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BILL ANALYSIS

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House Bill 5761 (Substitute H-4 as passed by the House)
House Bill 5810 (Substitute H-3 as passed by the House)
Sponsor: Representative James Lower
House Committee: Local Government and Municipal Finance
Appropriations
Senate Committee: Appropriations

Date Completed: 6-23-20

CONTENT

House Bill 5761 (H-4) would amend the General Property Tax Act to defer the deadline to pay summer 2020 property taxes until March 1, 2021. "Summer 2020 property tax" 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 first becomes a lien before December 1, 2020. Under the bill, interest on delinquent summer 2020 taxes would not begin accruing until June 1, 2021.

To qualify for a deferment, a property owner would need to have experienced an economic hardship related to the COVID-19 pandemic or the government's response to the pandemic, or both; file a statement of intent to defer payment of summer 2020 taxes and an affidavit with the local tax collecting unit attesting to experiencing an economic hardship; not be party to an escrow agreement; and not already obtained a deferment on some other basis. A property owner who fraudulently claimed eligibility for the deferment would be guilty of a misdemeanor punishable by imprisonment, fines, or both. The affidavit would need to be filed no later than August 28, 2020.

House Bill 5810 (H-3) would create a summer 2020 property tax advance payment program in the Department of Treasury. The program would provide an advance payment to eligible local tax collecting units for any property taxes deferred as a result of the deferral proposed under House Bill 5761 (H-4). To be eligible for an advance payment, a local tax collecting unit would need to submit an application with the county treasurer by September 11, 2020, and provide copies of all of the deferment application statements and affidavits, as well as the associated summer 2020 property tax bills for those applications. Each county treasurer would have to submit an application to the Department of Treasury by September 18, 2020, to obtain short-term financing for any deferred taxes.

The Department of Treasury would have to provide short-term financing for the deferred property tax payments by November 13, 2020. The bill would not appropriate funds for the financing but specifies that funding could be obtained from any appropriate source, including notes or bonds issued by the Michigan Finance Authority. Any advanced financed payments received by the county treasurer would be distributed to eligible local tax collecting units by December 1, 2020, who then would distribute the amounts in the same manner and proportion as the unit would have distributed the property tax payments had they not been deferred. The short-term financing would be an interest free loan to the county and would need to be repaid by the earlier of June 1, 2021, or the date that Section 87b(3) would have required payment of delinquent summer 2020 taxes from the county's delinquent tax revolving fund had there been no advance payment. An advance payment would not be a payment on behalf of a taxpayer, and a county would be obligated to repay the short-term financing obtained from the State regardless of whether a taxpayer ultimately paid the taxes owed.

The bills are tie-barred.

MCL 211.78a et al.

FISCAL IMPACT

The bills would allow qualified taxpayers to defer their summer 2020 property tax payments until 2021 and would offset local units' temporary revenue loss by providing counties with short-term, interest-free loans. Summer property tax levies total approximately $10.6 billion. It is unknown how many taxpayers would apply for, and receive, a deferral; and because the number of taxpayers (and their property tax liabilities) who pay property taxes under an escrow arrangement is unknown, the range of potential applicants (and deferrals) is unknown. If 40% of property taxes are paid under an escrow arrangement, and 20% of the remaining taxes were deferred, the bill could require financing $1.3 billion of property tax payments. To the extent that the State issued debt to obtain funds for the short-term financing program, the State's expenditure on debt service payments would increase by an unknown amount. If the State borrowed $1.3 billion for eight months at a 0.5% annual rate, the debt service payments would total approximately $4.2 million.

The bills also could create cash-flow changes, either positive or negative, for a variety of entities. Depending on how the State obtained funds for the loan program, the bills could result in the increased borrowing costs for the State. While most local units have a fiscal year that runs from July 1 to June 30, or from January 1 to December 31, some counties do have fiscal years that match the State's fiscal year, which runs from October 1 to September 30. If those counties with a fiscal year ending September 30 use cash accounting methods, the bills would shift revenue that otherwise would be received in fiscal year (FY) 2019-20 into FY 2020-21, lowering FY 2019-20 revenue by an amount equal to any deferred taxes and increasing FY 2020-21 revenue by the same amount. If a county did not distribute payments to local units of government until December 1, 2020, or a local unit did not distribute county taxes to the county until December 1 (or later), the bills also would shift revenue for any counties with a fiscal year ending September 30 that use accrual accounting because accounting rules allow only revenue received within 60 days of the end of the fiscal year to be accrued.

Similarly, because counties would obtain financing for all deferrals and would be obligated to repay the amounts regardless of whether a taxpayer ultimately paid them, the bill would transfer cash-flow issues associated with delinquent summer 2020 taxes into 2021. Furthermore, because taxpayers would be exempt from interest charges through June 1, 2020, regardless of when any payment was finally made to the tax collecting unit, local units would receive less revenue from interest on delinquent taxes.

For taxpayers who received a deferral, the bills would create related cash-flow issues. By deferring summer 2020 taxes, the bills would provide taxpayers with additional funds. However, those taxpayers then would be responsible for a winter tax levy that would be due February 15, 2021, followed by a March 31, 2021, due date for summer 2020 property taxes (although because interest would not accrue until June 1, 2021, the bills would create an incentive to delay payment until June 1), and a summer 2021 property tax due date in September 2021. As a result, within a seven-month period, taxpayers who received a deferral would have to make a full year's worth of 2021 payments plus their summer 2020 property taxes. Based on the $1.3 billion estimate presented above, the cash-flow impact on taxpayers would provide an additional $1.3 billion in revenue during the summer of 2020, but would require those taxpayers to make approximately $3.1 billion of property tax payments between mid-February and mid-September.

The bills do not specify any government agency or entity responsible for investigating fraudulently claimed deferral applications but they do specify that if the assessor for the local tax collecting unit were satisfied a property owner was liable for fraudulently claiming eligibility for a deferment, the assessor would have to report the case to the prosecuting attorney for the county. Any fine revenue from convictions would increase revenue for public and county law libraries by an unknown amount. The fiscal impact on local units of government for court costs and/or jail time are unknown and would depend on the local unit and the number of cases.

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