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BILL ANALYSIS

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House Bill 5189 (Substitute H-1 as passed by the House)
Sponsor: Representative Amanda Price
House Committee: Appropriations

CONTENT

The bill would provide supplemental appropriations for fiscal year (FY) 2011-12 for the Department of Human Services (DHS). The supplemental would provide $62.0 million from Temporary Assistance for Needy Families (TANF) funding for the State emergency relief energy services line item. The supplemental would be a one-time appropriation.

BACKGROUND

Public Act (PA) 141 of 2000 established the Low-Income Energy and Efficiency Fund (LIEEF) as a State restricted fund. The Act was designed to open the electricity market to competition so alternative suppliers could market to the customers of major suppliers. In order to soften the transition for the major energy suppliers, the Act allowed them to find savings by issuing bonds to pay off their assets, i.e., through securitization savings. Later, the savings were collected as a customer fee rather than through securitization. The excess savings from both methods went to LIEEF, which in turn funded projects serving low-income customers and energy conservation efforts.

When Michigan revamped the State energy plan in 2008 with the enactment of PA 286 and PA 295, the authorization that permitted the State to collect and distribute funds through LIEEF was eliminated from statute. This change exposed the State to a lawsuit, so that all of the funds that had been collected for distribution in FY 2011-12 are now being held in escrow. (The amount is not confirmed.) The Licensing and Regulatory Affairs (LARA) budget had provided for up to $95.0 million in spending authorization, $47.0 million of which would have been paid to the DHS with the remainder distributed to nonprofit and other private agencies. Previously, LIEEF provided both direct assistance payments to low-income households and energy efficiency grants.

With the loss of the LIEEF as a restricted revenue source to fund energy assistance for low-income families in FY 2011-12, both the Senate and the House have introduced different temporary solutions to address the shortfall.

The Senate solution is proposed in Senate Bills 364 and 864. Senate Bill 864 (S-2) would replace the loss of LIEEF by creating a new State restricted revenue fund, the Vulnerable Household Warmth Fund, in order to provide direct assistance to low-income customers through payments to utilities. Senate Bill 364 (S-2) would make supplemental appropriations for FY 2011-12 from the Fund, which would be funded similarly to the way LIEEF was funded.

The House solution is proposed in House Bills 5189 and 5190. House Bill 5189 (H-1) would use $62.0 million in TANF funding to cover State emergency relief energy services in FY 2011-12. The State receives $775.0 million annually from TANF, and provides funding for multiple programs in the DHS budget, as well as programs in the Higher Education, Community Health, and LARA budgets. House Bill 5190 (H-1) would require the refund of money held in escrow for LIEEF.

FISCAL IMPACT

House Bill 5189 (H-1) would increase Gross appropriations by $62.0 million and General Fund/General Purpose (GF/GP) appropriations by $0. The revenue would come from Federal TANF funding.

The bill would also create a TANF deficit in the FY 2012-13 budgeting process. Although it is likely that there will be enough TANF carry-forward funding available at the close of FY 2011-12 to fund the bill, doing so would directly affect FY 2012-13 in several ways.

1. The SBO, the Senate Fiscal Agency (SFA), and the House Fiscal Agency (HFA) are all in agreement that the proposed use of TANF would result in a deficit for the FY 2012-13 budgeting process. The estimates of the deficit range from $17.0 million (HFA) to $48.0 million (SBO), with the SFA analysis totaling $25.3 million. The early SBO analysis had not considered additional TANF contingency funding and some other program adjustments.

   The SFA, HFA, and SBO analyses were all based on the available TANF carry-forward revenue at the close of FY 2010-11, which is $160.3 million. Of this carryforward, $85.1 million was appropriated in the FY 2011-12 budget, leaving $75.1 million available in FY 2011-12. The SFA and HFA analyses also recognized increased TANF contingency revenue in the amount of $25.8 million in FY 2011-12. Both estimates also included the costs of a Federal injunction on the closure of Family Independence Program cases, which totaled $5.5 million.

2. If the State used TANF funding for State Emergency Relief in FY 2011-12, this could reduce the State's flexibility to offset other potential Federal funding losses in FY 2012-13. The State's eligibility for TANF contingency funding in FY 2012-13 is highly uncertain due to the reduction in the Earned Income Tax Credit and its effect on the State Maintenance of Effort (MOE) requirement. It is likely, however, that the State will be eligible for TANF contingency funding in FY 2011-12 ranging from $25.0 million to $75.0 million, which would contribute to the FY 2011-12 year-end TANF carry-forward balance.

3. The Federal Budget Control Act of 2011 also presents an unknown factor. Early estimates project that the State could experience up to $268.7 million in reduced Federal funding from FY 2011-12 beginning in January 2013.

Boilerplate Language Sections

Sec. 201. Records amount of total State spending and payments to local units of government included in the bill.

Sec. 202. Subjects appropriations and expenditures in the bill to the provisions of the Management and Budget Act.

Sec. 301. Appropriates $62.0 million in TANF funding to the DHS for state emergency relief on a one-time basis.

Date Completed: 12-13-11 Fiscal Analyst: Frances Carley