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LIMIT ATTORNEY GENERAL POWERS AND OPINIONS

House Bills 4905 and 4906
Sponsor: Rep. Clark Bisbee

House Bill 4924
Sponsor: Rep. Andrew Richner

Committee: Constitutional Law and Ethics

Complete to 10-4-99

A SUMMARY OF HOUSE BILLS 4905 AND 4906 AS INTRODUCED 9-29-99 AND HOUSE BILL 4924 AS INTRODUCED 9-30-99:

Currently, under a 1971 Michigan Supreme Court decision (*In Re Proposal C*, 384 Mich. 390) an attorney general opinion “is not binding interpretation of law which courts must follow but does command allegiance of state agencies.” By law (the Revised Statutes of 1846 12, “Of certain state officers”) the attorney general is required to give his or her opinion on all questions of law when asked by either branch of the legislature, the governor, the auditor general, the treasurer, or any other state officer; and -- at the request of the governor, secretary of state, treasurer, or auditor general -- to prosecute and defend all lawsuits relating to matters connected to their departments.

House Bill 4924 would amend the Revised Statutes of 1846 (MCL 14.32) to limit attorney general opinions on questions of law to being advisory only (“and not binding”) on the executive branch of government unless the opinion had been requested by a state officer on behalf of a state department or agency and the opinion related to that department or agency or its jurisdiction or enforcement authority.

House Bills 4905 and 4906 would prohibit the attorney general from taking, prosecuting, intervening in, or bringing any action against the state. House Bill 4905 would amend Public Act 232 of 1919 (MCL 14.101), which also concerns the powers and duties of the attorney general, and House Bill 4906 would amend the section of the Revised Statutes of 1846 (MCL 14.29) that requires the attorney general to prosecute and defend all suits relating to matters connected to the governor, the secretary of state, the treasurer, or the auditor general.

Analyst: S. Ekstrom

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.