



**House  
Legislative  
Analysis  
Section**

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**SPECIAL ASSESSMENTS: SEV-BASED**

**House Bills 5371-5373 (Substitutes H-2)  
House Bills 5375-5378 (Substitutes H-2)  
First Analysis (12-5-95)**

**Sponsor: Rep. Willis Bullard, Jr.  
Committee: Tax Policy**

**THE APPARENT PROBLEM:**

A limit on how much property assessments can increase from year to year was added to the state constitution with the passage of Proposal A in March of 1994. The limit says the assessment of a parcel of property cannot increase from one year to the next by more than five percent or the percentage increase in the consumer price index, whichever is lower. The term "taxable value" has been added to the General Property Tax Act to implement the assessment cap. Property taxes are now based on the taxable value of property, which will be lower than state equalized value (SEV) in areas where property values are increasing at a higher rate than the cap. When property is sold, it is re-assessed based on market value and the cap begins again. However, some public improvements and government services are funded through special assessments on property, which, generally speaking, differ from property taxes in principle by tying the amount a property owner pays to the benefit received. While some special assessments, for road projects and sewers, for example, are based on frontage or area, others are applied based on the value of property. Township police and fire services can be funded in this way, as can parks and recreational programs, and there are statutes governing this. In some communities, assessors have begun basing these ad valorem special assessments on taxable value rather than SEV, believing that the constitutional assessment cap should apply in such cases. However, a letter written in August on the topic by the State Tax Commission, in response to a question from a township assessor, said that special assessments should be levied against SEV. (The question dealt with Public Act 33 of 1951, which deals with township fire protection and police services.) In part, this opinion is based on the view that the use of SEV provides a closer relationship of cost to benefit in a special assessment district than does taxable value. With the assessment cap, the taxable value of property that does not change hands could be considerably lower than its SEV; property that has seen a recent transfer in ownership will have a higher taxable value than property that hasn't changed ownership. The legislature has been asked to address the issue of special assessments.

**THE CONTENT OF THE BILLS:**

The bills would amend various acts authorizing special assessments to specify that, for 1995 only, assessments could be based on either "taxable value" or "state equalized value" (SEV). In subsequent years, assessments would be based on SEV. House Bill 5371 would amend the General Property Tax Act (MCL 211.131e). House Bill 5372 would amend Public Act 246 of 1931 (MCL 41.290), under which boards of county road commissioners and/or township boards can provide artificial lighting of roads, highways, and bridges. House Bill 5373 would amend Public Act 188 of 1954 (MCL 41.725), which applies to various improvements by township boards. House Bill 5375 would amend Public Act 33 of 1951 (MCL 41.801), which applies to fire and police protection in townships and some villages and small cities. House Bill 5376 would amend Public Act 116 of 1923 (MCL 41.414), which applies to township and village improvements. House Bill 5377 would amend Public Act 107 of 1941 (MCL 41.350k), which applies to township water supply systems. House Bill 5378 would amend Public Act 157 of 1905 (MCL 41.426c and 426d), which applies to township parks and recreation programs.

**FISCAL IMPLICATIONS:**

The bills address how special assessments are to be levied once a local project or service cost has already been determined.

**ARGUMENTS:**

**For:**

The bills would specify that special assessments based on property value are to be levied against the state equalized valuation (SEV) of property and not against taxable value. Property taxes are now levied against taxable value because of the cap imposed by Proposal A on how much property assessments can increase for property tax purposes. Special assessments, however, are distinct from general property taxes and the constitutional cap does not apply to them. Township

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representatives have expressed concern over the impact on bonds supported by special assessments if the cap were to be applied. They also have expressed concern about the future legal viability of special assessments if they become based on taxable value. With special assessments, the amount paid by each property owner is supposed to bear some relation to the benefit received. Over time, with the cap on property values, two identical pieces of property could have dramatically different taxable value, because one has remained in the same hands while the other one has been sold. This eventual disparity could threaten the legality of special assessments (since property owners with equal benefit would be paying different amounts). The distinction between a special assessment and a tax would be erased. The bill does permit special assessments to be levied on either SEV or taxable value for 1995, recognizing that there has been confusion over this issue.

***Response:***

Some people believe that when the voters imposed a cap on property values for tax purposes, they thought the cap would apply to ad valorem special assessments as well. While some special assessments are based on factors other than value (such as frontage or area), others are based by statutory fiat on the value of property and those could logically be based on taxable value rather than SEV. That would also be a practical convenience.

***POSITIONS:***

The Department of Treasury supports the concept of the bills. (11-30-95)

The Michigan Townships Association supports the bills. (11-30-95)

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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.