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House Bill 5492 (Substitute H-2 as passed by the House)
Sponsor: Representative Earl Poleski
House Committee: Tax Policy
Senate Committee: Infrastructure Modernization

Date Completed: 5-27-14

CONTENT

The bill would amend Section 21 of the Use Tax Act to require a distribution to the State Trunkline Fund, county road commissions, and cities and villages, from the balance of use tax revenue after distributions to the School Aid Fund (SAF), of an amount equal to half of the deposit into the SAF from the use tax imposed at a rate of 2.0%. The proposed distribution would have to be made in fiscal year (FY) 2014-15 through FY 2020-21.

The bill also includes language requiring a distribution to the School Aid Fund from the "state share" of the use tax equal to amounts lost from personal property tax exemptions enacted in 2012; and specifying that money collected for the local share of the use tax is not State funds. As explained below, this language has been enacted in legislation that will take effect if the voters approve an August 2014 statewide ballot question.

The bill would take effect on January 2, 2015.

Distribution for Roads

The Act levies a tax on the purchase of nonexempt personal property and services. The total rate of the tax is 6.0% of the purchase price. Section 21 requires revenue from the use tax collected at a rate of 2.0% to be deposited in the School Aid Fund. The balance (revenue from the use tax collected at a rate of 4.0%) must be credited to the State's General Fund.

Under the bill, for FY 2014-15 through FY 2020-21, from the money received and collected under the Act remaining after the distribution to the School Aid Fund under current law (and after the SAF distribution required under pending legislation), an amount equal to 50.0% of the amount deposited in the SAF from tax imposed at a 2.0% rate would have to be distributed to the State Trunkline Fund, county road commissions, and cities and villages, in the same percentages described in Section 10(1)(j) of Public Act 51 of 1951 (the Michigan Transportation Fund law).

(Under Section 10(1)(j) of Public Act 51, after the deduction of other appropriated amounts, the balance of the Michigan Transportation Fund must be appropriated as follows:

- 39.1% to the State Trunkline Fund.
- 39.1% to county road commissions.
- 21.8% to cities and villages.)

Distribution to SAF from State Share

Legislation enacted in 2012 and amended in 2014 provides various tax exemptions for personal property, and mechanisms to replace revenue lost by local units of government. Subject to voter approval of a question on the August 2014 statewide ballot, Public Act 80 of 2014 will amend the Use Tax Act to provide for the use tax to be divided between a local use tax and a State use tax (called the "local community stabilization share tax" and the "state share tax", respectively, under Public Act 80). The local use tax rate must be based on the amount of revenue that it may generate each year, as specified in the law. The rate of the State share is determined by subtracting the local rate from 6.0%.

Under the 2012 and 2014 legislation, Sections 9m and 9o of the General Property Tax Act provide exemptions for qualified new property and qualified previously existing property that meets the definition of "eligible manufacturing personal property". Section 9o provides an exemption for industrial and personal property in a local taxing unit that has a single owner or lessee and has a combined true cash value of less than \$80,000. (These sections will be repealed if the August 2014 ballot question is not approved.)

Also, under amendments to Section 21 of the Use Tax Act (if the ballot question is approved), from the money collected for the State share of the use tax, 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 personal property exemptions under Sections 9m, 9n, and 9o of the General Property Tax Act, must be deposited into the School Aid Fund. The amendments also specify that this money does include the portion of the State share of the use tax imposed at the additional rate of 2.0% approved by the voters on March 15, 1994, and dedicated for aid to schools under the Use Tax Act. (Before that election, the use tax was imposed at a rate of 4.0%.)

In addition, the amendments to Section 21 specify that money collected under the Act for the local community stabilization share is not State funds, may not be credited to the State Treasury, and must be transmitted to the Local Community Stabilization Authority (an entity created under the pending legislation to distribute the local share).

As noted above, these Use Tax Act amendments will not take effect unless approved by the electors voting on an August 2014 ballot question.

The bill includes the amendments to Section 21 that will be enacted if the ballot question is approved. The distribution to the State Trunkline Fund, county road commissions, and cities and villages, proposed by the bill, would have to be made from the balance of use tax collections after the distributions to the School Aid Fund under current law and under the pending amendments.

Legislative Intent

The bill states an legislative intent that the distribution of use tax revenue provided for under Section 21(5) (to the State Trunk Line Fund, county road commissions, and cities and villages) apply only to the State share of the money collected under the Act, and take place after distributions of use tax revenue to the School Aid Fund as provided in Section 21(2) (from the tax imposed at a rate of 2.0%) and Section 21(3) (for the amount lost due to the new personal property tax exemptions).

MCL 205.111

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would reduce General Fund revenue, and increase State Trunkline Fund revenue, by approximately \$238.1 million in FY 2014-15. As use tax revenue increases in future years, the shift of revenue from the General Fund to the State Trunkline Fund would increase, with the bill shifting approximately \$247.9 million in FY 2015-16 and approximately \$257.8 million in FY 2016-17.

The bill would make minor modifications to language that will be enacted if a ballot measure regarding personal property tax reform is adopted by a vote of the people. However, the bill does not make the language contingent on the reform being adopted. As a result, the bill could earmark money to a nonexistent authority. Presumably, under such circumstances, the language would be moot because the bill would earmark an amount attributable to an exemption that would not exist in statute. Similarly, the language in Section 21(4) would require that money received and collected under the Act for the local community stabilization share be transmitted to the authority, but does not define what authority. Based on the language in the subsection regarding distribution of revenue, one can infer that the authority would be the Local Community Stabilization Authority that will be created as a result of Public Act 86 of 2014, if the ballot question is approved.

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.