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House Bill 4671 (as reported with amendments)**Sponsor: Representative Marvin Knight****House Committee: Towns and Counties****Senate Committee: Local Government and Veterans****Date Completed: 3-1-88*****RATIONALE***

A municipality currently is allowed under Michigan law to enter into contracts with other local units of government to provide certain services as a collective group rather than as separate units. Chapter 124 of the Michigan Compiled Laws, for example, contains a series of Acts that authorize municipalities to enter into inter-governmental contracts between municipal corporations; permit municipalities to incorporate as an authority for the operation of sewage disposal, water supply, and solid waste management systems; and, allow public authorities to operate mass transportation systems. While some municipalities have found that these Acts permit local governments to work jointly to provide certain services, some local government officials contend that current laws limit their ability to raise adequate revenue to support these services. Some local officials believe that municipalities also should have another option whereby they could consolidate their efforts to provide emergency services, for example, and to raise revenue to support those services.

CONTENT

The bill would create an Act to:

- Permit two or more municipalities to incorporate an authority in order to provide emergency services to the incorporating municipalities.
- Require the adoption of articles of incorporation in order to create an authority.
- Require that a referendum be held if electors of a municipality that had not incorporated requested an election on the question of joining an authority, as well as specify procedures for incorporation upon voter approval.
- Permit any authority to contract with any incorporating municipality to provide emergency services.
- Prescribe the powers and duties of an authority, including the levying of a tax.
- Provide for the employment and layoff of, and collective bargaining with, employees of a municipal emergency service whose duties were transferred to an authority.
- Permit an incorporating municipality to withdraw from an authority.
- Provide that State laws that applied to a municipality that became part of an authority also would continue to apply after the municipality joined the authority.

Creation of an Authority

Any two or more municipalities (counties, cities, villages, and townships) could incorporate an authority in order to provide emergency services to the incorporating municipalities. Emergency services would include fire protection services, emergency medical services, police

protection, and any other emergency health or safety services designated in the articles of incorporation of an authority. An incorporating municipality could transfer to the authority any "municipal emergency service" (an emergency service performed by a municipality, rather than by an authority).

The jurisdiction of an authority would be comprised of the total territory within the incorporating municipalities. The validity of the incorporation would be presumed conclusively unless questioned in a court of competent jurisdiction within 60 days after the date on which copies of the articles were filed with the Secretary of State.

State laws applying to a municipality that became part of an authority also would continue to apply to the municipality and the authority after the municipality became part of the authority.

Articles of Incorporation

An authority would be created by the adoption of articles of incorporation by the legislative body of each incorporating municipality. The adoption by an incorporating municipality would have to be endorsed on the articles by a county executive or chairperson of the board of commissioners and the county clerk for a county; the mayor and city clerk for a city; the president and village clerk for a village; and the supervisor and township clerk for a township. The bill specifies the form to follow for adoption of the articles, and requires the articles to be published in a newspaper circulated within the authority's territory and filed with the Secretary of State.

The articles of incorporation would have to state the name of the authority; the names of the incorporating municipalities; the purpose(s) for creating the authority; the powers, duties, and limitations of the authority and its officers; the method of selecting the governing body, officers, and employees; and, the person(s) responsible for the articles to be published, certified, and filed, or the person(s) charged with any other responsibility in connection with the incorporation of the authority. These requirements would be subject to provisions of the State Constitution, State statutes, and the proposed Act.

Amendments could be made to an authority's articles of incorporation if adopted by the legislative body of each municipality in the authority. An amendment would have to be endorsed, published, and filed much in the same manner as the original articles.

Joining an Incorporating Municipality

If at least 5% of the registered electors residing in a municipality that had not become an incorporating municipality requested a referendum on becoming an

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incorporating municipality, the clerk of the municipality, would be required to submit the question to the electors at the next general election or special election called for that purpose. The clerk would be required to prepare the ballot question substantially as specified in the bill.

If a majority of the electors voted "yes" on the question, the municipality would have to proceed to become an incorporating municipality either by adoption of articles of incorporation, as provided in the bill, or by amendment to the authority's articles of incorporation. The amendment would have to be adopted by the legislative body of the municipality and by the legislative body of the municipalities already part of the existing authority.

Contracting for Emergency Services

Any authority could enter into a contract with any incorporating municipality in order to provide emergency services in the incorporating municipality for not more than 30 years. The emergency services could be established or funded in conjunction with any municipal emergency services, and any municipal emergency service could be delegated by contract to an authority. The charges specified in a contract would be subject to increase by the authority, if necessary, in order to fund its obligations. An authority also could enter into contracts with a city, village, or township that was not an incorporating municipality, for not more than 30 years. Charges for services under a contract with a nonincorporating municipality could be greater than the charges to an incorporating municipality and would be subject to change without notice. Existing contracts between the county sheriff's department and the municipalities would have to remain in effect for the lifetime of those contracts.

Powers and Duties of an Authority

An authority would be a body corporate, and would possess all the powers needed to carry out the purposes of incorporation. An authority also could do all of the following:

- Adopt bylaws and rules of administration.
- Apply for and accept grants, loans, or contributions from the Federal government or any of its agencies, the State, or other public or private agencies to be used for any of the purposes of the Act, and to do all things within its expressed or implied powers necessary or desirable to secure financial or other aid or cooperation in order to carry out the purposes of the proposed Act.
- Enter into any contracts with other entities not prohibited by law.
- Investigate emergency services requirements, needs, and programs, and engage consultants, by contract, as needed; and cooperate with the Federal government, the State, political subdivisions, and other authorities in those investigations.
- Hire employees, attorneys, accountants, and consultants as necessary to carry out the purposes of the authority, subject to terms and conditions prescribed in the bill.

Levying of Taxes

An authority could levy a tax on all of the taxable property within the limits of the authority. The tax could not be levied without approval of a majority of the registered electors residing in the affected authority and qualified to vote on the tax at a general or special election. The election could be called by resolution of the board of the authority. The recording officer of the authority would be required to file a copy of the resolution with the clerk of each incorporating municipality at least 60 days before the election date. The election would have to be conducted and canvassed in accordance with the Michigan Election Law, except that if

the authority were located in more than one county, the election would have to be canvassed by the State Board of Canvassers. Not more than one election could be held in an authority in a calendar year for approval of the tax. If the election were a special election, the authority in which the election was held would have to pay its share of the election costs.

The taxes could be levied at a maximum rate of 20 mills for a period as determined by the authority in the resolution calling for the election and as set forth in the proposition submitted to the electors.

The tax rate would have to be levied and collected as are all ad valorem property taxes in the State, and the authority's recording officer would have to certify at appropriate times to the proper officers of each tax-collecting municipality the amount of taxes to be levied and collected each year by each municipality. The authority would have to determine on which tax roll, if there were more than one, of each incorporating municipality that the taxes would have to be collected. The tax rate could be levied first by the authority as a part of the first tax roll of the appropriate municipalities occurring after the election, as provided in the bill. The tax could be levied and collected on the next December tax roll following the date of election, if the tax were certified to the proper tax assessing officials by September 15 of the year in which the election was held.

To the extent applicable and consistent with requirements of the bill, the General Property Tax Act would apply to the assessment, spreading, and collection of the taxes. The county treasurer would have powers and duties similar to those prescribed in the General Property Tax Act for township supervisors, township clerks, and township treasurers as to the assessment, spreading, and collection of taxes. The bill specifies that these provisions could not be considered to transfer any authority over the assessment of property. A county treasurer collecting taxes pursuant to the bill would have to be bonded for tax collection in the same amount and manner as a township treasurer.

Any incorporating municipality or a municipality otherwise granted taxing authority under State law could levy a tax on all of the taxable property within the limits of the political subdivision, and appropriate, grant, or contribute the proceeds to an authority for the bill's purposes or to provide sufficient money to fulfill its contractual obligation to the authority. The tax would have to be within charter, statutory, and constitutional limitations.

Employees

Except for layoff provisions in the bill, employees of a municipal emergency service whose duties were transferred to an authority formed under the bill would have to be given comparable positions of employment with the emergency service established by the authority, and would maintain their seniority status and all benefit rights of the position held in the municipal emergency response service before the transfer.

If there were not sufficient positions for all employees at the time of transfer, a less senior employee who was not transferred to a comparable position would have to be placed on layoff status with the authority's emergency service and would have to be recalled to any position for which he or she could qualify, that could occur after a reasonable training period, or as soon as vacancies occurred, or both. The layoff status, or any layoff list, would not be mandatorily honored after three years from the layoff date. The authority would have to determine the number of positions needed to perform any emergency

service, and would not be required to create or maintain unnecessary positions.

Collective Bargaining/Labor Agreements

An authority could bargain collectively and enter into agreements with labor organizations pursuant to Public Act 336 of 1947, which permits public employees to form or join labor organizations. When the duties of a municipal emergency service were transferred to an authority, the authority immediately would have to assume and be bound by any existing labor agreements applicable to that service for the remainder of the term of the agreement.

Subject to layoff provisions in the bill, the members and beneficiaries of any pension or retirement system or other benefits established by a municipal emergency service which was transferred to an authority would have the same rights, privileges, benefits, obligations, and status with respect to comparable systems established by the authority.

A representative of the employees or any group of employees in a municipal emergency service would continue to represent the employees or employee group after the employees were transferred to an authority's emergency service. The bill specifies that these provisions would not limit employees' rights, pursuant to applicable law, to assert that a bargaining representative protected by these provisions was no longer their representative.

An employee who left the employ of the municipal emergency service to enter the United States' military service would have the same employment rights as to the emergency service as he or she would have had under the municipal emergency response service, pursuant to Public Act 263 of 1951, which deals with public employees entering the armed forces.

Withdrawal from an Authority

An incorporating municipality could withdraw from the authority of which it was a part by resolution of the municipality's legislative body approving the withdrawal. A municipality that withdrew from an authority would continue to be subject to any tax levied in its jurisdiction, under the bill, for the duration of the period of that tax.

Employees of an authority who performed emergency services in the jurisdiction of a municipality that withdrew from an authority would be protected in relation to the municipality to the same extent as employees of an incorporating municipality were protected in relation to an authority, as outlined in the bill for employees of a municipal emergency service who duties were transferred to an authority.

A municipality that withdrew from an authority would remain liable for a proportion of the debts and liabilities of the authority incurred while the municipality was part of the authority. The proportion of the authority's debts for which a municipality was liable would be determined by dividing the State equalized value of the real property in the municipality by the State equalized value of all real property in the authority at the time of the withdrawal.

SENATE COMMITTEE ACTION

The Senate Committee on Local Government and Veterans adopted amendments to the bill's employment and retirement provisions. The Committee also adopted an amendment concerning the applicability of State laws to a municipality that joined an authority.

FISCAL IMPACT

The bill would have an indeterminate impact on local government. The impact would depend on the types of services offered by the authority and the cost of these services.

ARGUMENTS

Supporting Argument

Some municipalities which offer emergency services have found that, by themselves, they are not able to accumulate adequate revenues to fund these emergency protection agencies. Consequently, they are unable to provide adequate services to their respective populace. Because many municipal service agencies provide services to overlapping municipal areas, in order to increase the efficiency and fiscal stability of various agencies, different municipalities would be wise to pool the resources provided by a larger constituency. This would aid local governments where revenues to support such services are limited. The bill would allow local governments to establish an autonomous governmental entity with taxing power to raise operating revenues. This could help bolster the emergency services that are provided to localities throughout the State.

Opposing Argument

While there has been a proliferation of independent taxing units in some states, such as in California where police and fire districts have been established, this is not the case in Michigan. Only a few governmental entities similar to those proposed in the bill have been established under State law, such as the Huron-Clinton Metropolitan Park Authority and the Southeast Michigan Transit Authority (SEMTA). The bill would permit localities to establish a new form of government and new bureaucracies.

Response: The bill would not require, but permit local units to form an authority, which would have to be approved by the legislative body of each local government. Furthermore, any tax levied by the authority would have to be approved by the voters, and a locality could withdraw from an authority under provisions of the bill.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.