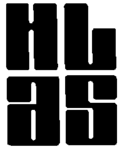

House Legislative Analysis Section

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

MOVE UNPAID EMERGENCY SERVICE FEES TO TAX ROLLS

House Bill 4192 (Substitute H-1)
First Analysis (3-21-01)

Sponsor: Rep. Stephen Ehardt
Committee: Local Government and Urban Policy

THE APPARENT PROBLEM:

Under current law, a city or town that provides emergency ambulance or fire service, or a group of cities or towns acting jointly to provide the service, may collect service fees if they authorize fee- collection by ordinance. Cost-recovery ordinances are common although not uniform throughout the state, and according to committee testimony, fee-for-service fire service is especially prevalent in rural areas. (See *BACKGROUND INFORMATION*, below.)

According to a former township official, the average cost of a fire run in his jurisdiction is between $600 and $800, although he pointed out that costs vary depending on the region of the state in which the services are provided. Usually the cost is covered by a homeowner's property insurance in the case of fire service fees, or a driver's auto or health insurance in the case of ambulance fees. However, when there's a dispute over the claim, the homeowner bears the cost and is billed directly.

For example, in the case of emergency services provided after an automobile accident, health insurance often covers the cost, and accident victims can seek reimbursement from their insurance carriers. However, in at least one local unit of government through which I-75 passes, and which had a mutual aid agreement with adjoining units of government that also provide emergency services to accident victims on the highway, about 20 percent of the people billed did not pay for the emergency services they received.

Township officials have reported that it has become increasingly difficult to collect for fire and emergency health services from insurance carriers. Because insurance companies are increasingly reluctant to pay, some have suggested the law should be changed to allow a local unit of government to add the unpaid fire and ambulance service fees to the property tax roll.

THE CONTENT OF THE BILL:

House Bill 4423 would amend Public Act 33 of 1959, the act authorizing the collection of fees for certain emergency services in townships and other municipalities, to allow local units of government to collect an unpaid fee for service by entering it as a special assessment on the next tax roll against the designated property owned by the person responsible for payment of the fee.

Under current law, the legislative body of a municipality providing emergency police or fire service, or the legislative bodies of municipalities acting jointly to provide such a service, may authorize by ordinance the collection of service fees. Likewise, a township board or a county board of commissioners providing emergency ambulance and inhalator service, either alone or jointly with another municipality, may authorize services fees by ordinance.

Under the bill, a municipality or the county board of commissioners of a county could write their service fee ordinances to annually certify fees delinquent for three or more months to the property tax collecting officer, to be entered as a special assessment on the next tax roll against the designated property owned by the person responsible for payment of the fee for service. However, the proper tax collecting officer could not enter, and a special assessment could not be levied against, property owned by a person who was not responsible for payment of the fee (in the case, for instance, of a rental property owner who had not incurred the fee).

The bill specifies that before placing a special assessment on the tax roll, the municipality or the county would be required to provide to any person deemed responsible for fee payment, written notice of the delinquent fee, and also an opportunity to show cause why he or she was not the person responsible for payment of the fee.

The bill also specifies that a special assessment placed on the tax roll constitutes a lien on the designated property until it is paid or removed. The lien would be of the same character and effect, and subject to the same interest and charges, as a lien created for real property taxes under the General Property Tax Act. Then, if a special assessment entered on the tax roll were not paid before March 1, and the designated property was also subject to return to the county treasurer on March 1 for delinquent real property taxes, the special assessment would be returned as delinquent with other delinquent taxes to the county treasurer, for enforcement and collection in the same manner as delinquent real property taxes, including forfeiture, foreclosure, and sale. If a county treasurer subsequently discovered that designated property was erroneously returned as delinquent, he or she would be required to remove from the tax roll the special assessment, and return the fee for service to the proper tax collecting officer for collection.

However, if a special assessment was not paid before March 1, and the designated property was not otherwise subject to return to the county treasurer on March 1 for delinquent real property taxes, the proper tax collecting officer would be required to remove from the tax roll the special assessment, and the designated property would not be returned as delinquent to the county treasurer. Instead, the proper tax collecting officer would attempt to collect the fee in any of the following ways: a) provide written notice of the delinquent fee for service to the person responsible for the fee; b) provide public notice of the delinquent fee, including but not limited to publication on the Internet or by other electronic means; c) institute a civil action against the person responsible for the payment of the fee, to recover the amount of the delinquent fee, and any interest and other costs allowed by the Revised Judicature Act; d) contract with a licensed collection agency for collection of the fee; or, e) file with the register of deeds of the county where the property is located, a certificate of nonpayment of the fee, and provide a copy of the certificate to the person responsible for payment of the fee. The bill specifies that upon providing a copy of the certificate of nonpayment to the responsible person, the delinquent fee would constitute a lien upon the designated property subject to proceedings upon the lien, as provided by law for the foreclosure in the circuit court. Within 30 days after the payment of the delinquent fee, the property tax collecting officer would be required to file, with the county register of deeds, documents as evidence to demonstrate release of the lien.

Finally, the bill specifies that these provisions would not limit the authority of the municipality or county to collect a fee by any other means authorized by law for the collection of a debt.

The bill would define "designated property" to mean real property for which fire service was provided or at which emergency ambulance and inhalator services were provided. The bill would define "person responsible for payment of the fee for service" to mean one of the following: a) for fire service, an owner of the designated property; and b) for emergency ambulance and inhalator service, an owner of the designated property if the person who received the emergency ambulance and inhalator service was an owner of the designated property or was a dependent of an owner of the designated property.

The bill also would define "emergency ambulance and inhalator service" to include medical first response life support services provided by a fire department. Under the bill "fire service" means fire fighting services and does not include medical first response life support services. "Medical first response life supports" would mean that term as defined in the Public Health Code.

Finally, the bill would define "fee for service" to mean a fee for fire service or emergency ambulance and inhalator service authorized by subsection (1) or (2). It would define "proper tax collecting officer" to mean one of the following: a) the treasurer of the city, township, or village in which the designated property is located; or, b) if the fee for service is owed to a county providing emergency ambulance and inhalator service alone or jointly with another county, the county treasurer of the county in which the property is located.

MCL 41.806a

BACKGROUND INFORMATION:

In 1995, the House of Representatives Local Government Committee reported a bill similar to House Bill 4423. That bill (House Bill 4159) was passed by the House of Representatives, and subsequently was reported twice from the Senate Committee on Local, Urban and State Affairs after substitutes were drafted. A final vote was never taken, and the bill was re-referred to the Senate committee at the end of the 1995-96 legislative session, where it died.

During the committee deliberations in the House of Representatives five years ago, one township, Flushing Township, was offered as an example of a joint fee-for-

service fire protection agreement. According to committee testimony (as recorded in the House Legislative Analysis dated 3-9-95), Flushing Township contracted with an adjoining city for fire protection and sent the property owner a bill if he or she needed fire protection services. The township reportedly billed up to $500 per run (in 1995), and the unit's budget covered the remainder of the $1,150 per run cost. Often the cost of the service was covered by the property owner's insurance. However, when the property owner did not pay the fee, it was difficult for the township to collect, even through the small claims court process. The treasurer of Flushing Township indicated that some $6,000 in fees could not be collected in a previous year.

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that the bill would have no significant state or local fiscal impact. (3-5-01)

ARGUMENTS:

For:

The bill would provide certain local units of government with an additional tool to use in trying to collect overdue bills sent to property owners to cover the cost of emergency fire and ambulance runs. This means that unpaid bills would go on the tax rolls and liens could be placed against property if the fees weren't paid. However, this bill prohibits a lien being imposed on property owned by a person who is not responsible for payment of the fee-for-service. Further, property would not be subject to forfeiture, foreclosure, and sale for nonpayment of a fee-for-service, unless the property tax already was delinquent. By treating emergency fees like property taxes, the bill provides an additional incentive for property owners to pay.

For:

This legislation helps to clarify the fee-for-service arrangements of local government, because for the first time the bill provides definitions to clearly distinguish "emergency ambulance and inhalator services," "fire service," and "medical first response life support." These clear definitions enable a local unit of government to set fee schedules, and also to seek reimbursement for these services from health, property, and auto insurers.

Against:

Some people would suggest that the emergency services in question here, particularly fire services, ought to be paid for by the whole community and not by those who need the services.

Response:

These fees have a long history, most especially in the rural communities throughout the state. It is not always possible to provide such services entirely out of general tax revenues. The bill is simply aimed at making them easier to collect. In many cases, there is insurance coverage to defray the cost of the fees.

POSITIONS:

The Department of Treasury supports the bill. (3-20-01)

The Michigan Townships Association supports the bill. (3-21-01)

Analyst: J. Hunault

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.