




Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 868 (Substitute S-2 as passed by the Senate)
Senate Bill 870 (Substitute S-1 as passed by the Senate)
Senate Bill 872 (Substitute S-1 as passed by the Senate)
Senate Bill 875 (Substitute S-1 as passed by the Senate)
Senate Bill 908 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Laura M. Toy (S.B. 868)
Senator Tom George (S.B. 870)
Senator Wayne Kuipers (S.B. 872)
Senator Bill Hardiman (S.B. 875)
Senator Bev Hammerstrom (S.B. 908)

Committee: Local, Urban and State Affairs

Date Completed: 3-10-06

RATIONALE

Michigan's economic difficulties in recent years have had a direct impact on local units of government, whose revenue sharing payments from the State essentially have been frozen. As the State's economy has continued to struggle, there have been discussions about how local units might be able to perform their functions more efficiently with the resources available to them. It has been suggested that the law could give local units more flexibility to manage their funds in various ways, such as increasing their ability to pool investments and allowing them to use proceeds from property foreclosures for expanded purposes. Additional statutory changes that could improve local efficiency also have been suggested.

CONTENT

The bills would amend various statutes to do the following:

- **Allow all or part of the balance in a local unit's delinquent tax proceeds account to be transferred to the county general fund.**
- **Allow a county board of commissioners to elect to have the State foreclose property forfeited to the county or to rescind a previous election.**
- **Allow the electric submission of information from county road**

commissions, cities, and villages to the Michigan Department of Transportation.

- **Set a time frame for a local unit to hold a hearing on its budget.**
- **Authorize a public corporation to pool or coordinate its investment funds with the funds of other public corporations.**
- **Revise the information that must appear on a notarized record.**

The bills are described below.

Senate Bill 868 (S-2)

Under the General Property Tax Act, a foreclosing governmental unit must deposit the proceeds from the sale of property into a restricted account designated as the "delinquent tax property sales proceeds for the year ____". Proceeds in the account may be used only to reimburse the county's delinquent tax revolving fund for taxes, interest, and fees on all of the property, and to pay costs of the sale of property, costs of the foreclosure proceedings, and other specified costs, including costs for the defense of title actions. ("Foreclosing governmental unit" means either the treasurer of a county or the State if a county has elected to have the State foreclose property forfeited to the county treasurer.)

The bill would require a foreclosing governmental unit other than the State, in 2007 and each subsequent year, by June 30 of the second calendar year after foreclosure, to submit a written report to its board of commissioners identifying any remaining balance in the account and any contingent costs described in the Act. All or a portion of the remaining balance then could be transferred to the county general fund.

The bill also would allow a county board of commissioners, during December 2007 and every fourth year after 2007, to adopt a resolution to do either of the following:

- Elect to have the State foreclose tax-delinquent and abandoned property forfeited to the county treasurer.
- Rescind its prior election to have the State foreclose property forfeited to the county treasurer.

Under the Act, a county board of commissioners had until December 1, 1999, to adopt a resolution electing to have the State foreclose property forfeited to the county. During December 2004, a county board could adopt a resolution either making that election, or rescinding a prior election to have the State foreclose property forfeited to the county.

Senate Bill 870 (S-1)

The bill would amend Public Act 51 of 1951, the Michigan Transportation Fund (MTF) law, to allow the electronic submission of information that county road commissions, cities, and villages must provide to the Michigan Department of Transportation (MDOT).

Specifically, beginning January 1, 2007, information required under Section 14 or 15 could be submitted on a single consolidated form, which MDOT would have to develop and make available electronically. The form would have to allow county road commissions, cities, and villages to summarize the required information. If MDOT established with good cause that the information submitted to it was insufficient, the Department could separately request additional information from any county road commission, city, or village.

Section 14 requires county road commissions, cities, and villages to report to

MDOT the mileage of each road system under their jurisdiction and the receipts and disbursements of road and street funds. A county road commission also must report on its compliance in the preceding year with the Act's provisions regarding the expenditure of funds from the MTF and Federal revenue distributed to the use of the county road commission.

Under Section 15, before May 2 of each year, every county road commission, or the county executive or other agency acting as the county road commission, must report to the MDOT Director, each township in the county, and the county clerk on the disposition of funds appropriated, apportioned, or allocated under the Act to the county. The bill would require a county road commission (or county executive or other agency) to provide this information to the MDOT Director on and after January 1, 2007, and beginning May 2 of each year. The information would not have to be reported to each township and the county clerk.

Senate Bill 872 (S-1)

The bill would amend Public Act 43 of 1963 (2nd Ex Sess), which provides for public hearings on budgets of local units of government, to require each local unit to hold a public hearing within 30 days before the date of final adoption of its budget. Under the Act, each local unit must hold a public hearing prior to final adoption of its budget.

Currently, units that submit budgets to a county tax allocation board must hold the public hearing after the board has fixed the tax rate allocation. The bill would make this permissive.

(The Act defines "local unit of government" as a county, township, city, village, authority, or school district empowered by the Constitution or by law to prepare budgets of estimated expenditures and revenue.)

Senate Bill 875 (S-1)

The bill would amend Public Act 20 of 1943 (which regulates the investments of public corporations) to allow the governing body of a public corporation, by resolution, to authorize its investment officer to pool or coordinate the funds to be invested with the

funds of other public corporations, except in counties where a local government investment pool was operating and accepting deposits.

The Act identifies instruments and obligations in which public corporations may invest funds. The Act also allows public corporations to invest in investment pools organized under the Surplus Funds Investment Pool Act or the Local Government Investment Pool Act. (Under the Surplus Funds Investment Pool Act, a local unit may enter into a contract with a financial institution to place surplus funds in an investment pool. Under the Local Government Investment Pool Act, a county may accept funds from local units within the county for investment by the county treasurer, who may pool local units' funds in a local government investment pool, and local units may enter into a contract with the county to place surplus funds in an investment pool.)

(Under Public Act 20 of 1943, "public corporation" means a county, city, village, township, port district, drainage district, special assessment district, or metropolitan district of the State, or a board, commission, or another authority or agency created by or under an act of the Legislature. "Investment officer" means the treasurer or other person designated by statute or charter of a public corporation to act as the investment officer; in the absence of a statutory or charter designation, the governing body of a public corporation must designate the investment officer.)

Senate Bill 908 (S-1)

The bill would amend the Michigan Notary Public Act to revise the information that must appear on a record that is notarized, and to repeal Section 29 of the Act, which allows a notary public to use a "plain English notary form".

The Act provides that, on each record that a notary public performs a notarial act and as near the notary public's signature as is practical, the notary public must print, type, stamp or otherwise imprint mechanically or electronically, in a manner capable of photographic reproduction, all of the following:

- The name of the notary public exactly as it appears on his or her notary public certificate of appointment.
- The statement: "Notary public, State of Michigan, County of _____."
- The statement: "My commission expires _____."
- The statement: "Acting in the County of _____."

Under the bill, a notarized record would have to include the statement, "Acting in the County of _____." only if the notary public were performing a notarial act in a county other than his or her county of commission.

The bill also would require the record to include the date the notarial act was performed. In addition, the record would have to include the name of the notary public exactly as it appears on his or her application for commission as a notary, rather than as it appears on his or her certificate of appointment.

Under the Act, the required information must be printed "clearly and legibly". The bill, instead, would require that the information be sufficiently clear and legible to be read by the Secretary of State, and in the format shown in the Act (as revised by the bill) or in a similar format that conveyed all of the same information. The bill also would require a notary to sign his or her name exactly as it appears on his or her application for commission as a notary, rather than as it appears on his or her certificate of appointment.

Section 29 allows a notary public to use a plain English notary form for an affidavit or sworn statement or for an acknowledgement for an individual acting in his or her own behalf, a copartnership, a limited partnership, a corporation, a limited liability company, a public officer, a trustee, or a personal representative. The bill would repeal that section.

- MCL 211.78 & 211.78m (S.B. 868)
- 247.664 & 247.665 (S.B. 870)
- 141.413 (S.B. 872)
- 129.91 (S.B. 875)
- 55.287 (S.B. 908)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

These proposals are a product of a series of hearings held around the State in 2005 by the Senate Committee on Local, Urban and State Affairs, seeking input on how to simplify matters for local units of government. The bills would help local units do their jobs more efficiently with the resources they have, as well as save taxpayers' money.

Supporting Argument

Senate Bill 868 (S-2) is designed to give counties more flexibility in their budgeting process. Allegan County, for example, reportedly would have had access to approximately \$1 million last year if the bill had been in place. Currently, when a county receives proceeds from the sale of tax-reverted property, the revenue must be deposited in a restricted account and may be used only for specific purposes related to property foreclosure. Under the bill, this money could be transferred to a county's general fund and used for other purposes, after the county board of commissioners was given a report identifying the proceeds and expenses. Since the county board would have information about potential liabilities before the money was transferred, county treasurers would not be left without the resources needed to handle legal issues arising from the tax reversion process.

The bill also would reinstate the ability of counties to elect to have the State foreclose their tax-delinquent property, or rescind a prior election making this choice. When the current tax reversion process was enacted in 1999, counties were given the opportunity to make this election only in 1999 and in December 2004. Apparently, some counties would like to exercise the option of having the State handle their foreclosures, or reverse a prior decision. Under the bill, they could do so in December 2007 and every four years after that.

Supporting Argument

According to the Department of Transportation, many counties and some large cities already file reports with MDOT electronically, but about 20% of the cities

and villages in the State do not yet have the capability to do so. Senate Bill 870 (S-1) would make it clear that local units could report electronically, but would not mandate electronic filing. The bill also would require MDOT to develop a consolidated form that local units could use to summarize the required information. These measures would streamline the reporting process for counties, cities, and villages, and could save them money.

Response: The bill would allow MDOT to request additional information from a local unit if the Department established that the information submitted to it was "insufficient"—a term that could be subject to different interpretations. This vagueness could make it difficult for MDOT to obtain needed information. Perhaps language more specific to the Act's requirements would be helpful.

Supporting Argument

Previously, charter townships were required to adopt a budget and make appropriations at least 60 days before the start of their next fiscal year. This requirement was considered impractical, because townships do not necessarily have all of the information they need, including the amount of their revenue sharing payments, 60 days or more before their new fiscal year begins. A 2003 amendment to the Charter Township Act eliminated the 60-day time frame; now, charter townships simply must adopt a budget and appropriate money before the start of their next fiscal year. Because general law townships and other local units were not and are not subject to the 60-day requirement, the law governing their budget process was not similarly amended. Evidently, however, there is some concern that the law lacks clarity. Currently, a local unit must hold a public hearing "prior to final adoption of its budget". Under Senate Bill 872 (S-1), a local unit would have to hold a public hearing within 30 days before adopting its budget.

Response: Rather than simplifying things for local units of government or clarifying the law, the bill would impose a restriction where none presently exists. Now, the law governing general law townships and other local units is consistent with the current version of the Charter Township Act: A local unit simply must hold a hearing before adopting a budget. Under the bill, however, local units other than charter townships would be subject to a 30-day time frame.

Supporting Argument

Senate Bill 875 (S-2) would expand the opportunity of local units to pool their investment funds with the funds of other local units. Current law allows local units to enter into a contract with a financial institution to invest surplus funds in an investment pool. A local unit also may enter into a contract with a county to pool surplus funds with funds of other local units in the county. Evidently, the latter option has been successfully used in Kent County, where some 20 municipalities pool their funds. By allowing public corporations to collaborate with each other in their investment efforts, the bill would increase local units' ability to get the best rate of return on their money.

Supporting Argument

Senate Bill 908 (S-1) would remove an unnecessary requirement from the Notary Public Act. Currently, a notary must print on a document both the county of his or her commission and the county in which he or she is acting, which is the same in most cases. The bill would remove this redundancy by requiring a notary to indicate the "acting in" county only if were different from the county of his or her commission. In the event of a violation, the Secretary of State and prosecutors still would know the county in which a notary signed a document.

In addition, the bill would eliminate other unnecessary provisions of the Act by repealing Section 29, which sets forth forms that may be used as an acknowledgement for an individual, business entity, public officer, trustee, or personal representative. This section largely duplicates provisions of the Uniform Recognition of Acknowledgments Act, which contains "statutory short forms of acknowledgement" that may be used.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 868 (S-2)

The bill would have no effect on State or local revenue or expenditures, although it would alter the allocation between funds of certain revenue received by local units of government. Under current law, the affected revenue must be deposited in certain funds such as a delinquent tax property sales proceeds account or

delinquent tax revolving fund. The bill would allow this revenue to be deposited in the general fund of the county, under certain conditions.

This analysis is preliminary and will be revised as new information becomes available.

Senate Bill 870 (S-1)

The bill could result in additional administrative costs associated with the electronic submission of required information beginning in January 2007.

Senate Bills 872 (S-1)

The bill would have no fiscal impact on State or local government.

Senate Bill 875 (S-1)

The bill would have no effect on State revenue or expenditures or local expenditures. The bill would affect local revenue of public corporations by an unknown amount depending on how the bill affected the rate of return on investments of affected public corporations. Presumably, pooling or coordinating investments would produce higher rates of return and thus increase public corporation revenue from such investments.

This analysis is preliminary and will be revised as new information becomes available.

Senate Bill 908 (S-1)

The bill would have no fiscal impact on State or local government.

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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.