LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6755
BILL NUMBER: SB 145

NOTE PREPARED: Jan 25, 2022
BILL AMENDED: Jan 25, 2022

SUBJECT: Property Tax Matters.

FIRST AUTHOR: Sen. Buchanan
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *State Assessment*: This bill provides that a county assessor or township assessor (if any) may request the Department of Local Government Finance (DLGF) to perform a state conducted assessment of commercial real property used for retail purposes that is at least 100,000 square feet and that is occupied by the original owner or by a tenant for which the improvement was built for a specific assessment date. It sets out the procedures for a state conducted assessment.

Commercial Property Value: The bill provides that the true tax value of commercial real property used for retail purposes that is at least 100,000 square feet and that is occupied by the original owner or by a tenant for which the improvement was built shall be determined by the cost approach for the first 10 years of occupancy of the property, less normal depreciation and normal obsolescence under the rules and guidelines of the DLGF.

Construction Cost: This bill requires the DLGF to annually establish a standard construction cost per square foot for these properties for each region based on the average market cost in the state to be used for purposes of the assessment, unless the taxpayer has provided the taxpayer's determination of actual construction costs to the appropriate assessing official not later than 45 days after the date of the assessment notice that is the subject of the review.

The bill requires the taxpayer, if a taxpayer has provided the taxpayer's determination of actual construction cost within 45 days after the assessment notice, to provide to the county property tax assessment board of appeals (PTBOA) information necessary to determine the actual construction costs for the real property. It requires that the taxpayer's actual construction costs must be used for purposes of the assessment if the PTBOA determines that actual construction costs for the real property are less than the standard construction cost established by the DLGF.

Separate Account: This bill requires the fiscal officer of the county to establish a separate account for the tax receipts that are attributable to the property tax assessment that is the subject of review.

Traffic Influence: The bill also provides that if a taxpayer files a notice of an assessment appeal and a major roadway or traffic pattern located on the property is changed, that change must be considered in the determination of the property's assessed valuation in the appeal.

Effective Date: January 1, 2023.

Explanation of State Expenditures: (Revised) *Construction Cost*: Beginning in CY 2023, the DLGF will be required to annually establish a standard construction cost in each region of commercial retail properties with at least 100,000 square feet. The DLGF estimates that it will need to hire an additional statistician to complete this task. The total starting salary plus fringe benefits and indirect costs for a statistician is estimated at $30,910 for one-half of FY 2023 and $62,116 for FY 2024. The DLGF is funded from the state General Fund.

(Revised) *State Assessment*: Beginning in CY 2023 under this provision, the DLGF will conduct an assessment of a particular large commercial retail property upon request by the local assessor. For property taxes payable in 2022, there are 610 parcels that were coded as commercial retail and have at least 100,000 square feet. These parcels have a total gross assessed value of $5.1 B. The DLGF may contract with a professional appraisal firm to conduct the assessment.

The DLGF reports that they would have to do this work in-house, and it could require an additional three field representatives if local assessors request that the DLGF assess all 610 large commercial properties. The total starting salary plus fringe benefits and indirect costs for one field representative is estimated at $40,075 for one-half of FY 2023 and $81,178 for FY 2024. If all three new field representatives are hired, the total personnel cost could reach $120,224 for one-half of FY 2023 and $243,533 for FY 2024. The DLGF also estimates travel expenses of up to $415 for each three day trip for a representative. If each field representative traveled for three days most weeks, travel costs could be up to $20,000 each, per year.

Any expenditure made by the DLGF under contract to assess the property, and all administrative costs incurred by the DLGF, will be reimbursed by the county.

If the DLGF were required to defend all 610 assessments on appeal, the DLGF estimates that it would need to hire three additional attorneys. The total salary plus fringe benefits and indirect costs for one attorney is estimated at $42,494 for one-half of FY 2023 and $86,210 for FY 2024. If all three new attorneys are hired, the total personnel cost could reach $127,482 for one-half of FY 2023 and $258,630 for FY 2024.

The county will be required to pay all costs associated with an appeal.

The number of additional employees needed and the actual total cost is dependent on the number of assessment requests received from local assessors. DLGF expenses will be paid by the counties so the DLGF will not have any net additional expense for state conducted assessments or appeals of those assessments.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) *State Assessment*: If local assessors request that the DLGF conduct assessments of any large retail properties under this bill, then the counties will reimburse the DLGF for the cost of the assessments from the county reassessment fund. Since the county would have otherwise borne the cost of the assessment directly, any change in local expenditures will depend on the difference in the cost if assessed locally versus the DLGF's cost.

Counties will also pay all costs associated with an appeal of a state assessment. If the local assessment had been appealed under current law, the county would have had to pay this expense. Any change in local expenditures for appeals will depend on the difference in the cost of to defend local assessments versus the cost to defend the state's assessment.

Explanation of Local Revenues: (Revised) *Commercial Property Value*: This provision could result in increased assessments of some commercial retail properties. Increased assessments will reduce the tax rate, shift taxes to these properties from others, and potentially reduce tax cap losses in some places.

Beginning with January 1, 2023, assessments, a commercial retail property with at least 100,000 square feet that is occupied by the original owner or the tenant for whom it was built will be assessed under the cost approach for the first 10 years of occupancy if the owner appeals the property's assessment. Normal depreciation and normal obsolescence under DLGF rules and guidelines will be applied.

Economic and functional obsolescence may be determined by application of aggregate market data and not by comparison to any other individual parcels. Land will be assessed separately and may be assessed or challenged based on market comparables.

On appeal, the cost approach will be based on the standard construction cost for the region unless the taxpayer provides their determination of actual construction cost within 45 days after the date of the assessment notice. If the taxpayer's determination is timely provided, then the taxpayer must also provide all information necessary to determine the actual construction cost at least 10 days before the PTABOA hearing. If the actual costs are less than the standard cost then the actual cost will be the basis for the assessment.

(Revised) *Separate Account*: This provision will reduce current year revenues for local civil taxing units and school corporations serving large commercial retail properties with an assessment under appeal. The greater of (1) the tax payments attributable to the increase in the assessment from the prior year, or (2) 25% of the total tax payments on a property under review, will be deposited into a separate fund and held until there is a final determination or final judgment. Money in the fund will be released to the units consistent with the final determination or judgment. Future years' revenue will increase as the money in the fund is released.

Under current law, if there is a refund due the taxpayer, then the refund reduces current year tax distributions to the units. Under the bill, taxpayer refunds will come from the separate account before the remainder is distributed to units.

State Agencies Affected: Department of Local Government Finance.

Local Agencies Affected: Local assessors; Civil taxing units and school corporations.

Information Sources: LSA's property tax database.

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