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BILL ANALYSIS

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Senate Bill 142 (as introduced 2-15-11)
Sponsor: Senator Bruce Caswell
Committee: Finance

Date Completed: 2-23-11

CONTENT

The bill would amend the General Property Tax Act to exempt from taxation the personal property of a business with fewer than 26 employees, for taxes levied after December 31, 2011. A taxpayer could claim this exemption by submitting an application to the local tax collecting unit, in a form prescribed by the Department of Treasury.

"Employee" would mean that term as defined in Section 3401(c) of the Internal Revenue Code. A person from whom an employer is required to withhold for Federal income tax purposes would be prima facie considered an employee. (Section 3401(c) states that "employee" includes an officer, employee, or elected official of the United States, a state, a political subdivision of the United States or a state, or any agency or instrumentality of any of them. The term also includes an officer of a corporation.)

Proposed MCL 211.9n

BACKGROUND

The General Property Tax Act imposes a tax on all nonexempt real and personal property in the State. Personal property includes, for example, commercial equipment, furniture, and fixtures, industrial machinery and equipment, gas and electric transmission and distribution equipment, oil pipelines, and nonexempt agriculture equipment and produce. Like real property, personal property is assessed at 50% of its true cash value, and the amount of the tax is determined by multiplying the tax rate by the taxable value of the property (which is the same as its assessed value, in the case of personal property). The tax on real and personal property is collected in the same manner, and the distribution of tax revenue is the same.

The Act contains a number of exemptions for various types of personal property, including residential personal property, inventory, property used in agricultural operations, special tools used in manufacturing, and computer software. Additional exemptions apply to personal property in a renaissance zone, the personal property of a qualified start-up business, and new personal property of an eligible business located in an eligible district or a distressed parcel. In addition, property that is classified as industrial personal property or commercial personal property is exempt from property taxes levied for school operating purposes.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would increase General Fund and decrease School Aid Fund (SAF) revenue, as well as reduce local unit revenue. The bill also would increase School Aid Fund expenditures, assuming per-pupil funding guarantees would be maintained. School Aid Fund revenue would be affected by a reduction of revenue from the State Education Tax, while General Fund revenue would be affected by a reduction in utility property taxes and because taxpayers would no longer claim the credit under the Michigan Business Tax (MBT) for personal property taxes.

(State Education Tax revenue and the utility property tax under Public Act 282 of 1905 would be affected because those taxes do not apply to property that is exempt under the General Property Tax Act. The MBT Act allows taxpayers to claim a credit for a percentage of property taxes paid on industrial personal property (35%), personal property of a telephone company (13.5%), and natural gas pipelines (10%).)

Based on 2010 taxable values, taxpayers paid approximately $1.2 billion in personal property taxes, of which approximately $145.7 million was offset by property tax credits under the MBT. Statistics from the 2007 Economic Census indicate establishments with fewer than 26 employees would account for approximately 10% of capital expenditures. Using that percentage, firms affected by the bill would have paid approximately $123.0 million in personal property taxes, of which approximately $14.6 million was offset by property tax credits under the MBT. The School Aid Fund received approximately $10.4 million in personal property taxes under the State Education Tax, while the General Fund received approximately $5.3 million from taxes on utility property. The net impact on the General Fund was a loss of $9.3 million. As a result, the bill would reduce SAF revenue by $10.4 million and increase General Fund revenue by $9.3 million.

Based on 2010 taxable values, local school districts received approximately $19.6 million in personal property taxes for operating purposes from taxpayers with fewer than 26 employees (using the above percentage). This revenue reduced the amount of SAF expenditures needed to bring local school districts up to their guaranteed per-pupil funding level. The bill would reduce local operating taxes by approximately $19.6 million. If per-pupil funding guarantees were maintained, the loss of local revenue would require additional SAF expenditures. Assuming per-pupil funding guarantees were unchanged, between the loss of State Education Tax revenue and the increase in SAF expenditures, the net impact on the SAF would total approximately $30.0 million.

Local units received approximately $87.87 million in personal property taxes from these taxpayers, based on 2010 taxable values. This revenue would have reflected millages levied by local entities with taxing authority, and would include mills levied for local school district debt, county levies, and city/village/township levies, as well as levies by other authorities such as library authorities, zoo and park levies, and public safety levies for police and/or fire service.

It appears that the bill would not affect taxes levied on personal property under Public Act 198 of 1974 (industrial facilities taxes). As a result, local units would be expected to lose $78.4 million under the bill (rather than $87.8 million).

Two factors could result in the revenue loss under the bill being greater than estimated above. First, while the bill defines "employee" as a person for whom an employer is required to withhold Federal income taxes, it does not specify when the number of employees would be counted. Therefore, not only would part-time employees appear to affect employee counts, but it is unclear whether the employee counts would be at the time of assessment, an average number of employees over the tax year, or some other measure.

Furthermore, the bill would apparently exempt employers that used a subsidiary or other affiliated company (which would not employ the workers) to own all of the property. As a result, even large employers could fully exempt their personal property from taxation by relatively minor changes to their organizational structure. To the extent that such subsidiaries were used, the revenue loss under the bill could be much larger than indicated above.

Fiscal Analyst: David Zin