House Legislative Analysis Section

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BUDGET REDUCTIONS: BUDGET ACT REPEALER

House Bill 5237 as introduced
First Analysis (11-6-89)

Sponsor: Rep. Joseph Young, Sr.
Committee: Appropriations

THE APPARENT PROBLEM:

Section 371 of the Management and Budget Act (MCL 18.1371) provides for certain actions to be taken "when it appears that a spending plan, or sources of financing related, do not provide the level of program service assumed in the appropriation for the fiscal year." The act requires the state budget director either to reflect the deficiency in projecting and reporting the state budget, or to require from the principal department a lower level of service spending plan for the fiscal year. The act says that if the director pursues the latter remedy, he or she is to thereafter withhold any payment which would exceed the allotment balance in the approved reduced plan. The act further says that if a reduced spending or service plan is to be implemented, the budget director is to notify the legislative appropriations committees and fiscal agencies at least 15 days before the reduction plan is to be effective.

This section of law has figured in recent actions taken by the executive branch to reduce the fiscal year 1989-90 budget for the Department of Social Services (DSS). In an October 17 letter to the House and Senate Appropriations committees, the state budget director served notice that within 15 days, the DSS would be implementing a lower level of service spending plan. That plan uses Section 371 as authority for reducing DSS general fund expenditures by $13.4 million. Those reductions apply to the Office of Children and Youth Services ($1.6 million) and medical services ($11.8 million). (These cuts were part of a $50 million reduction in the DSS budget; other cuts include $3.8 million in line items vetoed by the governor, and $32.5 million in administrative reductions, including controversial reductions in energy programs.)

Various people dispute that Section 371 provides the executive branch with the authority to reduce spending and service in specific programs without the approval of the legislature. They assert that such an interpretation conflicts with the intent of the provision, and that even if the action was consistent with legislative intent, the provision would constitute an unconstitutional delegation of the legislative power over appropriations. The attorney general's opinion has been sought, but in the meantime, many are concerned over the consequences that the existing executive interpretation may hold for other departmental budgets. It has been suggested that Section 371 be repealed.

THE CONTENT OF THE BILL:

The bill would repeal Section 371 of the Management and Budget Act.

MCL 18.1371

FISCAL IMPLICATIONS:

The House Fiscal Agency says that the bill would have no fiscal implications. (11-2-89)

ARGUMENTS:

For:

The bill would repeal a section of law that many say has been misused in recent executive actions to reduce the DSS budget. Many dispute that the legislature intended to authorize changes in legislatively-mandated budgets to be made without legislative approval. In fact, it is argued, such an authorization would mean that the section proposed an unconstitutional delegation of the legislative authority over appropriations. The attorney general has ruled in other matters that absent sufficient standards in the appropriations act, the legislature may not authorize a department director to exercise the legislative power to reduce appropriations (Opinions No. 6557 and 6603).

In seeking the attorney general's opinion on the issue, the chairs of the House and Senate Appropriations committees noted that "the specific actions to reduce expenditures under the lower level of service spending plan clearly alter policy decisions made by the Legislature in developing and approving the FY 1989-90 Department of Social Services budget." To ensure that Section 371 is not used again to subvert the legislative process, it should be repealed.

Against:

Many believe that the executive branch acted properly to use Section 371 to correct an underfunded budget. They assert that Section 371 vests in the executive branch the authority to assure that expenditures do not exceed appropriated amounts. The provision establishes a mechanism to bring expenditures in line with income without having to undertake a supplemental appropriation or executive order, both of which require additional legislative involvement. It is a legitimate approach when the legislature appears unlikely to reach a timely resolution to needed budget reductions.

POSITIONS:

The Department of Management and Budget opposes the bill. (11-3-89)