



**House
Legislative
Analysis
Section**

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METROPOLITAN COUNCIL GOVERNMENTS

Senate Bill 352 (Substitute H-1148)
First Analysis (12-5-89)

Mich. State Law Library

Sponsor: Sen. Dick Posthumus
Senate Committee: Local Government & Veterans
House Committee: Tourism, Fisheries & Wildlife

THE APPARENT PROBLEM:

In the wake of sewer overflow problems that have plagued the greater Grand Rapids area, attempts have been made to coordinate services and resources of different local governments to correct this particular problem. Unfortunately, the solution to correcting one municipal problem like this often involves coordinating many other planning strategies involving land and water use, and requires sufficient cooperation from all local governments that may be affected by the problem. Some people believe the sewer problem in Grand Rapids is just one example of the increasing need for long-term urban planning from both metropolitan areas and their outlying communities. Other vital issues of concern include sewage treatment, waste management, transportation, communication, and economic development, and the services required by metropolitan-area citizens relative to these and other issues. In larger areas, it is difficult for each individual government to tackle these problems alone, and, apparently, no statutory framework exists for governments to band together to form a regional planning government. A proposal has been made to provide a means by which local governments within certain metropolitan areas could choose to participate in a "metropolitan council" in order to coordinate their resources and strategies in urban planning and development

THE CONTENT OF THE BILL:

The bill would create the Metropolitan Council Act to authorize local governments (i.e. counties, townships, cities, and villages)

within a "metropolitan area" (defined as a "metropolitan statistical area . . . with a population of less than 1 million people") to create a metropolitan council. Under the bill, a council would be considered an authority, with taxing power, under the state constitution. Among other things, the bill would 1) prescribe the powers and duties of a council, 2) authorize a council to require each participating local government to pay the council up to 0.2 mill on all taxable property in the local government, and 3) authorize a council to levy up to 0.5 mill on the taxable property in the council area upon voter approval of the proposed tax. The bill would provide procedures under which a local government would work if it wished to join a council, and to withdraw from a council (if it wished to) after it had been incorporated. The following briefly summarizes the bill's major provisions.

- Two or more local governments in a metropolitan area (having less than a million people) could form a metropolitan council by adopting articles of incorporation pursuant to the bill's requirements. The articles would have to state: the name of the council and the names of participating local governments; the council's purposes; the powers, duties, and limitations of the council and its officers; the qualifications, method of selection, and

terms of office of council delegates and officers; how participating local governments would take part in governance of the council; the general method of amending the articles; the method of amending the articles to reflect the addition of a local government (requiring the adoption of a resolution by vote of at least two-thirds of council delegates); and any other matters which participating governments considered advisable.

- The articles could 1) require each participating local government to pay annually to the council an amount not to exceed 0.2 mill multiplied by the state equalized valuation (SEV) of all taxable real and personal property within the local government, and 2) authorize the council to levy on all the taxable real and personal property within the council area (subject to voter approval) an ad valorem tax of up to 0.5 mill on each dollar of assessed valuation of taxable property. The articles would be adopted and could be amended by an affirmative vote of a majority of the members elected to and serving on the legislative body of each participating local government. Before they were adopted, the articles (or amendments) would have to be published in a newspaper generally circulated within the participating cities, villages, and townships. The clerk of the participating local government would endorse the articles or amendments and would file a printed copy of them with the secretary of state, the clerk of each county (or part of a county) within the council area, and with the clerk of each participating city, village, or township.
- A tax authorized to be levied by a council pursuant to the bill would be levied and collected at the same time and in the same manner as provided for in the General Property Tax Act. A council could not levy a tax except upon majority approval by the qualified and registered electors residing in the council area and voting collectively on the question. The bill would provide procedures for a tax levy proposal to be placed on a ballot, and would provide the county clerk of each county that had all or part of a participating city, village, or township within its boundaries (where these were included on the proposed tax levy ballot) with various responsibilities relative to the tax proposal election. Also, the bill would include a number of provisions relative to the holding of an election on a proposed tax levy within participating local governments.
- A local government could be added to the council after the council's incorporation if 1) a majority of elected members on a local government's legislative body voted to adopt a resolution indicating it wished to be added to the council and accepted the requirements of the articles, 2) upon the levy of a tax by the council, the tax was authorized by a majority of electors of the city, village, or township voting on the proposal, and 3) the articles were amended to reflect the local government's addition to the council. Upon petition by at least five percent of the registered electors (verified by the local government clerk) in a nonparticipating local government requesting

a referendum on whether to participate in a council, the question would be submitted to the electors for a vote. If a majority voted "yes" on the question, the local government would proceed to become a participant in the council.

- A council would have a chairperson — who would act as a principal executive officer and preside at council meetings — and other officers, who would be elected by the council and would be council delegates. The chairperson would have those powers and duties provided for in the articles. The council could also appoint an executive director, who could not be a delegate, who would be selected on the basis of training and experience in municipal and urban affairs. This director would have the powers and duties specified in the (adopted) council bylaws. If authorized by law, a council could make appointments to other governmental agencies. Also, the bill provides for council delegates to be compensated for various duties and reimbursed for expenses, and provides for these to be paid out of a council budget.
- The articles could authorize a council to propose standards, criteria, and suggested model ordinances to regulate the use and development of land and water within the council area. A council could plan, promote, finance, issue bonds for, acquire, improve, enlarge, extend, own, construct, replace, or contract for public improvements and services. Public improvements and services would include, but not be limited to: water and sewer public improvements and services; solid waste collection, recycling, and disposal; parks, museums, zoos, wildlife sanctuaries, and recreational facilities; special use facilities; ground and air transportation and facilities, including airports; economic development and planning for the council area; and higher education public improvements and services. A council could not contract for the operation by another person of a public improvement or service acquired by the council pursuant to the bill. Also, a council could: establish divisions, bureaus, and committees, including advisory committees; develop (in cooperation with other state agencies, departments, and universities) a center for data collection and storage for the council's (and other governments') use to furnish information on subjects such as population, land use, and governmental finances; and study the feasibility of implementing such programs as water supply, refuse disposal, surface water drainage, communication, transportation, and other subjects of concern to a participating local government. A council could institute demonstration projects in connection with these studies.
- In addition to these powers, the council could: 1) adopt bylaws for the administration of the council, 2) acquire and hold, by a number of various legal means and methods, real and personal property within or without the participating cities, villages, and townships. This property could include franchises, easements, or rights of way on, under, or above any property, and could be paid for, or the property's payment pledged for, from council revenue, 3) apply for and accept grants, loans, or contributions from the federal government or its agencies, the state, or other public or private agencies to be used for authorized council purposes, 4) sell or lease property acquired, but not needed, for purposes of the bill, 5) hire employees, attorneys, accountants, and consultants; and 6) contract with a participating, or nonparticipating, local government for various services, which could be funded by charging these local governments fees (subject to increases by the council) as specified. Service charges to a nonparticipating local

government could be higher than those for participating governments and could change periodically.

- A council would have to 1) prepare budgets and appropriations acts as local governments are required to under the Uniform Budgeting and Accounting Act, and 2) if ending a fiscal year with a deficit, file a financial plan to correct the deficit in the same manner as provided in the State Revenue Sharing Act.
- A participating local government could withdraw from council membership if 1) a resolution requesting withdrawal was adopted by a majority of the members of the local government's legislative body, and 2) payment or the provision for payment was made regarding any obligations of the local government to the council or its creditors. Taxes would continue to be levied within the withdrawing government until those taxes expired, or until obligations owed upon the date of withdrawal were paid. A government that withdrew from the council would continue to receive services from the council until it was no longer required to pay a tax levied by the council.
- The bill would also include other provisions for transference of public employees whose duties were transferred to a council, for the council to bargain collectively and enter into agreements with labor organizations, and for job protection of council employees required to leave temporarily for various reasons (i.e. military service).

HOUSE COMMITTEE ACTION:

The House Committee on Tourism, Fisheries, and Wildlife adopted Substitute H-1, which is significantly different from the Senate-passed version of the bill. The Senate-passed version would apply only to the metropolitan area of Ottawa and Kent Counties (the Grand Rapids area), whereas the House substitute would apply to any metropolitan area having a population of less than 1 million people (essentially, all metropolitan areas except the greater Detroit area) that chose to implement a metropolitan council. The Senate-passed version specifies that a local government would have to submit the articles of incorporation (which the government's legislative body would adopt by resolution) to the electors for approval, and further specifies that a local government could not be a council member without voter approval. The House substitute deleted these provisions and specifies only that, upon petition by at least five percent of registered voters within the nonparticipating government requesting a referendum on participation (after the local legislative body had adopted the articles by resolution), the question would be submitted to the electors for a vote, and if the majority voted "yes" the government would proceed to become a participant. The House substitute also differs from the Senate-passed version by providing that, among other powers it would have, a council could issue bonds for various purposes specified under the bill.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would not have budgetary implications for the state, but would authorize a local property tax of up to 0.5 mill if approved by a majority of voters within the local government that wished to participate in the council. An additional 0.2 mill could be transferred from the participating local governments to a metropolitan council if the articles of the council required such a transfer. (10-6-89)

ARGUMENTS:

For:

The bill would provide a mechanism for local governments near metropolitan areas in the state to use (except those in the Detroit area) to work together to solve their common land-use problems. While the sewer overflow situation in the Grand Rapids area served as the impetus for the bill, other matters in other municipal areas could be addressed, too — such as transportation, economic development, and waste disposal — which could be handled more efficiently and effectively at the regional level. In addition to specific and immediate problems that could be addressed, a council could plan strategically and set priorities for the future. Under the bill, consensus among governments on various local problems could be reached much more easily by one council which represented all involved governments, than if officials from each government tried to tackle issues alone. A metropolitan council would be particularly appropriate for Michigan communities used to a strong tradition of home rule.

For:

The bill would clarify that local governments participating in a council would be responsible for paying for various services offered by a council. Thus, although the council with voter approval could tax property within the council area, those governments that did not need a particular service would not be subsidizing governments that did need the service. The bill would provide an incentive for governments to join the council by allowing the council to charge nonparticipating governments more for various services they might need and request. Also, if a government did join a council the resulting problems that could arise relative to the status of employees of the joining local government would be adequately addressed in the bill: interests of local government employees relative to employment security, pension rights, benefits, and union representation would be protected under the bill.

Against:

The bill, particularly House substitute, seems unclear on how much voice the voting citizens of a local government would have on issues relative to the council. For instance, the Senate-passed version explicitly states that a local government could not be a member of the council without voter approval (after the government's legislative body decided to incorporate by resolution). The House substitute merely provides that, upon a petition of at least five percent of the electors on a referendum for putting the question to a vote (after resolution by the government's legislative body), and if a majority approved the question, the government would proceed to become a participant. Also, while the House substitute provides for voter approval of the 0.5 property tax that could be levied by the council, the council could still require up to 0.2 mill of taxes be paid (essentially, dues required for participating) from the local government to the council without voter approval.

Against:

While the concept of the bill seems especially intriguing, in view of the mounting demand for cooperation on the part of all local governments to deal with such serious issues as sewage treatment, waste disposal, economic development, and other similar urban planning issues, it seems unlikely that local governments would be willing to surrender their home-rule powers to an extended regional authority.

Response: Despite the difficulty metropolitan officials may have in convincing area local governments and their electors of the value of joining a council, the bill should at least be given a chance to work. Council participation would be entirely permissive, and it would be up to local officials to gather support for joining a council. Similar regional governments have been established in Indianapolis, Indiana and Minneapolis/St. Paul, Minnesota with good results.

POSITIONS:

The Grand Rapids Area Chamber of Commerce supports the bill. (12-1-89)

The Michigan Municipal League supports the concept of the bill. (11-30-89)

The Michigan Association of Counties supports the concept of the bill. (11-30-89)

SEMCOG (Southeast Michigan Council of Governments) has no position on the bill. (12-4-89)

The Michigan Townships Association opposes the bill. (11-30-89)