Legislative Analysis

DEFERMENT OF SUMMER 2020 PROPERTY TAXES

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House Bills 5761 and 5810 as enrolled
Sponsor: Rep. James A. Lower
1st House Committee: Local Government and Municipal Finance
2nd House Committee: Appropriations
Senate Committee: Appropriations
Complete to 3-2-22

(Vetoed by the Governor 7-8-20)

SUMMARY:

House Bills 5761 and 5810 would amend the General Property Tax Act that would allow the deferment of summer 2020 property taxes. Generally under the act, taxes levied in the previous year and unpaid are returned as delinquent to the county treasurer on March 1. For unpaid summer 2020 property taxes deferred under the bills and returned as delinquent, the typical 1% monthly interest charge would not begin to accrue until May 3, 2021. (Additionally, the county property administration fee could not be added until May 3, 2021.)

<u>**House Bill 5761**</u> would require a ***local tax collecting unit*** to defer collection of ***summer 2020 property tax*** when a deferment is properly claimed, as described below. A deferment would continue until the last day that summer 2020 taxes are due before being returned as delinquent to the county treasurer. These deferred taxes would not be subject to any interest, penalty, or late charge or fee for the period of the deferment.

> ***Local tax collecting unit*** would include a village that collects a summer 2020 property tax.
>
> ***Summer 2020 property tax*** would mean a tax or assessment levied in the 2020 calendar year on real property that is collected under the General Property Tax Act and that first becomes a lien before December 1, 2020.

A property owner would qualify for the proposed deferment if all of the following applied:

- The person experienced economic hardship due to either or both of the following:
  - The COVID-19 pandemic or the government's response to the pandemic.
  - The flooding caused by dam failures that resulted in the state of emergency declared in Executive Order 94 of 2020. (These grounds for qualification would not apply to property used for utilities sites as described in the bill.)
- The person has filed an affidavit attesting to the economic hardship and claiming the deferment with the local tax collecting unit by August 28, 2020. (Economic hardship for purposes of the affidavit would mean an inability to timely pay 2020 summer property taxes due to a closure or restriction of the owner's business, or loss of employment or income, due to COVID-19 or the specified flooding, or a significant loss of property due to the specified flooding.)
- The person is not a party to an escrow agreement or other agreement obligating an individual or legal entity to pay the summer 2020 property tax for that property owner.
- The person has not obtained a deferment of summer 2020 taxes on some other basis.

A property owner that fraudulently claimed eligibility for the deferment would be guilty of a misdemeanor punishable by imprisonment for 30 days to six months or a fine of $500 to

$2,500, or both. A treasurer, assessor, or other official or employee of a local tax collecting unit would have to report a suspected violation to the county prosecuting attorney.

The Department of Treasury would have to provide local tax collecting units with the application form by July 28, 2020 (including a format that allows electronic filing). The filing would have to be completed before August 29, 2020, and would not be considered complete until the completed form was received or electronically submitted.

MCL 211.78a and proposed MCL 211.44e

House Bill 5810 would create a summer 2020 property tax advance payment program in the Department of the Treasury, under which each county would provide its eligible taxing authorities with advance payments on the summer 2020 property taxes deferred under HB 5761. All of the following would apply to the program:

- To be eligible, a taxing authority would have to submit an application, deferment application statements and affidavits, and applicable property tax bills to the county treasurer by September 11, 2020.
- The county treasurer would have to either arrange for financing of the payment from any source available to the county or, by September 18, 2020, submit an application for short-term financing to the Department of Treasury, including parcel identification numbers for applicant properties, the total amount of payment sought for each parcel, an itemization of that total amount into individual amounts to be paid to each eligible taxing authority, and the total amount sought for all parcels.
- For those seeking short-term financing from the Department of Treasury, by November 13, 2020, the department would have to provide short-term financing for advance payments to be made by counties to eligible taxing authorities.
- By December 1, 2020, counties would have to make advance payments to the eligible taxing authorities.
- The short-term state financing under the bill would be an interest-free loan to counties that seek short-term financing from the Department of Treasury, which the counties would have to repay from any sources available, including a delinquent tax revolving fund established under the act for payment of delinquent summer 2020 property taxes. Repayment would be due by the earlier of the typical due date or June 1, 2021.

If a local tax collecting unit subsequently received payment of summer 2020 property taxes for which it had received an advance payment that was financed through the Department of Treasury, the local unit would transmit that payment to the county.

The bill states that the advance payment of deferred summer 2020 property taxes is *not* on behalf of the property's owner, and those taxes remain due. Unless the taxes were paid by or on behalf of the property's owner by the last day summer 2020 property taxes are due, the local tax collecting unit would return the taxes as delinquent to the county treasurer and the property would be subject to forfeiture, foreclosure, and sale as provided under the act. Upon return as delinquent, the primary obligation for the taxes and any interest would fall on the local tax collecting authority and the state for the State Education Tax, and the county has full right of recourse to recover that amount.

Proposed MCL 211.44f

FISCAL IMPACT:

As written, the bills would allow taxpayers that are adversely affected economically by the coronavirus pandemic to defer summer 2020 property tax payments without penalties and interest until February 28, 2021. To offset the temporary loss of revenue, each county could apply for an interest-free loan from the Department of Treasury. The loan would need to be repaid by May 3, 2021, even if the deferred taxes become delinquent in the event of a business closure or other reason.

Although House Bill 5810 states that the Department of Treasury shall provide short-term state financing for local units of government, it does not identify a funding source to support this financing program. On average, summer tax payments from state and local levies total approximately $10 billion. Although the number of taxpayers that would qualify and their respective property tax liabilities cannot be known in advance, if just 10% were eligible then short-term state financing would be $1 billion.

Under provisions of HB 5761, a property owner that fraudulently claims eligibility for paying summer 2020 property taxes and assessments after the official due date would be guilty of a misdemeanor punishable by imprisonment in the county jail or by a fine. The bill would have an indeterminate fiscal impact on local units of government, as the number of convictions that would result under the bill is not known. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Vetoed 7-8-20:

In her veto message, the governor explained that she believed the bills would create more harm than good because they would jeopardize the availability of credit to local units of government. Moreover, the bills' requirement that the state provide short-term, interest-free financing would violate the prohibition on granting state credit except as provided in the state constitution.

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