

Legislative Analysis



DEFERMENT OF SUMMER 2020 PROPERTY TAXES

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House Bill 5761 (H-4) as reported from committee

House Bill 5810 (H-3) as reported from committee

Sponsor: Rep. James A. Lower

1st Committee: Local Government and Municipal Finance

2nd Committee: Appropriations

Complete to 6-17-20

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bills 5761 and 5810 would add two sections to the General Property Tax Act that would allow individuals and businesses to defer summer 2020 property taxes and allow local units of government to receive advance payments on those taxes from the state to fill funding gaps that would otherwise result.

Generally under the act, taxes levied in the previous year and unpaid are returned as delinquent to the county treasurer on March 1st. For unpaid summer 2020 property taxes deferred under HB 5761 and returned as delinquent, the typical 1% monthly interest charge would not begin to accrue until June 1, 2021.

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 June 1, 2021, even if the deferred taxes become delinquent in the event of a business closure or other reason. Please see *Fiscal Information*, below, for more information.

THE APPARENT PROBLEM:

COVID-19 has interrupted the lives of Michiganders in virtually every way—from moving school and work environments into our homes to requiring certain precautions when interacting with others and even when shopping for groceries. It has also disrupted the finances of many citizens, including small business owners, workers in the “gig” economy whose income is less certain, and others in innumerable ways. The bills aim to allow individuals and business to defer one of the biggest bills paid yearly—summer taxes—without penalties and interest for the year 2020 only. They also propose to allow the state to pay local tax collecting units in the amount of those deferred taxes so that they do not bear the brunt of that delay in revenue.

THE CONTENT OF THE BILLS:

House Bill 5761

Under the bill, a local tax collecting unit would have to defer collection of **summer 2020 property taxes** 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 penalties or interest for the period of the deferment.

Summer 2020 property taxes would mean any 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 as a result of the COVID-19 pandemic or the government's response to the pandemic, or both.
- The person has filed an affidavit attesting as much and claiming the deferment with the local tax collecting unit by August 28, 2020.
- The person is not a party to an escrow agreement or other agreement obligating an individual or legal entity to pay those summer 2020 property taxes for that property owner.
- The person has not obtained a deferment of summer 2020 taxes against the property 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. An assessor for a local tax collecting unit would have to report a property owner suspected of violation to the county prosecuting attorney.

MCL 211.78a and proposed MCL 211.44e

House Bill 5810

The bill would create a summer 2020 property tax advance payment program in the Department of the Treasury, under which each county would provide its local tax collecting units 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 local tax collecting unit would have to submit an application, deferment application statements and affidavits, and applicable property tax bills to the county treasurer by September 11, 2020.
- By September 18, 2020, the county treasurer would have to submit an application for short-term financing to Treasury, including parcel identification numbers for applicant properties, the amount of payment sought for each parcel, and the total amount sought for all parcels.
- By November 13, 2020, Treasury would have to provide short-term financing for advance payments to be made by counties to local tax collecting units. These funds could be obtained from any appropriate source, including the issuance of notes or bonds by the Michigan Finance Authority.
- By December 1, 2020, counties would have to make those advance payments to the eligible local tax collecting units.
- The short-term state financing under the bill would be an interest-free loan to the county, which the county 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 typical due date or June 1, 2021, whichever was earlier.

An eligible local tax collecting unit would distribute any advance payment from Treasury at the time and in the manner and proportions as it would distribute a typical payment from the property owner. If a property owner paid his or her property tax payment after the local unit received an advance payment from Treasury, the local unit would transmit the property owner's 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 those 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 those 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 unit and the state for the State Education Tax, and the county has full right of recourse to recover that amount.

Proposed MCL 211.44f

The bills are tie-barred together, meaning that neither could take effect unless both were enacted.

FISCAL INFORMATION:

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 specific funding source to support this financing program other than to indicate that any appropriate source, including bonds or notes issued by the Michigan Finance Authority, would be permissible. 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.

ARGUMENTS:

For:

Proponents argued that, due to COVID-19 and the resulting effect on people's finances, many will not be able to pay their summer 2020 taxes, whether the bills pass or not. Without the bills, those individuals and businesses will incur penalties and interest on their delinquent properties, and may have a greater likelihood of losing their property. At the same time, local units would be without the property taxes from those individuals and would have to make still more drastic costs to services than they would have to otherwise. The bills propose to have the state plug the hole that would otherwise result, essentially floating a loan to local units as well as buying individuals and businesses a year to pay their summer 2020 property taxes without incurring penalties and interest.

Supporters pointed to similar deferment programs already in place for seniors and disabled persons.¹ While the cash flow component in HB 5810 is not a part of those programs, the ability for certain groups to defer tax payments is not new.

Against:

Critics pointed to three main concerns with the bills:

- Conceptual: They argued that the legislature should be looking to existing mechanisms to fill the need instead of creating a new stand-alone program. For instance, they pointed to programs available through the Michigan Economic Development Corporation such as the Capital Access Program, which assists businesses with capital needs.
- Financing and timeline: The timeline for the bill, beginning with a deadline for filers of August 28, 2020, for a bill that has not yet left the first chamber, may be unworkable. After Treasury received requests for short-term financing from counties on September 18, 2020, they would have just over two months to contact and coordinate with banks to secure the necessary funds and figure out how to distribute those funds, all without knowing in advance the number of parties that would apply.
- Budget: In order to borrow the money to be able to provide advance payments to counties (and through them, local units), the state would have to pay approximately \$10 to 18 million, according to the bill sponsor. Just as budgets are tight for local units, the state might not be in the position to take on additional borrowing and financing responsibility.

Some are also concerned about a potential lack of consistency within and between counties. For example, the same grounds for requesting deferment may be granted in one county but denied in the next, based on a variety of subjective factors. Likewise, if two businesses are affected by COVID-19, but one applies for the deferment and the other does not, only the applicant business benefits from temporary forgiveness of penalties and interest. Meanwhile, the local unit may have the tax bill temporarily paid by the state for the applicant business (but not the non-applicant business), but would bear the total loss of penalties and interest from the business that had applied, while being able to obtain them from the one that had not.

¹ <http://legislature.mi.gov/doc.aspx?mcl-211-51>

POSITIONS:

Representatives of the following entities testified in support of the bills:

Grand Rapids Chamber of Commerce (5-28-20)
West Michigan Whitecaps (5-28-20)
Michigan Chamber of Commerce (6-17-20)
Kalamazoo County Treasurer (6-17-20)

The following entities indicated support for the bills:

Michigan Retailers Association (5-28-20)
Michigan Home Builders (5-28-20)
Saginaw Chamber (5-28-20)
National Federation of Independent Business (5-28-20)
Michigan Manufacturers Association (5-28-20)
Michigan Association of CPAs (6-17-20)
Michigan Restaurant and Lodging Association (6-17-20)
Business Leaders for Michigan (6-17-20)
Small Business Association of Michigan (6-17-20)

The Michigan Townships Association indicated support for the bills in concept. (6-17-20)

The Michigan Association of Counties indicated a neutral position on the bills. (6-17-20)

A representative of the Department of Treasury testified in opposition to the bills.
(6-17-20)

The city of Muskegon indicated opposition to HB 5761. (5-28-20)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.