



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 906 (Substitute S-1 as passed by the Senate)

(as enrolled)

Sponsor: Senator Valde Garcia

Committee: Commerce and Labor

Date Completed: 12-19-05

RATIONALE

Provisions pertaining to the responsibilities of the State Administrative Board are included in Public Acts 225 and 226 of 2005, which were part of a package of legislation that provides for the securitization of a portion of Michigan's tobacco settlement revenue (received under the 1998 master settlement agreement between 46 states and five of the largest United States tobacco companies). Public Act 225 amended the Michigan Strategic Fund (MSF) Act to create the Office of the Chief Compliance Officer within the MSF and charge the Board with appointing the chief compliance officer. Public Act 226 created the Michigan Tobacco Settlement Finance Authority Act and provides for the Board's approval of the State Budget Director's decision to sell all or a portion of the State's tobacco settlement receipts. Since Public Act 2 of 1921 governs the activities of the State Administrative Board, some people have expressed a concern that including Board responsibilities in the other two statutes could be construed as amending Public Act 2 by reference, which is prohibited by the Article IV, Section 25 of the Michigan Constitution. It has been suggested that Public Act 2 be amended to authorize the Board to undertake the responsibilities enacted by Public Acts 225 and 226.

CONTENT

The bill would amend Public Act 2 of 1921, which created the State Administrative Board, to specify that the Board would have the powers granted and would have to perform the duties imposed under Section 88i of the Michigan Strategic Fund Act (MCL 125.2088i). The bill would require the Board to employ the chief compliance officer

described in Section 88i and review all reports described in that section and submitted to the Board by the chief compliance officer.

The bill also specifies that the Board would have the powers granted to it and would have to perform the duties described under Section 8 of the Michigan Tobacco Settlement Finance Authority Act (MCL 129.268).

(Public Act 225 of 2005 added Section 88i to the Michigan Strategic Fund Act. Section 88i creates the Office of the Chief Compliance Officer within the MSF and charges the State Administrative Board with appointing the chief compliance officer. The Office of the Chief Compliance Officer must assist the MSF board with the creation, implementation, monitoring, and enforcement of policies and procedures to prevent illegal, unethical, or improper conduct on the part of various State officials.

Section 8 of the Michigan Tobacco Settlement Finance Authority Act authorizes the State Budget Director, with the approval of the State Administrative Board, to sell to the Tobacco Settlement Finance Authority all or a portion of the State's tobacco receipts. As an alternative, the State Budget Director, with the Board's approval, may sell all or a portion of the State's tobacco receipts to a person or persons other than the Authority, if the sale will result in net proceeds of not more than \$400.0 million and the terms are in the best interests of the State. The sale agreement must be constructed to provide net proceeds to the State in the amount of \$400.0 million, for deposit as provided in the Michigan Trust Fund Act (which provides for

the deposit of tobacco settlement revenue in the Michigan 21st Century Jobs Trust Fund).)

Proposed MCL 17.2b

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Public Act 2 of 1921 is the authorizing statute for the operations and responsibilities of the State Administrative Board. Public Acts 225 and 226 of 2005, however, authorize the Board to appoint a chief compliance officer under the MSF Act, and to approve the State Budget Director's decision to sell a portion of expected tobacco settlement revenue under the Michigan Tobacco Settlement Finance Authority Act, respectively. Since Public Act 2 governs the Board's activities, that Act also should be amended to authorize the Board to undertake those activities.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on the State or local units of government. The Office of the Chief Compliance Officer, and funding for administrative costs, is provided for in Public Act 225 of 2005.

Fiscal Analyst: Bill Bowerman

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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.