



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 816 (as reported without amendment)
Sponsor: Senator Michelle A. McManus
Committee: Economic Development and Regulatory Reform

(as enacted)

Date Completed: 3-24-08

RATIONALE

In 1983, in an effort to promote economic development, the City of Cadillac began a project to clean up groundwater that had been contaminated by chemicals from industrial activity. Evidently, the project began when local companies approached the city with a proposal to build a small power production wood waste-burning facility on a parcel located near the contaminated area, if the city or an authority created by it would undertake a cleanup effort on adjacent and nearby property. In order to enable the city to use tax increment financing for this project, Public Act 101 of 1991 amended the Local Development Financing Act's definition of "eligible property" to include the type of co-generation plant that was to be built. The city then established a local development finance authority (LDFA) that later issued bonds to finance the construction of a groundwater decontamination complex. The LDFA paid the principal and interest on the bonds using tax increment financing (which "captures" revenue from the incremental increase in property values in a district), and completely paid off the bonds in fiscal year 2004-05.

Because the project was unique for a local development financing authority, Public Act 101 of 1991 also enacted a requirement that the Auditor General audit Cadillac's LDFA each year. According to the Office of the Auditor General, annual audits of the authority, conducted since completion of the decontamination complex in 1996, have focused on the LDFA's compliance with specific financial requirements regarding tax increment revenue, financing of the authority, and financial reporting. Even though the bonds issued by the LDFA have

been paid, the Auditor General still is required to conduct the audit.

Some have suggested that because Cadillac's LDFA has completed most of its financial objectives, the audit of it by the Auditor General is no longer necessary and should not be required.

CONTENT

The bill would amend the Local Development Financing Act to delete a requirement for an annual audit of an authority whose district includes a small power production facility.

Under the Act, the Auditor General or a certified public accountant appointed by the Auditor General annually must audit the LDFA whose authority district includes eligible property to which Section 2(l)(iv) applies. Upon completion of the audit, the Auditor General must submit a report to the committees of the Senate and the House of Representatives primarily responsible for taxation and environmental protection issues. The Department of Natural Resource must biannually report to these committees and to the Auditor General the status of the remediation of the soil and groundwater contamination described in Section 2(l)(iv). Under the bill, these requirements would be deleted.

(Under the Act, the definition of "eligible property" includes land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures, located within an authority district, whose primary purpose

and use are the production of energy by the processing of goods or materials by physical or chemical change by a small power production facility as defined by the Federal Energy Regulatory Commission that is fueled primarily by biomass or wood waste. This provision applies only if requirements pertaining to tax increment financing and a special assessment district are met. This part of the definition presently is in Section 2(p)(iv), but previously was in Section 2(l)(iv).)

MCL 125.2169

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

While the audits of Cadillac's local development financing authority may have been necessary to ensure that the authority ran efficiently and complied with appropriate statutes, additional audits would be a waste of time and money for the Auditor General and for the City of Cadillac. The LDFA no longer needs to capture tax increment revenue because it paid off its bonds in FY 2004-05 and is in the process of determining the appropriate distribution of remaining funds.

According to the recommendation by the Office of the Auditor General (OAG), "With the majority of the statutory financial requirements (and risk) being eliminated with the repayment of the bonds, the OAG is recommending...the rescinding of the statutory requirement to complete an annual audit of the Authority. It should be noted that the Authority remains part of the City of Cadillac government entity and as such, the Authority's financial operations are included for review by the City's independent auditors performing the City's annual financial audit."

The clean-up effort also has been monitored by the U.S. Environmental Protection Agency (EPA) on a five-year cycle and by the Michigan Department of Environmental Quality. The decontamination project received approval from the EPA in 1996 and the completed decontamination facility, which receives special assessment revenue, is expected to operate until 2020.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

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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.