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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

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Senate Bill 101 (Substitute S-1 as reported)
Senate Bills 102, 103, and 104 (as reported without amendment)
Senate Bill 105 (Substitute S-2 as reported)
Senate Bills 106 and 107 (as reported with amendments)
Senate Bill 108 (as reported without amendment)
Sponsor: Senator Harmon Cropsey (Senate Bills 101 and 106-108)
Senator George Z. Hart (Senate Bills 102 and 104)
Senator Virgil C. Smith, Jr. (Senate Bills 103 and 105)
Committee: Local Government and Veterans

Date Completed: 5-2-89

RATIONALE

The laws governing general law townships (as opposed to charter townships) are numerous, somewhat redundant, and sometimes quite old: according to the Michigan Townships Association (MTA), some of the laws have not been amended since their enacted in 1846. An example of the laws' obsolescence is the reference in many places to townships' annual meeting and the requirement that certain decisions--including taxing decisions--are to be made at the annual meeting; according to the MTA, approximately one-third of the townships no longer hold an annual meeting, and many continue to do so only for purposes of a public hearing on their budget. Examples of redundancy include the three separate laws that govern townships' contracts for water supplies, and the three laws that require a township permit to operate a pool hall. The MTA and others believe that the laws should be consolidated and updated.

CONTENT

The bills would amend various statutes that provide for the general powers and duties of townships, the election and duties of township officers, the authority of township boards to adopt ordinances,

townships' ability to acquire land for parks and recreation, townships' construction and maintenance of sidewalks along public roadways, fire protection for townships, townships' authority to acquire and finance public buildings, townships' water contracts, and the authority of townships to operate ambulance services. In addition to amending these laws, the bills would repeal and re-enact various other laws governing townships, and repeal but not re-enact other provisions. The bills are described in more detail below.

Senate Bill 101 (S-1)

The bill would Chapter 16 of the Revised Statutes of 1846, which provides for the powers and duties of townships and the election and duties of township officers, to repeal and re-enact a number of sections, to delete others, and to make various changes concerning townships' taxing powers; compensation of township officers and trustees; the authority of a township board to approve claims, hire employees, and set the amount of bonds; township constables; township meetings; record-keeping; and other provisions pertaining to

S.B. 101-108 (5-2-89)

township officers and township business. The provisions that the bill would revise are discussed below.

Taxing Powers

Current law authorizes the electors of a township "at any legal meeting" to vote and grant sums of money up to amounts limited by law, to defray charges and expenses arising in the township. The bill would delete reference to a meeting, and would delete limits on the amount that can be voted, which depend on the level of a township's assessed valuation.

The law provides that a township board or township officers cannot create a liability against the township, or issue an order for the payment of money, except as authorized by a vote or by law. The bill specifies, instead, that township boards and officers could not create a liability or order the payment of money except as authorized by a vote of the registered electors of the township.

Officers' Salary/Reimbursement

Under current law, the officers of a township board, board of registration, board of health, board of review, and inspectors of election are entitled to the salary set by the electors at the annual township meeting, or to the salary their predecessors received if the electors fail to set a salary. The salary of township officials who are paid a salary may be determined by resolution adopted by the board, the electors at a subsequent meeting may alter that amount, and a salary cannot be raised within 60 days before an election. The bill provides, instead, that township board members would be entitled to the salary determined by resolution adopted by the board at least 30 days before the annual meeting of the township electors. At the meeting, the electors could alter the amount of the salary. If the electors failed to act, the officers would be entitled to the salary set in the resolution.

In addition to the annual salary, a trustee could receive an amount for each board meeting he or she actually attended, as established by the board, to be paid upon the board's authorization. The supervisor, clerk, and treasurer could not receive additional compensation for attending board meetings.

Board members could be reimbursed for reasonable expenses actually incurred on behalf of the township.

An official appointed to fill a vacancy of an elective township office would be entitled to the same compensation as that set for the previous official. The salary of an elected or appointed official could not be decreased during his or her term of office unless the responsibilities of that office were diminished and the official consented to the reduction. If a township had designated a portion of a supervisor's salary, however, to be paid for directly performing the property tax assessing function and the supervisor failed to perform that function, his or her salary could be reduced by the designated portion.

Under the law, in a township that has abolished the annual township meeting, the township board determines the salary for officers on the township board, board of registration, and board of review, and election inspectors. The bill would delete reference to all the officers except board members.

The law also provides that, instead of the previous procedures, a township board may determine salaries of elected officials by ordinance, which must create a local officials compensation commission. The first commission members must be appointed within 30 days after the effective date of the ordinance, and subsequent members must be appointed before October 1 of the year of appointment. Under the bill, subsequent members would have to be appointed within 30 days after a term expired or a vacancy occurred. The bill also provides that the salary would be effective at the beginning of the next fiscal year.

Board Authority

The bill provides that, in addition to other business matters that could be acted upon at a regular meeting of a township board, the board would be required to approve claims against the township and authorize payment of allowed claims. Approved accounts would have to be filed and preserved by the township clerk. Authorized payments would have to be paid by the treasurer, on the order of the board. The bill would delete provisions that limit accounts

that may be audited by a board.

Currently, a township board may employ a township manager who "shall not perform any duties otherwise prohibited by state law". The bill would authorize a board to hire other necessary employees. The manager and employees would be required to perform duties lawfully directed by the board, except those that were delegated by law to another township official, unless consent had been granted.

Current law requires a township treasurer to give the township sureties approved by the township supervisor, and the treasurer is required to appoint a deputy. Under the bill, the township board, not the supervisor, would set the amount of a bond, and the deputy would be required to file a bond also. The bill also would require the township board, rather than the supervisor, to approve the sureties provided by a township constable.

Constable

Currently, an action against a township constable or his or her sureties must be brought within two years after the year in which the constable was elected. The bill would change the statute of limitations to six years after the year "in which commenced the term of office during which the neglect, default, misfeasance, or failure occurred".

The law requires constables to attend circuit court sessions for their respective counties when notified by the sheriff. The bill would require constables to be paid by their respective counties.

Meetings

Generally, an annual meeting of township electors must be held on the last Saturday in the last month of each fiscal year, although the township board can vote unanimously to hold the meeting on a day other than Saturday. The bill provides that the annual meeting could be held on an alternate date that was approved by a majority of the board and was in the last month of the township's fiscal year. The bill also would require majority vote, rather than voice vote, for the electors to transact business.

Under the law, in a township other than a

charter township, the board may, or upon the filing of sufficient petitions must, submit to the electors the question of reestablishing the annual meeting. The bill provides that, if a majority of the electors voted to reestablish the meeting, the electors at the annual meeting would reassume powers conferred by statute. Under the law, once the annual meeting is reestablished, it can be abolished only by a resolution of the board submitting the question to the electors. The bill specifies that, if the annual meeting were abolished, powers that could have been exercised by the electors at the annual meeting could be exercised by the board.

The law provides that special township meetings can be held if ordered by the board upon a request signed by 12 electors of the township. The bill would allow special meetings upon request of 12 electors or 1% of the registered voters in the township, whichever was greater. An order for a special township meeting of electors would have to be part of the minutes of the board proceedings.

The law requires the moderator of a township meeting to poll the voters or divide the meeting if a vote is questioned by seven or more voters. The bill would require that the voters be polled or the meeting divided if any vote were questioned.

Under the law, a person who refuses to withdraw from a public meeting, on being ordered to do so by the moderator, is liable for a fine of up to \$20. The bill would make that refusal a misdemeanor subject to a maximum fine of \$50. The bill also specifies that a person could not be excluded from a public meeting except for a breach of the peace actually committed at the meeting.

Other Provisions

The bill provides that an officer's resignation would be effective when accepted by the township board.

The bill would require that an incumbent's deputy, in addition to the incumbent, be unable to perform his or her duties before a replacement could be appointed to fill a vacancy in a township office, and would combine provisions pertaining to the temporary appointment treasurers and other officials.

The law provides that a township supervisor is the chief assessor of the township, and permits township boards to provide for the appointment of two additional assessors. The bill would delete that limit. The bill also would delete provisions authorizing supervisors to appoint a deputy clerk upon elector approval.

The law requires township treasurers to keep an account of the receipt and expenditure of township money in a book. The bill would require that the book meet the uniform accounting requirements of the State Treasurer, and reflect the amount of money belonging to each of the township's accounts.

The bill would delete provisions that prohibit township records from being kept in a saloon, restaurant, public inn, hotel, place of public amusement, place where intoxicating drinks are kept or sold, or place where gaming is carried on.

The law provides that, with the approval of the township clerk and the consent of the township board, a deputy clerk may assist the clerk in performing his or her duties. The bill would delete the board's required consent.

The bill specifies that a deputy township supervisor would serve at the pleasure of the supervisor, a deputy clerk at the pleasure of the township clerk, and a deputy treasurer at the pleasure of the treasurer.

Re-Enacted Provisions

Sections of the law that the bill would repeal and re-enact pertain to townships limits and boundaries; suits and conveyances in the name of a township; supervisors prosecuting penalties; supervisors acting as the agent for a township; polling places within a city; the division and annexation of townships, including the sale of land, apportionment of personal property, burial grounds, and apportioning debts; supervisors administering oaths; township boards appropriating money to advertise the township; transferring unspent money in a special fund to a contingent fund; township financial statements; and township retirement systems and group insurance plans.

Repealed Provisions

Sections of the law that the bill would repeal,

but not re-enact, pertain to township orders restraining animals; supervisors attending meetings and reporting money raised to the board; raising a quorum; townships' authority to levy money without a vote for ordinary or emergency expenses; board authority to borrow money to pay special assessment deficiencies; board authority to borrow against delinquent taxes as authorized by the annual meeting; township ordinances and penalties for the breach of township orders and bylaws; and the publication of bylaws.

MCL 41.1 et al.

Senate Bill 102

The bill would amend Public Act 246 of 1945, which authorizes township boards to adopt ordinances, to repeal and re-enact provisions of various laws that do the following:

- Provide that an ordinance that imposes a penalty cannot take effect until 30 days after its first publication, and an ordinance that does not impose a penalty takes effect after its publication (Public Act 191 of 1939).
- Require publication of true copy or summary of an ordinance within 30 days after its passage in a newspaper in the township (Public Act 191).
- Provide that a penalty imposed by an ordinance cannot exceed the penalty imposed by general law for a misdemeanor (Public Act 191).
- Require township clerks to record an ordinance after its publication and file an attested copy with the county clerk, and require county clerks to maintain separate files for each township's ordinances (Public Act 191).
- Authorize townships to codify, recodify, and continue in code their ordinances without publishing the entire code (Public Act 641 of 1969).
- Allow townships to employ an attorney to represent the township in civil matters and prosecuting ordinance violations (Public Act 661 of 1954).

Under Public Act 246, townships may adopt ordinances regulating public health, safety, general welfare, fire protection, bicycle use and licensing, traffic, sidewalks, licensing business establishments, and public amusements. The

bill provides that township ordinances could include but would not be limited to those items. The bill would delete reference to hawkers, vendors, peddlers, solicitors, pawnbrokers, circuses, and carnivals. The bill also would delete restrictions on the members of a township law enforcement unit. In addition, the bill would repeal a requirement that townships publish ordinances pursuant to Public Act 191 of 1939.

MCL 41.181 et al.

Senate Bill 103

The bill would amend Public Act 157 of 1905, which authorizes townships to acquire land for parks and recreation, to repeal and re-enact laws governing the acquisition and control of park and recreation land, and to repeal other laws requiring township permits for the operation of billiard and pool rooms, dance halls, and bowling alleys. The laws that would be re-enacted generally do the following:

- Require a township board, upon receiving a written petition signed by 50 freeholders and taxpayers of the township, to submit to the township electors the question of establishing a township park commission, and, if the voters approve, to appoint a six-member commission (MCL 41.441). The bill provides, instead, that a township board would have to submit the question to the voters upon receipt of a petition signed by at least 8% of the registered voters of the township.
- Allow township park commissions to acquire and control township parks and places of recreation and, with board authorization, to act as the township recreation board (MCL 41.442).
- Provide for park commission members to receive compensation as fixed by the township board (MCL 41.443). The bill would delete a provision allowing members to receive 10 cents per mile for traveling to and from meetings.
- Require a park commission to submit a budget to the board (MCL 41.444).
- Authorize a park commission to submit to the voters at the annual township meeting the question of issuing bonds for

acquiring park and recreation property; and provide that if a township has no outstanding debts, and the proposed acquisition cost is under 1% of the township's assessed valuation, the voters can direct the commission to purchase or condemn land, direct the board to pay the commission funds to pay for the land, and determine the maximum amount to be paid (MCL 41.445). Under the bill, a park commission could request that the board submit to the voters the question of issuing bonds, and the township board--not the voters--could direct the commission to buy land and determine the maximum amount to be paid.

- Authorize a commission to convey land that is not needed (MCL 41.445a).
- Require a commission to report annually to the township board and the State Treasurer (MCL 41.446).
- Authorize a township board to convey to the board of county park trustees land held by the township for parks and recreation (MCL 41.431).
- Authorize cities and villages to appropriate funds toward the cost of acquisition and maintenance of land by a township (MCL 41.461).
- Allow townships on navigable waters to acquire and construct wharves, piers, and docks (MCL 41.481); and require such proceedings to be taken by the township board, which has the power usually exercised by the township highway commission (county road commissioners, under the bill) in acquiring land for laying out, constructing, and maintaining highways (MCL 41.482). The bill specifies that Public Act 283 of 1909 (the State's general highway law) would be extended to include wharves, piers, docks, and landing places, subject to these provisions.

Laws that the bill would repeal, but not re-enact, require township permits for the operation of billiard and pool rooms, dance halls, bowling alleys, and other recreation halls (MCL 41.501-41.507, 41.531-41.535, 51.541-41.543), and authorize townships to regulate the hours of billiard and pool rooms (MCL 41.561).

Proposed MCL 41.426-41.428

Senate Bill 104

The bill would amend Public Act 246 of 1931, which provides for the construction and maintenance of sidewalks along public highways, to repeal and re-enact laws that generally do the following:

- Authorize townships to install sidewalks along the sides of highways and elevated structures for foot travel over highways (MCL 41.401).
- Allow township boards to provide that the cost of sidewalks and elevated structures will be paid entirely by public money (MCL 41.402).
- Authorize township boards to order the construction of sidewalks in designated areas; require boards to hold a public meeting regarding sidewalk construction; allow a board to construct sidewalks and assess the costs to the property involved or permit property owners to have the sidewalks constructed themselves; and allow a board to construct walkways or sidewalks along main or arterial roads as it considers necessary to protect public safety (MCL 41.431-41.434). The bill would refer to the repair or maintenance of sidewalks, as well their construction.
- Allow township boards to authorize the purchase of public street cleaning vehicles and snow removal equipment (MCL 41.291).
- Allow township boards to authorize expenditures to provide for the lighting by artificial means of highways and bridges; and require township supervisors to oversee the installation and maintenance of a lighting system (MCL 41.251-41.252).
- Authorize a township board on its own motion or upon petitions signed by at least 10 property owners to order the expenses for lighting to be defrayed by a special assessment and require a hearing on the creation of a special assessment district; require a township board to determine the boundaries of the district and direct the supervisor to make a special assessment upon the land and premises in the district (to be benefited by the lighting, under the bill); and provide that a district that has been

lighting its streets may be relieved of this duty by the township board (MCL 41.253-42.255).

- Allow a board of county road commissioners to provide for the lighting of roads, highways, and bridges under its jurisdiction (notwithstanding the previous provisions, the bill would add); allow a township board also to provide for lighting; and allow counties and townships to act jointly to provide for lighting (MCL 41.261).
- Authorize county road commissioners and township boards acting jointly or separately to provide for lighting State trunk line highways and bridges, with the approval of the Department of Transportation Director (MCL 41.262).

The bill also would repeal another law that authorizes township boards to provide for the repair and maintenance of sidewalks (MCL 41.921-41.925).

Proposed MCL 41.288-290

Senate Bill 105 (S-2)

The bill would amend Public Act 33 of 1951, which provides for fire protection for townships, to include police departments in provisions that authorize townships to establish a fire department and appropriate money to operate it; purchase fire apparatus, equipment, and housing; levy special assessments to cover the expenses of fire protection; and create a joint fire administrative board. The bill would repeal other laws that contain the same provisions for township police departments (MCL 41.851-41.856).

The bill specifies that a joint police or fire administrative board, if authorized to employ and appoint a police chief, fire chief, or other police or fire officers, including detectives, could employ and appoint such officers only on behalf of an individual township, city, or village, and would not constitute a new employer.

In addition, the bill would repeal and re-enact laws that authorize township boards to create a police administrative board, a fire administrative board, or a police and fire administrative board; require a board to create

an annual budget; and authorize township boards to provide for the employment of traffic officers (MCL 41.751-41.753 and 41.201). The bill would delete a provision that gives traffic officers powers of arrest and other powers of deputy sheriffs.

The Act provides that townships may defray the expenses of fire apparatus, equipment, and housing by the collection of fees for services and/or special assessment. The bill would delete reference to the collection of fees.

The bill provides that a police administrative board, a fire administrative board, or a police and fire administrative board created under Public Act 57 of 1951, which the bill would repeal, would be continued under and governed by Public Act 33 of 1951.

In addition, the Act requires that proceedings related to special assessments authorized in the Act and the issuing of bonds conform to proceedings provided for villages in Public Act 3 of 1895. The bill would require, instead, that special assessment and bond proceedings conform to proceedings for townships in Public Act 188 of 1954.

MCL 41.803 et al.

Senate Bill 106

The bill would amend the Township and Village Public Improvement Act to repeal and re-enact laws that generally do the following:

- Authorize a township board, upon application of at least 12 registered electors of the township, to borrow up to 5% of the assessed valuation of the township for a town hall, fire station, or library; and authorize a township to issue bonds for the repayment of the money borrowed (MCL 41.241). Under the bill, a township could exercise this authority on its own motion or upon application of 20% of its registered electors.
- Require the board, upon the filing of an application to borrow money, to submit the proposition to the township electors at the annual township meeting, general election, or special election; require the meeting or election to be held within 90 days after adoption of a resolution on the issue; and, authorize the board to

issue and sell bonds, if the voters approve, and impose a property tax to pay money due before the next tax collection (MCL 41.242-41.245). The bill would delete references to the annual meeting.

- Permit a township at an annual township meeting to vote a tax of up to one-twentieth of 1% of the assessed valuation of the township, for maintaining the township hall, fire station, library, or other public buildings (MCL 41.246). The bill would allow the tax to be approved at a primary, general, or special election.
- Authorize townships to buy or lease property for a library (MCL 41.246a).
- Permit a township to use a building on township property for township purposes even if the property becomes part of an incorporated village or city (MCL 41.221).
- Authorize township boards and village councils to appropriate money to establish a township or village scale (MCL 41.491).
- Authorize townships to appropriate money for the control of weeds in inland lakes, and prohibit the use of pesticides on inland lakes without the consent of the Department of Natural Resources (MCL 41.671-41.672).
- Allow townships to provide for spraying trees and shrubs (MCL 41.681).

The Act authorizes townships to establish a special assessment district for an improvement desired by the landowners in the district, if petitions are signed by at least 65% of the record owners of the land in the district. The Act also allows a township to discontinue a service if no assessment bonds are outstanding, upon petition by owners of 65% of the land. The bill would lower the petition requirements to 51%.

The bill also would repeal, but not re-enact, laws that permit township voters to approve a 1% property tax for a town hall or other public buildings (MCL 41.231-41.232); permit townships to pay for a bond required of a township officer (MCL 41.601); and require township treasurers to provide new bonds upon the insolvency of sureties in a bond given by a treasurer (MCL 41.611-41.617).

Senate Bill 107

The bill would amend Public Act 107 of 1941, which governs township authority concerning water supplies, to repeal and re-enact laws that generally do the following:

- Authorize a township board to determine that the cost and value of water service for fire protection in a district served by a water system financed by bonds issued under the Revenue Bond Act or the County Public Improvement Act, will be borne by special assessment on property within the district while bonds are outstanding; allow the board to use unappropriated general fund money to pay for part of the fire protection cost; require the board to set a public hearing on the special assessment district, direct the township supervisor to prepare the assessment, hold the public hearing, and direct the assessment to be collected upon voter approval; and permit the board to determine the amount to be assessed annually (MCL 41.831-41.840).
- Authorize a township board to contract with a city or village for supplying water for fire protection and domestic purposes (MCL 41.871). The bill would delete a provision that limits this authority to townships with a population of at least 5,000, and would allow a board to contract with another township, also.
- Allow a township board to borrow money and issue notes for acquisition and installation of water supply facilities required by a contract (MCL 41.872). The bill would delete a limit of \$250,000 on the total outstanding indebtedness under the Act in question (Public Act 207 of 1953).
- Govern the installment payments under a water contract (MCL 41.873).
- Pertain to the required approval under the Municipal Finance Act before borrowing money and issuing a note (MCL 41.873a).
- Allow a township board to pledge sales tax money to secure repayment of a loan (MCL 41.874-41.875). The law provides that an ordinance pledging sales tax money may require "the county treasurer or other official" charged with disbursing

this money to pay to the lender the constitutionally allocated money of the township as necessary to fulfill the pledge. The bill would refer, instead, to "the official".

- Authorize a township board to adopt an ordinance relating to the exercise of the powers granted under these provisions, and provide for a referendum on the ordinance if a petition signed by at least 10% of the township voters is filed (MCL 41.876-41.877).
- Specify that the powers granted in these provisions are in addition to powers granted by other statutes (MCL 41.878).

In addition, Public Act 107 authorizes township boards to contract with a city or village for the furnishing of water; the bill would allow townships to contract also with another township or an authority.

The Act provides that excess money paid to a township treasurer for private connection rights must be deposited in the township's contingent fund and may in the board's discretion be paid to a school district in which the improvements have been made. The bill would delete the board's discretion to pay excess money to school districts.

Under the Act's definition of "water supply district", a district must consist of contiguous and unseparated land. The bill would delete that limitation.

The bill also would repeal two other laws, Public Act 47 of 1941 and Public Act 88 of 1919, that govern township water supply contracts.

MCL 41.331 et al.

Senate Bill 108

The bill would amend Public Act 50 of 1960, which permits townships to operate or contract for ambulance services, to repeal and re-enact a law that authorizes a township board to pay a hospital a sum that represents the township's share in the maintenance and support of the hospital whose facilities are available to the township residents at standard rates (MCL 41.701). The bill also would amend a provision that allows township boards and county "boards of supervisors" to operate or contract for the

operation of an ambulance and inhalator service; the bill would refer instead to county boards of commissioners.

MCL 41.711

FISCAL IMPACT

Senate Bill 101 (S-1) would have no fiscal impact on State government. The bill would increase the amount of millage voters in a township could approve for general township operations.

Senate Bills 102, 103, 104, and 105 (S-2) would have no fiscal impact on State or local government.

Senate Bill 106 would have no fiscal impact on State government. The bill would increase the amount of funds a township could borrow for capital projects from 5% to 10% of the State equalized valuation of the township.

Senate Bill 107 would have no fiscal impact on State government. The bill would remove the limits on the amount of bonding that could be approved by a township for water projects.

Senate Bill 108 would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

By amending, repealing and re-enacting, and removing many laws that govern general law townships, the bills would recodify and consolidate these statutes and bring them up to date to reflect current practices. In regard to townships' taxing powers, Senate Bill 101 (S-1) also would reflect constitutional requirements under which operating millages must be approved by the voters; in this day and age, when only a handful of residents might show up and vote at a township meeting, the vote scarcely reflects a vote of the people. These changes not only would bring township laws into conformity with other laws and practices, but also would make it easier for officials of general law townships to locate and use the relevant provisions. The bills would not affect charter townships except in cases in which those townships follow general township laws.

Supporting Argument

Senate Bill 105 (S-2) specifies that a joint police or fire administrative board, if authorized to employ a police or fire chief or other officers, could employ them only on behalf of an individual township, city, or village, and would not constitute a new employer. This would make it clear who the employer of those individuals was, and avoid the ambiguity in existing law over whether the joint board constitutes a new employer for the purpose of labor relations. In addition, townships could continue to proceed under Public Act 33 of 1951, which the bill would amend, rather than under Public Act 57 of 1988, which allows municipalities to create an authority to provide fire and police protection and under which the authority constitutes a separate employer.

Legislative Analyst: S. Margules

Fiscal Analyst: G. Olson

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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.