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Senate Bill 3 (Substitute S-7)

Sponsor: Senator Shirley Johnson

Committee: Natural Resources and Environmental Affairs

Date Completed: 6-11-01

CONTENT

The bill would amend Public Act 179 of 1947, the garbage disposal and dog pound authority law, to allow a member of a "qualified authority" to withdraw from the authority under certain circumstances; require a qualified authority to dissolve under certain circumstances; provide that if a qualified authority were selling the real property of a member, the member would have the right of first refusal; and limit the duration of a garbage disposal contract that a qualified authority could enter into.

(The term "member" would mean a municipality that incorporated or became part of a qualified authority under the Act and whose participation in the authority had not been terminated by an act of the Legislature. "Qualified authority" would mean an authority that had at least 10 members and a population residing within its territory of 250,000 or more.)

Withdrawal

The Act provides for the incorporation of municipal authorities for the collection and/or disposal of garbage, and for the operation of a dog pound. Under the bill, a member could withdraw from a qualified authority if both of the following requirements were met:

- The member's legislative body adopted a resolution stating that the authority was no longer effectively serving the public purposes for which it was created and declaring its decision to withdraw from the authority on a date specified in the resolution, which would have to be at least 60 days after the resolution was adopted.
- The clerk of the member promptly filed a certified copy of the resolution with the authority and the Secretary of State.

By the withdrawal date specified in the resolution, the withdrawing member would have to pay the qualified authority its fair share of any negative equity of the authority, if any. The bill specifies that this provision would not relieve the withdrawing member from any obligation to reimburse the authority after the withdrawal for any environmental liabilities subsequently incurred by the authority, to the extent that the environmental liabilities resulted directly from the authority's disposal of the withdrawn member's municipal solid waste, recyclable materials, or yard waste. In addition, the authority would have to pay the withdrawing member its fair share of the equity of the authority, by the withdrawal date.

("Environmental liabilities" would mean the costs of landfill closure and postclosure obligations, the costs of corrective action, response activity costs, and fines, penalties, or damages required or assessed by the State under the Natural Resources and Environmental Protection Act.)

Dissolution

Under the bill, a qualified authority would have to dissolve if both of the following applied:

- The legislative bodies of a majority of the members, weighted by the percentage of recent waste delivery, each adopted a resolution stating that the authority was no longer effectively serving the purposes for which it was created and directing that it be dissolved.
- The clerk of each member adopting a resolution promptly filed a certified copy of it with the authority and the Secretary of State.

Within six months after these requirements were met, the authority would have to cease the activities for which it was incorporated. Within six months after ceasing such activities, the authority would have to settle its accounts, including all vested or accrued employee benefits, employment contracts, and unemployment compensation, and, subject to provisions described below, would have to sell all of its property. Immediately after meeting these requirements, the authority would have to distribute its remaining assets to its members.

Upon distribution of its assets, the authority would be dissolved, and all liabilities of each member and former member would be terminated, except for any environmental liabilities subsequently attributed to the authority to the extent that the liabilities resulted directly from the authority's disposal of the member's municipal solid waste, recyclable materials, or yard waste. ("Former member" would mean a member that had withdrawn from a qualified authority, or a prior member of a qualified authority that had been dissolved.)

The bill specifies that these provisions would not prevent the incorporation of a new authority by some or all of the former members of a dissolved authority.

Sale of Property

Within 90 days after a qualified authority decided to sell or transfer real property located within the territory of a member or former member, the member or former member could exercise the right of first refusal to purchase the real property at a price equal to the lesser of its current market value or the highest price offered for the property in an arm's length, bona fide offer by a third party. The current market value of the real property would have to be determined by a licensed appraiser acceptable to the authority and the member. Any dispute regarding determination of current market value would have to be resolved by independent arbitration.

Other Provisions

The bill provides that if a qualified authority were incorporated or amended its articles of incorporation after the bill's effective date, the new authority would have to include the bill's withdrawal and dissolution provisions in its articles of incorporation.

The bill also provides that, after its effective date, a qualified authority could not enter into a contract for the collection or disposal of garbage with a termination date after the termination date of the authority's most recently approved contract with a member of the authority for the collection and/or disposal of garbage or for the operation of a dog pound.

Proposed MCL 123.311

Legislative Analyst: N. Nagata

FISCAL IMPACT

State Impact: The bill would have no fiscal impact on the State.

Local Impact: The potential fiscal impact on local units of government is unknown. The bill could result in reduced expenditures in those local units participating in the affected joint authorities, assuming the activities were no longer needed or could be handled in a alternative manner that would be more cost-effective. The bill also could result in increased local unit expenditures if the dissolution resulted in the loss of an economy of scale in operations, or caused one or more local units to bear a greater burden of the combined expense of operating the authority and its facilities. Both circumstances also could occur, which would increase expenditures in some local units while lowering them in others. The timing of certain revenues or expenses could be altered given the bill's processes for withdrawing from the authority and distributing the authority's assets.

The number of local units participating in such joint authorities is unknown, as is the amount currently spent maintaining such authorities. Similarly, the number of authorities that would be dissolved under the bill, or the reasons for such dissolution, is unknown.

Fiscal Analyst: D. Zin