

Department of Finance and Administration

Legislative Impact Statement

Bill: SB447

As Engrossed: 3/7/2019

Bill Subtitle: TO INCREASE THE HOMESTEAD PROPERTY TAX CREDIT; TO MAINTAIN FUNDING FOR CURRENT PROPERTY TAX RELIEF; TO PROVIDE FOR THE USE OF THE EXCESS FUNDS IN THE PROPERTY TAX RELIEF TRUST FUND; AND TO DECLARE AN EMERGENCY.

Basic Change :

Sponsor: Sen. J. Hendren

Engrossed 03/07/19 --- Senate Amendment 1 --- Amends the bill to replace existing language of § 26-26-310(b)(2)(C)(ii) and (iii) that provides for a one percent (1%) transfer to county assessors of excess funds in the Property Tax Relief Trust Fund on December 31 of each year to a transfer of one million dollars (\$1,000,000) each year. The transferred funds would be used to cover costs incurred by county assessors in administering the provisions of Arkansas Constitutional Amendment 79.

The amendment would also annually distribute two million dollars (\$2,000,000) from the Property Tax Relief Trust Fund to the counties using the formula stated in § 19-5-602(c)(1) and two million dollars (\$2,000,000) to Arkansas municipalities using the formula stated in § 19-5-601(c). These funds would be at the end on each calendar year and used for general county or municipal expenses. These transfers would equal the amounts provided under the special language included in HB1139 of 2019.

Original Bill --- SB447 would amend Arkansas law concerning the Property Tax Relief Trust Fund and increases the amount of property tax credit that would be applied against the annual real property taxes due on Arkansas homestead properties. The bill also amends the distribution provisions for funds deposited to the Property tax Relief Trust Fund to provide funding for the County Voting System Grants Fund and for transfer to State General Revenues if excess funds are available.

The bill would require during 2019, beginning on the last day of each calendar month following the effective date of the act, for the Chief Fiscal Officer of the State to certify to the State Treasurer the total amount of moneys credited to the Property Tax Relief Trust Fund. The monthly certifications to the State Treasurer would continue for all years subsequent to 2019 in order to determine each year's annual amount.

The Chief Fiscal Officer would then determine the annual estimated amount needed to fund the distributions from the Property Tax Relief Trust Fund as required under § 26-26-310 for the next calendar year. These required annual distributions include the reimbursements to Arkansas counties of the property tax credits provided by County Assessors to homestead property owners in the amounts certified on March 31, June 30 and November 15 of each year; an additional one percent (1%) annual distribution of any excess funds in the Property Tax Relief Trust Fund occurring on December 31 of each year; and an additional \$4 Million annual distribution occurring in December of each year. Beginning in 2019, if the amounts deposited during the calendar year to the Property Tax Relief Trust Fund exceed the estimated amount needed to provide for the distributions from the Fund during the next calendar year, the remaining year-end fund balance would be transferred from the Fund as follows:

- (1) a one-time transfer of eight million two hundred forty-six thousand five hundred seventy-three dollars (\$8,246,573) to be deposited to the County Voting System Grant Fund with the one-time transfer occurring as soon as practicable after July 1, 2019; and
- (2) the transfer of excess funds to State General Revenue.

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The bill would increase the Homestead Property Tax Credit from \$350 to \$375 effective for assessment years beginning on or after January 1, 2019. The Homestead Property Tax Credit reduces the amount of real property taxes due on a property owner's qualified homestead for each assessment year. To claim the credit, a property owner registers with the county assessor and provides proof of eligibility for the credit. Arkansas homeowners will receive the benefit of the increased tax credit when paying their real property taxes in 2020.

The bill includes an emergency clause for the remaining provisions of the bill and would be effective upon signature of the Governor.

Revenue Impact :

Calendar Year 2019

No Eligible Transfers from the Property Tax Relief Trust Fund

[Estimated deposits to the Property Tax Relief Trust Fund during CY2019 after effective date of the act -- \$207.3 Million. Estimated total distributions from the Trust Fund during CY2020 -- \$233.4 Million. No distributions would occur during CY2019. Estimated Balance in Trust Fund December 31, 2019 -- \$149,027,320]

Calendar Year 2020

\$12,500,000 Increased Tax Credit Reimbursements to Counties for Increased \$375 Credit Amounts
\$8,246,573 Transfer to the County Voting System Grant Fund (December 2020 Transfer)
\$24,537,069 Transfer to State General Revenues (December 2020 Transfer)

[Estimated deposits to the Property Tax Relief Trust Fund during CY2020 -- \$278.9 Million. Estimated total distributions from the Trust Fund during CY2021 -- \$256.4 Million. Distributions to County Voting System Grant Fund and State General Revenues would occur. Estimated Balance in the Trust Fund after Transfers December 31, 2020 -- \$135,780,747.]

Calendar Year 2021

\$12,800,000 Increased Tax Credit Reimbursements to Counties for Increased \$375 Credit Amounts
\$29,487,927 Transfer to State General Revenues (December 2021 Transfer)

[Estimated deposits to the Property Tax Relief Trust Fund during CY2021 -- \$285.9 Million. Estimated total distributions from the Trust Fund during CY2022 -- \$258.4 Million. Distribution to State General Revenues would occur. Estimated Balance in the Trust Fund after Transfers December 31, 2021 -- \$135,780,747.]

Taxpayer Impact :

Homestead property owners will receive an increased tax credit beginning in CY2020. Distributions

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from the Property Tax Relief Trust Fund would begin in 2020.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation

Procedural Changes :

Additional monthly reporting to the State Treasurer by DFA.

Other Comments :

As drafted, it is not clear if the annually determined estimated amount to fund the distributions required under subdivision (b)(2)(C) includes the needed distributions for reimbursements to the counties for the tax credits provided to homestead owners.

Final reporting by County Assessors of the tax credits provided to homestead property owners is not made until November 15 of each year for reimbursements from the Trust Fund during that same calendar year. Depending on the interpretation of the bill language, it is not clear if moneys would remain in the Trust Fund for the State Treasurer to make these final reimbursements in December. If the intent of the bill is to eliminate the Fund's balance at the end on each calendar year, the bill would require amendment. If the Fund balance were reduced to -0- at the end of the calendar year, county governments would have delays in receipt of the reimbursements during the following calendar year versus the current procedure in Arkansas law.

§ 26-26-310(b)(2)(D)(ii) & (iii) -- It is not clear what amount should be compared to the revenues collected in CY2019 since effective date of the act, to determine if transfers are to be made. It is unlikely that the collections in CY2019, since effective date, would be great enough to exceed "the amount determined under subdivision (b)(2)(D)(ii) if that amount is an annual amount necessary to reimburse the counties for the credits plus \$1,000,000 plus the \$4,000,000 of other transfers to cities/counties.

The bill provides that CFO will annually determine the estimated amount needed to fund the distribution but the bill does not provide a timeframe in which that determination may be made. § 26-26-310(b)(2)(D)(iii)(a)(1) & (2) -- It is not probable that the transfer of \$8.2 million would be made until December 2020.

Legal Analysis :

SB447-S1 (now engrossed) is an amendment to SB447, which increases the Homestead Property Tax

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Credit from \$350 to \$375 and requires certain distributions from the Property Tax Relief Trust Fund. The amendment removes the requirement in § 26-26-1118(a) that the Treasurer annually calculate 1% of the certified excess funds in the Fund and distribute a proportionate share to each county treasurer. Instead, the amendment replaces that requirement with a uniform \$1,000,000 to be distributed proportionately to each county treasurer annually, and an annual distribution of \$2,000,000 to municipalities and \$2,000,000 to counties, distributions previously provided for by annual appropriations. The amendment removes the provision that any excess funds in the Fund may be used in accordance with subsequent legislation to provide additional tax relief or financial assistance to school districts.

The amendment does not resolve the issues noted in the original comments. In addition to those issues, Line 4, Page 2, of SB447 should likely be amended to reflect that the new distributions will occur beginning December 31, 2019, and on December 31 of each subsequent year.

Original Bill:

SB447 amends § 26-26-1118 to increase the Homestead Property Tax Credit from \$350 to \$375 effective for assessment years beginning on or after January 1, 2019. The Homestead Property Tax Credit reduces the amount of real property taxes due on a property owner's qualified homestead for each assessment year. Arkansas homeowners will receive the benefit of the increased tax credit when paying their real property taxes in 2020. In addition, SB447 amends § 26-26-310 to require certain distributions from the Property Tax Relief Trust Fund.

History of the Homestead Property Tax Credit and Property Tax Relief Trust Fund:

In the general election of November 2000, voters approved Arkansas Constitutional Amendment 79 to provide property tax relief. In response, the Arkansas General Assembly increased the Arkansas sales and use tax by .5% effective January 1, 2001. The revenues from this .5% sales and use tax are special revenues credited to the Property Tax Relief Trust Fund. In addition, the General Assembly established the Homestead Property Tax Credit at \$300 per homestead. That amount was subsequently raised to \$350 per homestead. Homeowners may qualify for the tax credit for his or her principal place of residence and land contiguous thereto. Each county assessor is responsible for identifying the parcels of real property eligible for the Homestead Credit within their county and reflecting the \$350 credit on the tax bill sent to the property owner by the county collector. SB447 will raise the credit to \$375.

Each county collector must annually certify the total amount of real property tax reductions allowed within their county. The Department of Finance and Administration ("DFA") receives these certifications and determines each county's proportionate share of the total statewide reduction. DFA transmits this information to the State Treasurer who then makes distributions from the Property Tax Relief Trust Fund to each county treasurer in accordance with the counties' proportionate share of the total statewide property tax reduction for that calendar year. State law provides that the funds received by the county treasurer shall be distributed to the various taxing units within the county which levy ad valorem taxes and the funds received by those taxing units shall be used for the same purposes and in the same proportions as provided by law. State law also provides that any excess funds in the Property

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Tax Relief Trust Fund may be used in accordance with subsequent legislation to provide additional tax relief, or financial assistance to school districts that incur a reduction in revenue because of Amendment 79. The Legislative Auditor is authorized by law to audit the records of the County Assessor and County Collector to ensure the accuracy of the property tax reductions allowed. Distributions from the Property Tax Relief Trust Fund:

The Property Tax Relief Trust Fund is a special revenue fund that consists of revenues generated by a .5% increase in Arkansas sales and use tax, as outlined in § 19-5-1103. Monies are distributed from the fund in accordance with the following timeline:

- By March 31st: Each county collector certifies the amount of real property tax reduction resulting from the homestead property tax credit to the Director of DFA.
- The Director then determines each county's proportionate share of the total statewide reduction.
- Each month, the Director certifies the balance of the Fund to the Treasurer of State.
- Each month, the Treasurer makes distributions from the Fund to the county treasurers until the full amount certified by the counties, as of November 15th of each year, has been paid.
- By December 31st: The Director, with Legislative Council and the Legislative Auditor, determines the balance of the Fund above the required reimbursement to the counties and certifies the excess to the Treasurer.
- December 31st: The Treasurer calculates 1% of the certified excess funds and distributes a proportionate share to each county treasurer.
- December 31st: The Treasurer then makes any distributions required by separately required appropriations.

SB447 adds the following requirements and distributions:

- Each month, the Director certifies to the Treasurer the total monies credited to the Fund for the year.
- Annually, the Director determines the amount needed to fund the distributions required under (b)(2)(c) of § 26-26-310 for the next year.
- All revenues in the Fund which were credited to the Fund in the current calendar year, in excess of the amount required to fund distributions under (b)(2)(c) for the next year, will then be transferred from the Fund to the General Revenue Account of the State Apportionment Fund. In 2019, a one-time lump sum distribution of \$8,246,573 to the County Voting System Grant Fund is required by July 1, 2019, or as soon as sufficient funds exist.

Issues:

- Lines 30-32, Page 2, should likely require a yearly deadline for the Director to determine the amount needed to fund the distributions required for the next year, and should likely also include an analysis of any distributions still required for the current year to ensure all distributions are funded.
- In Lines 30-32, Page 2, SB447 requires the Director to determine the amount needed to fund the distributions required under (b)(2)(c) of § 26-26-310 for the next year. The only distribution required

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under (b)(2)(c) is the distribution of each county's share of the 1% of excess funds. Lines 30-32, Page 2, should likely require the Director to determine the amount needed to fund the distributions required under (b)(1) (reimbursements to counties) and (b)(2)(C) (distribution of 1% of excess funds), in addition to any separately required appropriations, and to then certify the excess funds credited to the Fund for that calendar year to the Treasurer.

- Lines 12-18, Page 3, should likely require a yearly deadline for the transfer of excess revenues to the General Revenue Fund Account.
- Lines 12-18, Page 3, should likely specify a percentage of excess funds to be transferred to the General Revenue Fund Account, rather than potentially depleting the Fund. A depletion of the Fund could result in insufficient funds for reimbursements to the counties if collections decrease.

There are not any apparent constitutional issues with the requirements of SB447. Arkansas Constitution, Amendment 79, § 3, passed in the November 2000 election, provides: "The General Assembly shall provide by law for an annual state credit against ad valorem property tax on a homestead in an amount of not less than three hundred dollars (\$300). The credit shall not exceed the amount of ad valorem property taxes owed. The credit shall apply beginning for taxes due in calendar year 2001." § 26-26-310, as amended by SB447, does not violate § 3 of Amendment 79. § 26-26-310 currently provides that remaining funds in the Fund may be used in accordance with subsequent legislation to provide additional tax relief.

Effective Date:

The bill contains an emergency clause and would be effective on: (1) the date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.