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BILL ANALYSIS

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House Bill 5124 (Substitute H-3)
Sponsor: Representative John Germaat
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 11-7-95

SUMMARY OF HOUSE BILL 5124 (Substitute H-3) as passed by the House:

The bill would amend the Tax Tribunal Act to provide that interest on refunds due taxpayers, and on sums owed by taxpayers, would accrue at a rate calculated annually (rather than monthly, as is currently done); require that the Tax Tribunal determine a property's taxable value; change the criteria for determining the eligibility of disputes involving nonresidential property to appear before the Residential Property and Small Claims Division of the Tribunal; and provide for the automatic addition to an appeal that involved a claim for exemption of a homestead or qualified agricultural property that was denied.

Currently, under the Act, if the Tax Tribunal in a property tax dispute determines that a taxpayer paid additional taxes as a result of an unlawful assessment, the amount unlawfully paid accrues interest at a rate set monthly based on the auction rate of 91-day Treasury bills plus 1%. This interest rate also applies to amounts determined by the Tax Tribunal to have been underpaid by a taxpayer. The bill provides that after December 31, 1995, interest on these amounts would accrue at a rate set each *year*, based on the average auction rate of 91-day Treasury bills in the immediately preceding fiscal year (as certified by the Department of Treasury) plus 1%. The Department would have to certify the interest rate within 60 days after the end of a fiscal year.

Currently, if a taxpayer is determined by the Tax Tribunal to have underpaid his or her taxes, the amount underpaid bears interest from the date of the original payment to the date of judgment, and then to the date of final payment. The interest is not applied, however, if the underpaid amount is paid within 30 days after the Tribunal's decision. The bill would make interest begin after 28 days.

The bill provides that the Tax Tribunal would have to determine a property's "taxable value" pursuant to Section 27a of the General Property Tax Act. ("Taxable value", as described in Section 27a, was placed in that Act in response to the assessment cap that was added to the State Constitution by the adoption of Proposal A in 1994, and is the basis upon which property taxes are assessed. "Taxable value" of each parcel of property is, in general, the property's State equalized valuation (SEV) in 1994 adjusted each year by the lesser of 5% or the rate of inflation; the taxable value is calculated in this manner until ownership is transferred, at which time the property's taxable value for the calendar year following the year of the transfer is the property's SEV for the year following the transfer.)

Currently, in an appealed assessment dispute before the Residential Property and Small Claims Division assessments for years subsequent to the year in which the assessment is disputed are automatically added to the appeal. The bill also would require the Residential Property and Small Claims Division automatically to add to an appeal of a final determination of a claim for a homestead or qualified agricultural property exemption each subsequent year in which a claim for exemption for the homestead or qualified agricultural property was denied.

Currently, the Act provides that property other than residential property may be included in a proceeding before the Residential Property and Small Claims Division if the assessed value of the property after applying the SEV is not increased or decreased by more than $100,000. The bill provides instead that such property could be included in a proceeding before the Residential Property and Small Claims Division if the amount of the property's taxable value or SEV in *dispute* were not more than $100,000.

MCL 205.737 & 205.762 Legislative Analyst: G. Towne

FISCAL IMPACT

This bill would have no fiscal impact on State government. Local governments could experience an increase or decrease in their net interest costs in any particular year, compared with current law, but any such gain or loss would be basically reversed the following year. Under current law, the interest rate used to calculate refunds for overpayments and late charges for underpayments is based on current interest rates by recalculating the rate monthly using the 91-day Treasury bill rate monthly average plus one percentage point. This bill would simplify the process for calculating the interest rate applied to Tax Tribunal judgments by using the average rate for 91-day Treasury bills during the previous fiscal year plus one percentage point. Under this change, when interest rates are increasing (decreasing), a local government’s current year net interest earnings would be lower (higher) under this bill than under current law, but this net decrease (increase) in interest earnings would be offset the following fiscal year as the higher (lower) interest rates would be reflected in the interest rate calculation. Therefore, it is estimated this bill would have no fiscal impact on local governments on a multi-year basis.

Fiscal Analyst: J. Wortley

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