenue to local units of government. The legislation would reimburse local units, in aggregate, for the amount of estimated revenue lost due to the personal property tax exemptions.

In addition, the bills would levy a State essential services assessment on eligible personal property subject to a personal property tax exemption; levy an alternative assessment at 50% of the State essential services assessment on eligible personal property exempt from that assessment; and eliminate a local assessment on industrial and commercial real property for essential services

Further, the proposals specify a legislative intent that the State essential services assessment, and revenue from expiring refundable tax credits, offset the impact on the State's General Fund from the reduction of the State use tax.

Tables 1 and 2 below outline the legislation enacted in 2012. Table 3 indicates the 2012 legislation that would be amended or replaced by the proposed bills. A description of each of the bills follows the tables.

Table 1

Personal Property Tax Exemptions Enacted in 2012			
Bill	**Public Act**	**Statute Amended**	**Subject**
1069	401	General Property Tax Act – *Sec. 9m*	Exemption of qualified new personal property
1070	402	General Property Tax Act – *Sec. 9o*	Exemption for owners of property worth <$40,000 in a local unit
1071	403	General Property Tax Act – *Sec. 9n*	Exemption of property subject to taxation for 10 years or more
1065	397	P.A. 198 of 1974	Continuation of current exemptions until new exemption applies
1066	398	Technology Park Development Act	
1067	399	General Property Tax Act	
1068	400	Enterprise Zone Act	

Table 2

Revenue Loss Reimbursement Enacted in 2012			
Bill	**Public Act**	**Statute Amended or Created**	**Subject**
6024	406	Local Unit of Government Essential Services Special Assessment Act	Allow special assessment by local unit for essential services
6025	407	Michigan Metropolitan Areas Metropolitan Authority Act	Create the MAMA to levy & distribute local use tax authorized by PA 408
6026	408	Use Tax Act	Authorize local use tax & reduce State use tax; place question on August 2014 statewide ballot
6022	404	Metropolitan Extension Telecommunications Rights-of-Way Oversight Act	Transfer duties of METRO Authority to the MAMA

Table 3

2012 Legislation Affected by Proposed Bills		
2012 Act	**Bill**	**Change**
407	821	Replace Michigan Metropolitan Areas Authority (MAMA) Act with Local Community Stabilization Authority (LCSA) Act; revise distribution of local use tax revenue
408	822	Increase amounts generated by local use tax & extend years of increase
399	823	Require voter approval of PA 408 or SB 822 for continuation of an exemption
401	823	Exclude utility personal property from eligibility for an exemption
404	824	Transfer duties of METRO Authority to LCSA instead of MAMA
408	825	Require submission of PA 408 to voters unless SB 822 is enacted
401	826	Repeal Sec. 9m of General Property Tax Act (GPTA) if neither PA 408 nor SB 822 is approved by voters
402	827	Repeal Sec. 9o of GPTA if neither PA 408 nor SB 822 is approved by voters
403	828	Repeal Sec. 9n of GPTA if neither PA 408 nor SB 822 is approved by voters
407	829	Repeal Local Unit of Government Essential Services Special Assessment Act; enact State Essential Services Assessment Act
NA	830	Enact Alternative State Essential Services Assessment Act

Senate Bill 822 (H-1), which would amend the Use Tax Act, would have to be submitted to the voters at an election held on the August regular election date in 2014. If approved by a majority of the electors voting on it, the bill would take effect on January 1, 2015. Senate

Bills 821 (H-1), 824, 829 (H-1), and 830 (H-1) would not take effect unless the voters approved Senate Bill 822.

Senate Bill 821 (H-1)

The bill would repeal the Michigan Metropolitan Areas Metropolitan Authority Act and enact the "Local Community Stabilization Authority Act" to do the following:

-- Replace the Metropolitan Areas Metropolitan Authority with the Local Community Stabilization Authority (LCSA).
-- Authorize the LCSA to levy the "local community stabilization share" (the local use tax provided for in Senate Bill 822), which would replace the metropolitan areas component tax (the local use tax provided for in Public Act 408 of 2012).
-- Require the LCSA to levy the local community stabilization share at the rate provided in the Use Tax Act, and specify that the LCSA would not be authorized to increase the rate.
-- Require the LCSA to distribute the local community stabilization share to municipalities for the losses described in the bill, according to prescribed calculations.
-- Establish reporting requirements for cities and villages, school districts, other municipalities, and tax increment finance authorities.
-- Retain requirements that the Legislature appropriate, in fiscal year (FY) 2013-14 and FY 2014-15, amounts equal to debt loss or school debt loss, and that the Authority distribute the appropriated funds.

Reporting Requirements; Calculation of Millage Rate & Loss

The bill would require each city and township assessor, by June 5, 2014, to report to the county equalization director the 2013 and 2014 taxable value of commercial personal property and industrial personal property for each municipality in the city or township, and the small taxpayer exemption loss of each municipality in the city or township. By June 20, 2014, each county equalization director would have to report that information to the Department of Treasury.

(The term "municipality" would include a county, city, village, township, authority (except the LCSA), local school district, intermediate school district (ISD), community college district, library, and other local or intergovernmental taxing unit. "Small taxpayer exemption loss" would mean the 2013 taxable value of commercial personal property and industrial personal property minus the 2014 taxable value of that property.)

By June 5, 2016, and every subsequent June 5, each city or township assessor would have to report to the county equalization director the current year taxable value of commercial personal property and industrial personal property for each municipality in the city or village. The county equalization director would have to report that information to the Department by June 20 in 2016 and each subsequent year.

By August 15, 2014, and every subsequent August 15, each municipality would have to report to the Department millage levied or to be levied that year for a millage described in Section 5(g) or 5(w) (which define "debt loss" and "school debt loss", respectively) that was used to calculate an appropriation for debt loss or a distribution to the municipality for school debt loss. For 2014 and 2015, the rate of the millage would have to be calculated using the sum of the municipality's taxable value and its small taxpayer exemption loss. In each subsequent year, the rate of the millage would have to be calculated using the sum of the municipality's taxable value and its personal property exemption loss. For 2014 and 2015, the Department would have to calculate the debt loss or school debt loss of each municipality by multiplying its reported millage rate by its small taxpayer exemption loss. In each subsequent year, the Department would have to calculate the school debt loss of each municipality by multiplying its reported millage rate by its personal property exemption loss.

(For a municipality other than a school district, ISD, or tax increment finance authority (TIFA), "personal property exemption loss" would mean the 2013 taxable value of commercial personal property and industrial personal property minus the current year taxable value of that property and minus the small taxpayer exemption loss. For a local school district, ISD, or TIFA, the term would mean the 2013 taxable value of commercial personal property and industrial personal property minus the current year taxable value of that property.

For a municipality other than a local school district, ISD, or TIFA, "debt loss" would mean the amount of ad valorem property taxes and any specific tax levied for the payment of principal and interest of obligations incurred before January 1, 2013, pledging the taxing power of the municipality that are lost as a result of the exemption of industrial personal property and commercial personal property under Sections 9m, 9n, and 9o of the General Property Tax Act (GPTA).

"School debt loss" would mean the amount of revenue lost from ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors before January 1, 2013, or obligations pledging the unlimited taxing power of a local school district or ISD incurred before that date, as a result of the exemption of property under Sections 9m, 9n, and 9o of the GPTA.

Sections 9m and 9n of the GPTA provide exemptions for industrial and commercial personal property that meets the definition of "eligible manufacturing personal property", beginning December 31, 2015. Section 9m applies to "qualified new personal property" and Section 9n applies to "qualified previously existing personal property". Under Section 9o (as amended by Public Act 153 of 2013), an exemption may be claimed if the combined true cash value of all industrial and commercial personal property in a local tax collecting unit owned by, leased by, or in the possession of the owner or a related entity is less than $80,000 on December 31 of the preceding year.)

By May 1 of each year, the Department would have to calculate each municipality's sum of the lowest rate of each individual millage levied between 2012 and the year immediately before the current year. For a municipality, other than a school district, ISD, or TIFA, the calculation would have to exclude debt millage. A millage used to make the calculations under the LCSA Act would have to be levied against both real property and personal property.

By June 5, 2016, and each subsequent June 5, each city and township assessor would have to report to the county equalization director the increased value from expired tax exemptions for each municipality that would be subject to Department calculations for a county, township, village, city, or authority that provides essential services, and that levies taxes in the city or township. By June 20, 2016, and each subsequent June 20, each county equalization director would have to report that information to the Department.

Calculations to Determine Distributions

The bill details calculations that the Department would have to make for municipalities other than school districts, ISDs, and TIFAs; for each municipality that is a county, township, village, city, or authority that provides essential services; for each municipality that is a city; for each municipality that is a local school district; and for each municipality that is an intermediate school district. ("Essential services" would mean ambulance, fire, and police services, jail operations, and the funding of pensions for personnel providing those services.)

The Department also would have to make specified calculations for each municipality that is a tax increment finance authority, which would have to report the results of those calculations for each tax increment financing plan and the TIFA's tax increment debt loss shortfall.

The Department would have to exclude from all of these calculations the taxable value of property exempt under Section 7ff of the GPTA for millages subject to the exemption. (Section 7ff provides tax exemptions for real and personal property located in a renaissance zone.)

These calculations would be used to determine the distributions to each municipality of local community stabilization share revenue (as described below and explained in the **FISCAL IMPACT** section of this document).

Appropriations; Distributions

For fiscal year (FY) 2015-15 and FY 2015-16, the bill would require the Legislature to appropriate to the Local Community Stabilization Authority the following:

-- An amount equal to all debt loss for municipalities other than school districts, ISDs, and TIFAS.
-- An amount equal to all debt loss for school districts and ISDs.
-- An amount equal to all debt loss for TIFAs.

(If the voters did not approve Senate Bill 822 (H-1) at the August 2014 election, the debt loss appropriations for FY 2014-15 would still be required.)

Also, beginning in FY 2014-15 and each subsequent fiscal year, the bill would require the Legislature to appropriate an amount equal to the necessary expenses incurred by the LCSA and the Department in implementing the Act.

In FY 2014-15 and FY 2015-16, the LCSA would have to distribute to municipalities the funds appropriated for debt loss. If the Authority were not able to make this distribution in FY 2014-15, however, the Department would have to make the distribution on behalf of the LCSA.

Beginning in 2015-16, the LCSA would have to distribute local community stabilization share (local use tax) revenue as described below and in the following order of priority:

A. The LCSA would have to distribute to each municipality an amount equal to all of the following:

  1. 100% of the municipality's school debt loss in the current year and 100% of its amount calculated by the Department under Section 15 (which applies to calculations for school districts).
  2. 100% of the municipality's amount calculated by the Department under Section 16 (which applies to calculations for ISDs).
  3. 100% of the municipality's school operating loss not reimbursed by the School Aid Fund.
  4. 100% of the amount calculated in Section 14(2) (which applies to a county, township, village, city, or authority that provides essential services), which would have to be used to fund essential services.
  5. For a TIFA, 100% of the amount under Section 16a(2) (which applies to the calculation for increment finance authorities).
  6. 100% of the municipality's amount calculated under Section 14(4) (which applies to a municipality that is not a local school district, ISD, or TIFA).

B. Beginning in FY 2019-20, after the distributions listed above, the LCSA would have to distribute 5% of the remaining balance in the Local Community Stabilization Share Fund for the current fiscal year to each municipality that is not a local school district, ISD, or TIFA, in an amount determined according to calculations set forth in the bill. For FY 2020-21 and each subsequent fiscal year, the percentage amount would have to be increased by an additional 5% each year, not to exceed 100%.

C. After the distributions in A. and B., the LCSA would have to distribute the remaining balance of that fiscal year's Local Community Stabilization Share Fund to each municipality in the amount determined by multiplying the balance by a fraction representing the municipality's qualified loss in proportion to total qualified loss.

("Qualified loss" would mean the amounts calculated under Sections 14(1) and 14(3) that are not distributed to the municipality under Section 17(3)(a). Sections 14(1) and 14(3) prescribe the calculation of losses for municipalities other than school districts, ISDs, and TIFAs, and for municipalities that are cities, respectively. Section 17(3)(a) is shown as item A. above. "Total qualified loss" would mean the amount of qualified losses of all municipalities, as determined by the Department.)

The LCSA would have to make these payments by the following dates:

-- For county allocated millage, September 20 of the year the millage was levied.
-- For county extra-voted millage, township millage, and other millage levied 100% in December of a year, February 20 of the following year.
-- For other millages, October 20 of the year the millage was levied.

If the LCSA had insufficient funds to make the payments on the required dates, the Department would have to advance the Authority the amount necessary to make the payments. The LCSA would have to repay the Department from the Local Community Stabilization Share.

Beginning in FY 2015-16 and in each subsequent fiscal year, the Department would have to determine the amount of the distributions under the LCSA Act. Each municipality would have to submit to the Department sufficient information for it to make its calculations, as determined by the Department.

<u>Essential Services Obligations</u>

The bill would allow a local unit of government to issue bonds or other obligations in anticipation of the distribution of local use tax revenue for essential services. These bonds or other obligations would be subject to the Revised Municipal Finance Act. If authorized by its electors, the local unit could pledge its full faith and credit for the payment of the bonds or other obligations.

From the amount of local use tax revenue distributed for essential services, a municipality first would have to replace the amount of ad valorem property taxes used for the payment of principal and interest of essential services obligations incurred before 2013 pledging the taxing power of the municipality, that were lost from the exemptions under Sections 9m, 9n, and 9o of the GPTA. A municipality could not receive a distribution of local use tax revenue for essential services if it had increased a millage rate without voter approval in order to replace lost property taxes that otherwise would be reimbursed for essential services under the bill, that were repaying essential service obligations incurred before 2013 pledging the municipality's taxing power and that were lost as a result of the exemptions under Sections 9m, 9n, and 9o.

Debt Loss Replacement

From the amount received from local use tax revenue, a municipality first would have to replace debt loss or school debt loss, as applicable. A municipality could not receive a distribution under the LCSA Act if it had increased its millage rate without voter approval to replace debt loss or school debt loss that otherwise would be reimbursed under the Act.

Senate Bill 822 (H-1)

The Use Tax Act levies a tax on a person purchasing nonexempt personal property or services. The rate of the tax is 6% of the purchase price. Public Act 408 of 2012 amended the Act (subject to voter approval in the August 2014 election) to provide that the use tax consists of the "state component tax" and a local use tax, called the "metropolitan areas component tax". The local use tax may generate a specified amount of revenue annually, which determines the rate of the local use tax; the rate of the State component tax is determined by subtracting the local rate from 6%.

The bill would amend the provisions enacted by Public Act 408 of 2012 to do the following:

-- Replace the metropolitan areas component tax with the "local community stabilization share tax", and replace the "state component tax" with the "state share tax".
-- Retain a requirement that the local use tax rate be based on the amount of revenue that it may generate each year, but raise the scheduled annual increases between FY 2015-16 and FY 2022-23, and extend annual increases to FY 2027-28, as shown in Table 4.

Table 4

Community Stabilization Share Tax Revenue		
Fiscal year	**Current**	**Proposed**
2015-16	$41.7 million	$96.1 million
2016-17	$257.5 million	$380.6 million
2017-18	$277.1 million	$410.5 million
2018-19	$293.8 million	$437.7 million
2019-20	$311.3 million	$465.9 million
2020-21	$326.8 million	$491.5 million
2021-22	$345.2 million	$521.3 million
2022-23	$362.4 million	$548.0 million
2023-24		$561.7 million
2024-25		$569.8 million
2025-26		$571.4 million
2026-27		$572.2 million
2027-28		$572.6 million

Under Public Act 408, for FY 2023-24 and each subsequent fiscal year, the local use tax rate is to be the rate sufficient to generate the amount distributed in the preceding year adjusted by an industrial and commercial personal property growth factor, as calculated by the Department of Treasury. The bill would retain this requirement for the rate beginning in FY 2028-29.

As required by Public Act 408, from the money received and collected for the State share, 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 Sections 9m, 9n, and 9o of the General Property Tax Act, as determined by the Department of Treasury, would have to be deposited into the State School Aid Fund. The funds deposited would not include the portion of the State share of the use tax imposed at the additional rate of 2% approved by the voters in 1994 and dedicated for aid to schools under the Use Tax Act.

Senate Bill 823 (H-1)

Property in Eligible Local Assessing District

Section 9f of the General Property Tax Act allows an exemption, pursuant to a local resolution, for new personal property that is owned or leased by an eligible business in an eligible local assessing district. Under Section 9f(8), if the property is eligible manufacturing personal property and was exempt on December 31, 2012, it is to remain exempt until it otherwise would be exempt under Section 9m, 9n, or 9o of the Act, unless Public Act 408 is not approved by a majority of the qualified electors voting on the question at the August 2014 regular election.

Under the bill, the exemption would be discontinued if either Public Act 408 or Senate Bill 822 were presented to the electors and the measure presented were not approved by a majority of qualified electors voting on the question.

Qualified New Personal Property; Utility Property Exclusion

Under Section 9m, exempt property must be located on occupied real property that is predominantly used in industrial processing or direct integrated support. The GPTA specifies that personal property is used in industrial processing if it is not used to generate electricity for sale (and it meets other criteria). Under the bill, the property could not be used to generate, transmit, or distribute electricity for sale, and could not be utility personal property as described in Section 34c(3)(e) of the Act. The bill also provides that utility personal property described in that section would not be used in direct integrated support.

(Section 34c(3) describes classifications of assessable personal property, and subdivision (e) describes what utility personal property includes.)

The bill states a legislative intent that the exclusion of generation, transmission, or distribution of electricity for sale from the definition of "industrial processing" not affect any other provision of Michigan law or affect the Michigan Court of Appeals decision in *Detroit Edison Co.* v *Department of Treasury* (Docket No. 309732).

The bill also would define the term "original cost", which is used in the calculation to determine whether personal property on occupied real property is predominately used in industrial processing or direct integrated support.

Section 9m & 9n Affidavits

In order to claim an exemption under Section 9m or 9n, a person must file an affidavit with the local tax collecting unit where the qualified new personal property or the qualified previously existing personal property is located. The bill would require the local tax collecting unit to transmit the affidavits filed under Sections 9m and 9n, or the information contained in the affidavits, to the Department of Treasury in the manner prescribed by the Department.

Personal Property Statements

Under the Act, except as otherwise provided in Section 9m, 9n, or 9o, a supervisor or assessing officer must require any person to make a statement of all personal property of that person, if the supervisor or officer believes that the person is in possession of personal property. The statement must be delivered to the assessor by February 20 each year. For

2015, a statement of personal property must include a schedule of when any personal property included in the statement will become eligible for exemption under Section 9m or 9n.

Under the bill, for 2015 statements that identified personal property eligible for exemption under Section 9m or 9n, a supervisor or assessor would have to give the Department of Treasury a copy of the statement, or the information on it. The Department's use of the statement or information would be subject to Section 28(1)(f) of the revenue Act (which limits the disclosure of tax information by Department employees or representatives).

Reporting Requirements

The bill would require each city and village, by June 5, 2014, to report to the county treasurer the 2013 and 2014 taxable value of commercial personal property and industrial personal property for each municipality in the city or township, as well as each municipality's small taxpayer exemption loss. By June 20, 2014, each county equalization director would have to report that information to the Department of Treasury. By August 15, 2014, each municipality would have to report to the Department the millage rate levied or to be levied for a millage described in the definition of debt loss or school debt loss. For 2014, the rate of that millage would have to be calculated using the sum of the taxable value of the municipality and its small taxpayer exemption loss. The Department would have to calculate each municipality's debt loss or school debt loss by multiplying the municipality's reported millage rate by the municipality's small taxpayer exemption loss.

Also, the assessor for each city and township would have to transmit to the Department information from the affidavits filed under Sections 9m and 9n.

Senate Bill 824

The bill would amend the Metropolitan Extension Telecommunications Rights-of-Way Oversight (METRO) Act to transfer the responsibilities of the METRO Authority to the proposed Local Community Stabilization Authority (instead of to the Metropolitan Areas Metropolitan Authority).

The bill also would authorize the LCSA to contract with the Department of Licensing and Regulatory Affairs for one or more employees of the Department to assist in exercising the powers, duties, functions, and responsibilities vested in the Authority under the Act.

Senate Bill 825

The bill would amend an enacting section of Public Act 408 of 2012 to require that the Act not be submitted to the voters at the August 2014 election if Senate Bill 822 were enacted and placed on the ballot, and require Public Act 408 to be submitted to the voters (as currently required) if Senate Bill 822 were not enacted.

Senate Bills 826 (H-1), 827 (H-1), and 828 (H-1)

Enacting sections of Public Acts 401, 402, and 403 of 2012 provide for the repeal of Sections 9m, 9o, and 9n, respectively, of the General Property Tax Act if Public Act 408 of 2012 is not approved by a majority of the electors voting on the question at the August 2014 regular election.

Senate Bills 826 (H-1), 827 (H-1), and 828 (H-1) would amend those enacting sections to provide for the repeal of Sections 9m, 9o, and 9n, respectively, if either Public Act 408 or Senate Bill 822 were presented to the electors at the August election and the measure presented were not approved by a majority of the electors voting on the question.

Senate Bill 829 (H-1)

The bill would enact the "State Essential Services Assessment Act" to do the following:

-- Beginning January 1, 2016, levy the "state essential services assessment", which would be a State specific tax on eligible personal property owned by, leased to, or in the possession of an eligible claimant (a person claiming an exemption for the property).
-- Require revenue from the assessment to be credited to the General Fund.
-- Provide for a penalty to be imposed on delinquent assessments.
-- Require an exemption to be rescinded for an assessment year if an eligible claimant did not fully pay the assessment and any penalty by the deadline.
-- Allow the Michigan Strategic Fund board to exempt eligible personal property from the assessment, if an eligible claimant had a plan to invest at least $25.0 million in additional eligible personal property in the State.
-- Require the Legislature to appropriate funds equal to the necessary expenses incurred by the Department of Treasury in implementing the Act, beginning in FY 2014-15 and in each subsequent fiscal year.

Assessment Levy

The assessment amount would be calculated by multiplying the property's acquisition cost (as defined in the bill) by the following:

-- 2.4 mills for property acquired by the eligible claimant in a year one to five years before the assessment year (the year in which the assessment levied would be due).
-- 1.25 mills for property acquired by the eligible claimant in a year six to 10 years before the assessment year.
-- 0.9 mill for property acquired by the eligible claimant in a year more than 10 years before the assessment year.

"Eligible personal property" would mean all of the following:

-- Personal property exempt under Section 9m or 9n of the GPTA.
-- Personal property exempt under Section 9f of the GPTA, if the exemption was approved after 2013, unless the application for the exemption was filed with the eligible local assessing district or Next Michigan Development Corporation before August 5, 2014, and the resolution approving the exemption stated that the project was expected to have total new personal property of over $25.0 million within five years.
-- Personal property subject to an extended exemption under Section 9f(8) of the GPTA.
-- Personal property subject to an extended industrial facilities exemption certificate under Section 11a of Public Act 198 of 1974.

(Regarding the last category, if a facility was subject to an industrial facilities exemption certificate on December 31, 2012, the portion of the facility that is eligible manufacturing personal property remains subject to the tax levied under Public Act 198 and exempt from the property tax until it would otherwise be exempt under Section 9m, 9n, or 9o.)

Payment; Rescission

By May 1 in each assessment year, the Department of Treasury would have to make available in electronic form to each eligible claimant a statement for calculation of the assessment. By September 15 in each assessment year, each eligible claimant would have to submit electronically to the Department a completed statement for calculation of the assessment and full payment of the assessment. The Department could waive or delay the electronic filing requirement at its discretion. The statement would have to include all of the claimant's eligible personal property located in the State subject to the assessment and, beginning in 2019, specify the location of the property on December 31 of the preceding year.

If a claimant failed to submit the statement and full payment of the assessment by September 15, the Department would have to issue a notice to the claimant by October 15. By November 1, the claimant would have to submit payment in full and a penalty of 1.0% per week on the unpaid balance for each week payment was not made, up to a maximum of 5.0% of the total amount due and unpaid. For a claimant's first assessment year, the penalty would have to be waived if the claimant submitted the statement and payment within seven business days of September 15.

If an eligible claimant did not submit payment in full and any penalty due by November 1, the State Tax Commission would have to direct the assessor to rescind for the assessment year an exemption under Section 9m or 9n or the GPTA, or the Commission would have to rescind for the assessment year an exemption under Section 9f of the GPTA that was approved after 2013, an exemption for eligible personal property subject to an extended industrial facilities exemption certificate under Section 11a of Public Act 198 of 1974, or an extended exemption for eligible personal property under Section 9f(8)(a) of the GPTA. In addition, the claimant would have to file a personal property tax statement with the assessor by November 10 for all property for which the exemption had been rescinded.

Appeal

An eligible claimant could appeal an assessment or a penalty or rescission to the State Tax Commission by filing a petition by December 31 in the tax year. The Department also could appeal to the Commission by filing a petition for the current calendar year and the three preceding years. The Commission would have to decide the appeal based on the petition and recommendations of Commission staff as well as any other relevant information. The Department or eligible claimant could appeal the Commission's decision to the Michigan Tax Tribunal.

Exemption

The board of the Michigan Strategic Fund could adopt a resolution to exempt from the assessment all eligible personal property designated in the resolution that was owned by, leased to, or in the possession of an eligible claimant. In the resolution, the Fund board could determine that the designated property would be subject to the alternative State essential services assessment. The resolution could not be approved if the State Treasurer, or his or her designee to the board, voted against it. An exemption would continue in effect for a period specified in the resolution.

An eligible claimant, or a Next Michigan Development Corporation on behalf of an eligible claimant, could apply for an exemption to the assessment. After receiving an application, the Fund could enter into an agreement with an eligible claimant if the claimant agreed to make certain investments of eligible personal property in this State. An eligible claimant would have to present a business plan or demonstrate that a minimum of $25.0 million would be invested in additional eligible personal property in the State during the period of the agreement. The Fund board would have to consider specified criteria to the extent reasonably applicable to the type of investment proposed, when approving an exemption.

The Fund board, or the Michigan Economic Development Corporation, could charge actual and reasonable fees for costs associated with administering the activities authorized under these provisions.

Access to Records

A person that filed a statement for calculating the assessment would have to provide access to the books and records related to the description, date of purchase, lease, or acquisition, and purchase price, lease amount, or value of all industrial personal property and commercial personal property owned by, leased by, or in the possession of that person or a related entity, if requested by the local assessor, county equalization department, or Department of Treasury, for the year in which the statement was filed and the previous three years.

Legislative Declaration & Intent

The bill contains a statement that, in furtherance of declared objectives, "[T]he legislature has reduced the state use tax…and replaced the portion reduced with a use tax levied by the local community stabilization authority on behalf of local units of government…to provide more stable funding for local units of government than exists today. It is the intent of the legislature to offset the fiscal impact on the state general fund resulting from the reduction of the state use tax with new revenue generated by the assessment levied under this act and with new revenue resulting from the expiration of over $630,000,000.00 in expiring refundable tax credits that were awarded to individual businesses under tax laws enacted by past legislatures."

Repeal

The bill would repeal the Local Unit of Government Essential Services Special Assessment Act. (The Act, subject to voter approval of Public Act 408 of 2012, authorizes a local unit of government, beginning January 1, 2016, to levy a special assessment on each parcel of industrial real property and commercial real property in the local unit, to defray the cost of essential services equipment, maintenance of the equipment, and the provision of essential services, i.e., ambulance, fire, and police services, and jail operations.)

Senate Bill 830 (H-1)

The bill would enact the "Alternative State Essential Services Assessment Act" to:

-- Impose the "alternative state essential services assessment", beginning January 1, 2016, on eligible personal property exempt from the levy imposed by the State Essential Services Assessment Act.
-- Provide for the alternative assessment to be 50% of the State essential services assessment.
-- Require revenue from the alternative assessment to be credited to the General Fund.

The bill contains generally the same provisions as in Senate Bill 829 (H-1) regarding the following:

-- The electronic submission of a statement and full payment of the assessment by September 15.
-- The inclusion in the statement of all eligible personal property in the State and, beginning in 2019, its location.
-- The consequences of failure to submit the statement and payment on time, including recession of the exemption.
-- An appeal to the State Tax Commission.
-- Access to books and records.
-- The appropriation of funds to the Department.
-- Legislative declarations.

MCL 205.93 et al. (S.B. 822)
211.9f et al. (S.B. 823)
484.3102 & 484.3103 (S.B. 824)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 821 (H-1) would increase expenses to the Department of Treasury, the Local Community Stabilization Authority (LCSA) that would be created by the bill, and local units of government, by an unknown amount. The bill also would provide for the redistribution of revenue collected under Senate Bill 822 (H-1), as well as other revenue appropriated during FY 2014-15 and FY 2015-16, to local units of government.

During FY 2014-15 and FY 2015-16, revenue distributed by the LCSA would equal either a local unit's debt loss or, in the case of a tax increment finance authority (TIFA), the small taxpayer loss. Beginning in FY 2015-16, revenue would be distributed to local units in a specified priority: 1) school debt loss, 2) losses to intermediate school districts, 3) school district losses not reimbursed by increased payments from the School Aid Fund, 4) losses associated with the provision of essential services, 5) losses to TIFAs, 6) losses associated with the exemption of small parcels under Public Act 402 of 2012, and 7) all other reimbursements.

The last category of reimbursements would begin in FY 2015-16 and would be distributed through a formula. Initially, reimbursements would be proportional to each local unit's share of total qualified losses. Beginning in FY 2019-20, 5% of the revenue would be distributed proportionally based on the acquisition cost of exempt personal property located in a municipality other than a local school district, intermediate school district (ISD), or TIFA. The 5% portion would increase in 5% increments in each subsequent year. By FY 2038-39, all revenue in the last category of reimbursements would be distributed based on the acquisition cost of exempt personal property located in the local unit.

In aggregate, the revenue redistributed to local units of government would be the same as the estimated losses local units are expected to experience. However, given the nature of the distribution formulas, many local units would likely receive a reimbursement that would differ from their actual loss. In some cases, individual local units could receive a reimbursement greater than the revenue lost as a result of the exemptions, while other units could receive less. Certain losses, such as those associated with school debt, local school districts, ISDs, and certain tax increment finance authority losses, would be reimbursed first and would be 100% reimbursed. Losses associated with essential services also would be reimbursed at 100%, as would losses associated with small parcels exempt under the provisions of Public Act 402 of 2012. Table A, attached, presents a summary of the reimbursement provisions.

As indicated above, losses not reimbursed at a 100% rate would be reimbursed through a combination of two formulas, the first of which would gradually be phased out over a 20-year period. Losses reimbursed under the formulas would generally not provide 100% reimbursement to individual local units, particularly once the second formula was fully phased in. The first formula would reimburse local units for their 100% losses only to the extent that the use tax amounts specified in Senate Bill 822 (H-1) (that would be directed to the LCSA for reimbursement) correctly predicted losses. However, the second formula would create shifts in reimbursements, primarily because, while the basis of the first formula would be the current-year taxable value in each local unit relative to the value in 2013, the basis of the second formula only would examine the acquisition cost of exempt property in the current year. Therefore, the second formula would shift from taxable value measures to acquisition cost as well as eliminate the comparison to 2013, when there was no exemption.

Furthermore, the second formula also would provide reimbursements for revenue foregone, rather than just actual losses. For example, under the second formula, if a new facility were constructed in a local unit, it would increase that local unit's share of the reimbursement although the loss of revenue would represent revenue forgone, rather than a loss relative to current revenue. In this example, the acquisition cost of exempt property would increase in the local unit relative to other local units. Because the amount of total reimbursement would be fixed, such increases would shift reimbursements away from local units with more stagnant growth in personal property acquisition to local units where new property was being purchased. For example, between 2011 and 2013 investments in Dundee Township in Monroe County and York Township in Washtenaw County have increased those units' share of total personal property in Michigan, while slower-than-average increases in personal property in the City of Grand Rapids and the City of Sterling Heights have resulted in declining shares of the State's total personal property. If these changes were to occur during FY 2019-20, and all of the reimbursement amounts were distributed through the second formula, the shifts would result in reimbursements to Grand Rapids falling $0.9 million and those to Sterling falling $2.6 million, while reimbursements to Dundee Township and York Township each would increase $0.3 million.

Between 2011 and 2013, the taxable value of industrial personal property in Michigan increased 24.0%. Many of the investments behind that increase in total industrial personal property reflect investments in electricity generation and/or have occurred in renaissance zones and thus reflect investments (and potential revenue or reimbursements) that would not be affected by the bills. Property located in a renaissance zone would affect reimbursements once the authorization for the zone ended. As a result, renaissance zone expirations also could be a source of significant changes in the distribution of reimbursement revenue under the second formula. For example, investments over the last two years in renaissance zones in Detroit and Holland could, once the zones expired, alter the City of Detroit's and City of Holland's shares of losses by approximately 3.3 and 0.4 percentage points, respectively. Based on the aggregate revenue to be redistributed in FY 2027-28, if it were all distributed under the second formula, reimbursements to the City of Detroit would increase by approximately $18.8 million, and those to the City of Holland would increase by $2.5 million, with distributions to most other local units correspondingly reduced according to the formula. Generally speaking, under the second formula the share of reimbursements received would increase for local units in which the value of personal property rises more rapidly than the State average, whether the increase is due to greater investment or such factors as the expiration of tax exemptions or renaissance zones, and would fall for local units that grow at less than the State average.

Another reason that reimbursements under the second formula would generally not equal losses is differences between the treatment of acquisition cost under the bills and current depreciation tables for personal property. In some cases, such as computer equipment, losses may be reimbursed by more than 100% because, under current law, a four-year-old personal computer would be assessed at approximately 24% of the acquisition cost, while under the bills a local unit would be reimbursed as if the assessment were 100% of the acquisition cost. In most cases, the definition of acquisition cost would provide a higher level of value than current multiplier tables used to assess personal property, meaning that the second distribution formula would shift reimbursements toward local units with newer personal property at the expense of local units with predominantly older personal property.

Compared to Senate Bill 821 (S-1), as passed by the Senate, reimbursements under Senate Bill 821 (H-1) would more closely approximate losses because the reimbursements would be based on factors related to the property exempted by Public Acts 401, 402, and 403 of 2012, rather than the value of real industrial property within a local unit. While the actual magnitude by which reimbursements would differ from actual losses for specific local units is unknown, the differences would be less than those under the versions of the bills as passed the Senate.

Some reimbursable losses would not be reimbursed until several years after the local unit experienced the losses. For example, non-debt mill losses attributable to the small parcel exemption created in Public Act 402 of 2012 would begin during FY 2013-14. However, reimbursements for the losses experienced in tax years 2014 and 2015 would not be reimbursed until after August 15, 2016, and only cities would receive reimbursements for such losses. In some cases, the timing of revenue replacement appears ambiguous. For example, Senate Bill 822 (H-1) indicates that the State would have to redirect from its portion of the 4% use tax rate, an amount to compensate the School Aid Fund for increased expenditures associated with local school district reductions in operating revenue. The bill would not be effective until January 1, 2015, and it is unclear to what extent the language would require losses incurred during calendar year 2014 to be reimbursed.

Based on estimates from the Michigan Department of Treasury, debt loss reimbursements under the bill are estimated to total $19.3 million both in FY 2014-15 and in FY 2015-16.

Senate Bill 822 (H-1) would increase local unit revenue and lower State revenue by an equal amount by directing a portion of revenue currently collected by the State to revenue that would be received by the LCSA. Based on estimates from the Department, the bill would increase local unit revenue (reduce State use tax revenue) by approximately $76.9 million in FY 2015-16. The revenue increase (loss) would grow to $380.6 million in FY 2016-17 and continue growing approximately $30.0 million per year through FY 2023-24. By FY 2023-24, the increased local unit revenue (and decreased State revenue) would total approximately $561.7 million. The revenue impact would continue to increase, but at a slower rate, finally stabilizing at 1.0% annual growth for an FY 2027-28 revenue impact of $572.6 million.

The revenue increases to local units (and revenue losses to the State) under Senate Bill 822 (H-1) are specified in statute. While one-third of the current 6% State use tax rate is directed to the School Aid Fund, with the remainder deposited into the General Fund, the bill would require that all of the reduced revenue to the State lower the revenue to the General Fund. The bill also would require any local school district operating mills or State Education Tax revenue lost as a result of Public Acts 401, 402, or 403 of 2012 be replaced from the State's share of use tax revenue that would otherwise be deposited into the General Fund. Those losses are estimated to total $19.9 million in FY 2014-15, and increase to $30.9 million in FY 2015-16, and $42.0 million in FY 2016-17. By FY 2027-28, local school operating and State Education Tax losses are estimated to total $47.1 million. As a result, the total loss of General Fund revenue under the bill would increase from $107.8 million in FY 2015-16 to $422.6 million in FY 2016-17 and continue to rise, reaching $619.7 million in FY 2027-28.

Senate Bill 823 (H-1) would have an indeterminate and likely minimal impact on State and local property tax revenue. The bill also would increase local unit expenses by an indeterminate amount by increasing reporting requirements.

Senate Bill 824 would have no fiscal impact. The changes are substantively the same as those in Public Act 404 of 2012, except that the name of the authority would be altered.

Senate Bill 825 would have no fiscal impact independent of the other bills. The bill would eliminate the current ballot issue regarding the changes in the Use Tax Act adopted in Public Act 408 of 2012 if Senate Bill 822 (H-1) were enacted, replacing it with a similar ballot issue.

Senate Bills 826 (H-1), 827 (H-1), and 828 (H-1) also would have no fiscal impact independent of the other bills. The amended sections affect the circumstances under which certain sections of statute may be repealed. The changes would expand the circumstances to reflect the possible enactment of Senate Bill 822 (H-1).

Senate Bill 829 (H-1) would increase State revenue by levying an assessment on exempt eligible manufacturing personal property. Under certain circumstances, property could be exempted from the assessment. The applicable tax rate would decline, based on how long the taxpayer had owned the property, and would be assessed based on the acquisition cost of the property. The applicable tax rate would decline from 2.4 mills during the first five years the taxpayer owned the property, to 1.25 mills for the next five years, and to 0.9 mill in all later years.

Senate Bill 830 (H-1) would provide an alternative assessment for property exempt from the assessment levied under Senate Bill 829 (H-1). The tax rates on affected property would be 50% of those levied under Senate Bill 829 (H-1).

The assessments under Senate Bills 829 (H-1) and 830 (H-1) would not be levied until January 1, 2016, and would generate approximately $20.0 million in FY 2015-16 and $73.1 million in FY 2016-17. The revenue generated by the assessments would increase, reaching an estimated $117.5 million in FY 2027-28. Revenue from the assessments would be directed to the General Fund.

Senate Bill 829 (H-1) would exclude certain property from the definition of property subject to the assessment. Excluded property would be property related to NEXT Michigan businesses and other entities exempt under Section 9f of the General Property Tax Act that met certain requirements, most notably that the property would be part of a project for which the application was filed before August 5, 2014, and the project involved the addition of at least $25 million in new personal property over a five-year period.

Senate Bill 829 (H-1) also would exempt property from the assessment provided for in the bill, and also could exempt property from the alternative assessment provided for in Senate Bill 830 (H-1). Property exempted from the assessment or alternative assessment would be specified in a resolution adopted by the Michigan Strategic Fund board and the affected taxpayer would need to present a business plan that included investments in new eligible personal property of at least $25 million over the course of an agreement. The language in the bill would appear to allow the exemption to apply to any property listed in the resolution and would not limit the exemption to just the new property under the eligibility requirements. While the bill would provide for clawback provisions if an agreement were not met, few conditions would have to be placed upon agreements beyond the acquisition of $25 million in eligible personal property. Agreements would not be limited in the number of years they could cover or the types of investments that would have to be undertaken, and there would be no limit on the number of agreements and exemptions that could be approved.

Because of the open-ended nature of the exemptions and exclusions that would be available under Senate Bill 829 (H-1), it is likely the estimates for revenue under the essential services assessment and alternative assessment are subject to a high degree of uncertainty. Effectively, large taxpayers would be able to exempt substantial property from the assessments and there is no way to accurately forecast the amount of property that would be exempted or excluded from the assessments.

Senate Bill 821 (H-1), and Senate Bills 823 (H-1) through 830 (H-1), are, in effect, tie-barred to Senate Bill 822 (H-1), which would place the question of creating the local use tax before the voters in the August 2014 election. If Senate Bill 822 (H-1) were not enacted and approved by the voters, the bills would have no impact.

The bills generally would amend provisions enacted in 2012, which were estimated to affect State and local unit revenue beginning in FY 2013-14. For example, the increases in local unit revenue and decreases in State revenue in Senate Bill 822 (H-1) are substantively similar to provisions already enacted in 2012. As a result, the impact of the bills relative to current law is much less than the impact of the bills relative to historical revenue flows or absent the 2012 legislation. Compared to the 2012 legislation (which is current law, assuming approval of the ballot question in some cases), and based on estimates from the Department of Treasury, the bills would reduce State General Fund revenue by $34.4 million in FY 2015-16 and $44.9 million in FY 2016-17. The losses would increase in later years, reaching $76.1 million in FY 2022-23 and $81.9 million in FY 2027-28. For local units, the bills would increase local unit revenue compared to the 2012 legislation, but leave local unit revenue relatively unchanged compared to revenue before the provisions of the 2012 public acts take effect. Compared to current law, the bills would provide local units with approximately $19.3 million more revenue in FY 2014-15, $45.1 million more in FY 2015-16, and $21.1 million more in FY 2016-17. After FY 2016-17, the increase in revenue relative to current law would increase, reaching $88.2 million in FY 2022-23 and $111.0 million in FY 2027-28.

Table B, attached, shows the fiscal impact of select aspects of the bills.

Fiscal Analyst: David Zin

Table A

Reimbursements under Senate Bills 821 (H-1) through 830 (H-1) (As Passed by the House)				
Losses Attributable to	**Percent Reimbursed**	**Calendar Year Losses Begin**	**Fiscal Year Reimbursements Begin**	**First Calendar Year of Losses Reimbursed**
LOSSES NOT DISTRIBUTED BY FORMULA				
Local School District Mills				
School Operating Mills reimbursed by School Aid Formula	100%	2014	2015	2014
School Operating Mills not reimbursed by the School Aid Fund (hold-harmless mills and out-of-formula districts)..............	100%	2014	2016	2016
School Debt Mills	100%	2014	2015	2014
Sinking Fund and Recreation Mills	100%	2014	2016	2016
Intermediate School District (ISD) Mills				
ISD Debt Mills	100%	2014	2015	2014
Other ISD Mills...	100%	2014	2016	2016
Losses to Tax Increment Financing Authorities (TIFAs).............	100%	2014	2015	2014
Other Municipalities (not local school districts, ISDs, or TIFAs) ...				
Losses associated with Essential Services	100%	2014	2016	2016
Losses attributable to small parcels (PA 402 of 2012), 2016 and later	100%	2014	2016	2016
LOSSES DISTRIBUTED BY FORMULA				
Proportional Loss Formula (Begins in FY 2015-16, Phase-out Starts in FY 2019-20)				
Losses attributable to small parcels (PA 402 of 2012)				
Losses in 2014 and 2015 (cities only)	Est. 100%*	2014	2016	2014
Losses in 2014 and 2015 (other local units).........................	0%	2014	Not Reimbursed	
All Losses not listed above	Est. 100%*	2016	2016	2016
Acquisition Cost Formula (Begins Phase-in in FY 2019-20)				
All Losses not listed above	Varies	2016	2016	2016

Note: Amount available for distribution equals 100% of estimated losses from distribution. If the estimate is correct, the formula would reimburse 100% of losses. If the amount available exceeds actual losses, units would receive greater than 100% reimbursement, while if the estimate is less than actual losses, units would receive less than 100% reimbursement. Any shortfall/excess would be distributed such that all local units would receive an equal percentage shortfall/excess from the actual losses (e.g., all local units would receive 98% of the actual losses if the total available for reimbursement were 98% of total losses, and 103% of actual losses if the total available for reimbursement were 103% of total losses).

Table B

Estimated Impact of Senate Bills 821 (H-1) through 830 (H-1) - As Passed by the House
(Dollar Amounts in Million)

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	---	FY 2022-23	---	FY 2027-28
Revenue Loss from Exemptions (Current Law)									
Total Local Unit Loss	$0.0	($19.3)	($96.2)	($372.3)	($400.7)	...	($531.9)	...	($556.2)
SET/School Operating Loss	($9.9)	($19.9)	($30.9)	($42.0)	($42.4)	...	($44.7)	...	($47.1)
Total Loss	($9.9)	($39.2)	($127.1)	($414.3)	($443.1)	...	($576.6)	...	($603.3)
State Budget Impact									
Revenue Losses									
Local Unit Reimbursements	$0.0	($19.3)	($115.4)	($380.6)	($410.5)	...	($548.0)	...	($572.6)
School Aid Fund Reimbursement	($9.9)	($19.9)	($30.9)	($42.0)	($42.4)	...	($44.7)	...	($47.1)
Total Losses	($9.9)	($39.2)	($146.3)	($422.6)	($452.9)	...	($592.7)	...	($619.7)
State Essential Services Assessment	$0.0	$0.0	$20.0	$73.1	$79.2	...	$109.6	...	$117.5
Net State Impact (General Fund)	**($9.9)**	**($39.2)**	**($126.3)**	**($349.5)**	**($373.7)**	**...**	**($483.1)**	**...**	**($502.2)**
Addendum: Change from Current Law									
Local Unit Revenue	$0.0	$19.3	$45.1	$21.1	$32.7	...	$88.2	...	$111.0
State Budget Impact	$0.0	$0.0	($34.4)	($49.9)	($54.2)	...	($76.1)	...	($81.9)

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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.