State Notes

TOPICS OF LEGISLATIVE INTEREST

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Countywide Authorities and Revenue Sharing
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Certain authorities established under State law are allowed to levy property taxes. Current law also requires that these authorities receive a portion of the revenue sharing payment made to any local unit that collects property taxes for the authority. Since fiscal year (FY) 2004-05, however, countywide authorities have generally not received these payments. This article discusses the history of this issue, describes legislation that has been introduced to address the problem, and identifies some related issues regarding revenue sharing and authorities.

Background

Under both constitutional and statutory provisions, the State shares a portion of its sales tax revenue with local units of governments. These revenue sharing payments peaked at $1,555.5 million in FY 2000-01 but have fallen to an estimated $1,106.4 million in the recently adopted FY 2006-07 budget, a 28.9% decline. A portion of this revenue reflects revenue designated by the State Constitution to be distributed to cities, villages, and townships on a per-person basis. Estimated constitutional revenue sharing payments in FY 2006-07 will be 8.7% above those during FY 2000-01. As a result, the net decline in revenue sharing payments has reflected reduced payments under the statutory provisions. These reductions have been dominated by two principal changes: 1) reduced statutory payments to cities, villages, and townships, and 2) the temporary elimination of statutory revenue sharing payments to counties. These reductions have not affected all local units to the same degree and a number of different factors have combined to affect countywide authorities.

Shift in the Collection Date for County Property Taxes

As part of the FY 2004-05 budget, the Governor recommended that statutory changes be made to eliminate State revenue sharing payments to counties for a number of years into the future. The adopted changes included: 1) accelerating the collection of property taxes levied by counties for operating purposes over a three-year period, 2) placing these accelerated collections into a reserve fund, 3) regulating withdrawals from the reserve fund, and 4) eliminating State revenue sharing payments to a county until its reserve fund is exhausted. Each county's allowed withdrawal equals the revenue sharing payment the county received during FY 2003-04, adjusted for inflation. While the revenue sharing payment and the allowed withdrawals are for comparable amounts, differences in their source of revenue have created other difficulties.

Property Taxes and Authorities

Michigan statute allows the creation of certain governmental entities that have limited authority, both in terms of their areas of responsibilities and in their ability to levy taxes. These "authorities" may be confined to all or part of an individual local unit, or may span several counties. Countywide authorities are often associated with providing library or transit services. The largest countywide authority in the State is the Huron-Clinton Metropolitan Authority (HCMA), which covers Livingston, Macomb, Oakland, Washtenaw, and Wayne 90

Counties. The HCMA has developed and maintains 13 parks located along the Huron and Clinton Rivers in southeastern Michigan. Many of these authorities, including the HCMA, levy property taxes voted on by the residents of the area covered by an authority and collected by the local units within its jurisdiction. Taxes levied by countywide authorities are generally collected by each respective county and remitted to the authority.

Business Inventories and the Property Tax

Before the single business tax (SBT) was adopted, business inventories were included in the tax base for property taxes. When the SBT was adopted, the local property tax on business inventories was eliminated. To hold local units harmless, an additional component was added to revenue sharing payments: an inventory reimbursement payment, paid from SBT revenue. Local units that collected taxes for an authority were required to reimburse the authority for the lost property tax revenue from their revenue sharing payments.

The Current Problem

The current issue with regard to inventory reimbursement payments to countywide authorities relates to the accelerated collection of county property taxes and the reserve fund used to replace revenue sharing payments. The reserve fund and the withdrawals from it are authorized under the General Property Tax Act, not the Glenn Steil State Revenue Sharing Act. Reimbursements to authorities are required to be made from funds received under the Revenue Sharing Act. As a result, there is no statutory obligation for counties to provide an inventory reimbursement payment to authorities for which they collect property taxes. Counties are free to use their general fund revenue, which includes revenue that is withdrawn from the reserve fund, to make such payments. However, there is no statutory compulsion for counties to make the payments to these authorities and a number of counties have chosen not to do so.

Table 1 shows the counties that collect property taxes for a countywide authority and the inventory reimbursement payments required under the Revenue Sharing Act. Revenue to the HCMA comprises almost half of the inventory reimbursement payments by counties to authorities. However, the share of total authority revenue composed of inventory reimbursement payments has declined over time. For example, in FY 1999-2000 inventory reimbursement payments comprised 2.1% of the HCMA's revenue, compared with 1.6% in FY 2003-04. The inventory reimbursement amounts to be remitted to authorities are also a negligible portion of the total withdrawals authorized from the reserve fund, averaging approximately 1.1% of the withdrawal amounts; in the case of the counties covered by the HCMA, authority payments only average 0.7% of the withdrawals the affected counties are authorized to make.

While the law does not require counties to provide the inventory reimbursement payment to the authorities, statute does allow counties to withdraw from the reserve fund an amount calculated on a total inclusive of the payment. While some counties reportedly have not withdrawn amounts that would have included the inventory reimbursement payment, other counties have made the withdrawal and then used the funds for purposes unrelated to the authorities. Furthermore, because the inflationary adjustment for the withdrawal also includes the reimbursement payment amounts, the withdrawals effectively allow the inventory reimbursement payment to grow with inflation, even though previously the amount had been fixed at the FY 1997-98 level.

Table 1

County Inventory Reimbursement Payments to Authorities

County/ (Type of Authority)	Inventory Payment	Est. 2004 Revenue	Inventory Payment Percent of Revenue	FY 2005-06 Authorized Res. Fund Withdrawal	Inventory Payment Percent of Withdrawal
Bay (Transit)	$44,048	$2,033,047	2.2%	$2,338,928	1.9%
Genesee	375,141	16,366,129	2.3%	8,947,994	4.2%
Library	163,502	7,133,025	2.3%		
Airport	116,787	5,095,018	2.3%		
Transit	94,852	4,138,086	2.3%		
Grand Traverse (Library)	24,063	4,077,266	0.6%	1,420,411	1.7%
Jackson (Library)	76,628	3,656,810	2.1%	3,048,328	2.5%
Livingston (Parks-HCMA)	4,454	1,604,449	0.3%	2,669,499	0.2%
Macomb	198,804	15,135,226	1.3%	14,533,809	1.4%
Parks-HCMA	80,297	6,113,144	1.3%		
Smart	118,507	9,022,082	1.3%		
Mason (Library)	4,153	592,964	0.7%	515,496	0.8%
Monroe (Library)	21,940	2,635,252	0.8%	2,649,286	0.8%
Oakland (Parks-HCMA)	106,700	12,625,279	0.8%	21,783,442	0.5%
Presque Isle (Library)	2,479	354,563	0.7%	259,161	1.0%
Washtenaw (Parks-HCMA)	27,958	2,894,741	1.0%	5,920,969	0.5%
Wayne (Parks-HCMA)	339,009	10,606,259	3.2%	45,175,379	0.8%
Wexford	7,459	723,866	1.0%	575,239	1.3%
Library	4,144	402,148	1.0%		
Transit	3,315	321,718	1.0%		
Total	**$1,232,836**	**$73,305,851**	**1.7%**	**$109,837,941**	**1.1%**
Addendum: HCMA	$558,418	$33,843,872	1.6%	$75,549,289	0.7%

Source: Michigan Department of Treasury, the Senate Fiscal Agency

Legislative Remedies

Several bills have been introduced to address the issue of inventory reimbursement payments to authorities. House Bill (H.B.) 5274 would require counties to use a portion of their reserve fund withdrawal to make the payment. The bill would have no fiscal impact on the State, but would have a fiscal impact on counties. Counties that have continued to withdrawal the payments and then used them for other purposes would need to divert the funds back to the authorities and either find alternative funding for those activities or reduce/eliminate them. Counties that have not withdrawn amounts inclusive of the inventory reimbursement payment would be required to withdraw the amounts, thus depleting their reserve funds at a more rapid rate and accelerating the date when the State will need to begin making regular revenue sharing payments. Counties withdrawing the amount and remitting it to the authority essentially would be unaffected by the change.

While H.B. 5274 would ensure that the authorities received funds for the inventory reimbursement payment, the withdrawal amounts (which include the payment) would grow by inflation, although the payment to the authority would remain fixed. As a result, although the authorities still would receive funding as they did before the reserve fund was created, counties still would be able to reap a small windfall from the inflation growth in the withdrawal. Furthermore, because the money for the payments previously came from State revenue and now would be drawn from the reserve fund (funded with revenue from locally voted and levied taxes), the bill could violate constitutional Headlee provisions regarding unfunded mandates. It should be noted that while the bill probably would present Headlee implications, the violations would stem from the requirement to make the payment. There would be no constitutional issue raised if a county simply chose to make the payment (as opposed to being mandated by the State).

Senate Bills 965 and 966 take a different approach to the issue than H.B. 5274. Senate Bill (S.B.) 965 would amend the formula for computing revenue sharing payments to the county by adding an additional amount equal to the inventory reimbursement payments made to authorities. Senate Bill 966 then would require that the county remit the additional revenue sharing payment to the authority. Senate Bill 1006 would fund the requirements of S.B. 965 and S.B. 966 by providing a supplemental appropriation to the FY 2005-06 budget of $2.5 million. The supplemental appropriation would cover payment to the authorities for FY 2004-05 and FY 2005-06. This approach also would provide authorities with the money, although it would increase State obligations despite the fact that the State's support for the inventory reimbursement payment has been declining. In addition, the bills would extend the obligation, at least as far as countywide authorities are concerned, past the existing June 30, 2007, termination for these payments to all authorities. Furthermore, it would allow counties to continue to withdraw from the reserve fund amounts that include the inventory reimbursement payment to the authority, and would continue to increase those amounts by inflation, essentially providing a small (and growing) windfall to counties. If the statutory commitment created by S.B. 965 and S.B. 966 were funded in years after FY 2005-06, it would involve approximately $1.2 million per year in appropriations. House Bill 5629 is the same as S.B. 966.

House Bill 5274 has been referred to the House Appropriations Committee, and House Bill 5629 has been referred to the House Local Government and Urban Policy Committee. Senate Bills 965, 966, and 1006 have been referred to the Senate Appropriations Committee. To date, all of the bills remain in committee.

Table 1 indicates, on average, that the inventory reimbursement payment comprises only 1.7% of authority revenue, but this figure neglects changes in rest of the revenue base for authorities. Table 2 illustrates the impact of not remedying the situation, either through counties' voluntarily making the payments or through some sort of legislative change. Between 2000 and 2006, countywide authorities have experienced average increases in taxable value of 5.9%. The HCMA also averaged increases in taxable value of 5.9% over the same period. Since the reserve funds were established, taxable value for the HCMA has risen by similar amounts, growing 5.6% from the prior year in both 2005 and 2006. Had the HCMA not received inventory reimbursement payments from any county during FY 2004-05 or FY

2005-06, HCMA revenue still would have grown 3.9% in FY 2004-05 and 5.6% in FY 2005-06. For some authorities, such as those in Grand Traverse County, revenue would have increased by 6.6% in FY 2004-05 and 8.9% in FY 2005-06 even if no inventory reimbursement payment were made by the county. At the other end of the spectrum, revenue to authorities in Bay County would have grown 1.8% in FY 2004-05 and 4.5% in FY 2005-06. Consequently, the lack of the inventory reimbursement payment does not result in a county authority receiving less revenue than was received in a previous year.

Table 2

County Inventory Reimbursement Payments to Authorities

County/ Type of Authority	Average Growth in Taxable Value 2000-2006	Est. 2004 Revenue	Est. 2005 Revenue	Revenue Growth Excluding Inventory Reimburs. Payment	Est. 2006 Revenue	Revenue Growth Excluding Inventory Reimburs. Payment
Bay (Transit)	4.6%	$2,033,047	$2,070,265	1.8%	$2,164,398	4.5%
Genesee	5.6%	16,366,129	16,961,929	3.6%	17,909,740	5.6%
Library		7,133,025	7,392,699	3.6%	7,805,794	5.6%
Airport		5,095,018	5,280,499	3.6%	5,575,567	5.6%
Transit		4,138,086	4,288,731	3.6%	4,528,379	5.6%
Grand Traverse (Library)	8.0%	4,077,266	4,347,121	6.6%	4,734,912	8.9%
Jackson (Library)	7.2%	3,656,810	3,766,894	3.0%	3,986,329	5.8%
Livingston (Parks-HCMA)	8.7%	1,604,449	1,734,585	8.1%	1,866,725	7.6%
Macomb	6.3%	15,135,226	15,834,469	4.6%	16,815,001	6.2%
Parks-HCMA		6,113,144	6,395,570	4.6%	6,791,608	6.2%
Smart		9,022,082	9,438,900	4.6%	10,023,393	6.2%
Mason (Library)	5.4%	592,964	619,768	4.5%	654,848	5.7%
Monroe (Library)	4.5%	2,635,252	2,736,825	3.9%	2,884,583	5.4%
Oakland (Parks-HCMA)	5.8%	12,625,279	13,161,737	4.2%	13,893,032	5.6%
Presque Isle (Library)	6.2%	354,563	374,744	5.7%	398,734	6.4%
Washtenaw (Parks-HCMA)	7.2%	2,894,741	3,061,836	5.8%	3,271,210	6.8%
Wayne (Parks-HCMA)	5.2%	10,606,259	10,801,915	1.8%	11,307,979	4.7%
Wexford	6.7%	723,866	767,675	6.1%	818,640	6.6%
Library		402,148	426,486	6.1%	454,800	6.6%
Transit		321,718	341,189	6.1%	363,840	6.6%
Total	**5.9%**	**$73,305,851**	**$76,239,763**	**4.0%**	**$80,706,131**	**5.9%**
Addendum: HCMA	5.9%	$33,843,872	$35,155,642	3.9%	$37,130,555	5.6%

Source: Michigan Department of Treasury, the Senate Fiscal Agency

Related Issues

As revenue sharing payments have been reduced or frozen over the last few years, the issue of authority payment has not just affected counties. Approximately $5.1 million is remitted by cities, villages, and townships across the State to various authorities. Because the inventory reimbursement received by the authorities is frozen, local units have been required to absorb reduced revenue sharing payments but not been able to reduce the reimbursement provided to the authorities. For some municipalities, maintaining inventory reimbursement payments to authorities has created additional difficulties for already tight budgets.

The inventory reimbursement requirement is part of the Revenue Sharing Act and requires the distributions to be made from “payments received under this act”. While the Revenue Sharing Act specifies the timing of payments received as a result of constitutional revenue sharing provisions, constitutional revenue sharing payments likely would not be considered to be payments received under the Revenue Sharing Act. (For instance, if the Act were repealed, the constitutional payments still would continue although there would be no guidance as to when the payment would be required to be made.) Due to the changes in revenue sharing distributions since FY 2001-02, many local units no longer receive statutory revenue sharing payments. In FY 2005-06, approximately 798 local units did not receive statutory revenue sharing payments. Under the FY 2006-07 budget, as enacted, an estimated 981 cities, villages, and townships will not receive a statutory revenue sharing payment. Like counties, these local units are not likely to be obligated to make an inventory reimbursement payment to the authorities for which they collect taxes (because, strictly speaking, they are no longer receiving payments under the Revenue Sharing Act) but may choose to continue to make those payments as part of their regular budget process. Whether any city, village, or township authorities have been affected by this issue is unknown. Furthermore, because once a local unit ceases to receive statutory revenue sharing payments its revenue sharing payment generally has grown from year-to-year because of the growth in constitutional revenue sharing payments, it may be that for these local units the burden of continuing authority payments is not substantial. However, to the extent that future revenue sharing distributions result in more local units ceasing to receive statutory revenue sharing payments, the likelihood that city, village, or township authorities will no longer receive inventory reimbursement payments will increase.

The State’s Obligation Regarding Inventory Reimbursement Payments

The link between SBT revenue and the inventory reimbursement has declined over the last 10 years, with the State reducing the amounts by which it factors in reimbursements for a tax that was repealed more than 30 years ago. In 1996, sales tax revenue replaced SBT revenue in funding the inventory reimbursement payment, eliminating the link between SBT revenue and the reimbursement. Furthermore, in 1998, when the mechanism for distributing statutory revenue sharing payments was completely replaced, the inventory reimbursement payment began to be eliminated from revenue sharing—at least for some local units.

The new revenue sharing formula produced a different distribution mechanism for cities, villages, and townships than the one used for counties. Counties were to receive 25.06% of the statutory appropriation and that money would be distributed under two mechanisms. First, each county would receive the same amount as it received for the reimbursement payment during FY 1997-98. Second, any remaining money would be distributed on a per-person basis to all the counties. As a result, as revenue sharing payments would presumably grow, the share of the total composed of inventory reimbursement payments would steadily decline.

The calculation for distributing payments to cities, villages, and townships was more complicated, and involved phasing in a new formula over 10 years. The new formula did not include any consideration of the reimbursement payment received by cities, villages, and townships. Payments under the old formula, which produced a smaller share of the total payment each year, was based on the amount of total revenue sharing that the local units received during FY 1997-98. As a result, the old formula still retained, at least implicitly, some element of the inventory reimbursement payment—although the phase-out meant that the contribution decreased each year. Since FY 2001-02, the 1998 formula essentially has been suspended, with local units receiving some percentage of the payment they received in the prior year. However, the implicit inventory reimbursement payment has continued to decline as a share of total revenue sharing payments, as constitutional payments have grown and statutory payments (of which the inventory reimbursement payment was a component) have declined or even ceased.

Furthermore, unlike many other provisions in the 1998 legislation that indicate certain distributions under the Revenue Sharing Act would continue "as provided by law" past FY 2006-07, the requirement for local units to reimburse authorities from their revenue sharing payments for the inventory reimbursement payment is set to terminate for all local units as of June 30, 2007. Whether the State will fund inventory reimbursement payments, either for countywide authorities or for all authorities, remains a policy decision for the Legislature to make.