



Senate Fiscal Agency  
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## BILL ANALYSIS



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Senate Bill 1038 (Substitute S-2 as reported by the Committee of the Whole)  
Senate Bill 1039 (Substitute S-2 as reported by the Committee of the Whole)  
Senate Bill 1040 (Substitute S-1 as reported)  
Sponsor: Senator Bruce Caswell  
Committee: Finance

**CONTENT**

Senate Bill 1038 (S-2) would amend the General Property Tax Act to do the following:

- Allow a person to appeal certain decisions, including the denial of a principal residence exemption (PRE), to the Tax Tribunal within 60, rather than 35, days after the decision.
- Allow a person to appeal to the Tax Tribunal, rather than the board of review, if a PRE or a qualified agricultural property exemption did not appear on the tax roll.
- Allow a person to appeal an assessor's decision regarding a qualified agricultural property exemption to the Tax Tribunal, rather than the board of review.
- Revise the time frame for a poverty exemption or disabled veteran exemption dispute to be filed with the board of review; and require the board, if it approved the exemption, to remove the property from the tax roll.
- Permit classification disputes concerning commercial, industrial, or developmental real property to be protested before the board of review *or* appealed directly to the State Tax Commission (STC).
- Allow a property owner or assessor to appeal an STC decision concerning real property classification to the Tax Tribunal.
- Allow a property owner or assessor to appeal the Tribunal's decision to the Court of Appeals.
- Allow classification disputes to be protested or appealed for the current year only.
- Require qualified errors to be submitted to the STC, rather than the board of review, for approval; allow the STC's decision to be appealed to the Tax Tribunal.
- Allow qualified errors concerning certain personal property tax exemptions to be corrected only for the current year, and allow all other qualified errors to be corrected for the current year and three preceding years.
- Provide that an error made by an assessor in classifying property would be a qualified error if the assessor acknowledged the error on a form prescribed by the STC.
- Require the STC to place a corrected assessment value on the assessment roll if property were incorrectly reported or omitted for the current tax year and up to three (rather than two) preceding tax years.
- Permit the STC, rather than the board of review, to adjust the taxable value of property in the case of a qualified error.
- Allow a local tax collecting unit, in addition to a person assessed, to appeal an STC order to the Tax Tribunal.
- Provide that a township or city assessor would not be eligible to serve on a board of review.
- Require a notice from an assessor regarding tentative State equalized valuation or taxable value to include his or her phone number and a statement that the property owner could meet with the assessor.

Senate Bill 1039 (S-2) would amend the Tax Tribunal Act to do the following:

- Allow the Governor, for cause and after notice and hearing, to remove a Tax Tribunal member he or she appointed; and allow the Governor to remove a member appointed by a previous Governor as provided in the State Constitution.
- Require members to undergo annual training in proper courtroom procedure.
- Require disputes regarding the poverty exemption or the disabled veteran exemption to be presented first to the board of review.
- Require disputes regarding qualified errors to be presented to the STC.
- Require disputes regarding qualified agricultural property to be appealed to the Tax Tribunal.
- Allow a taxpayer to protest before the board of review or appeal to the STC in a dispute regarding the classification of commercial, industrial, or developmental real property.
- Require other classification disputes to be protested before the board of review and the STC as provided in the General Property Tax Act.
- Revise requirements to invoke the jurisdiction of the Tribunal.
- Require a petition to be filed with the Tribunal within 60 days, rather than 35 days, after a final decision, ruling, or determination, as a rule.
- Make an exception to the requirement that the Tribunal issue a subpoena upon request, if the request were unreasonable or oppressive.

The bill also would increase the maximum amount of disputes concerning nonresidential property and taxes other than property taxes that may be appealed to the Residential Property and Small Claims Division of the Tribunal. The Division has jurisdiction over proceedings involving the following:

- Residential property.
- Nonresidential property if the amount of the property's taxable or State equalized valuation (SEV) in dispute is not more than \$100,000.
- Any other tax over which the entire Tribunal has jurisdiction if the amount in dispute is \$20,000 or less, adjusted annually by the inflation rate (which results in a current amount of \$22,619).

The bill would increase the maximum SEV or taxable value of nonresidential property to \$150,000, and would increase the maximum amount of any other disputed tax to \$75,000. Both amounts would have to be adjusted annually by the inflation rate.

Senate Bill 1040 (S-1) would amend the revenue Act to:

- Allow a taxpayer to appeal an assessment, decision, or order of the Department of Treasury to the Tax Tribunal within 60, rather than 35, days after the assessment, decision, or order
- Delete a requirement that, in an appeal to the Court of claims, a taxpayer first pay the disputed portion of a tax, including penalties and interest, under protest and claim a refund as part of the appeal.
- Appropriate \$200,000 to the Court of Claims for fiscal year 2014-15 for operations due to the anticipated caseload increase from these changes.

Senate Bills 1038 (S-2) and 1039 (S-2) are tie-barred. Senate Bill 1040 (S-1) is tie-barred to both of those bills.

MCL 211.7b et al. (S.B. 1038)  
 205.721 et al. (S.B. 1039)  
 205.22 (S.B. 1040)

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bills potentially would reduce State and local property tax revenue and increase State school aid payments. The bills also could increase costs to the Department of Treasury by

approximately \$170,000; would have a minor, negative fiscal impact on the Department of Licensing and Regulatory Affairs; and would make a \$200,000 appropriation to the Court of Claims.

To the extent that the bills increased the number and scope of property tax appeals, the bills would tend to reduce State and local property tax revenue, and increase the cost of State school aid payments to local school districts. The size of these effects is unknown and would depend on the number and magnitude of additional appeals for property valuation, classification, or exemptions, the characteristics of the property under appeal, and whether those appeals were successful. The potential for reduced revenue applies to the State School Aid Fund collections of the State Education Tax, Utility Property Tax collections to the General Fund, and local taxing authorities including local governments, local school districts, intermediate school districts, and community colleges. Local debt millage would be adjusted as necessary to retire general obligation bonds. A reduction in local school operating millage revenue would be replaced by the School Aid Fund through the foundation allowance formula. This would increase State costs to the School Aid Fund. In addition, the correction of qualified errors for the current year and the prior three years would have an unknown impact on property tax revenue.

According to the Department of Treasury, Senate Bill 1038 (S-2) could increase the number of appeals to the State Tax Commission by up to 20,000 annually. This could require the Department to hire up to 2.0 additional full-time equated employees (FTEs) to support this increase in appeals. Based on fiscal year 2013-14 estimates, one additional FTE costs an estimated \$85,000 annually (\$45,000 GF/GP) for salary, wages, and benefits based on statewide average salaries and benefits. Thus, the additional costs to the Department could increase by an estimated \$170,000 Gross (\$90,100 GF/GP) annually.

The bills would have an indeterminate fiscal impact on the Michigan Tax Tribunal within the Department of Licensing and Regulatory Affairs, and neutral fiscal impact on the Court of Claims. Senate Bill 1040 (S-1) would remove the requirement that an appellant first pay taxes and penalties before a case is heard by the Court of Claims. The removal of this requirement could create an incentive for appellants in non-property cases to file an appeal in the Court of Claims rather than with the Tax Tribunal. According to LARA, the number of cases in which this sort of incentive could exist is very small relative to the entire number of cases heard by the Tribunal, so it is unlikely to significantly affect the operations of the Tribunal. However, Senate Bill 1040 (S-1) would appropriate \$200,000 to the Court of Claims for fiscal year 2014-15 to cover anticipated costs associated with creating an incentive for these cases to be appealed in the Court. To the extent that this appropriation amount is an accurate assessment of the actual cost associated with these appeals, this particular part of the bill package would have a positive fiscal impact on the Tax Tribunal, as it would presumably no longer incur these costs, and a neutral fiscal impact on the Court of Claims. Since the appropriation would be for one fiscal year only, future costs related to these claims would have to be addressed in the annual budget for the Judiciary.

Senate Bill 1039 (S-2) would increase the taxable value limit for nonresidential property cases heard by the Small Claims Division of the Tribunal from \$100,000 to \$150,000, and increase the limit on the amount in dispute for non-property tax cases heard by the Small Claims Division from \$20,000 to \$75,000. The Small Claims Division is primarily staffed by contracted hearing referees, while cases heard by the full Tribunal are staffed by administrative law judges (ALJs) employed directly by the Tribunal. Increasing the number of cases that may be heard by the Small Claims Division could increase the need to hire additional hearing referees. Since claims heard by the Small Claims Division are held in the county where the dispute is filed or in an adjoining county, the use of Lansing-based ALJs for these cases would be logistically impractical in many cases, due to travel costs and

scheduling issues. Cases heard by the entire Tribunal are held in Lansing. Additionally, base filing fees for cases heard by the Small Claims Division are lower than those heard by the entire Tribunal (\$125 and \$250, respectively), so the change could result in some loss of revenue, as well. In total, however, the increased costs and lost revenue caused by these increased limits would not significantly affect the operations of the Tribunal.

In total, the bills' fiscal impact on LARA is indeterminate, as it is unclear whether the additional costs from increasing the number of appeals that would be heard by the Small Claims Division would exceed the savings associated with the incentive that would be created for certain non-property appeals to be heard by the Court of Claims.

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