

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 923 (as enrolled)
Sponsor: Senator Leon Stille
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 246 of 1998

Date Completed: 7-27-98

RATIONALE

The passage of Proposal A in 1994 revamped the State's school finance system. Among the many tax changes made was the creation of the State Real Estate Transfer Tax Act, which taxes the seller or grantor of property at the rate of three-fourths of 1% of the total value of the property transferred. Though the Act contains a list of property transfers that are exempt from the tax, there is no exemption for the conveyance of property from a religious entity. It has been pointed out that this lack of exemption is inconsistent with a general property tax exemption in the General Property Tax Act. Section 7s of that Act exempts from property taxes houses of public worship, the furniture in them, and the land on which they stand; any parsonage owned and occupied as a parsonage by a religious society of the State; and buildings or other facilities owned by a religious society and used predominantly for religious services or for teaching the society's religious truths and beliefs.

House Bill 5358 of this legislative session, as enrolled, proposed to amend the State Real Estate Transfer Tax Act to exempt from the tax the conveyance of property by a religious society or a parsonage. The bill was vetoed by the Governor, who stated in his veto message, "To narrowly carve out a special exemption to the State Real Estate Transfer Tax Act would set a precedent and invite other interests to seek similar special treatment. Such action only serves to erode the real estate transfer tax base." It has been suggested that, instead of exempting from the tax all property transfers by religious organizations, property transfers between religious organizations be exempted from the tax.

CONTENT

The bill would amend the State Real Estate Transfer Tax Act to exempt from the tax a written instrument that conveyed an interest in property from a religious society, that is exempt from the collection of taxes under Section 7s of the General Property Tax Act, to a religious society, if the property would continue to be exempt from taxation under Section 7s.

The bill is tie-barred to House Bill 4376. As passed by the House, House Bill 4376 provides that the State or a political subdivision of the State (a county, township, city, or village) could not impose a substantial burden on a person's exercise of religion unless it established by clear and convincing evidence that the burden was necessary to advance a compelling government interest, and the burden was the least restrictive means of furthering the compelling government interest.

MCL 207.526

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Religious organizations typically are exempt from taxation when they are engaged in their traditional activities. They are exempt from the sales and use taxes, for example, and their property is exempt from property taxes. When the State transfer tax on real estate transactions was enacted as part of Proposal A, however, no exemption was included for religious organizations; meaning that when a church, for instance, sells property, it is subject to the tax. This reduces revenues that the religious institution otherwise could use in carrying out its

mission, and reduces the organization's ability to offer services to the community. Reportedly, the lack of an exemption from the transfer tax for religious organizations was an oversight, and many people feel that it would be proper to correct the problem. House Bill 5358, which was vetoed, would have exempted all property transfers by religious organizations. Senate Bill 923 would exempt only property transferred from one religious institution to another; thus, the revenue implications would be smaller and the possibility of setting a precedent lessened.

Opposing Argument

In regard to the House bill that was vetoed, the Governor stated that the proposed change would have carved out a narrow exemption and invited other interests to seek special treatment. The Senate bill would allow an even narrower exemption, but it would set no less a precedent, and thus would encourage other special interests to seek special treatment.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill will reduce State real estate transfer tax revenue by \$700,000 in FY 1998-99. This loss in revenue will affect the School Aid Fund.

Fiscal Analyst: R. Ross

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