



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4246 (Substitute S-1 as reported)
House Bill 4266 (Substitute S-1 as reported)
Sponsor: Representative Glen Steil (H.B. 4246)
Representative Paul Opsommer (H.B. 4266)
House Committee: Government Operations
Senate Committee: Local, Urban and State Affairs

Date Completed: 8-24-07

RATIONALE

Act 8 of the Extra Session of 1967 and the Urban Cooperation Act authorize public agencies and other political subdivisions to exercise certain powers jointly and/or transfer functions to one another. Employees necessary to the undertaking must be transferred from one political subdivision to another or to a newly created entity. A political subdivision operating under either Act must ensure that a transferred employee receives the same pension credits, seniority credits, wages, privileges, status, and other rights and benefits as he or she did in his or her original position; no employee may be placed in a worse position by reason of the transfer. Some people believe that these requirements hinder the ability of local governments to consolidate operations and reduce costs. Some have suggested that deleting these provisions would encourage and facilitate the consolidation of local government services and functions.

CONTENT

House Bill 4246 (S-1) would amend Act 8 of the Extra Session of 1967, which provides for intergovernmental transfers of functions, and House Bill 4266 (S-1) would amend the Urban Cooperation Act, to eliminate several provisions pertaining to the rights and benefits granted to employees transferred from one political subdivision to another under an interlocal agreement.

Under Act 8, two or more political subdivisions (cities, villages, other incorporated political subdivisions, counties, school districts, community colleges, intermediate school districts, townships, charter townships, special districts, or authorities) may enter into a contract with each other providing for the transfer of functions and/or responsibilities to one another upon the consent of each political subdivision involved.

The Urban Cooperation Act authorizes a public agency of the State to exercise jointly with any other public agency of the State, a public agency of any other state of the United States, a public agency of Canada, or any public agency of the U.S. government any power, privilege, or authority that the agencies share in common and that each might exercise separately. A joint exercise of power must be made by contract in the form of an interlocal agreement. ("Public agency" means a political subdivision of Michigan or of another state or Canada, including a state government; a county, city, village, township, charter township, school district, single or multipurpose special district or authority; a provincial government, metropolitan government, borough, or other political subdivision of Canada; an agency of the U.S. government; or a similar entity of any other state or of Canada.)

Among other things, the contract under Act 8 must include the manner in which the affected employees, if any, of the participating political subdivisions are to be

transferred, reassigned, or otherwise treated. An agreement under the Urban Cooperation Act may provide for the manner of employing, engaging, compensating, transferring, or discharging necessary personnel, subject to the provisions of applicable civil service and merit systems.

Act 8 and the Urban Cooperation Act require necessary employees to be transferred to and appointed as employees subject to all rights and benefits. A transferred employee may not, by reason of the transfer, be placed in any worse position with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefits that he or she enjoyed as an employee of the acquired system. Transferred employees must be given seniority credits and sick leave, vacation, insurance, and pension credits in accordance with the records or labor agreements from the acquired system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired system must continue to have rights, privileges, benefits, obligations and status with respect to the established system. The political subdivision to which the functions or responsibilities have been transferred must assume the obligations of any system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare, and pension or retirement provisions for employees. House Bills 4246 (S-1) and 4266 (S-1) would delete these provisions from Act 8 and the Urban Cooperation Act, respectively.

MCL 124.534 (H.B. 4246)
124.505 (H.B. 4266)

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

The bills would allow public agencies and political subdivisions to consolidate functions more effectively and thereby achieve savings and improve efficiency. Currently, when two or more political subdivisions combine services or functions, no employee working under the combined subdivision can be made worse off than he or she was before.

This means that when two sets of employees with different pay and benefit scales are combined under a new system or are transferred from one political subdivision to another, employees with the same responsibilities might be compensated differently. If the employer wishes to offer its employees equal wages and benefits for equal responsibilities, it must increase the compensation given to the employees on the lower scale. Under the bills, political subdivisions could give some employees raises and decrease the wages of others in order to pay all employees fairly.

The bills also would prevent situations in which an entity ends up with two individuals for a single position, such as two fire chiefs for a joint fire authority or two directors for an combined economic development authority.

Response: Currently, if transferred employees are subject to a collective bargaining agreement, they continue to serve under its terms until the agreement expires. At that time, a new contract may be negotiated. Also, the parties may choose to renegotiate at the time of a transfer. Reportedly, negotiated agreements often result in compensation in-between that of the employees who made the most and those who made the least.

Furthermore, there is no reason for a political subdivision or new entity to employ more than one person for a single post. The Acts require the transfer of "necessary" employees only. Although the terms of a lay-off may have to be negotiated, a political subdivision is not required to maintain the same number of employees or the same assignment of tasks.

Opposing Argument

Nothing in the Acts requires that an employer pay an employee more under a consolidated system than the employee previously received; the Acts only require employers to maintain previous levels of compensation. Under the bills, employers would be able to decrease the compensation of employees who had been covered by collective bargaining agreements. This would make the system open for potential abuse and diminish the bargaining rights of certain public employees.

Response: If a collective bargaining agreement included provisions that would apply in the case of an intergovernmental transfer, those terms would govern.

Otherwise, a political subdivision still would have to negotiate with the bargaining representative of employees subject to the public relations employment Act or the law that provides for compulsory arbitration for police officers and fire fighters (commonly called "Act 312").

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bills would have no fiscal impact on State or local revenue. The bills could reduce State and/or local expenditures by an unknown amount, but would have no effect on units that do not participate in intergovernmental agreements. It is unknown what units currently choose, or would choose, to pay wages and benefits different from levels required under current law. Because the bills would still allow units to make choices regarding wages and benefits, the bills would have no effect on units that agreed to the levels they assign currently under existing law. As a result, the bills' effect would be limited to local units that now choose to pay or perceive they are required to pay wages and benefits at a higher level than they would choose under the bills. For those local units, the bills would reduce expenditures by an unknown amount, depending upon the actual wage and benefit levels chosen and the number of employees affected.

Fiscal Analyst: David Zin

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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.