



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4704 (Substitute H-1 as passed by the House)
Sponsor: Representative Peter Pettalia
House Committee: Judiciary
Senate Committee: Government Operations

Date Completed: 9-30-13

CONTENT

The bill would amend the Uniform Budgeting and Accounting Act to provide that an elected official heading a branch of county government, or the chief judge of a court funded by a county, would have standing to bring a suit as follows:

- **Against the legislative body of the county, concerning a general appropriations act, including a challenge as to serviceable levels of funding.**
- **Against the chief administrative officer of that county, concerning the administration, execution, and enforcement of a general appropriations act for that branch of county government or that court.**

The bill also would do the following:

- **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.**
- **Require a mediator, if the parties were involved in mediation, to certify that they could not resolve the dispute, before the chief judge could bring a suit.**
- **Require a court hearing a suit against a county's legislative body to consider the county's financial ability to pay, when considering a challenge as to serviceable levels of funding.**
- **Specify a presumption that a general appropriations act would fund mandatory activities of a county at a serviceable level.**

The bill states that it would be retroactive and effective as to cases and matters pending on or initiated after the bill's effective date.

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, an elected official heading a branch of county government, or the chief judge of a court funded by a county, would have 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 that branch of county government or that 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.

An elected official heading a branch of county government, or the chief judge of a court funded by a county, would have 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 that branch of county government or that 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.

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.

Deadline to File; Jurisdiction

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

If a court were involved in mediation with the legislative body or chief administrative officer of a county during that 60-day period, a 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 an action relating to the administration, execution, and enforcement of the act, 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 the act, or an action relating to the act's administration, execution, and enforcement, would be barred.

Contract Approval by Legislative Body

The Act prohibits the delegation of duties to the chief administrative officer of a local unit that diminish any charter or statutory responsibilities of an elected or appointed official. Under the bill, this would include the charter responsibility of a legislative body to approve the making of contracts by the local unit.

Severability

The sections of the Act that the bill would amend are Sections 16 and 18. The bill specifies that if any portion of either section, 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

The bill would give the Court of Appeals exclusive jurisdiction in these types of cases, meaning the Court of Appeals could see an increased caseload. Any conclusion of mediation or litigation 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. However, the bill would make several changes that could decrease the likelihood that a county would be sued for lack of serviceable funding, which could mitigate potential future costs associated with litigating these types of cases and increasing funding to serviceable levels in the event that such a case resulted in a mandate to do so.

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.