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BILL ANALYSIS

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Senate Bill 1253 (as passed by the Senate)
Sponsor: Senator John Pappageorge
Committee: Local, Urban and State Affairs

Date Completed: 8-20-08

RATIONALE

Public Act 20 of 1943 pertains to the investment of surplus funds of political subdivisions and limits investments to certain instruments and depositories, including bonds, securities, obligations, certificates of deposits, savings accounts, and mutual funds. Concerns about the Act's limitations have been raised in regard to funds invested by the City of Madison Heights. In May 2007, Madison Heights entered into an agreement with the Oakland County Drain Commissioner and the Oakland County Parks and Recreation Commission to maintain a nine-field soccer complex that includes a playground and concession building and covers 10 acres of an underground sewer treatment facility constructed by the local drain district. The drain district made a one-time payment of $850,000 to the city in exchange for 25 years of maintenance. The city must invest the $850,000 under Public Act 20 of 1943. According to the Madison Heights city manager, the types of investments allowable under that Act are not adequate to invest the funds effectively, as the city is earning less than 3% interest.

In order to expand the investment options of Madison Heights and other political subdivisions that have special revenue funds consisting of payments for park operations and maintenance, it has been suggested that a public corporation should be authorized to invest the money in the types of investments permitted under the Public Employee Retirement System Investment Act.

CONTENT

The bill would amend Public Act 20 of 1943 to authorize the governing body of a public corporation that had a special revenue fund consisting of payments for park operations and maintenance, by resolution, to provide its investment officer with the same authority to invest the assets of the special revenue fund as is granted an investment fiduciary under the Public Employee Retirement System Investment Act. The bill would apply notwithstanding any law or charter provision to the contrary.

(Public Act 20 defines "public corporation" as a county, city, village, township, port district, drainage district, special assessment district, or metropolitan district of this State, or a board, commission, or other authority or agency created by or under an act of the Legislature.

Under the Public Employee Retirement System Investment Act, an investment fiduciary may invest, reinvest, hold in nominee form, and manage the assets of a public employee retirement system, subject to the terms, conditions, and limitations of the Act. An investment fiduciary may invest in any of the following under certain conditions:

-- Stock.
-- Investment companies registered under the Federal Investment Company Act.
-- Annuity investment contracts or participations in separate real estate, mortgage, bond, stock, or other special investment accounts of a life insurance

company authorized to do business in the State.

- -- Obligations issued, assumed, or guaranteed by a solvent entity created or existing under the laws of the United States or of any state, district, or territory of the United States, that are not in default as to principal or interest.
- -- Obligations secured by a security interest in real or personal property and a lease obligation given by solvent entity whose obligations would be qualified investments under the Public Employee Retirement System Investment Act.
- -- Real estate or mortgages on real property leased or to be leased to the United States government, or to a state, territory, agency, authority, or public instrumentality of the United States.
- -- Publicly or privately issued real estate investment trusts or otherwise qualified real or personal property.
- -- Loans secured by first liens upon improved or income-bearing real property, first mortgages or deeds of trust on leasehold estates, and first mortgages on unimproved real property.
- -- Foreign securities.)

Proposed MCL 129.97

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 authorize Madison Heights and other political subdivisions to invest the money from special revenue funds consisting of payments for park operations and maintenance as permitted under the Public Employee Retirement System Investment Act, instead of under Public Act 20 of 1943. Public Act 20 requires very safe, very liquid investments in order to avoid losses on money that might be needed for current municipal operations. The Public Employee Retirement System Investment Act allows a much wider array of possible investments, which might entail higher risk but also generate higher returns. This statute recognizes the long-term nature of certain funds, and therefore permits investments that appropriately match the long-term investment horizon of those assets. Reportedly, based on historical returns of broad market investment, long-term earnings would bring Madison Heights approximately $3.0 million during the 25-year term of its agreement with the drain district; this money would be used to maintain the new regional soccer complex and the local parks system.

Opposing Argument

Public Act 20 ensures that local units of government make safe and conservative investments of the public's money. Under the bill, a city would be able to make potentially risky investments without any protection of the public money against market losses. The types of investments that can be made under the Public Employee Retirement Investment Act should be made only in truly long-term investment situations, like employee pensions, when there is a significant period of time between the initial investment and the use of the money in the fund. Because Madison Heights must immediately begin spending the $850,000 for operation and maintenance, it would not be able to make the long-term commitment that is necessary to successfully make the types of riskier investments allowed under the Public Employee Retirement Investment Act.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill would increase revenue to affected public corporations by an unknown and likely minimal amount. The bill would not compel certain investments, and presumably the investments that would be permitted under the bill would not be used unless the expected rate of return were above that under the currently allowed investment strategies.

Fiscal Analyst: David Zin