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BILL ANALYSIS

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Senate Bills 1160 and 1161 (as introduced 9-7-22)
Sponsor: Senator Wayne Schmidt
Committee: Appropriations

Date Completed: 9-27-22

CONTENT

Senate Bill 1160 would amend the Michigan Trust Fund Act to do the following:

-- **Create the "Revenue Sharing Trust Fund" in the Department of Treasury to deposit revenue from the General Sales Tax.**
-- **Requires that State Treasurer disburse 16.66% of the money available in the Fund on the 15th of every other month, beginning on October 15, 2023, in the following manner: 50.0% to each city, village, or township in the same proportion that each entity was eligible to receive under Section 952(1) of Article 5 in Public Act (PA) 166 of 2022 and 50.0% to each county in the same proportion that each county was eligible to receive under Sections 952(2) and 955 of Article 5 in PA 166 of 2022.**
-- **Requires the Governor and State Budget Director to include an appropriation directing the State Treasurer to transfer and disburse all money from the Fund beginning on September 30, 2023.**

Senate Bill 1161 would amend the General Sales Tax Act to require the Department of Treasury to deposit, beginning on October 15, 2023, and the 15th of every other month, 10.0% of the money received and collected from the tax imposed at a rate of 4.0% under the General Sales Tax Act to the Revenue Sharing Trust Fund.

The bills are tie-barred.

Senate Bill 1160

Under the bill, the Revenue Sharing Trust Fund would be created in the Department of Treasury and would receive money deposited from the General Sales Tax Act, donations of money made to the Fund, and interest and earnings from investments. The State Treasurer would direct the investment of the Fund. Money remaining in the Fund at the close of the fiscal year would remain in the Fund and not lapse to the General Fund.

Under the bill, beginning on October 15, 2023, and on the 15th of every other month thereafter, the State Treasurer would have to transfer and disburse an amount equal to 16.66% of the money available in the Revenue Sharing Trust Fund as follows:

-- 50.0% of the disbursement distributed to each city, village, or township in the same proportion that each entity was eligible to receive under Section 952(1) of Article 5 in PA 166 of 2022.
-- 50.0% of the disbursement distributed to each county in the same proportion that each entity was eligible to receive in Sections 952(2) and 955 of Article 5 in PA 166 of 2022; if a county were able to receive payments under the State Revenue Sharing Act for only a partial fiscal year, the amount distributed would have to be adjusted to treat the county as if it were eligible to receive the revenue sharing for the entire fiscal year.

The bill would prohibit money in the Fund from being transferred, spent, withdrawn, or otherwise disbursed from the Fund except as authorized in this section.

The bill also would require that, for each State fiscal period beginning on September 30, 2023, the Governor and State Budget Director include in the annual budget for the fiscal period submitted to the Legislature under the Michigan Constitution an appropriation directing the State Treasurer to transfer and disburse all of the money from the Fund as provided in the bill.

Senate Bill 1161

Under the General Sales Tax Act, 15% of the money received and collected of the tax imposed at a rate of 4.0% must be distributed to cities, villages, and townships under the Revenue Sharing Act. Additionally, 60.0% of the money received and collected from the tax imposed at a rate of 4.0% must be deposited to the State School Aid Fund. Finally, except as otherwise provided, not less than 27.9% of 25.0% of the collections of the General Sales Tax imposed at a rate of 4.0% on fuels sold to motor vehicles, on the sale of motor vehicles, and the sale of parts and accessories of motor vehicles must be deposited to the Comprehensive Transportation Fund.

Under the bill, beginning on October 15, 2023, and on the 15th of every other month, the Department of Treasury would have to deposit 10.0% of the money received and collected from the tax imposed at a rate of 4.0% would have to be deposited into the Revenue Sharing Trust Fund.

MCL 12.252 (S.B. 1160)
205.75 (S.B. 1161)

FISCAL IMPACT

The bills would reduce General Fund revenue and increase Revenue Sharing Reserve Fund revenue by approximately $710.0 million in fiscal year (FY) 2023-24, with the amount increasing in future years assuming sales tax revenue increased and that language changes were made to the bill to accomplish the assumed intent of the bills.

The bills also would increase local unit revenue each year, although the actual amount would depend on several assumptions ranging from the level of payments appropriated, if the bills completely replaced nonconstitutional revenue sharing made under current law, and if the bills were changed to implement the assumed intent of payment distributions made to local units.

The bills contain several areas where the language is unclear or would presumably fail to distribute revenue in the Reserve Fund. In other cases, it is unclear if the bills would provide payments at similar levels as would be expected if the current process for revenue sharing payments increased. For example, the first payment on October 15, 2023, would be 16.66% of the balance of the reserve and, as of that date, the Reserve Fund would have received a deposit of 10% of the sales tax collections at a 4% rate from an unknown period of time as of October 15, 2023. Assuming that deposit was 10% of the payments received between October 1, 2023, (the beginning of the fiscal year on a calendar basis) and October 15, 2023, the revenue in the Reserve Fund would be substantially less than the average bimonthly nonconstitutional revenue sharing payment under current law.

Under current law, revenue sharing payments are made every two months, based on lagged sales tax collections. For example, the August 2022 payments were based on collections received during May and June 2022. The bills, as written, would appear to increase FY 2022-23 revenue by the amount of any nonconstitutional payments that otherwise would have been made in October 2023 because July through October 2023 collections no longer would be used to fund payments in October and December 2023.

The bills indicate that 10% of sales tax collections at a 4% rate would have to be deposited in the Reserve Fund. Presumably, the intent is to earmark 10% of collections over the course of each fiscal year, although the bimonthly nature of deposits, the lack of a defined period for which the earmark would apply, and the fact that the first deposit technically would have to come from revenue that otherwise would accrue to FY 2022-23 (but are now being spent as an expenditure in FY 2023-24) suggests the need for language in the bill to be altered.

Related to the lag between collections and payments under current law, it is unclear that the Department of Treasury logistically would be able to make payments on the indicated dates given the dates by which deposits would be made into the Fund. In any event, the Department of Treasury would experience additional administrative costs to deposit General Sales Tax revenue into the Fund and distribute it to local units of government. This likely could be significant during FY 2023-24, but could end up within current appropriation in the following years as the proposed operation replaced current operations for nonconstitutional revenue-sharing distribution.

Similarly, the payments distribution process under the bills would appear to not fully distribute revenue in the Reserve Fund. The bills would require that each bimonthly distribution pay local units 16.66% of the available balance in the Reserve Fund. As a result, at any payment date, the distribution would leave 83.34% of the balance remaining in the Fund. Assuming the bill's requirements that no transfers would be allowed from the Fund were binding, the language would result in the Reserve Fund's having an ever-increasing balance.

The distribution formulas would be based on those units receiving nonconstitutional payments under PA 166 of 2022, meaning that those approximately 1,200 local units that did not receive nonconstitutional payments for FY 2021-22 would not be eligible to receive payments under the bills.

Assuming the intent of the bills is to distribute all of the Revenue Sharing Reserve Fund to local units, the bills would distribute approximately $710.0 million in FY 2023-24. Compared to the current appropriation for FY 2022-23 for nonconstitutional revenue sharing of approximately $528.0 million, the bills would represent an increase in local unit revenue of $182.0 million per year, assuming the bills fully replaced existing nonconstitutional revenue sharing payments.

The actual amount distributed under the bills would depend on the amount appropriated in the budget. While the bills would compel the Executive Branch budget proposal to recommend an appropriation that would fully exhaust the reserve, statute may not compel appropriations and the ability of the appropriation to support exhausting the Fund would depend on the degree to which actual revenue matched forecasted revenue at the time of the appropriation. If the appropriation were insufficient (i.e., sales tax collections exceeded the expected level), the Fund would not be exhausted. Conversely, if sales tax collections were less than expected, the Reserve Fund would be exhausted, but local units would receive less than they would under the current distribution mechanism.

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