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BILL ANALYSIS

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House Bill 4084 (as reported by the Committee of the Whole)
Sponsor: Representative Nate Shannon
House Committee: Tax Policy
Senate Committee: Finance, Insurance, and Consumer Protection

INTRODUCTION

The bill would allow a property owner to retroactively obtain a personal property tax exemption and pay the State essential services assessment (ESA) for the year 2021 tax year only if the property owner did not file a combined document correctly due to the COVID-19 pandemic. The bill would allow a property owner that paid property tax on otherwise exempt property in the 2021 tax year to receive a refund, and the bill would create the Late-Qualifying Eligible Manufacturing Personal Property Tax Reimbursement Fund to disburse those refunds for overpaid taxes and penalties as applicable.

FISCAL IMPACT

The bills would reduce State and local revenue and increase administrative costs for the State by an unknown amount that could, based on information from the Department of Treasury (DoT) total as much as $10.0 million if all disbursements were fullty funded. The number of properties that would qualify for the retroactive exemptions is unknown. The bill would reduce State Education Tax (SET) revenue and local property tax revenue by an amount that would depend on the number and taxable value of the properties that qualified for a retroactive personal property tax exemption. Local revenue changes also would depend on local millage rates. The General Fund reimburses the School Aid Fund (SAF) for reductions in SET revenue and the increased cost of the foundation allowance due to reduced property tax collections; however, the total reimbursement for Fiscal Year 2021-22 is estimated to be $1.5 million, and the change in the bill would increase that amount by a small fraction.

The distribution of personal property tax reimbursement payments from the Local Community Stabilization Authority (LCSA) to eligible local units would change somewhat based on the distribution of exempt property among local units of government. The total amount of LCSA payments, however, would not change as the total of all personal property reimbursements each year is set in statute. State revenue from the ESA would increase by an unknown amount, although, because of the difference in tax rates between the ESA and the SET, the increase would be less than the increased cost to the General Fund from SAF reimbursement.

The DoT would have additional administrative costs to administer the Late-Qualifying Eligible Manufacturing Personal Property Tax Reimbursement Fund and to make distributions. To the extent that funds were appropriated into the Fund, the bill would eliminate local unit revenue losses for tax year 2021. Any disbursements paid from the Fund would reduce State revenue for other expenditures, and the impact of funding those disbursements would depend on the fund source, amount, and fiscal year in which any appropriations into the Fund occurred. Based on information from the DoT, stakeholders have indicated expected disbursements from the Fund could total as much as $10.0 million.

Proposed MCL 211.1057a
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BRIEF RATIONALE

The ESA is a State specific tax on personal property that is exempt from property taxes at the local level because property meets certain eligibility requirements, such as being qualified manufacturing or industrial personal property. According to testimony, due to the COVID-19 pandemic, some businesses were unable to file the appropriate paperwork in time to receive this exemption and it has been suggested that these businesses should be able to retroactively file.

CONTENT

The bill would amend the State Essential Services Assessment Act to do the following:

-- **Allow a property owner to retroactively receive a property tax exemption and pay the essential services assessment (ESA) if the 2021 paperwork for that exemption was not properly filed due to the COVID-19 pandemic and the property was otherwise eligible.**
-- **Prescribe the process that the State Tax Commission (STC) would have to follow after approving or denying the required paperwork.**
-- **Create the Late-Qualifying Eligible Manufacturing Personal Property Tax Reimbursement Fund within the DoT.**
-- **Prescribe how money can be spent from the Fund.**

Retroactive Personal Property Tax Exemption

Under the Act, the ESA is a specific tax on eligible personal property for which a person has claimed a property tax exemption in the year immediately preceding the assessment year.

Section 9m and 9n of the General Property Tax Act exempts qualified new personal property and qualified previously existing personal property, respectively, from property tax. Section 9m(2) and 9n(2) require a person claiming an exemption on personal property to file a combined document that includes the following: 1) the form to claim the exemption; 2) a report of the fair market value and years of acquisition by the first owner; and 3) for any year before 2023, a statement of all the personal property of that person whether owned by that person or held for the use of another.

("New personal property" means property that was initially placed in service in the State or outside of the State after December 31, 2012, or that was construction in progress on or after December 31, 2012, that had not been placed in service in the State or outside of the State before 2013. "Qualified new personal property" is property that is new personal property that is also eligible manufacturing personal property. "Qualified previously existing personal property" means personal property that is eligible manufacturing personal property and that was first placed in service within the State or outside the State more than 10 years before the current calendar year. Generally, "eligible manufacturing personal property" means all personal property located on occupied real property if that personal property is predominantly used in industrial processing or direct integrated support, or, for personal property that is construction in progress and part of a new facility not in operation, the term means all personal property that is part of that new facility if the personal property will be predominantly used in industrial processing when the facility becomes operational.)

Under the bill, for the 2021 tax year only, if, due to the COVID-19 pandemic, a combined document as required in Section 9m(2) or 9n(2) of the General Property Tax Act was not properly filed to claim an exemption for personal property that would have qualified for that exemption in the 2021 tax year from the collection of property taxes, the owner of that personal property could obtain an order from the STC granting an exemption retroactively and establishing an assessment on that personal property, subject to the provisions described below.

Within 30 days of the bill's effective date, the property owner would have to submit to the STC a combined document applicable to that personal property for the 2021 tax year as required by Section 9m or 9n of the General Property Tax Act, and an application in a form and manner prescribed by the STC. If the STC approved the application, it would have to issue an order that did the following:

-- Granted the exemption under Section 9m or 9n of the General Property Tax Act, for the 2021 year only.
-- Established the 2021 assessment for the property and set the due date for the payment of that assessment 45 days after the issuance of the order.
-- If the 2021 assessment established by the order were not paid as directed, provided that the exemption under Section 9m and 9n of the General Property Tax Act would be rescinded.

Additionally, if the property owner had paid some or all of the 2021 property taxes, the order would have to require the property owner to be paid a refund in an amount equal to the amount of 2021 property taxes paid by the property owner, including any penalties or interest paid on those taxes, and the due date of the refund would have to be set for 30 days after the issuance of the order. If the property owner had not paid the 2021 property taxes, the order would have to cancel the unpaid taxes, including any unpaid penalties or interest on those taxes, and would establish the amount of distribution to be paid to the local tax collecting unit equal to the amount of unpaid property taxes, not including any unpaid penalties or interest on those taxes.

If the STC denied the application, it would have to issue a written notice to the local tax collecting unit and the owner of the personal property explaining the reason for the denial and advising the owner that the denial could be appealed to the tax tribunal within 35 days of the date of notice.

"Local tax collecting unit" would mean the township or city whose assessor would have received a combined document claiming exemption of late-qualifying eligible manufacturing personal property for the 2021 tax year if a claim of exemption had been properly filed for the 2021 tax year under Section 9m or 9n of the General Property Tax Act. "Late-qualifying eligible manufacturing personal property" would mean personal property for which an exemption from the collection of property taxes under Section 9m or 9n of the General Property Tax Act was granted.

Late-Qualifying Eligible Manufacturing Personal Property Tax Reimbursement Fund

The bill would create the Late-Qualifying Eligible Manufacturing Personal Property Tax Reimbursement Fund in the DoT. The State Treasurer would have to deposit money and assets received from any source in the Fund and direct the investment of money in the Fund and credit interest and earnings from investments to the Fund. The DoT would be the administrator of the Fund for audits. Money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse into the General Fund unless all the expenditures described below had been made.

Upon appropriation and receipt of an order from the STC, the DoT could spend money from the Late-Qualifying Eligible Manufacturing Personal Property Tax Reimbursement Fund only for the following purposes:

-- Distribution to local tax collecting units for refunding a property owner for property taxes paid for 2021 property taxes.

Distribution to local tax collecting units for redistribution of unpaid 2021 property taxes to taxing units that levied those taxes.