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BILL



ANALYSIS

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Senate Bill 732 (as reported without amendment)
Sponsor: Senator Rick Jones
Committee: Finance

Date Completed: 2-29-16

RATIONALE

The General Property Tax Act provides an exemption for real and personal property owned by nonprofit charitable institutions. Apparently, this exemption has been inconsistently allowed for property owned by Masonic associations. Masonry, or Freemasonry, is a historic fraternity dedicated to helping fellow Masons and the local community, and its organizational units are called lodges. Reportedly, 30 of the 275 lodges in Michigan are not taxed. Some believe that Masonic property should be exempt from ad valorem property taxes altogether because they consider Masonic associations to be charitable institutions. Since the existing exemption apparently is not being applied consistently, it has been suggested that property owned by Masonic associations should specifically be exempt from taxation.

CONTENT

The bill would amend Public Act 1 of 1895, which provides for the incorporation of Masonic associations, to exempt from ad valorem property taxes real property and personal property owned by a corporation organized under the Act and occupied or used solely for Masonic purposes.

The Act allows Masonic associations to be incorporated by 10 or more residents of the State who are members of any chartered body or of different chartered bodies of the order of Free and Accepted Masons. The Act contains various provisions relating to the requirement for filing articles with the Department of Licensing and Regulatory Affairs, issuance of certificates or shares of stocks, powers of a corporation's board of trustees, and other matters.

Under the Act, every Masonic corporation may take, receive, purchase, and hold in its corporate capacity real and personal property and may demise, sell, convey, use, or dispose of that property. The corporation may erect and own buildings to be used in whole or in part for meetings of Masonic bodies and may borrow money or issue bonds for that purpose, and mortgage its property to secure the payment of any issued bonds.

The bill would exempt real property or any portion of real property owned by a Masonic corporation organized under the Act and occupied solely for Masonic purposes from ad valorem property taxes collected under the General Property Tax Act. In addition, the bill would exempt personal property owned by a Masonic corporation and used solely for Masonic purposes from ad valorem property taxes collected under the General Property Tax Act.

Proposed MCL 457.224a

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

According to Michigan Masons, "Masonry teaches that each man has a duty to make life better, not just for himself, but for everyone." Masonry has a long history in Michigan, dating back to the first lodge established in Detroit in 1764. Apparently, there are around 30,000 member Masons in Michigan. Masons are active throughout the State and contribute many hours of community service. According to Committee testimony, members and their families contributed 2,000 volunteer hours to their communities over the last two years, and donated more than \$1.1 million. Masons raise money for children's hospitals, provide millions of dollars in scholarship money, and are involved in a variety of goodwill programs, among other things. Recently, Masons raised \$100,000 for the ongoing Flint water crisis.

Funding, however, is becoming an issue for Masonic associations. Masons do not have many options to increase revenue, and cannot enhance their revenue as other lodges or organizations do through the sale of alcohol. Revenue derived from charitable programs has dwindled over time. Moreover, most Masonry lodges are housed in downtown locations and usually have superior architecture and rich histories. These facilities sometimes are abandoned due to financial inadequacies, however, contributing to urban decay.

With few sources of revenue, it is becoming increasingly necessary to address the difficulties of funding Masonic operations. Masonic associations are charitable organizations and, like other charitable institutions, should receive an exemption from paying property taxes. Since some Masonic associations are receiving exemptions and others are not, the bill would ensure that the associations would be exempted consistently.

Response: The bill would not require that Masonic property be occupied or used for charitable purposes, but rather refers to "Masonic purposes". The term is too broad and undefined.

Opposing Argument

Section 7o of the General Property Tax Act provides an exemption for real and personal property owned and occupied by a nonprofit charitable institution. There is ongoing confusion over which organizations meet the criteria to receive the exemption. Rather than creating a separate property tax exemption for the Masons outside of the Act, which would set an unwelcome precedent, legislation should codify what is called the Wexford test.

The Wexford test originated from a 2006 Michigan Supreme Court opinion that addressed the exemption in Section 7o (*Wexford Medical Group v. Cadillac*, 474 Mich 192). Under the test, an organization may claim a tax exemption if it fulfills all of the following conditions:

- The real estate must be owned and occupied by the exemption claimant.
- The exemption claimant must be a nonprofit charitable institution.
- The exemption exists only when the buildings and other property on it are occupied by the claimant solely for the purposes for which it was incorporated.

The determination of eligibility for the exemption also requires scrutiny of whether an organization is a "charitable institution". In addition to setting forth the test, the Supreme Court identified factors to be considered in this determination. Codifying the test would help ensure that Masonic associations and other nonprofit charitable organizations received consistent tax treatment.

Opposing Argument

The proposed tax exemption would decrease local property tax revenue, which makes up 50% of county revenue. Whenever property is exempt from taxes, the local government must absorb or make up for the loss in revenue. This may lead to a decreased quality in services provided to residents or other undesirable consequences. While it could be argued that Masonic associations themselves do not contribute a lot in property taxes, the problem is compounded when all of the revenue lost from exempt organizations is combined. Therefore, an additional exemption should not be allowed unless an alternative revenue source is found.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would reduce State and local property tax revenue and increase costs paid by the School Aid Fund. Based on a sample of property taxes paid by Masonic associations, it is estimated that the total revenue reduction would be in the range of \$600,000 to \$2.3 million annually. Of this amount, approximately \$500,000 to \$2.0 million would be a reduction in local revenue and \$100,000 to \$300,000 would be a reduction in State revenue from the State Education Tax, which is deposited in the School Aid Fund. The State cost of the school foundation allowance would increase by an estimated \$300,000 to \$900,000 due to the reduction in local school operating revenue.

The impact on individual local governments would vary based on the taxable value of property owned by a Masonic association, whether the property was used solely for Masonic association purposes, and local millage rates. Property tax records show that several Masonic lodges currently are reported as having a taxable value of \$0. In the local units where those lodges are located, the bill would have no fiscal impact.

Fiscal Analyst: Elizabeth Pratt

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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.