



Sub. H.B. 390

124th General Assembly
(As Passed by the General Assembly)

- Reps.** Carey, Britton, Cates, Calvert, Seitz, G. Smith, Jolivette, Rhine, Flowers, Schmidt, Faber, Aslanides, Metzger, Carano, Hagan, Latta, Latell, Roman, Williams, Fessler, Fedor, Webster, Husted, Lendrum, Widowfield, Ford, Damschroder, Collier, Metelsky, Hollister, Gilb, Ogg, Grendell, Willamowski, Clancy, Reidelbach, Schneider, Buehrer, Core, Niehaus, Evans, Reinhard, McGregor, Hughes, Peterson, Hoops, Coates, Setzer, Flannery, Wilson, Sulzer, Barrett, DePiero, Redfern, Schaffer, Kilbane, Seaver, Oakar, Hartnett, Distel, Young, S. Smith, Manning, Krupinski, Olman, Blasdel, Woodard, Kearns, Carmichael, Trakas, D. Miller, Patton, Otterman, Allen, Brown, R. Miller, Strahorn, Jones
- Sens.** Amstutz, Austria, Spada, Fingerhut, Ryan, Blessing, Brady, Randy Gardner, Hottinger, Nein, Roberts, Shoemaker, Herington

Effective date: *

ACT SUMMARY

- Extends the filing deadline for real property tax complaints when the tax payment deadline is extended.
- For members of the National Guard or of a reserve component of the United States Armed Forces who have been called to active or other duty under Operation Enduring Freedom, Operation Noble Eagle, or the Governor's directive of September 28, 2001, extends the time within which taxes and assessments charged against real property or mobile or manufactured homes must be paid.
- Requires that the county treasurer enter into a contract, in the same manner and under the same terms as a delinquent tax contract (except it

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- must specify that payments begin in the seventh month after the member's duty terminates), with the member or the member's spouse or parent for payment of the taxes and assessments in installments.
- Includes the kilowatt-hour tax in the calculation for the temporary modification of certain local government fund distributions, and makes other changes to the distributions.
 - Declares an emergency.

CONTENT AND OPERATION

Real property tax complaints

Filing deadline under prior law

Owners of real property may file complaints against the county's tax assessment of their property. These complaints are filed with the county board of revision. Usually, complaints are made against allegedly excessive valuations, but complaints may allege other improper assessment decisions--that property is improperly classified for the purposes of the applicable "H.B. 920" tax reduction factor, that property has been denied favorable assessment as agricultural land, or that a recoupment charge was improperly made for converting agricultural land to a nonagricultural use.

Under prior law, complaints had to be filed by March 31 of the year following the year for which the taxes were charged; in practice, this meant the deadline was March 31 of the same year in which the tax bills were issued and the taxes fell due. The same deadline applied to manufactured and mobile homes that were taxed in the same manner as real property, but that did not satisfy the legal definition of real property.

Filing extension when tax bills are delayed

(secs. 4503.06(L)(5)(b) and 5715.19(A)(1))

The act extends the complaint filing deadline in cases where the tax collection period is extended beyond March 31. In such a case, the deadline for filing complaints is extended until the day the tax collection period closes.

Real property and manufactured or mobile home tax extensions for military

Property that qualifies for a tax payment extension

(Section 5(A))

The act authorizes an extension of the time within which taxes must be paid on any real property or manufactured or mobile home that is owned by (1) a member of the National Guard or a member of a reserve component of the Armed Forces of the United States who is called to active or other duty under Operation Enduring Freedom, Operation Noble Eagle, or the directive issued by the Governor on September 28, 2001, or a successor to that directive, (2) the spouse of such a member, (3) such a member jointly with that member's spouse or dependent parent, or (4) the dependent parent of such a member who dies during such duty or as the result of wounds or illness incurred during such duty. (A "dependent parent" is a parent who, at the time the member was activated, received from the member at least half of the dependent parent's support, including food, shelter, clothing, and medical and dental care.)

Who may apply for the extension

(Section 5(B))

The member, or the spouse or parent of the member, may apply to the county treasurer for an extension for the payment of taxes and assessments charged against the real property or manufactured or mobile home and payable during the period of the member's duty and the six months ensuing termination thereof. Application must be made not later than the last day of the sixth month after the month in which the member's duty terminates. The applicant must provide evidence satisfactory to the county treasurer to demonstrate eligibility for the extension.

Contract requirements

(Section 5(B))

If the county treasurer determines that the applicant qualifies for an extension under the act, the treasurer is required to enter into a contract with the applicant for payment of the taxes and assessments in installments, in the same manner as, and subject to the same terms and conditions of, delinquent tax contracts, except that the contract must specify that payments begin in the seventh month after the member's duty terminates. (Existing law permits a person who owns agricultural real property or owns and occupies residential real property or a manufactured or mobile home to have at least one opportunity to pay delinquent or unpaid current taxes charged against the property. To do so, the person must enter

into a delinquent tax contract that provides for the payment of taxes in specific installments over a period not to exceed five years.)

Taxes and assessments, payment of which has been extended under the act, do not constitute delinquent taxes and cannot be placed on the delinquent land list or delinquent manufactured home tax list, notwithstanding existing laws regarding when property is placed on delinquent tax lists or delinquent land lists or duplicates, when it is subject to penalties and interest, and how delinquent taxes are paid for real property and manufactured or mobile homes. But if the contract becomes void, and a new contract is not entered into pursuant to the delinquent tax contract law, those existing laws do apply.

Tax payments through mortgage companies, other agents

(Section 5(C))

If a member, or a spouse or parent of a member, qualifies for the act's extension, and that member, spouse, or parent has designated an agent for the payment of taxes and assessments that has been extended, that agent is prohibited from requiring the member, spouse, or parent to pay to the agent any such taxes and assessments for the period for which payment is extended. If those taxes or assessments are paid by the member, spouse, or parent to an agent as part of a mortgage loan installment payment, the agent must deduct the portion of the payment that represents such taxes and assessments from the amount of each such payment payable during the period of extension.

No penalties or interest during contract period

(Section 5(D))

If the member, or the member's spouse or parent has entered into a contract pursuant to the act before the first day of the seventh month after the month in which the member's duty terminates, the county auditor and treasurer must remove from the tax list and duplicate any penalties and interest that were charged under existing law during the member's duty and before the first day of the seventh month after the month in which the member's duty terminates.¹

¹ For real property taxes, existing law requires that the full amount be paid on or before December 31, or 1/2 of the current taxes together with delinquent taxes before that date, and the remaining 1/2 on or before the following June 20. For manufactured home taxes, 1/2 of the tax is due on or before March 1 and the balance is due on or before July 31, or the tax for the entire year may be paid in full on March 1.

Notice regarding the extension

(Section 5(E))

Notwithstanding the information and notices that are required by existing law to appear in a tax bill, county treasurers must include a notice of, and information about, the extension provided by the act, on or with real property or manufactured home tax bills mailed or delivered under existing law.

Adjustments to local government funds

(Section 3)

Section 140 of Am. Sub. H.B. 94 of this General Assembly established a formula for temporarily limiting the amount of various tax revenues credited during the current biennium to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund. In effect, H.B. 94 "froze" the revenue credited to those funds at the fiscal year 2001 level. But with the decline in revenues received in that fiscal year, the freeze resulted in those local government funds being buffered from the economic downturn. To correct this, Am. Sub. H.B. 405 of this General Assembly modified the formula for distributions to those funds by semi-annually reducing the amounts transferred to them.

The act changes the calculation of the reductions applicable to these local government funds by including the kilowatt-hour tax in the formula, which was inadvertently left out of the semi-annual reduction mechanism in H.B. 405. This results in a smaller reduction of the amounts transferred to those funds, thus increasing revenues to local governments.

The act further clarifies that when the semi-annual reductions in the local government funds are made, the amount received by each county undivided local government fund and each municipality directly from the Local Government Fund, by each county undivided local government revenue assistance fund from the Local Government Revenue Assistance Fund, and by each library and local government support fund from the Library and Local Government Support Fund, must be reduced in March 2002, July 2002, March 2003, or July 2003, based on each county's or municipality's proportionate share of the total amounts to be received from that fund in that month.

Act's effective date

(Section 6)

The act is declared to be an emergency measure taking immediate effect for the reason that active duty military personnel may face real economic hardships while serving their country, and urgently need the financial relief provided by the real property and manufactured home tax extensions.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-02-01	p. 870
Reported, H. Ways & Means	01-24-02	p. 1299
Passed House (95-1)	01-30-02	pp. 1344-1348
Reported, S. Ways & Means	02-20-02	pp. 1485-1486
Passed Senate (32-0)	02-20-02	pp. 1489-1490
House concurred (95-1)	02-26-02	pp. 1444-1446

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