Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4991 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Representative Martin Howrylak
House Committee: Tax Policy
Senate Committee: Committee of the Whole

CONTENT

The bill would amend the Income Tax Act to do the following:

- **Require, beginning December 1, 2018, that the percentage of the gross collections before refunds from the individual income tax for deposit into the State School Aid Fund (SAF) equal 0.945%, instead of 1.012%, divided by the individual income tax rate.**
- **Require, beginning fiscal year (FY) 2018-19, $69.0 million to be deposited into the Renew Michigan Fund.**
- **Create the "Renew Michigan Fund" and require money deposited into the Fund to be spent, upon appropriation, and in the percentages specified by the bill, for environmental cleanup and development, waste management, and recycling.**
- **Increase distributions of the individual income tax that must be distributed to the Michigan Transportation Fund, beginning October 1, 2018, and extending through September 30, 2020.**
- **Allow a taxpayer to deduct, to the extent included in adjusted gross income, compensation received in the tax year pursuant to the Wrongful Imprisonment Compensation Act for tax years that begin after December 31, 2017.**

Section 51 of the Act, as the bill would amend it, would be retroactive and effective beginning December 1, 2018.

Distribution of Income Tax to School Aid Fund

Part 1 of the Income Tax Act imposes a tax at the rate of 4.25% on the taxable income of individuals. The percentage of the gross collections before refunds from the individual income tax that is equal to 1.012% divided by tax rate levied must be deposited in the SAF created under Article 9, Section 11 of the Michigan Constitution. Under the bill, this would apply through November 30, 2018. Beginning December 1, 2018, that percentage of the gross collections before refunds from the individual income tax that is equal to 0.945% divided by the income tax rate must be deposited in the SAF.

Renew Michigan Fund

In addition to distribution described above, beginning with FY 2018-19 and each fiscal year thereafter, from the revenue collected from the individual income tax, $69.0 million would have to be deposited into the Renew Michigan Fund.

The bill would create the Renew Michigan Fund within the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund. The Treasurer would have to direct investment of the Fund and credit to it interest and earnings from Fund investments. Money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse to the General Fund. The Department of Environmental Quality (DEQ) would be the administrator of the Renew Michigan Fund for auditing purposes.

Beginning with FY 2018-19, and each fiscal year thereafter, the Department could spend money from the Fund, upon appropriation, only for the following purposes:

-- 65%, for environmental cleanup and redevelopment, including addressing contaminated sites and emerging issues that were known to cause, or could cause adverse environmental or human health effects.
-- 13%, for waste management, including oversight of active landfills, asbestos landfill gas monitoring, and DEQ expenditures for closure, monitoring, or corrective action for disposal areas.
-- 22%, for recycling, including materials management planning (including grants to local units and certain agencies for preparing and implementing material management plans), local recycling programs, and market development.

By December 31 each year, the Department would have to prepare and submit to the Senate and House of Representatives Appropriations Committees a report detailing the amount of revenue received by and expenditures from the Fund during the previous fiscal year and the Fund balance at the end of the previous fiscal year.

Distributions to the Michigan Transportation Fund

In addition to the distribution for the SAF, the following amounts of revenue collected from the individual income tax must be deposited into the State Treasury to the credit of the Michigan Transportation Fund, and disbursed as follows:

-- Beginning October 1, 2018, through September 30, 2019, $150.0 million.
-- Beginning October 1, 2019, through September 30, 2020, $325.0 million.
-- Beginning October 1, 2020, and each October 1 thereafter, $600.0 million.

Under the bill, in addition to distributions under Section 51 of the Act and the distributions to the State Brownfield Redevelopment Fund and the Good Jobs for Michigan Fund, the following amounts of revenue would have to be deposited into Michigan Transportation Fund, and disbursed:

-- Beginning October 1, 2018, through September 30, 2019, $264.0 million.
-- Beginning October 1, 2019, through September 30, 2020, $468.0 million.
-- Beginning October 1, 2020, and each October 1 thereafter, $600.0 million.

Wrongful Imprisonment Compensation

"Taxable income" means adjusted gross income as defined in the Internal Revenue Code, subject to a number of additions and deductions. The bill would include in the list of possible deductions compensation received in the tax year under the Wrongful Imprisonment Compensation Act for tax years beginning after December 31, 2018.

In addition, the bill would modify the definition of "total household resources". Currently, the Income Tax Act defines the term as all income received by all people of a household in a tax year while members of a household, increased by the following deductions from Federal gross income:

-- Any net business loss after netting all business income and loss.
-- Any net rental or royalty loss.
-- Any carryback or carryforward of a net operating loss as defined in Section 172(b)(2) of the Internal Revenue Code.

(Section 172(b)(2) of the Code states that the entire amount of the net operating loss for any taxable year must be carried to the earliest of the taxable years to which such loss may be carried. The portion of such loss must be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the previous taxable years to which such loss may be carried.)

Under the bill, the term would not apply to any compensation received under the Wrongful Imprisonment Compensation Act for tax years beginning after December 31, 2018.

MCL 206.30 et al. Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have no net impact on total State revenue in FY 2018-19 or FY 2019-20, and a likely minimal impact in later fiscal years. However, the bill would affect several different funds, initially reducing revenue in the General Fund and School Aid Fund (SAF) but increasing revenue to the Michigan Transportation Fund (MTF) and the Renew Michigan Fund. For FY 2020-21 and later fiscal years, while the bill would continue to reduce SAF revenue and increase Renew Michigan Fund revenue, the bill would not increase MTF revenue, but would increase General Fund revenue.

In FY 2018-19, the bill would reduce General Fund revenue by $42.0 million (a $69.0 million reduction from the earmark of revenue to the Renew Michigan Fund, plus a $114.0 million reduction from the increased earmark of revenue to the MTF, and a $141.0 million increase from a partial year change in the School Aid Fund earmark). The bill would reduce SAF revenue by $141.0 million due to the partial year change in SAF earmark of gross individual income tax revenue. The bill also would increase MTF revenue by $114.0 million and increase Renew Michigan Fund revenue by $69.0 million.

In FY 2019-20, the bill would reduce General Fund revenue by $38.2 million (a $69.0 million reduction from the earmark of revenue to the Renew Michigan Fund, plus a $143.0 million reduction from the increased earmark of revenue to the MTF, and $173.8 increase from full year change in SAF earmark). The bill would reduce SAF revenue by $173.8 million due to the revised SAF earmark. The bill also would increase MTF revenue by $143.0 million and increase Renew Michigan Fund revenue by $69.0 million.

The provisions regarding wrongful imprisonment income would reduce General Fund revenue by a negligible amount. Approximately four to five claims have been paid each year and, to date, all claims have been paid as lump sums. Those payments are already exempt from the individual income tax because of exclusions from Federal adjusted gross income as well as provisions in the Wrongful Imprisonment Compensation Act. Because the Homestead Property Tax Credit is capped at a maximum of $1,200, the maximum impact of these provisions would be $1,200 per affected taxpayer, or about $4,800 to $6,000 per year.

Currently the SAF earmark is calculated by taking 1.012% and dividing it by the tax rate. As a result, the SAF is effectively held harmless from reduction in the individual income tax rate. With the current rate of 4.25%, the calculation equates to earmarking 23.81% of gross income tax collections to the SAF. Assuming the rate stays the same (there are provisions in statute to lower the rate, under certain circumstances, in future years), the bill would change the earmarked percentage to 22.44%. Given the current forecast for individual income tax gross collections from the May 2018 Consensus Revenue Estimating Conference, the change would equate to a $141.0 million reduction in FY 2018-19 and a $173.8 million reduction in FY 2019-20 in revenue earmarked to the School Aid Fund (and a corresponding increase in revenue to the General Fund). As individual income tax revenue increases in future years, the earmark would increase in dollar terms, although the formula would continue to hold the SAF harmless for any rate changes.

The increased earmarks to the MTF only would affect revenue in FY 2018-19 and FY 2019-20, reducing General Fund revenue and increasing MTF revenue, by $114.0 million in FY 2018-19 and $143.0 million in FY 2019-20. The earmark of individual income tax revenue to the MTF for FY 2020-21 and later years would not be affected by the bill.

Because the bill would retain the MTF earmark for FY 2020-21 and later years, the change in the SAF earmark would reduce SAF revenue, and increase General Fund revenue, in FY 2020-21 and later fiscal years, with the FY 2020-21 shift totaling approximately $178.0 million.

The earmark to the Renew Michigan Fund would reduce General fund revenue by $69.0 million per year. The impact of the bill is summarized in the table below.

Impact of House Bill 4991 (S-2), in millions			
	Fiscal Year		
Fund	**2018-19**	**2019-20**	**2020-21**
General Fund	($42.0)	($38.2)	$109.0
School Aid Fund	(141.0)	(173.8)	(178.0)
MTF	114.0	143.0	0.0
Renew Michigan	69.0	69.0	69.0
Total	**$0.0**	**($0.0)**	**$0.0**

Date Completed: 12-20-18 Fiscal Analyst: David Zin

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