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BILL ANALYSIS



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Senate Bill 960 (Substitute S-1)
Sponsor: Senator Jack Brandenburg
Committee: Finance

Date Completed: 10-18-16

CONTENT

The bill would amend Section 7o of the General Property Tax Act to do the following:

- Define "charitable purpose" and "nonprofit charitable institution" for the purpose of a real or personal property tax exemption.
- State that the unavailability of one exemption under Section 7o would not preclude the availability of another exemption under Section 7o.
- Specify conditions that would apply to each of the exemptions under Section 7o.
- Require the State Tax Commission to work with an organization representing nonprofit organizations in Michigan to provide educational materials and programs to assessors of local tax collecting units on the bill's amendments.

Real or Personal Property Tax Exemptions

Section 7o allows an exemption from taxes collected under the Act for real or personal property under any of the following circumstances:

- Real or personal property is owned and occupied by a nonprofit charitable institution solely for the purposes for which the institution was incorporated.
- Real or personal property is owned and occupied by a charitable trust solely for the charitable purposes for which the trust was established.
- Real or personal property owned by a nonprofit charitable institution or charitable trust is leased, loaned, or otherwise made available to another nonprofit charitable institution or trust, or a nonprofit hospital or educational institution, and is occupied by that entity solely for the purposes for which it was organized or established, and the property would be tax exempt if it were occupied by the lessor charitable institution or trust for the purposes for which it was organized or established.
- Real or personal property owned by a nonprofit charitable institution or charitable trust is leased, loaned, or otherwise made available to a governmental entity, and certain conditions are met.
- Real property is owned by a nonprofit charitable institution that is a "qualified conservation organization", and other conditions are met.

In these provisions, the bill would refer to the "charitable" purposes for which a nonprofit charitable institution or charitable trust was incorporated, established, or organized, where the Act does not include that term.

Also, under Section 7o, if authorized by a resolution of the local tax collecting unit in which the real or personal property is located, real or personal property owned by a nonprofit charitable institution that is occupied and used by its chief executive officer as his or her

principal residence as a condition of his or her employment and that is contiguous to real property that contains the institution's principal place of business is exempt from the collection of taxes under the Act.

In addition, a charitable home of a fraternal or secret society, or a nonprofit corporation whose stock is wholly owned by a religious or fraternal society that owns and operates facilities for the aged and chronically ill and in which the net income from the operation of the corporation does not inure to the benefit of any person other than the residents, is exempt from the collection of taxes under the Act.

Section 7o also exempts real and personal property owned and occupied by a nonprofit corporation that meets all of the following conditions:

- The nonprofit corporation is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code (described below).
- The nonprofit corporation is either a skilled nursing facility or home for the aged licensed under the Public Health Code, or adult foster care facility licensed under the Adult Foster Care Facility Licensing Act, or provides housing, rehabilitation services, diagnostic services, medical services, or therapeutic services to one or more disabled people.
- Either the real and personal property of the nonprofit corporation was being treated as exempt from the collection of all taxes under the General Property Tax Act on January 10, 2007, or it had been treated as exempt on December 31, 2004, and there was no transfer of ownership of that property between the last day the property was treated as exempt until January 10, 2007.

If real or personal property owned and occupied by a nonprofit corporation is not eligible for this exemption, the nonprofit corporation is not precluded from applying for the exemption for real or personal property owned and occupied by a nonprofit charitable institution solely for the purposes for which it was incorporated. The bill would delete this provision.

Available of Other Exemptions; Additional Conditions

Under the bill, each of the provisions described above allowing an exemption under Section 7o of the General Property Tax Act would provide an independent basis for exempting property from the collection of taxes under the Act. The unavailability of an exemption under one provision would not preclude the availability of an exemption under another.

Both of the following conditions would apply to each of the exemptions provided for under Section 7o:

- The assessor of the local tax collection unit in which the property was located or the Department of Treasury could require an exemption applicant or recipient to complete an application and to provide other documentation and information that was reasonably necessary for the assessor or the Department to make an eligibility determination.
- The exempt status of the property would continue until the basis for the exemption ceased to exist.

If the basis for the exemption ceased to exist, the owner of the property would have to notify the assessor of the local tax collecting unit of that change not later than the immediately succeeding tax day. If a property owner failed to provide the required notification and as a result no annual assessment notice or tax bill was issued indicating that the property was receiving an assessment for property tax purposes, that property owner would have to be considered to have claimed the exemption.

Definitions

The bill would define "charitable purpose" as one or more of the following:

- The advancement of education.
- The advancement of religion.
- The promotion of health and wellness.
- The relief of poverty.
- The erection of public buildings or other public works.
- The promotion of a governmental purpose or the alleviation of burdens or responsibilities that would otherwise be borne by the government.

"Nonprofit charitable institution" would mean an organization that is a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and meets at least two of the following:

- Offers charitable services to a particular class of individuals, and does not condition the receipt of those services within that class based upon an individual's health, ability to pay, or other characteristics.
- Serves a charitable purpose or a qualified conservation organization purpose.
- Charges no more for its charitable services than is reasonably necessary to maintain the operation of the organization and its services and has a specific policy established to assure that its services are available to those in need of its charity who cannot pay or have a limited ability to pay for those services.
- Has an overall nature that promotes charity, regardless of the amount of money that the organization devotes to charitable activities on an annual basis.

(Section 501(c)(3) of the Internal Revenue Code allows an exemption from Federal income tax for a corporation, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, public safety testing, literary, or educational purposes, to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, provided that none of the net earnings benefits any private shareholder or individual, no substantial part of its activities is carrying on propaganda or attempting to influence legislation, and it does not participate or intervene in any political campaign for or against any candidate for public office.)

MCL 211.7o

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would reduce both State School Aid Fund revenue and local property tax revenue, and would increase School Aid Fund expenditures, by an unknown and potentially significant amount. For example, based on national data available for assets held by 501(c)(3) firms, and after assumptions regarding Michigan's share of the total, the share of property not already exempt under current law, and the proportion of property that could qualify for the exemption under the bill, the bill could reduce State Education Tax revenue (which is credited to the School Aid Fund) by approximately \$5.9 million per year, and local property tax revenue by approximately \$27.6 million, beginning in FY 2016-17. Property tax revenue from local school operating mills would be reduced by approximately \$17.8 million, and School Aid Fund expenditures increased by the same amount in order to maintain per pupil funding allowances, beginning in FY 2017-18. However, the impact of the bill would depend on the number of taxpayers affected and the specific characteristics of any affected property.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.