

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 8217

BILL NUMBER: HB 1005

DATE PREPARED: Mar 30, 1999

BILL AMENDED: Mar 29, 1999

SUBJECT: Taxation.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill amends various provisions concerning real and personal property assessment, assessor training, land valuation, property tax exemptions, property tax appeals, property tax administration, and personal property tax abatements. It also appropriates money to the State Board of Tax Commissioners to eliminate its backlog of appeals.

Effective Date: (Revised) January 1, 1999 (Retroactive); Upon passage; July 1, 1999; January 1, 2000; March 1, 2001; January 1, 2003.

Explanation of State Expenditures: (Revised) ***Personal Property Review:*** The State Tax Board would be required to annually review one-eighth of all property tax returns that have significant amounts of personal property and make corrections in the assessed value as necessary. This provision could increase the State Tax Board's administrative expenses, depending on the type and number of reviews that would be performed.

Tax Abatements: The proposal would eliminate the State Tax Board's review and approval of personal property tax abatement (ERA) deductions. This action could reduce the Tax Board's administrative expenses for postage and computer costs.

The bill would also require that appeals of determinations made by the designating bodies are to be filed in circuit court rather than in the Indiana Tax Court as current law requires. This action could reduce the future case loads of the Tax Court.

Property Tax Appeals: Under current law, the State Board of Tax Commissioners' Appeals Division must conduct a hearing within six months after a petition for appeal is filed. The Division must then make a determination within 45 days of the hearing or by the date set by the Chairman in an extension order. The extension may not be greater than six months. If the Division fails to make a determination within the

allowable time period, the petition is considered to be denied by the Division and by the State Tax Board as a final determination. This is not a final determination of the State Tax Board if the Tax Board intends to review the Division's determination within 15 days or if the Tax Board determines to rehear the appeal. Under the proposal, these provisions would only be applicable to appeals filed with the Division after December 31, 2000.

Under this proposal, for appeals filed with the State Tax Board after December 31, 1998 and before January 1, 2001, the Tax Board would have 12 months to conduct a hearing and issue a final determination. If the Tax Board would fail to issue a determination in this time frame, then the taxpayer would be able to request the State Tax Court to grant an appeal. The Tax Court would have 60 days to inform the petitioner as to whether the Court will hear the appeal or not. If the Tax Court denies the appeal request, then the Tax Board would have up to 12 months after the denial to issue a final determination.

The State Tax Board would also be required to compile the basis for each appeal decision and make that compilation available to the public.

The State Board of Tax Commissioners is currently required to adopt rules governing the practice of representatives before the State Board of Tax Commissioners and the county property tax board of appeals. This bill would prohibit the rules from restricting the ability to present evidence regarding the property assessment under review before these bodies.

Appeals Backlog: The bill makes an appropriation to the State Board of Tax Commissioners from the State General Fund in the amount necessary, as determined by the State Budget Agency, to eliminate the backlog of appeals before January 1, 2003. According to the Tax Board, there is currently a backlog of 3,800 to 3,900 appeals. The Board currently estimates the amount needed to pay outside contractors to assist with the backlog at about \$1 million.

Court Transcripts: Under current law, the Secretary of the State Tax Board must transmit a certified transcript of appeal proceedings to a court hearing an appeal of assessment. This proposal would instead require the Secretary to submit a certified record of proceedings to the Indiana Tax Court when the Tax Court hears an appeal. The record must include copies of all notices, petitions, motions, photos, other written documents, the administrative hearing transcript, and copies of exhibits and physical objects provided during the administrative hearing.

This provision could increase the Tax Board's administrative expense for trial preparation. Any additional expense would be absorbed in the Tax Board's current budget.

Land Values: The State Tax Board will have to write new assessment rules under this proposal. The State Tax Board promulgates a new rule (better known as the assessment manual) each time real property in Indiana is reassessed. The expense for promulgating real and personal property assessment rules is generally included in the Tax Board's budget.

Deduction and Abatement Study: According to the bill, the Tax Review Division of the State Board of Tax Commissioners, in conjunction with the Department of Commerce, would be required to conduct continuing studies of real and personal property deductions and abatements. The Division would prepare a biennial report that includes the amount and type of deductions and abatements by taxpayer and property type, and recommendations on retaining or repealing each type of abatement. The Chairman of the Tax Board would present the report in each even numbered year to the State Budget Committee and would submit the report

to the Legislative Services Agency for distribution to the General Assembly. The Tax Board should be able to accomplish this task with current resources.

Assessor Training: Under this provision, the State Board of Tax Commissioners would be required to hold training sessions for new assessing officials, county assessors, and members of county property tax assessment boards of appeals at locations and times that are sufficient to allow an opportunity for each official to attend the training.

The State Tax Board would be required to offer enough continuing education sessions so that each level one and level two assessor may attend sessions every two years to maintain their certification. Training programs must include basic assessment administration and level one certification preparation.

The State Tax Board would also be required to give level one and level two assessor-appraiser examinations at times that coordinate with the training sessions conducted for new assessing officials, county assessors, or members of county property tax assessment boards of appeals. The State Board would be required to annually hold these examinations in at least four locations in addition to Indianapolis. Additionally, the Tax Board would be required to give priority to assessing officials and to accommodate all individuals who wish to enroll at each examination session.

These training and certification requirements would first take effect in CY 2000. Beginning in CY 2000, the State Tax Board could incur additional expenses for holding additional assessor-appraiser training sessions and certification examinations. These expenses would include staff travel and rent (if any) for meeting space. The actual impact would depend on the number and location of any additional meetings.

The bill requires the State Board to revoke the certification of any individual who commits fraud or misrepresentation with respect to the certification examination. The bill also requires the State Board to give notice to and hold a hearing to consider evidence before it may decide whether to revoke a certification. The bill requires the State Tax Board to adopt rules to establish the criteria for revocation.

State Tax Board Generally: The funds and resources that may be required in the above sections could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. As of February 26, 1999, the State Tax Board had 98 positions authorized. Ninety-five positions were filled leaving one secretary, one appraiser, and one administrative analyst position vacant. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Real Property Values: Under this proposal, in CY 2000, the Commission on State Tax and Financing Policy would be required to study the issue of annual real property valuation adjustments and the need for periodic physical inspections. The Commission could then recommend statutory changes for implementation of an annual adjustment system and changes to laws governing general reassessments when annual adjustments are in place.

State Tax Board Employees: Current law requires that the Tax Board's field representatives, supervisors, Tax Review Division employees, and employees hired to prepare school assessment ratios and adjustment factors are to be chosen from a list of applicants who have passed an open, competitive examination. The Tax Board must also currently choose these employees so that no more than one-half of each group belongs

to any one political party. This bill would remove both of these hiring requirements.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) *County Land Valuation Commissions:* Under this proposal, the county fiscal body would be permitted to grant a per diem to the county and township assessors for each day that the assessors are engaged in service to the county land valuation commission. The per diem rate for each county is set by the individual county. The fiscal impact of this provision depends on the whether or not the county grants a per diem to the assessors, the amount of time that the assessors spend on commission work, and the per diem rate in the county.

Tax Abatements: The proposal would require the local designating body to review and consider for approval, personal property tax abatement (ERA) deductions. This action could increase the designating body's administrative expenses.

Under current law, an ERA deduction application must be filed with the county auditor and the State Board of Tax Commissioners by May 15th (June 14th if the taxpayer received an extension to file their personal property tax return). Instead, this bill would require the taxpayer to file the deduction application with the county auditor and the local designating body. By June 20, the designating body would notify those taxpayers that failed to file the deduction application. Before July 15, the designating body would send to the county auditor a list of taxpayers eligible for the deduction and an indication of whether or not they filed the deduction application.

Current law allows the designating body to waive the filing of the statement of benefits if it finds that the taxpayer installed new manufacturing equipment or developed or rehabilitated property at a cost of at least \$10 million during the three years before the first assessment date to which the waiver would apply. This bill repeals the ability to grant this waiver.

Property Tax Appeals: Currently, the county assessor notifies the county auditor of all assessments under appeal. The proposal would require the county assessor to notify the State Tax Board and all taxing units as well when the appealed AV constitutes at least 1% of the unit's gross certified AV from the preceding year. The bill also requires the notification to include the appellant's name, address, current year AV, and prior year AV. Preparation and mailing of these notices could increase county assessor costs.

Under current law, the county property tax assessment board of appeals must hold a hearing within 90 days after a preliminary conference if there are still disputed issues. For appeals filed after December 31, 1998 and before January 1, 2001, the appeals board would be required to hold the hearing at its earliest opportunity during the year the petition is filed or in the following year, under this provision. For appeals filed after December 31, 2000, the board would continue to have 90 days to hold the hearing, except in Lake and Marion Counties, where the board would have to hold the hearing within 180 days.

Also under current law, the taxpayer may present reasons for disagreement with the assessment at the hearing. The township or county assessor is required to defend the assessment decision on the issues raised by the taxpayer. The appeals board is then required to prepare written findings and render a decision within 60 days of the hearing. The appeals board is also required to accept the taxpayer's appeal if the township assessor does not hold a preliminary conference. Under the proposal, these provisions would only be applicable to appeals filed after December 31, 2000. The Lake and Marion County boards of appeals would be required to prepare the written findings and render the decision within 120 days of the hearing

Assessor Certification: This bill would also require counties to set the pay of the county assessor who has attained a level two assessor/appraiser certification at an amount that is \$1,000 greater than an assessor without the certification. This provision could cost each county \$1,000 per year, totaling up to \$92,000.

Explanation of Local Revenues: (Revised) **Tax Exemptions:** Under current law, taxpayers who own property that is exempt from property tax must file an exemption application with the county auditor. Under this proposal, taxpayers would file exemption applications and all related documents with the county assessor who would then notify the county auditor of the filing. Under this provision, the county assessor would be better informed as to the exempt status of property. The county assessor, as opposed to the county auditor, would collect the \$2 filing fee. The fee would continue to be deposited into the county General Fund.

This bill would exempt property owned by nonprofit public radio and television stations and 4-H organizations from property tax. Business property, to the extent of property used for small business incubation, would be exempt if the business is participating in the small business incubator program

Some counties currently interpret the Indiana Constitution's property tax exemption for property used for literary purposes to include nonprofit radio and television stations. Other counties do not share this interpretation and therefore, do not allow the exemption. This bill would uniformly grant the exemption statewide. The 4-H and business incubator program exemptions would be new exemptions.

Additional exemptions reduce the assessed value tax base. This causes a shift of the property tax burden from the taxpayers receiving the exemptions to all taxpayers in the form of an increased tax rate. The actual fiscal impact depends on the value of property that would qualify for an exemption under this proposal.

Rehabilitated Property: Under current law, a taxpayer may receive up to a \$3,000 AV property tax deduction against the assessed value that the rehabilitation of residential property has added. This proposal specifies that beginning in CY 2000, the rehabilitation must be significant, according to State Tax Board rules, and must be made to an existing structure. The requirement that the rehabilitation must be significant, according to State Tax Board rules would also apply to the rehabilitation deduction available for all property where the owner has paid more than \$10,000 for the rehabilitation. This could reduce the level of deductions granted if some deductions are currently granted for projects that would not meet the "significant rehabilitation" rules to be drafted by the Tax Board.

County Land Valuation Commissions: County land valuation commissions were abolished by HEA 1783 (97) in favor of having township assessors determine land values by November 1 preceding the effective date of a general reassessment. This bill reestablishes the county land commissions in a similar form as they existed before 1997. Each commission would be comprised of nine members including the county assessor, who serves as chairman, two township assessors, one real estate broker or salesperson, four individuals representing the four classes of land, and one individual representing a financial institution. One of the township assessor seats would be filled with the assessor of the township currently under review.

Under this provision, the commissions would determine the value of all land in the counties using State Tax Board guidelines. The county property tax assessment board of appeals would review the values and make any necessary modifications necessary to provide uniformity and equality. The State Board could modify the value of the taxpayer's land or any other land in the county or adjacent county in order to provide uniformity and equality.

Since the county land valuation commissions would determine land values on a county-wide basis, it is

assumed that there would be an initial high level of uniformity within the county. Under current law, if the township assessors determine land values, the values would probably be uniform within the township, but they may not be uniform county-wide. Better uniformity among property assessments would help to produce a fairer distribution of the property tax burden.

Sales Disclosure Forms: Under current law, a sales disclosure form may not be used as the basis for an appeal of a real property assessment. This provision is currently set to expire on December 31, 1999. The bill provides that the forms may not be used as an appeals basis for assessments made before March 1, 2001.

Payment of Appealed Assessments: Under current law, the taxes resulting from the contested portion of an assessment are not due until the appeal is finally adjudicated. Under this provision, if an appeal involves at least \$500,000 in AV resulting from an original assessment or an increase of \$500,000 from one year to the next, the taxpayer may pay the tax and the taxing unit would place the payment into an interest bearing escrow account.

If the taxpayer prevails in the appeal, then the taxpayer would receive the overpaid taxes plus accrued interest from the escrow account. If the taxpayer does not prevail, the payment plus interest would be deposited into the unit's levy excess fund which is used to offset property tax levies in the ensuing year. Current law also requires that if a credit is due a taxpayer because of a reduced assessment, the taxpayer's next property tax installment during the year, if any, is to be reduced by the amount of the credit. If there is a further amount due after the credit is given, then the taxpayer may file a claim for refund with the county. Under this proposal, if the credit exceeds \$100,000, the county auditor may make the refund in up to four annual installments with interest at 6% per year. The county auditor, the affected taxing units, and the taxpayer may also agree to any other satisfactory payment schedule. Since property tax refunds are deducted from the affected taxing units' next property tax distribution, this provision could soften the effect of the refund by spreading it out over a period of time.

Under current law, the county assessor may request that the county executive appeal a State Tax Board final determination or reassessment of real or personal property if the adjustment causes a refund of the lesser of \$800,000 or 10% of the total tax levies of all of the units in the county. Under this proposal, the request could be made by the county assessor or an elected township assessor if the refund exceeds **\$50,000** or **1%** of **any** taxing unit's levy in the county.

Budgeting with Appealed Assessments: Currently, the county auditor sends a statement to all taxing units in the county that includes an assessed value (AV) estimate for the ensuing year, the current abstract assessed value, the average AV growth, estimates of tax distributions, and other relevant information. This bill would also require the auditor to include the appellant's name, address, current year AV, and prior year AV in the statement.

The bill requires the county auditor to remove appealed assessments from the certified AV and allows the removal of assessments that are part of a bankruptcy and will be uncollectible. For appealed assessments, not more than the difference between the current and prior year's AV. Assessments removed from the certified AV base would not be used to calculate tax rates by the county auditor. Some counties already take certain contested assessments into account when calculating tax rates.

Currently, if a taxpayer appeals an assessment and doesn't pay property tax on the contested value then the units that serve that taxpayer could suffer a shortfall if the tax rate is based on a total valuation that includes the contested AV. By excluding the contested AV from the AV base, the tax rate will be set high enough to

collect the necessary levy without taxes being generated from the contested AV.

The bill also requires a taxpayer seeking chapter 11 bankruptcy protection to provide a notice of the bankruptcy filing to the county auditor if the AV of the property owned by the petitioner is at least \$100,000.

The above notification provisions would keep the taxing units informed of the status of their assessed valuation base. The provision requiring contested AV to be excluded from tax rate calculations would help ensure that property tax appeals would not cause a revenue shortfall for local units.

Board of Appeals: The bill prohibits an employee or officer of a county or township, except for the county assessor, from serving on the county property tax assessment board of appeals in the county in which they are an officer or employee. Currently, the county commissioners must appoint at least one certified level two assessor-appraiser to the board. Under this proposal, the county commissioners would not have to appoint any level two assessor-appraisers if the county assessor is a certified level two assessor-appraiser.

Currently, a member of the appeals board in one county may not serve on the appeals board of another county. This proposal would allow members to serve on the appeal boards of more than one county. Some smaller Indiana counties may currently be having difficulty in filling vacancies on the appeals board with qualified persons under current law. The above changes may allow these counties to make all of the necessary appointments to the appeals board. These changes are retroactive to January 1, 1999.

Reassessment and Real and Personal Property Values: This bill would provide for the just valuation of non-agricultural land based on comparable sales and the just valuation of agricultural land based on income capitalization. Currently, agricultural land is valued at \$495 per acre. The valuation methods would use classifications and the most recent objectively verifiable data concerning acreage, lots, size, location, use, productivity, zoning, and accessibility. The bill also specifies that the value of improvements is to be based on replacement cost and depreciation using classifications and the most recent objectively verifiable data concerning size, location, use, construction type, age, condition, and reproduction cost.

The bill also requires the State Tax Board to provide instructions for determining the starting point for the valuation of used personal property after sale or transfer.

This bill would allow the State Tax Board broad ability within its rulemaking powers to determine the method of assessment of real and personal property. **The actual fiscal impact of these changes in property valuation depends on the methods of assessment devised in the assessment rules that the State Tax Board finally promulgates.**

Special Reassessments: Currently, The State Tax Board may order that all or any part of the state be reassessed in order to maintain a just and equitable valuation of real property. This bill would permit the Tax Board to impose conditions of the reassessment that the Board finds appropriate for the orderly performance of the reassessment. These conditions may include outside supervision by the Tax Board or its designees. The bill also requires all costs of the reassessment to be paid from the county Reassessment Fund. The Tax Board may also increase the levy for that fund in order to meet the costs incurred.

State Agencies Affected: State Board of Tax Commissioners; State Budget Agency; Department of Commerce.

Local Agencies Affected: County assessors; County auditors; County land valuation commissions; County

property tax assessment boards of review; Township assessors; Local designating bodies; All local civil and school taxing units.

Information Sources: Frank Sabatine, Chairman, State Board of Tax Commissioners, Testimony at House Ways and Means Committee, 2/10/99; Tim Brooks, Executive Secretary, State Board of Tax Commissioners (232-3761); *Staffing Report*, 12/31/98, State Personnel Department.