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Senate Bills 8, 9, and 10 (as introduced 1-19-11)
Sponsor: Senator Mark C. Jansen
Committee: Reforms, Restructuring, and Reinventing

Date Completed: 5-3-11

CONTENT

Senate Bill 8 would create the "Municipal Partnership Act" to authorize a "qualified county" (Kent County) and a city, village, or township in the county, or one of those entities and a "public agency", to enter into a contract to form a joint endeavor that could exercise the functions of the local government or public agency. The bill also would:

- Allow a joint endeavor to levy up to five mills with voter approval.
- Describe provisions that the contract creating a joint endeavor could contain, including provisions for an authority.
- Allow a party to the contract to use tax revenue dedicated to a function or service, to pay for the exercise or performance of that function or service under the contract.
- Identify matters that would be prohibited subjects of collective bargaining between a local government and its employees' bargaining representative.
- Specify that the proposed Act would control over any conflicting statute, rule, charter, or ordinance.

Senate Bill 9 would amend the public employment relations Act to state that the provisions of the Act would be subject to the Municipal Partnership Act.

Senate Bill 10 would amend Chapter 36 (Recall) of the Michigan Election Law to state that the provisions of that chapter would be subject to the Municipal Partnership Act.

Senate Bill 8 is tie-barred to Senate Bills 9 and 10, which are tie-barred to Senate Bill 8.

Senate Bill 8 is described in detail below.

Formation of Joint Endeavor

Two or more local governments or one or more local governments and a public agency would be authorized to enter into a contract with each other to form a joint endeavor to perform or exercise any function, service, power, or privilege that the local government or public agency could exercise separately.

"Local government" would mean a qualified county or a city, village, or township located in a qualified county. "Qualified county" would mean a county with a population of 570,000 or

more and less than 650,000 (i.e., Kent County). "Public agency" would mean the State, any department or agency of the State, a single-purpose or multipurpose public body corporate formed under a law other than the proposed Act, or an Indian tribe recognized by the Federal government before 2000 that exercises governmental authority over land within the State.

The contract would have to be approved by resolution of the governing body of each participating local government.

A local government or public agency could not enter into a contract to form a joint endeavor after December 31, 2014.

Contractual Provisions

A contract to form a joint endeavor could provide for the purpose of the joint endeavor with reference to the functions, services, powers, or privileges to be performed or exercised and the methods by which the purpose would be accomplished or the manner in which the joint endeavor would be exercised or performed.

The contract also could provide for an authority, including the precise organization, composition, and nature of the authority and its board with the functions, duties, obligations, powers, and privileges given to the authority and board. If the contract did not create an authority, it could provide for the precise organization, composition, and nature of any separate legal or administrative entity created by the joint endeavor with the powers designated to that entity.

In addition, the contract could provide for the following:

- The method of financing to be used and the amount to be paid by each participating local government or public agency in relation to the purpose of the joint endeavor.
- The method for submitting the question of a tax levy to the electors served by the joint endeavor.
- The designation and selection of officers of an authority board or any legal or administrative entity created by the joint endeavor in the contract.
- The acquisition and disposal of personal or real property.
- The operation, maintenance, repair, replacement, construction, and improvement of personal or real property.
- The manner of employing, contracting for, engaging, compensating, transferring, or discharging necessary personnel and staffing.

The contract also could provide for:

- The duration of the contract and the method by which it could be terminated early by any participating local government or public agency.
- The making and promulgation of necessary rules and regulations and their enforcement by or with the assistance of the parties to the contract.
- The manner of allocating risks and responding to any claims of liability that could result from the joint endeavor or being a party to the contract, and for insuring against any such liability.
- The methods of addressing and resolving disputes among the parties to the contract.
- Any other matters agreed upon by the parties.

Further, the contract could provide for one or more parties to administer or execute it or to exercise or perform some or all of the functions, services, powers, or privileges to be exercised or performed by the joint endeavor.

A contract entered into under the proposed Act would not be subject to referendum under any local charter provision or ordinance, and could not be the basis for the recall of any elected official as provided in the Michigan Election Law.

The authorization to enter into contracts under the proposed Act would be in addition to and could be exercised separately from any authorization to enter into contracts under any other State statute.

Tax Revenue

Notwithstanding any local charter or ordinance to the contrary, a party to a contract forming a joint endeavor could use tax revenue that was dedicated to pay for the exercise or performance of any function, service, power, or privilege by that party individually, to fund the exercise or performance of that function, service, power, or privilege under the contract.

The joint endeavor could levy a tax of up to five mills on all taxable property in the areas it served for the purpose of providing revenue to the joint endeavor. The joint endeavor could levy the tax only if it were approved by a majority of electors served by the joint endeavor voting on the tax.

Local Authority; Collective Bargaining

The local governments that were parties to a contract under the proposed Act would have the responsibility, authority, and right to manage and direct on behalf of the public the functions or services performed or exercised in connection with the contract.

The following matters would be prohibited subjects of bargaining between a local government and a bargaining representative of its employees, and would be within the sole discretion of the local government to decide:

- Whether the local government would enter into a contract for a joint endeavor under the proposed Act for or in connection with one or more functions or services.
- The procedures for obtaining the contract for a joint endeavor.
- The identities of the other parties to the contract.
- The contents or language of the contract.
- The impact of the contract on individual employees or the bargaining unit.

Proposed MCL 423.201a (S.B. 9)
Proposed MCL 168.976a (S.B. 10)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 8 would potentially increase local unit revenue and/or expenditure by an unknown amount. The bill would only affect local units within Kent County, as well as the State of Michigan, and would allow the creation of contracts for a joint endeavor between local units and/or the State. If the joint endeavor were funded from existing revenue, the bill would not increase revenue but would likely allocate expenditures differently.

Senate Bill 8 also would allow a property tax of up to five mills to be levied on all areas served by the joint endeavor. If the joint endeavor were to involve a contract between the State and a local unit in Kent County to provide some service statewide, the bill would appear to allow an election for a statewide tax to fund the activity.

Senate Bill 9 would have an unknown effect, which would depend on how subjecting the public employment relations Act (PERA) to the proposed Municipal Partnership Act would affect the terms of any public service employment. Senate Bill 8 does not place any

restrictions on the terms of public employee contracts and Senate Bill 9 would effectively exempt such contracts from the requirements of PERA, as well as prohibit certain issues from being subject to collective bargaining.

Senate Bill 10 would likely have little or no fiscal impact on local units, in that it is complementary to the provision in Senate Bill 8 specifying that actions related to contracts for joint endeavors would not be a valid basis for conducting a recall election.

The bills would have no impact on State revenue or expenditure, unless the State were to enter into a contract allowed under Senate Bill 8.

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.