

Legislative Analysis



ALLOW SINGLE PARCEL TO BE SEPARATED INTO AGRICULTURAL AND NON-AGRICULTURAL FOR PROPERTY TAX PURPOSES

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House Bill 4677 (reported from committee as H-2)

Sponsor: Rep. David G. Maturen

Committee: Tax Policy

Complete to 10-20-15

(Enacted as Public Act 375 of 2016)

SUMMARY:

House Bill 4677 amends the General Property Tax Act to provide a means for qualified agricultural property to be separated into qualified agricultural and non-agricultural property when the property changes hands. The change would continue to allow the agricultural portion of the property to retain its current taxable value, while the remainder would be adjusted ("pop up") to the state equalized value and would be subject to any agricultural property recapture tax. Current law does not specifically allow this.

Specifically, the bill would allow the local assessor, at the request of the property owner, to establish a separate tax parcel for a portion of a parcel that ceases to be qualified agricultural property but is not subject to a land division under either the Land Division Act or a local ordinance. Then, a "transfer" of property for the purpose of the "pop-up" or for the purpose of any tax recapture (for land whose use is no longer agricultural) would only apply to the separate tax parcel no longer classified as qualified agricultural property, and not to the property as a whole.

Under the General Property Tax Act, when real property is transferred the taxable value is adjusted to its state equalized value, causing the taxable value to "pop-up" to what it would have been had the growth not been capped by the restrictions in Section 27a(2). A number of transfers of real property are exempt from this adjustment, under Section 27a(7). This includes qualified agricultural property, as long as the buyer intends to continue to use all of the property for agricultural purposes.

Under current law, reportedly, there is no specific provision that allows for splitting the property into an agricultural piece and a non-agricultural piece when it is transferred. According to State Tax Commission guidelines, if a buyer wanted to continue the agricultural use of a portion of the property and develop another portion for commercial use, the entire parcel will be subject to the taxable value pop-up. In a case like this, House Bill 4677 would limit the pop-up in taxable value to the non-agricultural portion of the parcel only.

Similarly, under the bill, if this separation into two kinds of tax parcels is made, only the non-agricultural portion would be faced with the recapture tax that is imposed under the Agricultural Property Recapture Tax Act. The recapture tax is imposed on transferred property that had been qualified agricultural property and then subsequently is "converted

by a change in use." Generally speaking, the recapture tax due in such cases is in an amount equal to the difference between the amount of taxes that would have been due if the property had not been agricultural property and the amount of taxes that were due, going back not more than seven years. The tax is collected by the county treasurer and then transmitted to the state treasurer, who would credit the proceeds to the Agricultural Preservation Fund.

FISCAL IMPACT:

As written, the bill would have an indeterminate impact on local and state property tax revenues. By adjusting the provisions of Section 27a(7)(n) of the General Property Tax Act, there will be some forgone property tax revenue relative to current law, since only a portion of the qualified agricultural property will get a pop-up in value, rather than 100% of the entire parcel. If this change in the law encourages the development of agricultural land, local units could see their aggregate taxable values increase. This could result in a small increase in local and state property tax revenues. The mix of these two effects depends on local millage rates, property values, and the behavior of buyers and sellers, none of which can be determined in advance; therefore, the aggregate effect cannot be estimated at this time.

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