Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4554 (Substitute S-1 as reported)
House Bill 4555 (Substitute S-1 as reported)
Sponsor: Representative David C. Maturen (H.B. 4554)
Representative Ken Yonker (H.B. 4555)
House Committee: Tax Policy
Senate Committee: Finance

CONTENT

House Bill 4554 (S-1) would amend the State Essential Services Assessment (ESA) Act to:

-- Change the year of ownership used to calculate the assessment from the first year the current owner has possession of the property, to the first year the first owner had possession of the property; and similarly change the definition of "acquisition cost".
-- Make changes regarding the administration of the assessment, including changing due dates, reporting requirements, and rescission of personal property tax exemptions.
-- Require the Department of Treasury to development and implement an audit program.
-- Allow the Department to accept statements using reporting software it approved.

Beginning January 1, 2016, the Act levies the essential services assessment on eligible personal property that is tax-exempt under various sections of the General Property Tax Act (e.g., commercial and industrial personal property that is used in manufacturing). The ESA is calculated by multiplying the property's acquisition cost by 2.4 mills for the first five years of ownership, 1.25 mills for years six through 10, and 0.9 mill for every year after that. The first year of ownership refers to the first year the current owner has possession of the property. The bill instead would refer to the first year the first owner had possession of the property.

"Acquisition cost" means the fair market value of personal property at the time of acquisition by the current owner. The bill would refer to the first owner, rather than the current owner. The State Tax Commission could provide guidelines for situations in which the actual acquisition cost, the year of acquisition, or both were unknown, and that would allow for the reduction of acquisition cost for idle, obsolete, or surplus property.

The Act requires a claimant to submit electronically a statement including all of the claimant's eligible personal property located in the State subject to the ESA by September 15 each year, beginning in 2016, along with full payment of the applicable tax. The bill would change the due date to August 15. If the Treasury Department does not receive the statement and payment, it must issue a notice to the eligible claimant by October 15, which the bill would change to September 15. The claimant then has until November 1 to pay the assessment with a penalty. The penalty must be waived in the eligible claimant's first assessment year if the claimant pays the assessment within seven business days of September 15. The bill would delete the seven-business-day window.

The bill would allow an eligible claimant to amend a filed statement for the current year by September 15.

For any year before 2023, the bill would allow the Department to require eligible claimants to file by February 20 a combined statement that included the affidavits required for new and existing personal property, the statement of all personal property required by the General Property Tax Act, and the statement of eligible personal property subject to the ESA, instead of requiring separate statements for each.

If the assessment and penalty are not paid by November 1, the State Tax Commission must direct the assessor to rescind for the assessment year the personal property tax exemption for all of the claimant's eligible personal property. The bill would change that date to October 15, and would require the Tax Commission to issue an order to rescind the exemption by the first Monday in December. The Commission also would have to issue a rescission order if it discovered that the property was not eligible for the personal property tax exemption. In either case, the order to rescind would apply only to the eligible manufacturing personal property located on the parcel in question.

The Act requires the claimant to file a statement by November 10 for all property for which the exemption has been rescinded. The bill instead would require that the statement be filed within 30 days of the rescission order.

The bill would require the Treasury Department to develop and implement an audit program for, at least, the statements and amended statements submitted in relation to the State ESA for the current year and the three prior years. An assessment as a result of an audit would have to be paid within 35 days and would be subject to penalties and interest. Failure to pay an assessment on time would result in a rescission of the personal property tax exemption.

The bill would delete a requirement that, beginning in 2019, the claimant report in the statement the location of the property on December 31 of the year immediately preceding the assessment year. Instead, the claimant would be required to disclose the location of personal property for audit purposes if requested by the assessor of the township or city, county equalization department, or Department of Treasury. The statement would not be subject to disclosure under the Freedom of Information Act.

The bill would allow an eligible claimant to appeal an assessment issued, including penalties, interest, or rescission, as a result of an audit, by filing a petition with the State Tax Commission within 30 days of the issuance of the assessment. The Department of Treasury or any eligible claimant could appeal the determination of the Commission to the Michigan Tax Tribunal within 35 days of the date of the determination.

House Bill 4555 (S-1) would amend the Alternative State ESA Act to make virtually the same changes that House Bill 4554 (S-1) would make to the State ESA Act. (The Alternative State Essential Services Assessment Act imposes the alternative State ESA on eligible personal property that is exempt from the levy imposed by the State ESA Act. The rate of the alternative assessment is 50% of the State ESA.)

MCL 211.1053 et al. (H.B. 4554)
211.1073 et al. (H.B. 4555)

Legislative Analyst: Ryan M. Bergan

FISCAL IMPACT

The bills would have little to no impact on State or local revenue relative to current estimates. While some changes in the bills, such as those regarding the definitions of "acquisition cost" and "eligible personal property", could have minimal impacts relative to current law, the original estimates for the legislation exempting personal property effectively assumed the changes. Therefore, current estimates of the impact of exempting personal property would not change as a result of the bills.

Date Completed: 6-17-15

Fiscal Analyst: David Zin

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