

Legislative Analysis



PERSONAL PROPERTY TAX PACKAGE

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 6022, 6024-6026
Public Acts 404, 406-408
Sponsor: Rep. Jud Gilbert

Senate Bill 1065
Public Act 397 of 2012
Sponsor: Sen. Jack Brandenburg

Senate Bills 1066 & 1068
Public Acts 398 and 400 of 2012
Sponsor: Sen. Dave Robertson

Senate Bill 1069
Public Act 401 of 2012
Sponsor: Sen. Dave Hildenbrand

Senate Bill 1067
Public Act 399 of 2012
Sponsor: Sen. Bruce Caswell

Senate Bills 1070 & 1071
Public Acts 402 and 403 of 2012
Sponsor: Sen. Mike Nofs

Senate Committee: Finance
House Committee: Tax Policy

Complete to 3-1-13

A BRIEF SUMMARY OF THE BILLS AS ENACTED

This package of bills aims at phasing out the personal property tax for eligible manufacturing personal property (which includes both industrial property and certain commercial personal property) and providing a partial reimbursement of the revenue that is lost to local units of government. The reimbursements would be made from use tax revenue.

The package also allows local units, beginning in 2016, to impose a special assessment on industrial real property and commercial real property belonging to taxpayers claiming the eligible manufacturing personal property exemption to defray all or a portion of the cost of providing essential services (police, fire, ambulance services, and jail operations), and related equipment.

The proposed changes to the Use Tax Act (in House Bill 6026) would require approval of state voters at an August 2014 referendum. If the voters reject the proposal, the rest of the personal property tax legislation would not take effect.

The personal property tax is typically described as a tax on property not affixed to land, such as equipment, furniture, tools, and computers. It does not apply to inventory (which is not taxed). It is a tax that only businesses pay. The tax is paid primarily to local units of government (although the state receives personal property tax revenue from the 6-mill State Education Tax.) Local units vary greatly in the amount of personal property within their borders and, as a result, in how much they rely on personal property tax revenue.

Definition of "Eligible Manufacturing Personal Property" (Senate Bill 1071)

That term in this package of bills 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.

"Direct integrated support" means research and development, testing and quality control, engineering, and certain warehouse facilities. These are warehouses that directly support the entity engaged in industrial processing and store tangible personal property, as well as sorting and distribution centers that optimize transportation and use just-in-time inventory management and material handling for inputs to industrial processing.

Other personal property would remain subject to tax; generally speaking, this would be the personal property of business enterprises that are not engaged in industrial processing or support for industrial processing, if the value of that personal property is \$40,000 or more.

Definition of "Municipality" (House Bill 6025)

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.

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 is less than \$40,000 in a particular local tax collecting unit. (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 subject to taxes or exempt if located in the state for that period. (Senate Bill 1071, Section 9n)

[Note that by defining "qualified previously existing personal property" in the above paragraph as property subject to taxes or exempt from taxes "for the immediately preceding 10 years," the proposal would phase in the exemption for existing personal property. In the first year of the exemption—2016—the exemption would apply only to eligible personal property subject to or exempt from taxation before 2006. In the next year, the exemption would apply, by going

back 10 years, to personal property subject to or exempt from taxation before 2007 (and thus adding property first taxable or exempt in 2006). In the next year, personal property subject to tax before 2008 would qualify, and so on, until eventually all such property would become exempt in 2023.]

- The proposed legislation contains an exemption, beginning December 31, 2015, for "qualified new personal property." That term refers to eligible manufacturing property that is new personal property. New personal property is defined to apply to property that has met all of the following conditions: (1) was not, before January 1, 2013, subject to or exempt from taxation and was not in use or placed in service in the state; (2) before January 1, 2013, was not in use or placed in service outside of the state; and (3) was initially purchased from a vendor of new property after December 31, 2012. (Senate Bill 1069, Section 9m)

Reimbursement of Local Units for Lost PPT Revenue (House Bill 6025)

- Local units would receive partial reimbursement of the personal property tax revenues lost from the exemptions, with the reimbursement to be paid out of a portion of Use Tax revenues, to be known as the Metropolitan Areas Component Tax.

Except for local and intermediate school districts and community colleges, this reimbursement only applies to a municipality that has experienced a reduction in taxable value of over 2.3% as a result of the personal property tax exemptions. Generally, municipalities that experience a reduction in revenue of 2.3% or less would not be reimbursed.

The metropolitan areas portion of the use 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 (from debt incurred before January 1, 2013), 100% of school operating loss not reimbursed by the State School Aid Fund, 100% of ISD revenue lost, and 100% of community college revenue lost would be reimbursed. This applies to all local and intermediate school districts and community colleges without regard to the 2.3% threshold. (Reimbursement for revenue losses related to school district sinking funds and school district recreation millages would not be reimbursed at 100%, but would be reimbursed like other municipal losses.)
- A percentage (intended to be about 80%, according to the Department of Treasury) of other foregone revenues for "non-essential" services would be reimbursed, distributed according to formulas contained in the legislation. There would be no reimbursement for "essential services";

instead those would be covered by a new special assessment levied at the local level, described later.

- Other than the school revenue loss described above and losses to a community college district, there would be no reimbursement of foregone personal property tax revenues in any municipality that experienced a reduction in taxable value of 2.3% 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, more fully described later, could be levied by local units for "essential services." This would apply to police services, fire services, ambulance services, associated equipment, and jail operations. The special assessment would be levied on the real property of those companies with more than \$40,000 in personal property that are receiving the personal property exemption. This assessment could be levied by counties, townships, villages, cities, and all authorities created to provide essential services.

Use Tax Provisions (House Bill 6026)

- 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 for the amounts that would be levied by the metropolitan authority for each fiscal year for reimbursement purposes.)
- Two percentage points of the use tax rate 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, none of the elements of personal property tax proposal would take effect.

Special Authority (House Bill 6025)

- The legislation creates the Michigan Metropolitan Areas Metropolitan Authority. The authority would have the exclusive power to levy the metropolitan areas

component tax under the Use Tax Act. Its stated purpose is "to promote the public health, safety, welfare, convenience, and prosperity of this state and its metropolitan areas."

- 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 would have to be residents of separate metropolitan areas.) After initial staggered terms, members would be appointed for six-year terms. The Council would be subject to the Open Meetings Act and Freedom of Information Act. It would be tax exempt.
- The bill creating the new authority contains a statement of "findings." Among them are (1) "that there exists . . . a continuing need to strengthen and revitalize the economy of this state and to organize the activities of local government in metropolitan areas in a manner that reduces governmental barriers to economic growth, facilitates economic development, preserves communities and strengthens neighborhoods, prevents or reduces unemployment, and creates new employment opportunities"; and (2) "that it is necessary and appropriate for the promotion of the health, safety, and welfare of the people of this state to enable the formation of metropolitan governments designed to perform multipurpose functions." The bill does not define "metropolitan" or "metropolitan areas."

Special Assessment for Essential Services (House Bill 6024)

- 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), and related equipment, including 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 local unit would have to hold a hearing on the question of creating the special assessment district, subject to the Open Meetings Act. (The special assessment district boundaries would be coterminous with the boundaries of the local unit.) The creation of the district and levy of the special assessment could not be subject to a referendum by voters in the local unit.

- 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. It also contains a cap on the levy. The cap generally speaking limits the levy to the result of the following formula: (1) Multiply the lowest general operating millage rate levied by the local unit between 2012 and the current year by the percentage of the general operating millage used to fund essential services and essential services equipment in the 2012 fiscal year; (2) add to that result the lowest millage rate for a millage dedicated solely for essential services and essential services equipment between 2012 and the current year; (3) multiply the result of that calculation by 50 percent of the true cash value of all exempt personal property.
- The bill specifies that "it is the intent of the Legislature that the special assessment . . . results in a proportionate allocation of the financial cost of essential services and essential services equipment across all classes of real property and the amount . . . levied . . . accurately corresponds to the benefit received by the . . . property that is conclusively presumed to be benefited by the . . . services provided."

Brief Bill-by-Bill Description

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

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.

House Bill 6026 would amend the Use Tax 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, 2012. 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.

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	\$41.7 million
FY 2016-17	\$257.5 million
FY 2017-18	\$277.1 million
FY 2018-19	\$293.8 million
FY 2019-20	\$311.3 million
FY 2020-21	\$326.8 million
FY 2021-22	\$345.2 million
FY 2022-23	\$362.4 million

After FY 2022-23, 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 eligible manufacturing personal property is 2.3% or less 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 2.3% 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 the real property of 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 consists of 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

Libraries and other local and intergovernmental taxing authorities would be eligible for the same partial reimbursement for non-essential services as other local governments.

Legislative Analyst: Chris Couch
Fiscal Analyst: Jim Stansell
Bethany Wicksall
Mark Wolf

■ 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.