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## BILL ANALYSIS



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House Bill 4553 (Substitute H-2 as passed by the House)  
Sponsor: Representative David Maturen  
House Committee: Tax Policy  
Senate Committee: Finance

Date Completed: 5-26-15

**CONTENT**

The bill would amend the General Property Tax Act to revise exemptions for personal property under Section 9f (new personal property owned or leased by an eligible business in an eligible local assessing district), Section 9m (new eligible manufacturing personal property), and Section 9n (previously existing eligible manufacturing personal property).

In Section 9f, the bill would do the following:

- Require an eligible business to file an affidavit with the township or city assessor in the first year that personal property was eligible personal property.
- Define "eligible personal property".
- Provide that "new personal property" would not include eligible manufacturing personal property for exemptions subject to local resolutions adopted after December 31, 2014.
- Provide for property that became exempt after December 12, 2012, to remain exempt under Section 9f until it became exempt under another section.

In Section 9m, the bill would do the following:

- Require a person claiming an exemption to rescind it when the property was no longer eligible for the exemption.
- Include in the definition of "eligible manufacturing personal property" personal property that is construction in progress and will be part of a new facility not in operation; and otherwise amend the definition.
- Revise the calculation used to determine whether personal property located on occupied real property is predominantly used in industrial processing or direct integrated support.
- Include as "new personal property" property that was construction in progress on or after December 31, 2012, and had not been placed in service before 2013.
- Include in the definition of "occupied real property" parcels owned by a person claiming an exemption under Section 9n.

In Section 9n, the bill would do the following:

- Revise the requirements for filing an affidavit claiming an exemption under Section 9n.
- Require a person claiming an exemption to rescind it when the property was no longer eligible for the exemption.
- Redefine "qualified previously existing personal property".

## Section 9f Amendments

Section 9f allows the governing body of an eligible local assessing district, or the board of a Next Michigan Development Corporation (NMDC), to adopt a resolution exempting from the collection of taxes under the Act all new personal property leased or owned by an eligible business located in an eligible district (e.g., an industrial development district, a renaissance zone, an enterprise zone, or a brownfield redevelopment zone). An "eligible local assessing district" is a city, village, or township that contains an eligible distressed area, or that is located in a county that borders another state or Canada and meets other criteria. An eligible business is a business engaged primarily in manufacturing, mining, research and development, wholesale trade, office operations, or the operation of a facility for which the business owning or operating the facility is an eligible taxpayer, i.e., an authorized business as defined in the Michigan Economic Growth Authority Act and eligible for certain business tax credits under that Act. For purposes of an NMDC, only an eligible Next Michigan business is an eligible business.

Under the bill, if an eligible business owned or leased new personal property that was exempt under Section 9f and that was eligible personal property, the business would have to file an affidavit with the assessor of the township or city in which the property was located, by February 10 of the first year that the new personal property was eligible personal property. The affidavit would have to indicate that the new personal property was eligible personal property

Section 9n defines "new personal property" as personal property that was not previously subject to tax under the Act or was not previously placed in service in this State and that is placed in an eligible district after a resolution is approved. Under the bill, for exemptions subject to resolutions adopted after December 31, 2014, "new personal property" would not include eligible manufacturing personal property.

The bill would define "eligible personal property" as the term is defined in Section 3(e)(ii) or (iv) of the State Essential Services Assessment Act. (Section 3(e)(ii) currently includes personal property that is exempt under Section 9f unless an application for the exemption was filed before August 5, 2014, or the resolution approving the exemption states that the project is expected to have total new personal property of over \$25.0 million within five years. Section 3(e)(iv) includes personal property subject to an extended exemption under Section 9f(8)(a). Under House Bill 4554 (H-3), Section 3(e)(ii) would refer to personal property that is eligible manufacturing personal property as defined in Section 9m.)

Under Section 9f(8), if new property exempt under Section 9f on December 31, 2012, is eligible manufacturing personal property, it will remain exempt under Section 9f until a) the date that the property otherwise would be tax exempt under Section 9m, 9n, or 9o, or b) the date that the property is no longer exempt under the resolution adopted by the eligible local assessing district or the NMDC. The bill would extend this provision to new property exempt under Section 9f *after* December 31, 2012.

(Section 9o allows an exemption to be claimed if the combined true cash value of all industrial and commercial personal property in a local tax collecting unit owned by, leased by, or in the possession of the owner or a related entity is less than \$80,000.)

## Section 9m Amendments

Eligible Property. Section 9m provides an exemption for industrial and commercial personal property that meets the definition of "eligible manufacturing personal property" and is "qualified new personal property".

"Eligible manufacturing personal property" means all personal property located on occupied real property if that personal property is predominantly used in industrial processing or direct integrated support. The bill would add, "except that for personal property that is construction in progress and part of a new facility not in operation, eligible manufacturing personal property means all personal property that is part of that new facility if that personal property will be predominantly used in industrial processing when the facility becomes operational".

Also, under the bill, personal property that was not owned, leased, or used by the person who owned or leased occupied real property where the personal property was located would not be eligible manufacturing personal property, unless the property was located on the occupied real property to carry on a current on-site business activity. Personal property placed on occupied real property solely to qualify for an exemption under Section 9m or 9n would not be eligible manufacturing personal property.

Personal property on occupied real property is predominantly used in industrial processing or direct integrated support if the result of a calculation set forth in Section 9m is more than 50%. The calculation multiplies the original cost of all personal property located on that real property by its percentage of use in industrial processing or in direct integrated support, and divides the result of that calculation by the total original cost of all personal property on the occupied real property. In both parts of this calculation, the bill would refer to all personal property that is subject to the collection of taxes under the Act and all personal property that is exempt from the collection of taxes under Sections 7k, 9f, 9m, 9n, and 9o that is located on that occupied real property and that is not construction in progress. (Section 7k provides an exemption for a facility for which an industrial facilities exemption certificate issued under Public Act 198 of 1974 is in effect.)

The definition of "occupied real property" refers to a parcel, parcels, or a portion of a parcel of real property that is owned, leased, or otherwise occupied by a person claiming an exemption under Section 9m. Under the bill, definition also would include real property owned, leased, or otherwise occupied by a person claiming an exemption under Section 9n.

Claiming & Rescinding the Exemption. In order to claim an exemption under Section 9m, a person must file an affidavit with the local tax collecting unit where the qualified new personal property is located. The assessor of the local tax collecting unit must transmit the affidavits filed, or the information contained in the affidavits filed, under Section 9m or 9n with the Department of Treasury.

Under the bill, a person would have to claim an exemption under Section 9m by filing an affidavit with the assessor of the city or township where the property was located. The assessor annually have to transmit the affidavits filed under Section 9m, and other parcel information required by the Department, to the Department by April 1.

A person claiming an exemption under Section 9m would have to rescind it by December 31 of the year in which exempted property was no longer eligible for the exemption, by filing an affidavit with the city or township assessor. The assessor annually would have to transmit the rescission affidavits, or the information contained in them, to the Department by April 1.

### Section 9n Amendments

Section 9n provides an exemption for industrial and commercial personal property that meets the definition of "eligible manufacturing personal property" and is "qualified previously existing personal property".

"Qualified previously existing personal property" means personal property that is eligible manufacturing personal property and meets any of the following conditions:

- Has been subject to or exempt from the collection of taxes under the Act for the preceding 10 years.
- If the property was located both outside of and within this State in the preceding 10 years, was subject to or exempt from the collection of taxes under the Act, or would have been if located in this State, for those years.
- If the property was located outside of the State in the preceding 10 years, would have been subject to or exempt from the collection of taxes under the Act for that period if the property had been located in the State.

The bill, instead, would define "qualified previously existing personal property" as personal property that is eligible manufacturing personal property and was first placed in service within or outside the State more than 10 years before the current calendar year.

To claim the exemption, a person must file an affidavit with the local tax collecting unit in which the personal property is located. The bill instead would require filing with the assessor of the township or city.

A person claiming an exemption for qualified previously existing personal property is required to file the affidavit only for the first year for which the exemption for that property is claimed in the local tax collecting unit. The bill would delete this provision.

Under the bill, an affidavit claiming an exemption under Section 9n would apply to all existing and subsequently acquired qualified previously existing personal property. The assessor of the township or city annually would have to transmit the affidavits filed, or the information contained in the affidavits filed, under Section 9n, and other parcel information required by the Department of Treasury, to the Department by April 1.

The bill would add the same provisions for rescinding an exemption under Section 9n as proposed for Section 9m.

MCL 211.9f et al.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would have little to no impact on State or local revenue relative to current estimates. While some changes in the bill, such as those regarding the definitions of "new personal property" and "eligible manufacturing personal property", could have minimal impacts relative to current law, the original estimates for the legislation exempting personal property effectively assumed the changes. Therefore, current estimates of the impact of exempting personal property would not change as a result of the bill.

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.