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BILL



ANALYSIS

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Senate Bill 1440 (as reported without amendment)  
Sponsor: Senator John J. Gleason  
Committee: Local, Urban and State Affairs

*(as passed by the Senate)*

Date Completed: 9-29-10

### **RATIONALE**

In March 2010, five members of the Beecher Water and Sewer Board, in Genesee County, were criminally charged following numerous allegations of corruption. Supposedly, some of the officials requested reimbursement for thousands of dollars in business-related expenses that they never actually incurred, and one member reportedly used Beecher water employees to perform work at his home at taxpayers' expense. Beecher residents gathered more than 1,000 signatures in support of a recall election; the Water and Sewer Board, however, is a metropolitan district organized under the Metropolitan District Act, which contains no provision for recalling officers.

The State Constitution authorizes the removal of local elected officials for a cause and in a manner provided by law. The Metropolitan District Act, however, does not contain language providing for the removal of a district member. Thus, it has been suggested that the Act should authorize the Governor to remove a metropolitan district officer who acts inappropriately in his or her official capacity.

### **CONTENT**

**The bill would amend the Metropolitan District Act to allow the Governor to remove an officer of a metropolitan district for various reasons; establish a process for removal; and provide that a removed officer could not be elected or appointed to public office for three years.**

The Act allows two or more cities, villages, and/or townships to incorporate a

metropolitan district for the purpose of acquiring, owning, and operating parks or public utilities for supplying sewage disposal, drainage, water, or transportation. The local units are represented on a charter commission. In its charter, the district must provide for the election or appointment of officers and provide for their qualifications.

The bill would allow the Governor to remove an officer of a metropolitan district from office for gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

An individual seeking the removal of an officer would have to submit to the Governor written charges against the officer with a verified affidavit stating that the individual believed the charges to be true. He or she also would have to serve on the officer a copy of the charges and any affidavits or exhibits submitted to the Governor. Service would have to be made personally if the officer could be found; if not, service would have to be made by certified mail to the officer's last known address. The individual would have to submit proof of service to the Governor.

If the Governor received these documents and determined that the charges, if established, provided sufficient grounds for removal, he or she would have to give the officer an opportunity to be heard in his or her defense.

After a hearing, if the Governor were satisfied from sufficient evidence that the officer had committed the charged gross neglect of duty, corrupt conduct in office, or

other misfeasance or malfeasance in office, the Governor would have to issue an order removing the officer and detailing the grounds for removal.

The officer would not be eligible for election or appointment to any public office in Michigan for three years after the removal date.

MCL 119.5a

## **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**

Breaches of the public trust, such as the alleged actions of the Beecher Water and Sewer Board members, diminish confidence in the rule of law. Those who abuse their positions may face criminal penalties; in addition, it is critical that a mechanism exists to remove them from power. Under Article 7, Section 33 of the State Constitution, any local elected official may be removed from office "in the manner and for the causes provided by law", which means there must be a statute governing the removal. By adding the necessary provisions to the Metropolitan District Act, the bill would ensure that citizens could hold metropolitan district officials accountable through removal by the Governor. Presumably, this approach would be less costly and less divisive to the community than a recall effort.

**Response:** Precluding a removed metropolitan district member from eligibility for *any* public office in Michigan for three years would go beyond restrictions on public office for other types of officials who are removed by the Governor. A three-year ban on eligibility for the metropolitan district, rather than a statewide prohibition, would be more compatible with the Constitution.

Legislative Analyst: Julie Cassidy

## **FISCAL IMPACT**

The bill would have no fiscal impact on State government.

The bill could have a negative fiscal impact on local governments. Although the proposed legislation is silent on the issue of

special elections, if the removal of an officer by the Governor resulted in a special election to replace that officer, the local unit would incur the cost of the special election. The average cost for an election is \$2,000 per voting precinct. The cost of a special election would depend on the number of precincts in the affected metropolitan area.

Fiscal Analyst: Joe Carrasco

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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.