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BILL ANALYSIS

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Senate Bill 711 (as introduced 1-14-16)
Sponsor: Senator Goeff Hansen
Committee: Government Operations

Date Completed: 2-8-16

CONTENT

The bill would amend the Michigan Financial Review Commission Act extend it to a "qualified school district" (Detroit Public Schools); provide for the Financial Review Commission for Detroit also to be the Financial Review Commission for the school district; give the Commission generally the same oversight for the district as it has for the city; and provide that the district could not appoint a superintendent without the Commission's approval.

The Act creates a Financial Review Commission for a "qualified city", which is a city with a population of more than 600,000 that is subject to a plan of adjustment of its debts approved and entered by a U.S. bankruptcy court under Chapter 9 of Title 11 of the United States Code (i.e., Detroit).

Under the bill, a Financial Review Commission also would be created for a "qualified school district", which would be a community school district organized under Part 5B of the Revised School Code, to which the functions of a qualifying school district had been transferred. (Senate Bill 710 would add Part 5B to the Code and otherwise amend the Code to provide for the transfer of a qualifying school district (Detroit Public Schools) to a proposed "community district", which would have the same geographic boundaries as the qualifying district. The qualifying district would retain a separate legal identity and its territory would continue as a separate taxing unit until the district's outstanding debts were repaid.)

Senate Bill 711 provides that, if a community school district became a qualified school district under the Act and the district were located within the geographic boundaries of a qualified city for which a Financial Review Commission was operating under the Act, beginning on the transfer date, the Commission for the city also would be the Financial Review Commission for the school district, and no separate or additional commission would be created for the district. (That is, the Financial Review Commission operating for Detroit would be the Financial Review Commission for the school district. Under Senate Bill 710, the "transfer date" would be July 1, 2016.)

The Commission must consist of nine members specified in the Act, including the mayor or chief executive officer of the qualified city, or his or her designee, as well as the president or chairperson of the city's governing body, or his or her designee. Under the bill, in addition to those individuals, the Commission would have to include the superintendent of the qualified school district and the chairperson of its school board. The superintendent and school board chairperson would not have a vote on matters relating to the city. The mayor or chief executive officer of the city and the president or chairperson of its governing body, or their designees, would not have a vote on matters relating to the school district.

The Act requires the Commission to provide oversight for the city. The bill also would require the Commission to provide oversight for the qualified school district beginning on the date that the school district became a qualified school district.

The Commission must ensure that the city is complying with the Act, the Revised Municipal Finance Act, the Uniform Budgeting and Accounting Act, and specified sections of the Publicly Funded Health Insurance Contribution Act and the Home Rule City Act. The bill would require the Commission also to ensure that the qualified school district was in compliance with those laws, as applicable, and the following:

-- The Revised School Code.
-- Article 1 (State Aid to Public Schools, Early Childhood, and Adult Education) of the State School Aid Act.
-- The Public School Employees Retirement Act.

The Financial Review Commission Act requires the Commission to establish and maintain programs and requirements for the responsible fiscal management of the qualified city. Among other things, the programs and requirements must include the streamlining of the provision of services and review of the compensation and benefits of employees. The bill would extend these provisions to the qualified school district.

Currently, all applicable contracts are subject to review and approval by the Commission, but they must first be approved by the governing body and mayor of the city. The bill would require applicable contracts to be first approved by the governing body and the mayor or chief executive officer of the city or the qualified school district. ("Applicable contract" means a contract for goods or services that either exceeds $750,000, or a higher amount determined by the Commission, or is for a term exceeding two years. "Applicable contract" also includes multiple contracts for less than $750,000, or a higher amount determined by the Commission, with one entity that, in the aggregate, exceed $750,000 or the higher amount within a 12-month period.)

Under the Act, the qualified city, when required by the Commission, must present written reports regarding its financial stability and must permit the Commission to audit or inspect financial statements, actuarial reports, revenue estimates, and all other documents, data, or findings that the Commission considers necessary to carry out its purpose. The bill would extend this requirement to the qualified school district.

The bill also would include references to the qualified school district, its governing body, or its chief financial officer in provisions that do the following:

-- Require the Commission, on June 1 and December 1 of each year in which it has oversight over the city, to file a written report with the Governor.
-- Require the Commission to approve all collective bargaining agreements to which the city is a party after approval of its governing body and mayor.
-- Require the mayor, governing body, and chief financial officer of the city, at least 45 days before the beginning of each fiscal quarter, to certify to the Commission the amount of debt service due on bonds, leases, or other debt.

(Also, where current provisions refer to the city's mayor, the bill would add "or chief executive officer".)

In addition, the bill would include references to the qualified school district, its governing body, or its chief financial officer in provisions that authorize the Commission to do the following:

-- Review, modify, and approve proposed and amended operational budgets of the city.

-- Require the city's chief financial officer to give the Commission information it requests related to the city's finances, and require the city to remove the chief financial officer and appoint a successor if he or she fails to comply.
-- Review and approve requests by the city to issue debt under the Revised Municipal Finance Act or any other law governing the issuance of bonds or notes.
-- Review the appointment of the city's chief financial officer.
-- Review the city's compliance with a deficit elimination plan.
-- Require the development and implementation of financial best practices for the city.
-- Require the pursuit of financial or managerial training to ensure the proper discharge of duties for the city.
-- Require the city and its employees or agents to timely produce all information and documents, and provide access to all information on assets, services, records, and other materials or documents the Commission determines are necessary to carry out its responsibilities.
-- Require officers or employees of the city to attend Commission meetings.

In addition, the bill would authorize the Commission to approve the appointment of the school district's superintendent. The appointment would be denied if it were not approved within 45 days after written submission by the district. The district could not alter the terms and conditions of an employment contract with or the benefits of its superintendent or terminate its superintendent without the Commission's approval. The superintendent and the chairperson of the school board would not have a vote on approval.

The Act requires the Commission to waive requirements concerning its oversight if various conditions are met. These include certification by the Commission that the city has adopted and adhered to deficit-free budgets for three consecutive years; demonstration by the city that it has sufficient ability to borrow in the municipal securities market; and certification by the Commission that the city is in substantial compliance with the Act. The city also must have established employee retirement plans that meet certain criteria. Under the bill, the Commission also would have to waive oversight requirements for the school district if generally the same conditions were met. Instead of the employment plans required of the city, the school district would be required to have fully satisfied all of its obligations to the system created under the Public School Employees Retirement Act and under any other school improvement plan or measure applicable under Section 1280c the Revised School Code. (That section applies to the 5% lowest-achieving schools in the State.)

The Act also requires the Commission to rescind its waiver of oversight if certain circumstances occur or there is a substantial likelihood that they will imminently occur. This applies, for example, if the city fails to pay the principal of or interest on any municipal securities when due or payable; the city incurs a budget deficit in a fiscal year equal to or more than 5% of the total expenditures in that year; the city issues municipal securities without the Commission's authorization or in violation of the Revised Municipal Finance Act; or the city's chief financial officer has resigned or been terminated and a successor has not been appointed within 180 days. The bill also would require the Commission to rescind its waiver of oversight for the school district under generally the same circumstances, and if the district were not in compliance with a school improvement plan or measure applicable under Section 1280c of the Revised School Code.

The Act requires the Commission to dissolve itself if it has waived its oversight requirements each year for the immediately preceding 10 consecutive fiscal years, and the plan for adjustment has expired. Under the bill, however, the Commission could not dissolve itself until the State Treasurer certified the payment in full of all outstanding debt of the qualified school district.

MCL 141.1632 et al. Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

State: If the Department of Treasury's Financial Review Commission required additional staff, services, contracts, or supplies in order to review a qualified school district (which would be the proposed community district in Detroit), in addition to the City of Detroit, then there would be increased State costs. Under current law, a Financial Review Commission already exists for review of the City of Detroit, and under the bill, the Commission's role would be expanded to review the finances of the "new" Detroit school system. The Department of Treasury has estimated that the additional cost to the Financial Review Commission for oversight of the "new" system would be $1.0 million, which would be used primarily to support outside assistance and expertise to assist with necessary review and analysis on both the financial and academic sides of the district, as well as the transition itself from the "old" to the "new" system.

Local: The Financial Review Commission would be required to review and approve applicable contracts and collective bargaining agreements (CBAs) of the qualified school district (other than those approved by an emergency manager), and the school district would not be able to execute CBAs until approved by the Commission. It appears that the contracts in place on the transfer date (July 1, 2016) would remain in place, but new contracts and CBAs would be subject to approval by the Commission. Therefore, there could be some fiscal impact on the district if the Commission's approvals or disapprovals of contracts and CBAs caused the district to change its financial planning compared to what it would have done in the absence of Commission oversight.

Similarly, the bill would allow the Commission to revise a revenue estimate prepared in connection with a budget of the qualified district if the Commission determined that the revenue estimate was not based on reasonable assumptions, which could lead to adjustments in the district's budget. Also, the bill would allow the Commission to review, modify, and approve proposed and amended operational budgets of the qualified district, and the proposed budget would not take effect unless approved by the Commission. Therefore, again, there could be some fiscal impact on the district if the oversight of the Commission caused it to use a different set of revenue and expenditures than it would in the absence of the oversight.

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