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BILL ANALYSIS

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Senate Bill 153 (Substitute S-2 as reported)
Senate Bills 154 through 158 (as reported without amendment)
Sponsor: Senator Phil Pavlov
Committee: Education

CONTENT

Senate Bill 153 (S-2) would repeal the Local Government Fiscal Responsibility Act, and create the "Local Government and School District Fiscal Accountability Act", which similarly would provide for the review, management, and control of the financial and other operations of a local government (a municipal government or a school district). In particular, the bill would do the following:

-- Allow the State financial authority (the State Treasurer or Superintendent of Public Instruction) to conduct a preliminary review to determine the existence of a local government financial problem if certain events occurred.
-- Require the Governor to appoint a review team if a finding of probable financial stress were made.
-- Require the review team to report that the local government was not in financial stress, was in mild financial stress, or was in severe financial stress (and a consent agreement had or had not been adopted); or that a financial emergency existed.
-- Require the Governor to make a similar determination after receiving the review team's report and, following the opportunity for a hearing, confirm or revoke a determination that a financial emergency existed.
-- Require the State Treasurer to declare the local government in receivership and appoint an emergency manager, upon confirmation of a financial emergency.
-- Require the emergency manager to develop a financial and operating plan for the local government.
-- Require the plan to provide for, among other things, the modification, termination, or renegotiation of contracts, and, for school districts, an academic plan.
-- Authorize the emergency manager to reject, modify, or terminate the terms of an existing contract or a collective bargaining agreement.
-- Authorize the emergency manager to order millage elections.
-- Authorize the emergency manager for a municipal government to disincorporate or dissolve the municipal government; and recommend to the State Boundary Commission that a city, village, or township consolidate with another municipal government.
-- Authorize an emergency manager to have a municipal government participate in a retirement system under the Municipal Employees Retirement Act or the Public Employee Retirement System Investment Act.
-- Authorize an emergency manager to recommend that a school district be reorganized with one or more contiguous districts.
-- Provide that the local governing body and chief administrative officer could not exercise any of the powers of those offices during the receivership.
-- Eliminate the salary and benefits of the chief administrative officer and governing body members during a receivership, except as restored by the emergency manager.

-- Allow the emergency manager to recommend to the Governor and the State Treasurer that a local government be allowed to proceed under Federal bankruptcy law.
-- Provide that an elected chief administrative officer or governing body member in office at the time of receivership would be ineligible to run for office in that local government for six years.
-- Provide that a local government in receivership would not be subject to collective bargaining requirements for five years or until the receivership was terminated, whichever occurred first.
-- Require an emergency manager to ensure that all collective bargaining agreements were in place and adopt and implement a two-year budget for the local government before the receivership terminated.
-- Allow the financial authority, in a consent agreement, to grant a local official or governing body the powers prescribed for an emergency manager, except the power to reject, modify, or terminate contracts and collective bargaining agreements.
-- Provide that an emergency manager would serve at the pleasure of the State Treasurer, with the concurrence of the Superintendent of Public Instruction if applicable, but authorize the Legislature to remove an emergency manager by a resolution adopted by a two-thirds vote in each house.

An emergency financial manager who was appointed and serving on the bill's effective date would have to continue to fulfill his or her powers and duties, and would be subject to the bill's provisions.

The bill would define "municipal government" as a city, village, township, charter township, or county, an authority established by law, or a public utility owned by a city, village, township, or county. "School district" would mean a school district or an intermediate school district

<u>Senate Bills 154, 155, and 156</u> would amend the Home Rule City Act, the Revised Municipal Finance Act, and the Michigan Election Law, respectively, to replace references to the Local Government Fiscal Responsibility Act with references to the proposed Act.

<u>Senate Bill 157</u> would amend the Revised School Code to provide that if a school included on the list of lowest-achieving 5% of public schools were operated by a district in which an emergency manager was in place under the Local Government and School District Fiscal Accountability Act, the Superintendent of Public Instruction could not place that school under the supervision of the State School Reform/Redesign Officer.

<u>Senate Bill 158</u> would amend the public employment relations Act to do the following:

-- Require a new collective bargaining agreement between a public employer and public employees to include a provision allowing an emergency manager to reject, modify, or terminate the agreement.
-- State that the provision required by the bill would be a prohibited subject of bargaining.
-- Specify that collective bargaining agreements could be rejected, modified, or terminated pursuant to the Local Government and School District Fiscal Accountability Act.
-- Provide that the public employment relations Act would not confer a right to bargain that would infringe on the exercise of powers under the proposed Act.

Senate Bill 153 (S-2) is tie-barred to all of the other bills, which are tie-barred to Senate Bill 153.

MCL 117.36a (S.B. 154)
141.2303 (S.B. 155)
168.971 (S.B. 156)
380.1280c (S.B. 157)
423.215 (S.B. 158)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 153 (S-2): The bill would add more circumstances under which the State could undertake a preliminary review of a local government's finances. As a result, it is likely that more preliminary reviews would be required and pursued, thereby adding State costs to the Department of Treasury and/or the Department of Education. However, the extent of the additional cost is unknown, and would depend upon the additional reviews of finances that occurred due to the legislation. If the additional reviews resulted in determinations of financial distress that required additional State action, higher State costs in monitoring any corrective plans would result.

Several local fiscal impacts could occur due to this legislation. They are discussed below, but not necessarily in order of magnitude.

First, the bill would suspend the authority of a chief administrative officer or governing body to exercise power on behalf of the local government, during the pendency of a receivership. This means that the emergency manager would have significant control over all aspects of governing a unit in receivership (not just financial), and could result in local financial impacts, positive or negative.

Second, the financial and operating plan could include a modification or renegotiation of contracts, the timely deposit of required payments to the pension fund, an academic plan, or other necessary actions. A change by the emergency manager in any of these items likely would have fiscal impacts on the affected government unit.

Third, the manager could elect to have the local government participate in a retirement system under the Municipal Employees Retirement Act or another retirement system, enter into agreement with other governments for consolidation of services, recommend consolidation, or dissolve the municipal government. Again, these actions would have fiscal impacts on the unit of government(s) affected.

Fourth, salaries of the chief administrative officer and governing body members of a local government in receivership would be eliminated; however, they could be restored by the emergency manager if found consistent with the financial and operating plan.

Finally, costs to a local government from being represented by the Attorney General would have to be paid out of the local government's operating budget. If payments were not made, revenue sharing or School Aid payments could be withheld.

Senate Bills 154-157: The bills would have no fiscal impact on State or local government.

Senate Bill 158: Local impacts could occur under this legislation if, in situations where an emergency manager was appointed, collective bargaining agreements were rejected, modified, or terminated and replaced with wage and/or benefit structures that provided a different compensation than contained in the original collective bargaining agreements.

Date Completed: 2-25-11

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