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BILL ANALYSIS

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Senate Fiscal Agency

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Senate Bills 881 through 888 (as enrolled)(Public Acts 190-197 of 1988)

Sponsor: Senator John M. Engler

Senate Committee: Government Operations

House Committee: Taxation

Date Completed: 7-12-88

RATIONALE

Earlier this year, in response to claims that existing State law was inadequate to remedy or prevent the severe financial problems of local units of government in the State, the Legislature enacted the Local Government Fiscal Responsibility Act. That Act calls for the appointment of an emergency financial manager if the Governor determines that a financial emergency exists within a local unit of government. The emergency financial manager, in consultation with the local government, is required to develop a financial plan for the local government. The emergency financial manager also has authority over local budgetary and personnel matters, and may authorize the local government to file for bankruptcy. Reportedly, the Attorney General has raised the concern that the Local Government Fiscal Responsibility Act, in granting these powers, may be amending other statutes by reference, in violation of Article 4, Section 25 of the State Constitution. Thus, it has been suggested that the laws governing local units be amended to conform to the Local Government Fiscal Responsibility Act.

CONTENT

Senate Bills 881 through 888 would amend various statutes that govern cities, counties, townships, and villages to provide that, notwithstanding any provision of the act, if an emergency financial manager had been appointed under the Local Government Fiscal Responsibility Act with respect to a local unit governed by the act being amended, the emergency financial manager could exercise the authority and responsibilities provided in the amended act to the extent authorized by the Local Government Fiscal Responsibility Act. The acts that would be amended are as follows:

Senate Bill	Act Amended	Proposed MCL
881	home rule cities Act	117.1b
882	P.A. 278 of 1909 (incorporated villages)	78.1b
883	P.A. 215 of 1895 (fourth class cities)	81.1d
884	Chapt. 16 of Revised Statutes of 1846 (townships)	41.1a
885	charter township Act	42.1a
886	P.A. 156 of 1851 (counties)	46.1a
887	P.A. 293 of 1966 (charter counties)	45.501a
888	P.A. 3 of 1895 (incorporated villages)	61.1c

Senate Bill 886 also provides that, if approved by the board of commissioners in relation to a loan authorized under the Emergency Municipal Loan Act, the Local Emergency Financial Assistance Loan Board created in that Act could exercise the authority and responsibilities delineated by an order of that Board.

FISCAL IMPACT

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

ARGUMENTS**Supporting Argument**

The bills would facilitate the successful implementation of the Local Government Fiscal Responsibility Act. By amending the individual statutes that govern local units, the bills would address the concern that the 1988 Act amends these other statutes by reference. As a result, the bills would avert challenges to the Local Government Fiscal Responsibility Act based on claims of unconstitutionality. The bills also would ensure that an emergency financial manager's authority did not exceed the powers granted in that Act.

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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.