




Senate Fiscal Agency
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 BILL ANALYSIS

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Senate Bill 868 (as enrolled)
Senate Bill 872 (as enrolled)
Senate Bill 875 (as enrolled)
Senate Bill 908 (as enrolled)
Sponsor: Senator Laura M. Toy (S.B. 868)
Senator Wayne Kuipers (S.B. 872)
Senator Bill Hardiman (S.B. 875)
Senator Bev Hammerstrom (S.B. 908)
Senate Committee: Local, Urban and State Affairs
House Committee: Local Government and Urban Policy

PUBLIC ACT 498 of 2006
PUBLIC ACT 154 of 2006
PUBLIC ACT 400 of 2006
PUBLIC ACT 155 of 2006

Date Completed: 1-24-07

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 continued to struggle, there were discussions about how local units might be able to perform their functions more efficiently with the resources available to them. It was 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 were suggested.

-- Revise the information that must appear on a notarized record.

The bills are described below.

Senate Bill 868

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.)

CONTENT

The bills amended 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.**
- Revise the time for some local units to hold a hearing on their budget.**
- Authorize a public corporation to pool or coordinate its investment funds with the funds of other public corporations.**

The bill amended the Act to require a foreclosing governmental unit other than the State, in 2008 and each subsequent year, by June 30 of the second calendar year after foreclosure, to submit to its board of commissioners a written report identifying any remaining balance in the account and any contingent costs of title or other legal claims described in the Act. The board of commissioners then may transfer to the

county general fund all or a portion of the remaining balance, less any contingent costs of title or other legal claims.

The bill took effect on December 31, 2006.

Senate Bill 872

Public Act 43 of 1963 (2nd Ex Sess) requires local units of government to hold public hearings before the final adoption of their budgets. A unit that submits its budget to a county tax allocation board must hold the public hearing after the board has fixed the tax rate allocation. Under the bill, this will apply unless a local unit has a fiscal year that begins before the county tax allocation board convenes.

The bill will take effect on March 30, 2007.

(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

The bill amended Public Act 20 of 1943 (which regulates the investments of public corporations) to allow the governing body of a public corporation to enter into written agreements with other public corporations to pool or coordinate the funds to be invested with the funds of other public corporations.

An agreement allowed under the bill must include all of the following:

- The types of investments that may be purchased with pooled funds.
- The rights of members of the pool to withdraw funds from the pooled investments without penalty.
- The duration of the agreement.
- How the pool will be administered.
- How the public corporation will respond to liabilities incurred in conjunction with the administration of the pool.
- How strict accountability for all funds will be provided for, including an annual statement of all receipts and disbursements.
- How the public corporation will adhere to the requirements of Section 5 of the Act (which requires a public corporation to adopt an investment policy).

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.)

The bill took effect on September 29, 2006.

Senate Bill 908

The Michigan Notary Public 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.
- 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 must include the statement, "Acting in the County of _____." only if the notary public is performing a notarial act in a county other than his or her county of commission. The bill requires a record to include the name of the notary public exactly as it appears on his or her application for a commission, rather than as it appears on his or her certificate of

appointment (as previously required). The bill also requires the record to include the date the notarial act was performed.

Previously, the required information had to be printed "clearly and legibly". The bill, instead, requires that the information be sufficiently clear and legible to be read by the Secretary of State, and in the format shown in the Act or in a similar format that conveys all of the same information. The bill also requires 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.

In addition, the bill allows a court to invalidate any notarial act not performed in compliance with the Act. Previously, a court could invalidate any document not notarized in compliance with the Act.

The bill repealed Section 29 of the Act, which allowed 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 took effect on May 26, 2006.

MCL 211.78m (S.B. 868)
141.413 (S.B. 872)
129.91 (S.B. 875)
55.287 & 55.307 (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 bills were 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 will help local units do their jobs more efficiently with the resources they have, as well as save taxpayers' money.

Supporting Argument

Senate Bill 868 is designed to give counties more flexibility in their budgeting process. Allegan County, for example, reportedly would have had access to approximately \$1 million in 2005 if the bill had been in place. Under the bill, proceeds from the sale of tax-reverted property may be transferred to a county's general fund and used for purposes other than those specified in the statute, after the county board of commissioners is given a report identifying the proceeds and expenses, and after contingent costs of title or other legal claims have been deducted. County boards will have information about potential liabilities before the money is transferred, and county treasurers will not be left without the resources needed to handle legal issues arising from the tax reversion process.

Supporting Argument

Under the law, local units may levy up to 15 mills without voter approval, subject to the approval of a county tax allocation board (which "allocates" the mills levied by the local units in the county to ensure that not more than 15 are levied altogether). Thus, for a local unit that submits its budget to a county tax allocation board, it makes sense for the local unit to hold a public hearing on its proposed budget after the board has determined the local unit's tax rate. This is impracticable, however, for a local unit whose fiscal year begins before the board convenes. Senate Bill 872 accommodates local units in this position.

Supporting Argument

Senate Bill 875 expands the opportunity of local units to pool their investment funds with the funds of other local units. Local units already could 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 will increase local units' ability to get the best rate of return on their money.

Supporting Argument

Senate Bill 908 removes an unnecessary requirement from the Notary Public Act.

Previously, a notary had to print on a document both the county of his or her commission and the county in which he or she was acting, which is the same in most cases. The bill eliminates this redundancy by requiring a notary to indicate the "acting in" county only if it is different from the county of his or her commission. In the event of a violation, the Secretary of State and prosecutors still will know the county in which a notary signed a document.

Fiscal Analyst: Bill Bowerman
Stephanie Yu
David Zin

In addition, the bill removes other unnecessary provisions of the Act by repealing Section 29, which set forth forms that could be used as an acknowledgement for an individual, business entity, public officer, trustee, or personal representative. This section largely duplicated 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

The bill will have no effect on State or local revenue or expenditures, although it will alter the allocation between funds of certain revenue received by local units of government.

Senate Bills 872

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

Senate Bill 875

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

Senate Bill 908

The bill will 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.