

# Legislative Analysis



## PERSONAL PROPERTY TAX PACKAGE

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**House Bills 6022, 6024 (H-2), 6025 (H-2), & 6026 (H-1)**

**Sponsor: Rep. Jud Gilbert**

**House Committee: Tax Policy**

**Senate Bills 1065 (H-2) & 1072 (H-1)**

**Sponsor: Sen. Jack Brandenburg**

**Senate Bills 1066 (H-1) & 1068 (H-1)**

**Sponsor: Sen. Dave Robertson**

**Senate Bill 1069 (H-1)**

**Sponsor: Sen. Dave Hildenbrand**

**Senate Bill 1067 (H-2)**

**Sponsor: Sen. Bruce Caswell**

**Senate Bills 1070 (H-1) & 1071 (H-1)**

**Sponsor: Sen. Mike Nofs**

**Senate Committee: Finance**

**House Committee: Tax Policy**

**Complete to 12-6-12**

## A PRELIMINARY SUMMARY OF THE BILLS AS REPORTED FROM HOUSE COMMITTEE

The following is a brief description of this package of bills, which aims at eliminating the personal property tax for eligible manufacturing personal property and certain commercial personal property and providing a partial reimbursement of the revenue lost to local units of government. The summary does not review all of the details of the proposal.

### Definition of "Municipality"

The term "municipality" refers in this package to counties, cities, villages, townships, authorities (other than the metropolitan areas metropolitan authority), local school districts, intermediate school districts, community college districts, libraries, and other local and intergovernmental taxing units.

### Definition of "Eligible Manufacturing Personal Property"

That term refers to all personal property located on real property where that personal property is used more than 50% of the time in industrial processing or in direct integrated support. Thus, since "eligible manufacturing personal property" is based on use rather than classification, it could include both commercial personal property and industrial personal property

## Exemptions

- The proposed legislation provides an exemption, beginning December 31, 2013, for commercial and industrial personal property if the combined taxable value of all such property owned by the taxpayer were less than \$40,000 in the local tax collecting unit. Commercial and industrial personal property of a business where the taxable value of the property in a local unit was \$40,000 or more would not be exempt. (Senate Bill 1070, Section 9o)
- The package of bills contains an exemption from personal property taxes, beginning December 31, 2015, for "qualified previously existing personal property." That term refers to eligible manufacturing property that, generally speaking, has been subject to or exempt from the collection of taxes for the immediately preceding 10 years, or would have been if located in the state during that period. (Senate Bill 1071, Section 9n)
- It provides an exemption, beginning December 31, 2015, for "qualified new personal property." That term refers to eligible manufacturing property that has met all of the following conditions: (1) purchased after December 31, 2011; (2) was not before January 1, 2013, subject to or exempt from taxation and was not in use or placed in service in the state; and (3) before January 1, 2013, was not in use or placed in service outside of the state. (Senate Bill 1069, Section 9m)

## Reimbursement of Local Units

- Local units would receive partial reimbursement of personal property tax revenues lost to be paid out of a portion of Use Tax revenues, to be known as the Metropolitan Areas Component Tax. This applies only to a municipality that has experienced a reduction in taxable value of over 2.5% as a result of the personal property tax exemptions. That tax would be levied by a newly created Michigan Metropolitan Areas Metropolitan Authority. Reimbursement would be as follows:
  - 100% of a municipality's school debt loss. This applies to all local and intermediate school districts without regard to the 2.5% threshold.
  - A percentage (intended to be about 80%, according to the Department of Treasury) of other foregone revenues for "non-essential" services, distributed according to formulas contained in the legislation.
  - Other than school debt loss, no reimbursement of foregone personal property tax revenues in a municipality that experienced a reduction in taxable value of 2.5% or less as a result of the exemption of industrial personal property and commercial personal property. Such a municipality would not be considered a "qualified municipality" for purposes of reimbursement.

- A new special assessment, described below, could be levied by local units for "essential services" (police services, fire services, ambulance services and equipment, and jail operations) on the real property of companies receiving the personal property exemption.

### Use Tax Provisions

- The existing Use tax would be divided into two components: (1) the metropolitan areas component levied by the metropolitan authority and (2) the state component levied by the state. The total of the two would equal 6%, the maximum allowed by the State Constitution. The rate of each component would be calculated annually by Treasury. The state component would be the portion of the rate remaining after sufficient revenues had been generated by the metropolitan areas component as specified in the bill. (See Fiscal Impact section.)
- Two percent of the use tax is constitutionally dedicated to the School Aid Fund and so would not be part of the calculations. It would remain part of the state component tax.
- The amendment to the Use Tax Act would not take effect unless approved by a majority of voters at a statewide election to be held at the August regular election date in 2014. If approved, it would take effect January 1, 2015.
- If the voters reject the amendment, the distributions from the Use Tax would have to be made through the annual legislative appropriations process.

### Special Authority

- The legislation creates the Michigan Metropolitan Areas Metropolitan Authority. Its stated purpose is "to promote the public health, safety, welfare, convenience, and prosperity of this state and its metropolitan areas." The authority would have the exclusive power to levy the metropolitan areas component tax under the Use Tax Act.
- The authority would be established as a metropolitan government under Section 27 of Article VII of the State Constitution. It would be a public body corporate and a special authority. It would not be an agency or instrumentality of state government.
- The powers, duties, functions, and responsibilities of the authority would be vested in a Metropolitan Areas Council consisting of five residents of the state appointed by the governor. (At least three must be residents of separate metropolitan areas.) The Council would be subject to the Open Meetings Act and Freedom of Information Act. It would be tax exempt.

## Special Assessment for Essential Services

- Beginning in 2016, the legislative body of a county, township, or city could by resolution provide that all or a portion of the cost of providing essential services (police, fire, ambulance services, and jail operations), essential services equipment, and maintenance of that equipment be defrayed by a special assessment levied on industrial real property and commercial real property belonging to the taxpayers claiming the eligible manufacturing personal property exemption located in the local unit. The assessment would be collected like property taxes on the July tax bill.
- The special assessment would not be levied on companies that were exempt from personal property taxes because the combined taxable value of all personal property owned by the taxpayer in a local unit was less than \$40,000.
- The legislation contains the formula for local units to use to calculate the amount of the special assessment levy.

## Brief Bill-by-Bill Description

**House Bill 6025** would create a new act, the Michigan Metropolitan Areas Metropolitan Authority Act, under which, among other things, the authority would levy and distribute the metropolitan component tax portion of the use tax. **Senate Bill 1072** would also create that authority but would only take effect if the voters rejected the ability of the authority to levy and distribute revenue from the metropolitan component tax portion of the use tax. In that case, the authority would distribute funds appropriated by the Legislature.

**House Bill 6022** would amend the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act to give the powers to the authority established in that act to the new Metropolitan Areas Metropolitan Authority.

**House Bill 6026** would amend the Use Tax Act.

**House Bill 6024** would create a new act, the Local Unit of Government Essential Services Special Assessment Act.

**Senate Bills 1067 and 1069-1071** would each amend the General Property Tax Act to provide an exemption from the personal property tax.

Senate Bill 1069 would apply beginning December 31, 2015, to eligible manufacturing personal property purchased after December 31, 2011. Senate Bill 1070 would apply, beginning December 31, 2013, for commercial and industrial personal property if the combined taxable value of all such property owned by the taxpayer were less than \$40,000 in the local tax collecting unit. Senate Bill 1071 would apply, beginning December 31, 2015, to eligible manufacturing personal property that had been subject to

or exempt from taxation for 10 years. Senate Bill 1067 would apply to currently exempt new personal property that was eligible manufacturing personal property to remain exempt until it was otherwise exempt under Senate Bills 1069, 1070, or 1071.

***Senate Bills 1065, 1066, and 1068*** would amend the Plant Rehabilitation and Industrial Development Act (also known as P.A. 198), the Technology Park Development Act, and the Enterprise Zone Act, respectively, to provide for eligible manufacturing personal property to remain subject to a specific tax, and exempt from the property tax, until the property became exempt under Senate Bill 1069, 1070, or 1071. Additionally, Senate Bill 1065 would specify that no new industrial facilities (PA 198) exemptions could be approved, issued, or extended after December 31, 2015.

## **FISCAL IMPACT:**

As written, the bills will reduce revenues for both state and local governments by unknown amounts. The final impact on state-level revenues would be on the state General Fund. Local units of government for which revenues would be reduced include cities, villages, townships, counties, school districts, intermediate school districts, community colleges, and libraries. Because there are too many factors that cannot be determined and detailed taxable value data on personal property by taxpayer is not available, it is not possible to provide accurate fiscal estimates of the various losses to these taxing units. A general description of losses by taxing unit is provided below.

### **State General Fund**

State use tax (and therefore General Fund) revenue will be reduced annually by the amounts that the metropolitan authority is permitted to levy. These amounts, specified in House Bill 6026, are listed below:

|            |                 |
|------------|-----------------|
| FY 2015-16 | \$50.0 million  |
| FY 2016-17 | \$260.5 million |
| FY 2017-18 | \$274.5 million |
| FY 2018-19 | \$288.2 million |
| FY 2019-20 | \$301.5 million |
| FY 2020-21 | \$313.9 million |
| FY 2021-22 | \$324.6 million |

After FY 2021-22, the amount is equal to the prior year amount adjusted by a growth factor.

In addition to the direct use tax reduction, House Bill 6026 also stipulates that an amount of use tax revenue equal to the loss arising from the exemption of commercial personal property from the 6-mill State Education tax and the local 6-mill school operating levy shall be deposited in the School Aid Fund (SAF). The magnitude of this reduction cannot be determined because there are no data available regarding the value of commercial personal property that would be exempted where commercial and industrial personal

property equal less than \$40,000 or the value of commercial personal property that would be exempted based on manufacturing use.

Expiring certificated business tax credits have been identified by proponents of the legislation as a source of revenue to offset the reduction in the use tax. Under current law, any additional revenue realized from the expiring credits will accrue to the General Fund with or without the enactment of these bills, and will be available as discretionary revenue to be utilized for this purpose or any other purpose designed by the Legislature (subject to the normal appropriation process absent statutory action). The reduction in use tax revenue under this package represents a net loss to the state General Fund relative to current law.

### **All Local Governments**

Local government revenues will decline due to several provisions contained in the bills. First, any revenue loss arising from the under \$40,000 exemption on commercial and industrial personal property will not be reimbursed by the metropolitan authority.

Second, any local government for which its eligible manufacturing personal property is less than 2.5% of its total taxable value will not be eligible for a reimbursement from the metropolitan authority. It is anticipated that a large number of local governments will be affected by this provision.

Third, to the extent that a local government exceeds the 2.5% threshold, it is eligible to receive a reimbursement from the metropolitan authority for a portion of the revenue loss attributable to non-essential services. Although the reimbursement is intended to offset 80% of the revenue loss, the total reimbursement is capped by the amount of use tax the authority is permitted to levy, and in practice will not guarantee any predetermined percentage of the lost revenue.

Fourth, although local governments will be permitted to levy an essential services assessment on those taxpayers claiming the exempt manufacturing personal property, because the amount any single taxpayer can be assessed is capped, it is possible that less than 100% of the essential services revenue loss would be offset.

### **K-12 School Districts**

General operations will be held harmless by the state transfer of use tax (General Fund) revenue to the School Aid Fund as described under the state General Fund impact. In addition, existing school bond debt will be held harmless by the municipal authority. However, any new school bond debt will not be eligible for reimbursement.

Sinking fund and recreational millage losses will be treated in the same manner as non-essential services of local governments in that they will be eligible for partial reimbursement from the metropolitan authority, subject to the overall use tax levy.

### **Intermediate School Districts (ISD)**

In general, ISD bond debt will be held harmless by the same provisions as for K-12 school districts, although it appears that most ISD bond debt are general obligation limited tax pledges from their existing millage authorization rather than unlimited tax pledges supported by specific voter-approved millages and would therefore be subject to reimbursement from the metropolitan authority rather than being held harmless.

ISD millages for general operations, special education, and vocational education, as well as the regional enhancement millage (distributed to constituent school districts), would be eligible for partial reimbursement from the metropolitan authority in the same manner as non-essential services.

### **Other Local Taxing Entities**

Community college districts, libraries, and other local and intergovernmental taxing authorities would be eligible for the same partial reimbursement as local government for non-essential services.

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