

# Legislative Analysis



## EXEMPT DENTAL PROSTHESES FROM SALES AND USE TAXES

Phone: (517) 373-8080  
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**House Bill 5164 reported w/o amendment**  
**Sponsor: Rep. Bronna Kahle**

*(Enacted as Public Act 218 of 2017)*

**House Bill 5173 reported w/o amendment**  
**Sponsor: Rep. Julie Alexander**

*(Enacted as Public Act 219 of 2017)*

**Senate Bill 566 reported as substitute (H-1)**  
**Senate Bill 567 reported as substitute (H-1)**  
**Sponsor: Sen. Dale Zorn**

*(Enacted as Public Act 220 of 2017)*

*(Enacted as Public Act 221 of 2017)*

**House Committee: Tax Policy**  
**Senate Committee: Finance**  
**Complete to 11-8-17**

### SUMMARY:

Taken together, the four bills would amend the General Sales Tax Act and the Use Tax Act to make dental prostheses exempt from sales and use taxes.

Senate Bill 567 would place a definition of “dental prosthesis” into the General Sales Tax Act; Senate Bill 566 would do the same in the Use Tax Act. The bills define the term as: “a bridge, crown, denture, or other similar artificial device used to repair or replace intraoral defects such as missing teeth, missing parts of teeth, and missing soft or hard structures of the jaw or palate.”

House Bill 5173 would amend the General Sales Tax Act to place “the sale of a dental prosthesis” in a list of sales that are exempt from taxation under the act; House Bill 5164 would make an identical change in the Use Tax Act.

SB 566 is tie-barred to HB 5164, and SB 567 is tie-barred to HB 5173, meaning neither Senate bill would take effect unless its respective House bill were enacted.

All four bills would be retroactive and effective beginning July 1, 2017.

MCL 205.51a and 205.54a (General Sales Tax Act)  
MCL 205.92b and 205.94 (Use Tax Act)

### FISCAL IMPACT:

Relative to current law in statute, providing sales/use tax exemptions would be expected to reduce revenue by slightly less than \$10 million per year on a full fiscal

year basis. However, because the Department of Treasury was unaware until recently that dental prostheses were subject to sales/use taxes, the taxes have not been collected. In that light, providing an exemption would codify current practices, and as such there would be no fiscal impact.

## **BRIEF DISCUSSION:**

The bills are understood to address a recent action by the Michigan Department of Treasury. Dental prosthetics have been exempt from the sales and use taxes in Michigan since at least 1985, with the basis for the exemption being a Letter Ruling issued by the department in that year. LR 85-20 held that sales of a certain type of dental prosthetic constituted a non-taxable service rather than a [taxable] sale to the ultimate consumer; as such, no sales or use tax was applied to or collected on these products.

With the passage of 2004 PA 172, a specific definition of “prosthetic device” was placed in the sales and use tax acts, with a tax exemption provided for the devices listed in the definition. The definition specifically excludes “dental prosthesis”; that is, a dental prosthesis is not a tax-exempt “prosthetic device.”

In its June 2017 “Treasury Update,” in light of the definition change in 2004 and upon closer review of the letter ruling, the department revoked Letter Ruling 1985-20, effective July 1, 2017.<sup>1</sup>

This change was unanticipated by those in the dental industry and overturned a longstanding practice that these items were tax-exempt. Supporters of the bills believe that this tax-exempt status should be preserved, both to provide clarity for businesses and consumers and to help contain the rising costs of health care.

## **POSITIONS:**

Representatives from the following organizations indicated support for SBs 566 and 567:

- Michigan Dental Association (10-11-17)
- Michigan Chamber of Commerce (10-11-17)
- National Federal of Independent Business-Michigan (10-11-17)

A representative of Delta Dental indicated support of SBs 566 and 567 and HBs 5164 and 5173. (10-25-17)

A representative from the Michigan Department of Treasury testified in support of SBs 566 and 567 (10-11-17) and indicated support of HBs 5164 and 5173 (10-25-17).

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<sup>1</sup> For the full Treasury update, see “Dental Prosthetics – Letter Ruling 1985-20 Revoked” in “Michigan Department of Treasury Update, June 2017.” Available online at: [http://www.michigan.gov/documents/treasury/Treasury\\_Update\\_June\\_2017\\_576431\\_7.pdf](http://www.michigan.gov/documents/treasury/Treasury_Update_June_2017_576431_7.pdf)

Representatives from the following organizations indicated opposition to SBs 566 and 567:

- Wayne RESA (10-11-17)
- Michigan Association of School Boards (10-11-17)
- Michigan Education Association (10-11-17)
- American Federation of Teachers-Michigan (10-11-17)

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