

## TESTIMONY ON PROPERTY TAX APPEALS BILLS

A workgroup was convened. It was open to everyone. This process started with a conversation with treasury about two years ago. There were key problems of process which were identified and we have attempted to solve those problems with these bills.

### PROBLEMS

1. There were inconsistencies in how the taxpayer was treated in different areas of the appeals process.
2. There were inconsistencies in how assessors and taxpayers could appeal.
3. Concerns were voiced over inconsistencies in tax tribunal rulings.
4. Concerns were expressed over poor court room procedures at tax tribunal hearings.
5. Concerns were expressed over abuse of the subpoena powers granted in the act.
6. There were concerns expressed over the pay-to-play aspect of Michigan law in the appeals process.

### SOLUTIONS EMBEDDED IN THE BILLS.

1. In every area of these bills the appeals process will be able to cover the current year and the previous three years. This includes assessments as well as classification appeals. PRE appeals will all now have one path to follow, no matter who finds the mistake. Previously there were four paths and your path of appeal depended on what entity found the mistake. Three of those four paths involved the appeal not going to the local board of review first. As a result the bill creates one path for appeals and excludes the local board of review from that path to bring complete consistency to the process. The reason we went with current year and three years back was to bring consistency to all appeals. Currently such appeals go from current year only to current year and back three. I believe it is important that if a mistake has been made that we correct it in a similar manner no matter what the appeal is. Going back three years gives maximum protection to the taxpayer to recognize and correct any mistakes. Now, all appeals will follow that process.
2. In every step of the process both the taxpayer and the assessor will be able to appeal. Everyone will have a fair shot at the process at every point of the process. We have retained initial local board of review jurisdiction in most cases because no one knows their local area better than the people who live there. You will hear two arguments about the appeals process. One is that the local boards should be excluded because they lack the expertise of higher ups. The second is that taxpayers are more comfortable going to their local boards because they are not as intimidated. In the spirit of this package and my own personal knowledge of the process I want the process to be comfortable and welcoming to the taxpayer. That is why I have retained the local boards in most cases.
3. A multitude of attempts were made to help bring consistency to tax tribunal rulings. We discussed using a process similar to the Supreme Court's handling of the Appeals Courts which is to say that one ruling at the Appeals Court level is binding on all other Appeals Courts. This was rejected as only published decisions are binding at that level and tax tribunal cases are not published. In the end we tied this step in with the next step. We are requiring that all members of the Tax Tribunal be lawyers. This is what I heard from most of the workgroup participants that they wanted. We are also giving the Tax Tribunal the ability to hire a contract assessor to advise them on a particular case if they find it necessary. Since releasing this bill I have heard

from other groups that they would prefer the makeup of the Tribunal to remain as it is. I am open to a change that is part of an overall agreement.

4. We are requiring that the tribunal judges receive court room training every year so that the procedures they use are appropriate and fair to everyone involved in the appeal. Irregardless of the makeup of the Tribunal I believe this provision should remain.
5. In the workgroup it was discussed that the tribunal must issue subpoenas from either party no matter what. In some cases this delays the trial inordinately. This bill will give the judges the discretion on whether or not to fulfill a subpoena request. This will bring this process more into alignment with a regular court of law.
6. Currently, Michigan law allows an appeal to the Court of Claims only if the full tax bill is paid ahead of time. If a taxpayer does not wish or cannot pay the full amount of taxes then they are restricted to appealing through the tax tribunal. Eliminating this provision will allow all taxpayers to appeal to either the tax tribunal or the court of claims, whichever they wish. It creates a level playing field for all taxpayers.

#### OTHER CONCERNS

1. Qualified Ag property appeals will now go directly to the tax tribunal and will not go to the local board of review first. The reason for this is that appealing a qualified ag property is essentially the same as a PRE appeal. Both are asking for relief from the 18 mill non-homestead tax. As explained earlier the PRE appeals process was mainly to treasury or the tax tribunal so that is the process I followed.
2. The Governor will now have the ability to remove tax tribunal judges that he/she appoints with the lower threshold of "cause". Previously appointed judges by another Governor can be removed but must meet the higher constitutional threshold currently in effect. In effect I split the baby on this issue. I heard from some who wanted the Governor to be able to remove all of the tribunal members for "cause" while others worried about the potential politicalization of the tribunal if this were allowed
3. We have clarified the process for issuing and appealing poverty exemptions and veterans exemptions. All such requests will go to either the March, July or December Boards of Review. If they reject the request then the appeal will go to the tax tribunal.
4. The fee for filing a poverty exemption is being eliminated.
5. I have also raised the small claims filing threshold from \$100,000 to \$150,000 and adjusted it annually to the inflation rate.
6. The workgroup discussed the rate of pay for the judges and whether I should put into statute a higher rate. After discussions with many interested parties it was decided to leave the pay discretion to the department and the civil service commission.

All three bills are tie-barred. It makes no sense to pass one of these bills without the other two. If all three bills are passed then the taxpayer will be able to move seamlessly between the court of claims and the tribunal choosing whichever venue best fits them. The results you see before you are a consensus of the workgroup. These bills all have something in them that some will like and other things that some will not like. The bills were built on the basis of creating fairness and consistency in the system. Everyone will be treated the same. Local Boards of Review, treasury, the tax tribunal, and the Court of Claims all have had their duties changed somewhat in order to achieve these goals. Also Mr. Chairman I would urge you to not give these bills immediate effect because of how late we are in the year and the fact that a new tax season will soon be upon us.

Issues to be corrected are Sheet A

Issues of Concern are Sheet B

An abridged version of the bills is Sheet C

Mr. Chairman and committee members. There is probably nothing more dangerous than opening up the property tax act or the tax tribunal act. I have done this with these bills for one purpose. To streamline the process for appealing property taxes and to create an administrative system that is consistent and understandable to the taxpayer and the governmental units. These bills are about process and took two years of discussion and over 6-8 months of workgroup meetings. I want to thank all of those who willingly gave of their time through this entire process to help create a better system for all concerned. These bills do not deal with changes that would affect the legal processes involved in the property tax act. Such changes should be fully vetted in another workgroup process so that the tax implications of such changes can be fully understood. I and my workgroup did not enter into that debate because we felt our charge was to create a better administrative system not change the legal system. I would urge you to be cautious about such legal challenges as they may have great impact on the financial system and I cannot give you any assurance on such questions as I have not studied that aspect of these laws. I thank you for this opportunity and welcome your questions.

(A)

**Possible Changes Needed To Tax Appeals Bills (as of September 16, 2014)**

**SB 1038 – General Property Tax Act**

Includes Personal Property Tax sections referenced in the new Section 53e.

1. Add Section 211.9m to bill. In subsection (5) after “section 30” strike “or section 53b” and insert “. A qualified error may be appealed to the state tax commission under section 53e.”
2. Add Section 211.9n to bill. In subsection (4) after “section 30” strike “or section 53b” and insert “. A qualified error may be appealed to the state tax commission under section 53e.”
3. Add Section 211.9o to bill. In subsection (5) after “section 30” strike “or section 53b”. After the first sentence ending in “after that tax year”, insert “A qualified error may be appealed to the state tax commission under section 53e.”

**Technical Amendments**

4. Page 63, line 4, change “affidavit” to “order”
5. Page 63, line 24, change “affidavit” to “order”

**SB 1039 – Tax Tribunal Act**

1. Tribunal’s ability to contract with an assessor. Changes it from “if no members are assessors” to “if necessary”. Page 4, line 4, after “if” strike the balance of the sentence and replace with “necessary”.

**SB 1040 – Revenue Act**

Add a \$200,000 appropriation to cover increased Court of Claims caseload.

(B)

**General Property Tax Bill – SB 1038**

Consumers Energy & Michigan Chamber (in the first round of suggestions) suggested allowing qualified agriculture exemption denials to start at local board of review level – you said no.

Michigan Association of CPAs and Consumers Energy both have concerns that opening up the classification error appeals to the current year and prior three years for both the taxpayer and assessor will hurt them.

**Tax Tribunal Bill – SB 1039**

Grand Rapids Chamber & Michigan Association of CPAs do not like the removal process for Tax Tribunal appointees. The Governor wants to be able to replace every member.

Michigan Chamber, Grand Rapids Chamber, Michigan Assessors' Association, & Michigan Association of CPAs opposes the changes requiring only attorneys as member of the Tax Tribunal. All would prefer the current membership composition.

General Motors & Michigan Association of CPAs oppose the language allowing optional subpoena requests.

**Revenue Act Bill (Pay for Play) -- SB 1040**

MSU's Low Income Taxpayer Clinic wants pay for play on taxes not in dispute also removed.

All the business organizations like the removal of pay for play.

Supreme Court has concerns over the increased caseload.

Michigan Chamber opposes the tie-bar to the other two bills.