

Legislative Analysis



BOARD OF COUNTY AUDITORS ACT REPEALER

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House Bill 5244 (Substitute H-1)
Sponsor: Rep. Roger Kahn

Senate Bill 657 as passed by the Senate
Sponsor: Sen. Mike Goschka
House Committee: Local Government and Urban Policy
Senate Committee: Local, Urban and State Affairs

First Analysis (10-24-05)

BRIEF SUMMARY: The bill would repeal a provision in law that provides that a county board of auditors would continue to function even after its enabling legislation was repealed.

FISCAL IMPACT: The bill would have no effect on state or local revenue.

THE APPARENT PROBLEM:

Local Act 540 of 1903 established a board of county auditors for Saginaw County and prescribed its powers and duties and the nature of its operations. Under the act, it was the county clerk's duty to tabulate all bills presented against Saginaw County that were properly sworn to by the claimant, and present them to the board. The board must audit and allow all just and reasonable bills against the county and provide for the publication in local newspapers of an accurate list of all claims allowed by the board. The county treasurer must pay all bills the board allows.

However, over time, accounting practices have changed and in 1964, county officials adopted a county act to confer certain duties of the Board of Auditors on the county controllers. In 1980, then Attorney General Frank Kelley ruled that county act unconstitutional, as only the legislature may amend (or repeal) a local act. (Attorney General Opinion 5711, May 22, 1980.) After many requests by the county, Public Act 14 of 2004 was enacted to repeal Local Act 540 and so it seemed that the Saginaw County Board of Auditors would finally be dissolved.

Unfortunately, at the time, it was not realized that a provision of a different act, Public Act 275 of 1913, provides for a county board of auditors to continue operating even after the local act establishing it has been repealed. Legislation has therefore been offered to repeal this provision so that the Saginaw County Board of Auditors can finally be dissolved.

THE CONTENT OF THE BILLS:

The bills are identical and would repeal Section 4a of Public 275 of 1913 (MCL 47.4a). Section 4a, which authorizes county boards of supervisors to create a board of county

auditors, provides that any board of county auditors that operated under a special or local act would operate instead, without formal reorganization, under the provisions of Public Act 275 if the special or local act were repealed.

Under the bills, Section 4a would be amended to repeal the section on the legislation's effective date. Furthermore, the bills would specify that any board of auditors operating under Section 4a would be abolished and not authorized to continue to operate after its effective date.

ARGUMENTS:

For:

Saginaw County is the only remaining county in the state that has a board of auditors. The Uniform Budgeting and Accounting Act requires local governments to follow prescribed accounting procedures and provides for audits of local units by the Department of Treasury, so it would seem unnecessary for Saginaw County to be required to have a board of auditors to review expenditures that have already been approved by the board of commissioners. Public Act 14 of 2004 repealed the local act that required Saginaw County to have a board of auditors. However, the board will continue to exist unless a provision is repealed in another act that allows a county board of auditors to continue even after its enabling legislation is repealed. Enactment of House Bill 5244 and Senate Bill 657 will repeal this provision, thus finally allowing Saginaw County officials to eliminate its Board of Auditors.

POSITIONS:

No positions have been identified at this time.

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