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House Bill 5076 (Substitute H-3 as passed by the House)
Sponsor: Representative Peter Pettalia
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 12-4-12

CONTENT

The bill would amend the Uniform Budgeting and Accounting Act to:

- **Provide that the chief administrative officer of a county would have exclusive standing to bring a suit against the legislative body of the county concerning a general appropriations act, except as provided for a chief judge.**
- **Provide that the legislative body of a county would have exclusive standing to bring a suit against the chief administrative officer of the county concerning the administration, execution, and enforcement of a general appropriations act, except as provided for a chief judge.**
- **Allow the chief judge of a court funded by a county to bring a suit against the legislative body or the chief administrative officer of the county concerning a general appropriations act or its administration, execution, and enforcement.**
- **Provide that the Michigan Court of Appeals would have exclusive jurisdiction over a suit filed under the bill.**
- **Require a suit to be filed, as a rule, within 60 days after a general appropriations act was adopted or amended or a related action was taken.**

Presumption

The Act requires the legislative body of each local unit to pass a general appropriations act adopting a budget for the local unit. ("Local unit" includes a city, village, township, county, county road commission, school district, intermediate school district, and public school academy.)

The bill specifies that a general appropriations act, including any amendment to it, would be presumed to fund those activities of a county mandated by law at a serviceable level.

Suit against Legislative Body

Under the bill, except as otherwise provided, the chief administrative officer of a county would have exclusive standing to bring suit against the legislative body of the county concerning a general appropriations act, including any challenge as to the serviceable levels of funding for any department or branch of that county, including a department or branch headed by another elected or appointed official.

The chief judge of a court funded by a county would have standing to bring a suit on the court's own behalf against the legislative body of that county concerning a general appropriations act, including any challenge as to serviceable levels of funding for the court. If a court and the legislative body of the county were involved in mediation, a mediator would have to certify in writing that the parties were unable to resolve the issues by mediation, before the chief judge of that court sued the legislative body on the court's behalf.

The court hearing a suit would have to consider the financial ability of the county to pay when considering any challenge as to serviceable levels of funding.

Suit against Chief Administrative Officer

The bill specifies that the administration, execution, and enforcement of a general appropriations act approved by the legislative body of a county would be powers exclusively vested in the chief administrative officer of that county.

Except as otherwise provided, the legislative body of a county would have exclusive standing to bring suit against the chief administrative officer of that county concerning an action relating to the administration, execution, and enforcement of a general appropriations act for any department or branch of that county, including a department or branch headed by another elected or appointed official.

The chief judge of a court funded by a county would have standing to bring a suit on the court's own behalf against the chief administrative officer of that county concerning an action relating to the administration, execution, and enforcement of a general appropriations act for the court. If a court and the chief administrative officer were involved in mediation, a mediator would have to certify in writing that the parties were unable to resolve the issues by mediation, before the chief judge of that court sued the chief administrative officer on the court's behalf.

Jurisdiction & Deadline to File

Except as provided below, any suit brought under the provisions of the bill would have to be brought in the Michigan Court of Appeals within 60 days after one of the following:

- The adoption of a general appropriation act.
- An amendment to a general appropriation act or an action relating to the administration, execution, and enforcement of the general appropriations act, if the amendment or action constituted a basis for the suit.

If a court were involved in mediation under the bill during the 60-day period, any suit brought on the court's behalf would have to be brought in the Michigan Court of Appeals within 90 days after one of the events described above.

The Court's jurisdiction over and review of the issues raised in a suit involving an amendment to a general appropriations act or a related action would be limited to that portion of the act that was directly affected by the amendment or action.

The jurisdiction of the Court of Appeals over a suit brought under the bill would be exclusive and that jurisdiction or any inherent judicial duties could not be transferred to any other court. The Court of Appeals, however, could request the Michigan Supreme Court to assign a retired judge to assist it by resolving discovery issues, reviewing the evidence, making proposed findings of fact and conclusions of law, and performing any other necessary related judicial duties.

Unless an action were timely preserved for review by the Court of Appeals, litigation of any issue as to a general appropriations act or any amendment to it, or an action relating to the act's administration, execution, or enforcement, would be barred.

The pendency of a claim in a suit under these provisions would not constitute a basis for expenditure of funds by any department or branch of, or court funded by, the county in excess of that authorized by a general appropriations act, including an amendment to the act.

Severability

If any portion of either section of the Uniform Budgeting and Accounting Act that the bill would amend, or the application of the section to any circumstance, were found to be invalid by a court, the invalidity would not affect the remaining portions or application of the section that could be given effect without the invalid portion or application.

MCL 141.436 & 141.438

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

To the extent that the chief judges of local courts chose to bring suits alleging that serviceable levels of funding had not been met, the Court of Appeals could see an increased caseload. Any conclusion of mediation or litigation resulting from the mechanisms created under this bill that determined that the local government was not funding activities mandated by law at a serviceable level could lead to increased costs for that local unit.

Fiscal Analyst: Dan O'Connor

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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.