

SAGINAW COUNTY: REPEAL LOCAL ACTS

House Bill 5365 as introduced
House Bill 5366 as introduced

First Analysis (12-17-03)

Sponsor: Rep. Jim Howell
Committee: Judiciary

THE APPARENT PROBLEM:

In early 2001, Saginaw County officials completed a review of local acts affecting the county, and as a result have requested legislation to repeal four of these local acts. Local Act 653 of 1905 concerns the election of officers and appointees by the board of supervisors, and Local Act 540 of 1903, Local Act 10 of 1919, and Local Act 4 of 1921 concern budgeting and accounting controls. County officials believe that the generally applicable public acts addressing these matters would better serve the county.

THE CONTENT OF THE BILLS:

House Bill 5365 would repeal Local Act 653 of 1905, which requires that all officers, appointees, and servants elected by the board of supervisors of Saginaw County be elected by *viva voce* vote. (As regards voting, the term *viva voce*, according to Black's Law Dictionary, "signifies voting by speech or outcry as distinguished from voting by a written or printed ballot".)

House Bill 5366 would repeal Local Act 540 of 1903, which established a board of county auditors for Saginaw County and prescribed its powers and duties and the nature of its operations.

BACKGROUND INFORMATION:

Previous legislation. Last session, House Bills 5877 and 5878, which also would have repealed Local Act 653 of 1905 and Local Act 540 of 1903, respectively, were reported by the Redistricting and Elections Committee but failed to see floor action.

Local and Special Acts. According to the Legislative Service Bureau's publication entitled, "Population in Statute", prior to the approval of the 1908 state constitution, local problems were largely addressed through the passage of local and special acts by the state legislature. As the problems associated with the

growth of cities, the increasing urbanization of society, and technological advances created the need for more and more legislation, the use of local and special acts began to take more and more of the legislature's time and also gave rise to concerns about the potential for abuse. Political reformers of the nineteenth century (in Michigan as across the United States) embraced the concept of home rule for local governments and the elimination of the use of local act legislation. The Constitutional Commission of 1873 first proposed restrictions on the use of local and special acts in Michigan. That concept was adopted in the state constitution of 1908, and was carried over largely unchanged with the adoption of the 1963 state constitution. Article 4, Section 29 of the Constitution of the State of Michigan of 1963 states:

The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Local acts are not compiled in the same manner as the general public acts (which are collected in the Michigan Compiled Laws). Local acts of any given year are printed in the volumes of the Local and Public Acts of the State of Michigan (but one must know the year of an act in order to locate it).

As noted, local acts were used predominantly in the years preceding the 1908 constitution. According to the Legislative Service Bureau, in the three

legislative sessions preceding the approval of the 1908 constitution, the legislature passed 1,973 local acts. By contrast, in the three legislative sessions following the implementation of the 1908 constitution, only 27 local acts were passed. Since 1909, only 247 local acts have been passed – most of those repealing previously enacted local acts. Only two local acts have been adopted in the last 25 years. The LSB notes that classification of local units by population in statute has evolved as a means to replace local and special acts.

There may be thousands of local acts in existence. However, many are moot as they applied to one-time occurrences (e.g., granting authority to build a bridge), and many others, whose purpose was to establish particular local units of government, have been superseded as municipalities rechartered themselves as home rule entities. Other local acts, especially those pertaining to counties, still are in force.

FISCAL IMPLICATIONS:

Based on information by the House Fiscal Agency on similar bills last session, House Bill 5365 would have no fiscal impact and House Bill 5366 would save Saginaw County \$250 each year.

ARGUMENTS:

For:

Since spring of 2001, the members of the Saginaw County Board of Commissioners have requested the legislature to repeal two local acts that appear to be outmoded and unnecessary, as general public acts (that apply to other counties) would suffice to govern matters such as budgeting and auditing functions, and the election of officers. For example, the Uniform Budgeting and Accounting Act requires local governments to follow prescribed accounting procedures and provides for audits of local units by the Department of Treasury, so it would seem unnecessary for the county to be required to have a board of auditors to review expenditures that have already been approved by the board of commissioners.

In addition, county officials say that the county would like to come under Public Act 392 of 2000, which allows county boards to elect their chairpersons for two-year terms, but cites the local act regarding the election of officers in Saginaw County as precluding that. By repealing these two local acts, Saginaw County would be placed on the

same footing as other counties with respect to these issues.

Response:

The county has also requested the repeal of two additional local acts that also concern budgeting and accounting controls (Local Act 10 of 1919 and Local Act 4 of 1921); these should be addressed in legislation, too. In addition, there are other local acts governing Saginaw County, including one that sets the annual salary of the county treasurer, the prosecuting attorney, the clerk, and the register of deeds at \$2,500. Presumably, these other acts are also outdated and unnecessary. Shouldn't they be repealed as well? And, what about the thousands of other local acts in existence? Perhaps it is time for the legislature to address the repeal of local acts in a comprehensive fashion.

Further, Local Act 653 of 1905 appears only to require a voice vote to elect officers; it does not appear to govern the length of officers' terms. It is unclear why Saginaw County could not elect its board chair for a two-year term.

POSITIONS:

The Saginaw County Board of Commissioners supports the repeal of the four local acts. (10-28-03)

The Michigan Association of Counties supports the bills. (12-16-03)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.