

# Legislative Analysis

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## ALLOW EMERGENCY SERVICES AUTHORITIES TO ADOPT ORDINANCES

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**House Bill 5553 (Substitute H-1)**

**Sponsor: Rep. Joe Hune**

**Committee: Local Government and Urban Policy**

### **First Analysis (3-28-06)**

**BRIEF SUMMARY:** The bill would permit local emergency service authorities to adopt ordinances enabling them to recover the costs of providing services.

**FISCAL IMPACT:** The bill would have no fiscal impact on the state and an indeterminate fiscal impact on local governmental units.

### **THE APPARENT PROBLEM:**

Fire and police protection services in the state may be provided by local governments through a variety of enabling statutes. Under these statutes, local units of government may act individually or jointly to provide police and fire protection to their respective communities, with these services financed through a combination of general property taxes, special millages, special assessments, or fees for service.

Under the Municipal Emergency Services Act, Public Act 57 of 1988, two or more municipalities may establish an authority to provide the municipalities with emergency services, including fire protection services. Public Act 57 provides that services may be financed through a tax on all taxable property located within the limits of the authority, subject to a cap of 20 mills and voter approval. Pursuant to Public Act 57, the City of Howell and several surrounding townships formed the Howell Area Fire Department to provide fire services to each of their communities. The fire authority is supported by a separate millage of 1.1 mills. In 2004, the fire authority attempted to adopt an ordinance allowing the authority to recover the costs of responding to service calls. However, in March 2004, the attorney general issued an opinion stating the fire authorities established under the Municipal Emergency Services Act do not have the authority to adopt ordinances and, subsequent to that ruling, each of the communities served by the fire authority adopted separate cost recovery ordinances for the fire authority. [The City of Howell's Code of Ordinances (Section 1612.10) provides, "The Howell Area Fire Authority may proceed in a court of appropriate jurisdiction to collect any monies remaining unpaid for services provided as a mature debt of the Howell Area Fire Authority and shall have any and all other remedies provided by law for the collection of all charges."] Legislation permitting authorities established under the Municipal Emergency Services Act to adopt cost recovery ordinances has been introduced.

## ***THE CONTENT OF THE BILL:***

House Bill 5553 would amend the Municipal Emergency Services Act (Public Act 57 of 1988), to permit emergency services authorities, formed by two or more municipalities, to adopt ordinances that provide for the assessment of fees on owners or occupants of property who receive emergency services to cover the costs of providing services. The cost recovery ordinance would be rescinded if at least one-third of the incorporating municipalities vote to rescind the ordinance within 60 days after the ordinance is adopted by the authority.

Under the act, "emergency services" means fire protection services, emergency medical services, police protection services, and any other emergency health or safety services designated in an authority's articles of incorporation.

MCL 124.605 and 124.609

## **BACKGROUND INFORMATION:**

Public Act 33 of 1951 (MCL 41.806a) provides municipalities (townships, villages, and certain cities) with the authority to adopt ordinances imposing fees for providing police and fire services. The provision was added with the enactment of Public Act 102 of 1990, although a similar provision allowing for the collection of fees was first added to the act with the enactment of Public Act 101 of 1978. (Apparently, the 1978 provision was inadvertently deleted by Public Act 81 of 1989.) Additionally, the authority of cities to enact cost recovery ordinances is also generally provided for under the Home Rule City Act, Public Act 279 of 1909.

## ***ARGUMENTS:***

### ***For:***

The bill provides emergency services authorities established under the Municipal Emergency Services Act with the authority to enact cost recovery ordinances. The adoption of cost recovery ordinances has become increasingly important for municipalities, particularly in times of revenue sharing cutbacks. The cost of responding to a single emergency situation involving a hazardous material can easily use up most of an authority's operating budget for any given fiscal year, which may necessitate tax increases or steep cuts in services. For "everyday" emergencies, it's likely that a fire authority would not seek to recover its costs. Rather, it would seek to recover its costs in situations where those costs are exceedingly high.

Currently, emergency service authorities do not have the authority to adopt cost recovery ordinances following Attorney General Opinion No. 7150, issued March 1, 2004. In the absence of the bill, these authorities must rely in each of the incorporating municipalities to adopt a cost recovery ordinance. This is problematic in the instances where a municipality does not enact an ordinance and the authority has to absorb all of the costs for responding to a call in that municipality.

***POSITIONS:***

The Howell Area Fire Department supports the bill. (3-22-06)

The Michigan Townships Association supports the bill. (3-22-06)

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■ 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.