Legislative Analysis

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CONTRACTS BETWEEN CITY EMPLOYEES: ALLOW RESIDENTIAL PROPERTY SALES

House Bill 4729 as enrolled
Public Act 198 of 2005
Sponsor: Rep. Steve Tobocman

Senate Bill 654 as enrolled
Public Act 265 of 2005
Sponsor: Sen. Laura M. Toy

House Committee: Local Government and Urban Policy
Senate Committee: Local, Urban and State Affairs

Second Analysis (1-10-06)

BRIEF SUMMARY: The bills would allow employees of villages and cities to buy up to four parcels of residential property owned by their employing entity and would place the maximum term of imprisonment for a violation within the sentencing guidelines.

FISCAL IMPACT: The bills would have an indeterminate fiscal impact on state and local corrections costs (through penalties for violations). Costs of a sentence to the county jail would be borne by the county; jail costs vary from county to county. Costs of a sentence to state prison or to felony probation supervision would be borne by the state. Average appropriated cost of prison incarceration is about $28,000 per prisoner per year, and average cost of felony probation supervision is about $1,977 per offender per year. Increases in penal fine revenues would benefit local libraries, which are the constitutionally-designated recipients of such revenues.

THE APPARENT PROBLEM:

Under their city charters, the City of Detroit and the City of Kalamazoo retain possession of properties seized for delinquent taxes and so are responsible for offering those properties for sale at tax lien sales. Such properties do not always sell quickly, and Detroit now owns almost 40,000 tax-foreclosed properties (some 20,000 of which contain structures). Some municipal employees have expressed interest in buying property at the tax sales, but are prohibited from doing so under a law that prohibits a person who works for a public entity from entering into a contract with his or her employer. The law currently provides an exemption for state employees that enables those workers to buy state-owned property at tax lien sales.

The City of Detroit is seeking legislation to amend the law so that these employees could participate in tax lien sales.

THE CONTENT OF THE BILLS:

House Bill 4729 would amend Public Act 317 of 1968 (MCL 15.324) to specify that the ban on a public servant who works for a city or village from entering into a contract with the employing public entity would not apply to contracts to purchase residential property. Under the bill, a public servant employed by a city or village could purchase between one and four parcels, but would have to wait at least 18 months between each purchase. Moreover, this exception would not apply to public servants of cities or villages who had been appointed or elected to their positions and also would not apply to employees whose work responsibilities included the purchase or selling of property for the public entities. A violation of the bill's provisions would be a felony punishable by not more than one year imprisonment or a fine of not less than $1,000 or more than three times the value of the property purchased.

The bill would only apply to a city or village that had adopted an ethics ordinance which was in effect at the time the residential property was purchased.

Senate Bill 654 would amend the Code of Criminal Procedure (MLC 777.11a) to specify that the purchase of public residential property by a public servant in violation of the provision added by House Bill 4729 would be a Class G felony against the public trust with a maximum term of imprisonment of one year. It is tie-barred to House Bill 4729.

The bill would also remove from the sentencing guidelines a reference to a crime that carries a punishment of only a fine. (The sentencing guidelines portion of the code specifies the statutory maximum term of imprisonment that can be imposed for a violation of a particular crime.)

ARGUMENTS:

For:

Reportedly, about 10,000 people a year move out of Detroit. With so many residential properties being offered for sale each year, the city is finding it difficult to sell off the almost 40,000 properties it has acquired through tax foreclosures. Many of these properties were abandoned. Some have structures still standing, albeit in need of significant repair, and others are empty lots – their houses long ago burned down or demolished. Left as is, these properties attract vagrants and criminals, or get used as mini-dumps. In short, they add to neighborhood blight.

Some people say that allowing city employees could bid on these properties at tax lien sales would be a win-win situation for the city and the employee. The employee would be able to purchase land inexpensively (since these properties are in blighted areas, property values are low) in the community where he or she works and either renovate the existing structure or build a new house if the lot is vacant. A single renovation project could be enough to spur other projects and help turn entire neighborhoods around. And, as blighted neighborhoods are redeemed, cities see cost savings due to less crime, fires, trash removal, etc., as well as seeing city businesses supported by the new residents.

House Bill 4729 contains safeguards to protect against abuses. A city or village employee could only buy up to four parcels, and would have to wait at least 18 months between purchases. Also, it would not apply to employees whose jobs would create a conflict of interest; specifically speaking, those whose responsibilities include buying or selling land for the city. These provisions are in keeping with the intent of encouraging city employees to live where they work; employees who – by virtue of working for the city – have demonstrated a commitment to the city's well-being. It would allow a way for many lower paid city employees to become home owners. Since up to four properties could be purchased by any one employee, a person could "trade up" after fixing up one or two properties, buy two or more adjacent properties and enjoy a larger house or yard, or could live in one house but rent out nearby homes. It simply is not reasonable to exclude people with no influence over the tax-reversion process from buying tax-reverted lands from the city.

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