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Senate Bill 1060 (as introduced 5-26-22)
Sponsor: Senator Mark Huizenga (S.B. 1060)
Senator Kimberly LaSata (S.B. 1061)
Senator Michael MacDonald (S.B. 1062)
Committee: Finance

Date Completed: 6-8-22

CONTENT

Senate Bill 1060 would amend the General Property Tax Act to do the following:

- Specify that the current framework for claiming an exemption for eligible personal property would apply only to property with a combined true cash value of less than \$80,000.
- Require a claimant for an exemption for eligible personal property with a combined true cash value of equal to or greater than \$80,000 and less than \$180,000 to file a statement of assessable personal property and an affidavit attesting to the combined true cash value.
- Increase, from 1.0% to 1.25%, the interest rate payable on an additional or supplemental tax bill resulting from the rescission of an exemption on eligible personal property.
- Allow an assessor to deny a claim for an exemption under the bill and prescribe the procedures for denial.

Senate Bill 1061 would amend the Michigan Trust Fund Act to create the "Local Government Reimbursement Fund" and provide for the disposition of money from the Fund.

Senate Bill 1062 would amend the Use Tax Act to specify that from the money received and collected under the Act for the State share, \$75.0 million would have to be deposited annually into the Local Government Reimbursement Fund.

The bills are tie-barred, and each bill would take effect on December 31, 2022.

Senate Bills 1060 and 1061 are described in greater detail below.

Senate Bill 1060

Definition; "Eligible Property"

Under the bill, "eligible personal property" means property that meets all of the following conditions:

- Is industrial personal property or commercial personal property.

- The combined true cash value of all industrial personal property and commercial personal property in that local tax collecting unit owned by, leased to, or in the possession of the person claiming an exemption or a related entity on December 31 of the immediately preceding year is less than \$180,000.
- Is not leased to or used by a person that previously owned the property or a person that, directly or indirectly, controls, is controlled by, or is under common control with the person that previously owned the property.

Under the bill, the combined true cash value of all industrial personal property and commercial personal property in that local tax collecting unit owned by, leased to, or in the possession of the person claiming an exemption or a related entity on December 31 of the immediately preceding year could be either less than \$80,000, or equal to or greater than \$80,000 and less than \$180,000.

Claiming Exemption

Under the General Property Tax Act, eligible personal property for which an exemption has been properly claimed is exempt from the collection of property tax. An owner of eligible personal property must claim the exemption by filing a statement with the local tax collecting unit in which the eligible personal property is located in a form prescribed by the State Tax Commission and by the date prescribed in the Act. Under the bill, this would apply to a claim for an exemption as to eligible property that was industrial personal property or commercial personal property and the combined true cash value of the industrial or commercial personal property in that tax collecting unit owned by, leased to, or in possession of the claimant or a related entity on December 31 of the immediately preceding year was less than \$80,000.

For a claim as to eligible property with a combined true cash value of more than \$80,000 and less than \$180,000, the exemption would have to be claimed annually by filing a statement of personal property under Section 19 with the local tax collecting unit in which the eligible personal property is located. Together with the statement, the owner also would have to file an affidavit attesting to the combined true cash value of all industrial personal property and commercial personal property in that local tax collecting unit owned by, leased to, or in the possession of that owner or a related entity on December 31 of the immediately preceding year, and that the combined true cash value was equal to or greater than \$80,000 and less than \$180,000. Local tax collecting units would have to transmit to the Department of Treasury summary information of all exemptions granted each year to provide the Department with data needed to compensate municipalities for revenue lost as a result of those exemptions.

(Section 19 requires a supervisor or other assessing officer to require a person whom he or she believes has personal property in their possession to make a statement of personal property.)

Currently, if a statement claiming an exemption is filed as provided above, the owner of that eligible personal property does not have file a statement under Section 19. Under the bill, this would apply to a statement claiming an exemption for eligible personal property with a combined true cash value of less than \$80,000.

Duration of Exemption

The Act specifies that an exemption remains in effect until the personal property is no longer eligible personal property. An owner whose personal property is no longer eligible personal property must file by February 20 of the year that the property is no longer eligible a rescission and the Section 19 statement. The rescission must be filed on a form prescribed by the

Department. After receiving a rescission form, the local assessor must immediately remove the exemption.

Under the bill, this would apply to exemptions for eligible personal property with a combined true cash value of less than \$80,000. An owner whose personal property was no longer eligible personal property under that criterion would have to do one of the following, as applicable:

- If the owner intended to claim that the property was eligible personal property with a combined true cash value equal to or greater than \$80,000 and less than \$180,000, refile for the exemption, as specified above.
- If the owner did not intend to claim that the property was eligible personal property as described above, file the rescission and Section 19 statement as currently required.

Denying Exemption Claim

The bill would allow an assessor to deny a claim for exemption for eligible personal property with a combined true cash value of equal to or greater than \$80,000 and less than \$180,000 for the current year and for the three immediately preceding calendar years. If the assessor denied a claim, the assessor would have to do one of the following:

- If the assessor believed that the property qualified as eligible personal property with a combined true cash value of less than \$80,000, advise the owner to refile for that exemption.
- If the assessor determined that the property did not qualify for the exemption, remove the exemption of that personal property and, if the tax roll were in the local tax collecting unit's possession, amend it to reflect the denial and, within 30 days after the date of the denial, the local treasurer would have to issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty.

In the latter case, if the tax roll were in the county treasurer's possession, it would have to be amended to reflect the denial and the county treasurer, within 30 days after the date of the denial, would have to prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax in a corrected or supplemental tax bill would accrue 60 days after the date the corrected or supplemental tax bill was issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill would have to be returned as delinquent on the March 1 in the year immediately after the year in which the corrected or supplemental tax bill was issued.

Senate Bill 1061

The bill would create the Local Government Reimbursement Fund in the State Treasury. The State Treasurer would have to deposit money and assets received under Section 21(7) of the Use Tax Act (see Senate Bill 1062), or from any other source in the Fund. The State Treasurer would have to direct the investment of money in the Fund and credit to it interest and earnings from the investments. Money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse to the General Fund. The Department of Treasury would be the administrator of the Local Government Reimbursement Fund for audits.

The Department would have to spend money from the Fund, upon appropriation, only for the purpose of compensating municipalities for the revenue lost as a result of exemptions claimed under Section 9o(2)(b) of the General Property Tax Act, as determined by the Department.

If the money in the Fund were insufficient to fully compensate all municipalities that lost revenue, payments from the Fund would have to be prorated on an equal basis among those municipalities.

"Municipality" means that term as defined in Section 5 of the Local Community Stabilization Authority Act: the term includes counties, cities, villages, townships, local authorities, local school districts, intermediate school districts, community college districts, libraries, tax increment finance authorities, and other local and intergovernmental taxing units.

MCL 211.9o et al. (S.B. 1060)
Proposed MCL 12.253a (S.B. 1061)
MCL 205.111 (S.B. 1062)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bills would reduce State General Fund revenue by \$75.0 million per year, increase revenue to the local government reimbursement fund by the same amount, and increase local unit revenue by any amount appropriated from the local government reimbursement fund. The bill would also change the distribution of payments made by the Local Community Stabilization Authority (LCSA) to local units such that some local units could be reimbursed twice for certain property tax losses while other local units would receive lower payments than under current law.

The bills contain language that make it difficult to determine how the changes would actually be implemented. For example, Senate Bill 1061 indicates that expenditures from the Local Government Reimbursement Fund would be subject to appropriation, but then indicates that if the Fund balance were insufficient to compensate all municipalities, the payments would be prorated based not upon the amount appropriated, but on the Fund balance. As a result, aggregate reimbursements calculated under the bill could exceed the amount appropriated. Similarly, Senate Bill 1060 would require local tax collecting units to submit information to Treasury necessary to compute payments, but Senate Bill 1061 appears to indicate that payments would have to be made to individual municipalities rather than local tax collecting units. None of the bills provide dates indicating when information would have to be submitted to the Department or when payments would have to be made, how to handle any revisions as a result of tax appeals or other adjustments, or how the Department or local units would have to determine lost revenue.

Because the bills would not alter the calculation formulas administered by the LCSA for calculating payments for personal property tax exemptions, the bills would create situations in which some local units effectively would be reimbursed twice for revenue losses attributable to proposed Section 9o(2)(b) in Senate Bill 1060, while other local units would lose revenue they otherwise would receive from the LCSA. Payments from the LCSA are calculated based on a variety of factors, including each local unit's total taxable value relative to either 2013 and/or 2015. The formulas also calculate payments relative certain statewide totals. The exemption in 9o(2)(b) would lower the taxable values in some local units, and those local units would receive greater payments from the LCSA as a result of the exemption, partially or entirely duplicating the reimbursements the local units would receive under Senate Bill 1061. For local units without exempt property under 9o(2)(b), because the LCSA payments are made relative to statewide total, those units would have a smaller relative loss and would receive less in LCSA payments relative to current law.

Because payments under Senate Bill 1061 are subject to appropriation, the possibility exists that an appropriation could be less than either total reimbursement claims, the \$75.0 million earmark under Senate Bill 1062, and/or the balance in the Fund. A balance in the Fund would

not automatically lapse to the General Fund but could potentially be transferred to the General Fund or other funds under a legislative transfer.

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.