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BILL ANALYSIS



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Senate Bill 1135 (as enrolled)  
Sponsor: Senator Gilda Z. Jacobs  
Senate Committee: Finance  
House Committee: Commerce

Date Completed: 3-24-08

### **RATIONALE**

In May 2006, operation of the Detroit Zoological Institute was transferred from the City of Detroit to the Detroit Zoological Society. While the city retains ownership of most of the physical assets and property at the zoo, the Zoological Society is responsible for operations and operating costs. Although the zoo evidently has adopted cost-saving efficiencies since the transfer of responsibility, it will require additional sources of revenue to continue operating without regular funding from the City of Detroit. It is projected that the zoo will have an operating deficit of approximately \$2.5 million when its current fiscal year ends on March 31, 2008. Although a surplus from the prior fiscal year will cover that shortfall and will help supplement funding in the next fiscal year, it is estimated that the difference between the zoo's revenue and expenditures will be about \$7.9 million by March 31, 2009, and the deficit will be approximately \$2.1 million at that time.

According to the Zoological Society, the zoo could receive money from increased attendance, returns from revenue-generating programs, and private donations, and from the establishment of a recurring, regionally based public funding source. In order to secure a smooth transition from dependence on State and city funding and to establish a stable source of income, some have suggested that counties be allowed to create zoological authorities that could raise taxes to support zoological institutions on a county-by-county basis.

### **CONTENT**

**The bill would create the "Zoological Authorities Act" to do the following:**

- **Allow a county to form a zoological authority.**
- **Require a county board of commissioners to adopt articles of incorporation in order to establish an authority, and require the articles to include the method of dissolving the authority.**
- **Allow the authority, with approval of the county electors, to levy a tax of up to 0.1 mill for up to 20 years on all taxable property in the county, in order to provide revenue to an accredited zoological institution.**
- **Require the authority to contract for zoological services with an accredited zoological institution before a vote for a tax levy occurred**
- **Require the contract for zoological services to include privileges and services for residents of the county.**
- **Prohibit the authority from obtaining an interest in real property or participating in the governance of an accredited zoological institution.**
- **Require the authority to reimburse the county and a municipally for election costs they incurred, if a tax were approved.**

#### Formation of Authority; Board

Any county could form a zoological authority, which would be an authority under Article IX, Section 6 of the State Constitution. A zoological authority would be a public corporate body with the power to

sue and be sued and would possess all the powers necessary for carrying out the purposes of its formation. (Article IX, Section 6 limits the total amount of general ad valorem taxes imposed upon real and tangible personal property. The limitations do not apply to taxes imposed by a city, village, charter county, charter township, charter authority, or other authority, whose tax limitations are provided by charter or by general law.)

To initiate the establishment of an authority, articles of incorporation would have to be prepared by a majority of the members of the county board of commissioners of the county establishing the authority. The articles of incorporation would have to include all of the following:

- The name of the authority.
- The purpose of the authority.
- The method of dissolution of the authority.
- Any other matters considered advisable.

The articles also would have to include the size of the board of the authority, which would have to be composed of an odd number of members and could not exceed 15 members; the qualifications and terms of office of board members; the manner of appointing the board members; and the filling of vacancies in the office of board member.

The articles would have to be adopted and could be amended by an affirmative vote of a majority of the members of the county board of commissioners. Before the articles or amendments were adopted, they would have to be published at least once in a newspaper generally circulated within the county. The adoption of articles or amendments would have to be evidenced by an endorsement on them by the clerk of the county.

Upon adoption of the articles or amendments, the county clerk would have to file a printed copy of the articles or the amended articles with the Secretary of State. The authority's articles of incorporation, or amendments to the articles, would take effect upon the filing.

A vacancy would occur on the board of an authority if any of the events set forth in Section 3 of Chapter 15 of the Revised Statutes of 1846 happened (e.g., the

incumbent died, resigned, was removed from office, or was convicted of an "infamous crime"). The county board of commissioners could remove board members for good cause after a public hearing. Vacancies would have to be filled in the manner provided for in the authority's articles of incorporation.

A majority of the members of the board would constitute a quorum for the purpose of conducting business and exercising the powers of an authority. Official action could be taken by an authority upon the vote of a majority of the board members present, unless the authority adopted bylaws requiring a larger number.

A board member could not receive compensation for services as a member of the board but would be entitled to reimbursement for reasonable expenses incurred in the discharge of his or her duties.

The board would be subject to the Open Meetings Act and the Freedom of Information Act.

At its first meeting, the board would have to elect a chairperson, a secretary, a treasurer, and any other officers it considered necessary. The board could adopt bylaws to govern its procedures.

#### Authority Functions & Finances

A zoological authority could do one or more of the following:

- Contract for zoological services with an accredited zoological institution.
- Levy a tax (as provided below).
- Enter into contracts incidental or necessary for the accomplishment of the proposed Act.

("Accredited zoological institution" would mean an institution located in this State that is accredited by the Association of Zoos and Aquariums. "Zoological services" would mean the operation of an accredited zoological institution that is open to the general public.)

An authority and an accredited zoological institution would have to enter into a contract for zoological services before the vote for a tax levy occurred. If a majority of electors in the county voting on the question

of a tax approved the tax levy, the contract for zoological services between the authority and an accredited zoological institution would have to include preferences or benefits for the residents of the county, which could include any of the following:

- Discounted admission fees.
- Discounted membership fees.
- Discounts for schoolchildren.
- Access to educational programs.

The board of an authority would have to obtain an annual audit of the authority, and report on the audit and auditing procedures, in the manner provided by the Uniform Budgeting and Accounting Act. The audit would have to be in accordance with generally accepted government auditing standards as promulgated by the United States General Accounting Office, and would have to satisfy Federal regulations relating to Federal grant compliance audit requirements. An authority also would have to prepare budgets and appropriations acts in the manner provided by the Uniform Budgeting and Accounting Act.

If an authority ended a fiscal year in a deficit condition, the authority would have to file a financial plan to correct the deficit condition in the same manner as provided in Section 21(2) of the Revenue Sharing Act. (Under that section, if a local unit of government ends its fiscal year in a deficit condition, the local unit must formulate and file a financial plan within 90 days after the beginning of the fiscal year to correct this condition. The local unit must file the financial plan with the Department of Treasury for evaluation and certification that the plan ensures that the deficit condition is corrected. Upon certification by the Department, the local unit must institute the plan.)

The State Treasurer, the Attorney General, a prosecuting attorney, bank, certified public accountant, certified public accounting firm, or other person would have the same powers, duties, and immunities with respect to the authority as provided for local units in Sections 6 to 20 of the Uniform Budgeting and Accounting Act. (Those sections pertain to audits, budgets, appropriations, expenditures, and violations.)

An authority board could authorize funds of the authority to be invested or deposited in any investment or depository authorized under Section 1 of Public Act 20 of 1943

(which pertains to the investment of surplus funds of political subdivisions and limits investments to certain instruments and depositories).

#### Taxes

A zoological authority could levy a tax of up to 0.1 mill for a period of not more than 20 years on all of the taxable property within the county for the purpose of providing revenue to an accredited zoological institution that was an accredited zoological institution as of the date of the electors' approval of the levy. The authority could levy the tax if a majority of the electors in the county voting on the tax at a statewide general or primary election approved the tax. The proposal for a tax would have to be submitted to a vote of the electors of the authority by resolution of the board.

A ballot proposal for a tax would have to comply with the requirements of Section 24f of the General Property Tax Act (which governs ballot proposals to authorize a bond issue, impose a new millage, or increase or renew an existing millage). A proposal for a tax could not be placed on the ballot unless the proposal were adopted by a resolution of the board and certified by the board within 60 days before the election to the county clerk for inclusion on the ballot. The proposal would have to be certified for inclusion on the ballot at the next eligible election, as specified by the board's resolution.

Not more than two elections could be held in a calendar year on a proposal for an authority tax. The county election commission would have to provide ballots for an election. An election would have to be conducted by the city and township clerks and election officials of the municipalities located within the county.

If an election for a tax were to be held in conjunction with a general election or a State primary election, the notices of close of registration and election would have to be published as provided for by the State election laws. Otherwise, the clerk of the county would have to publish these notices. The notices would have to include the ballot language of the proposal.

The results of the election would have to be canvassed by the board of county canvassers of the county, which would have

to make the final canvass based on the returns of the election inspectors of the municipalities in that county. The board of county canvassers would have to certify the results of the election to the board of the authority.

If a majority of the electors in the county voting on the question of a tax approved the proposal, the tax levy would be authorized. The tax would have to be levied and collected at the same time and in the same manner as provided by the General Property Tax Act. Within 10 business days of receiving the funds from the local property tax collecting unit for the tax, the authority would be required to transfer the funds to an accredited zoological institution.

The clerk of the county would have to charge the authority and the authority would have to reimburse the county for the actual costs it incurred in the election for the tax, if it were approved.

If a municipality conducted the election and a majority of the electors in the county voting on the question approved the tax, the clerk of that municipality would have to charge the authority and the authority would have to reimburse the municipality for the actual costs it incurred in conducting the election if the election were not held in conjunction with a regularly scheduled election in that municipality.

In addition to costs reimbursed as described above, the county or a municipality would have to charge the authority and the authority would have to reimburse the county or municipality for actual costs that it incurred and that were exclusively attributable to an election for a tax authorized under the proposed Act. The actual costs that a county or municipality incurred would have to be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

## **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**

The bill would create a mechanism that could help ensure that the Detroit Zoo stays

open, which is in the interest of the State and the City of Detroit. Even though the zoo is located in Oakland County, it is visited by people from throughout Detroit and the metro area, the State, and many foreign countries. It is a large tourist attraction for the State and for the Detroit area, and has over 1,000 volunteers and 51,000 households that are active members.

The bill would be permissive and apply to every county in the State. The ability to form zoological authorities could benefit other zoological institutions besides the Detroit Zoo and the Zoological Society. Residents in a county would be able to decide whether to support a zoo based on what they thought was right for their county, and a zoological authority would be able to receive funding from one or more counties without having regional consensus. An authority would have to provide certain privileges to participating counties based on individual county support of the zoo.

Legislative Analyst: Craig Laurie

## **FISCAL IMPACT**

The bill would have no fiscal impact on State revenue or expenditure. The bill would increase local unit revenue by an unknown amount, depending upon the taxable value in a county creating a zoological authority and the millage rate approved by voters. Expenditures from any increase in revenue would be restricted. The authority could use the tax revenue to offset certain existing revenue sources but, generally, the increased revenue would likely result in increased expenditures as well.

If the voters of Wayne, Oakland, and Macomb Counties approved a 0.1 mill property tax increase to operate the Detroit Zoo, this property tax would generate the following amount of revenue if applied to the Senate Fiscal Agency estimates of 2008 taxable property tax values in each county:

Wayne County	\$5.4 million
Oakland County	\$6.5 million
Macomb County	<u>\$3.2 million</u>
Total	\$15.1 million

Fiscal Analyst: David Zin

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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.