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Senate Bill 8 (Substitute S-5 as passed by the Senate)  
Senate Bill 9 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Mark C. Jansen  
Committee: Reforms, Restructuring and Reinventing

Date Completed: 6-27-11

## **CONTENT**

**Senate Bill 8 (S-5) would create the "Municipal Partnership Act" to authorize two or more local governments, or one or more local governments and a public agency, to enter into a contract to form a joint endeavor that could exercise the functions of the local government or public agency. The bill also would:**

- Allow a joint endeavor to levy up to five mills with voter approval.
- Describe provisions that the contract creating a joint endeavor could contain, including provisions for an authority.
- Allow a party to the contract to use tax revenue dedicated to a function or service, to pay for the exercise or performance of that function or service under the contract.
- Identify prohibited subjects of collective bargaining between a local government and a bargaining representative of its employees.
- Specify that the proposed Act would control over any conflicting statute, rule, charter, or ordinance.
- State that nothing in the Act would create an employment relationship between the existing employees of a local government or public agency and a proposed joint endeavor.

**Senate Bill 9 (S-1) would amend the public employment relations Act to state that the provisions of the Act would be subject to the Municipal Partnership Act, Public Act 8 of 1967 (Ex Sess) (which allows intergovernmental transfers of functions and responsibilities), the Urban Cooperation Act, and Public Act 57 of 1988 (which allows municipalities to incorporate emergency services authorities).**

The bills are tie-barred to each other. Senate Bill 9 (S-1) also is tie-barred to House Bills 4309, 4311, and 4312. (House Bills 4309 (S-1), 4311 (S-1), and 4312 (S-2) would amend Public Act 57 of 1988, Public Act 8 of 1967 (Ex Sess), and the Urban Cooperation Act, respectively, to eliminate provisions that require labor agreements to be recognized, require employees to have the same seniority and benefits, or require members and beneficiaries of pension systems or other benefits to have the same rights and benefits, following a transfer of personnel. The bills also identify subject that would be prohibited subjects of collective bargaining.)

Senate Bill 8 (S-5) is described in detail below.

### Formation of Joint Endeavor

Two or more local governments or one or more local governments and a public agency would be authorized to enter into a contract with each other to form a joint endeavor to perform or exercise any function, service, power, or privilege that the local government or public agency could exercise separately.

"Local government" would mean a county, city, village, or township. "Public agency" would mean the State, any department or agency of the State, a single-purpose or multipurpose public body corporate formed under a law other than the proposed Act, or an Indian tribe recognized by the Federal government before 2000 that exercises governmental authority over land within the State.

The contract would have to be approved by resolution of the governing body of each participating local government.

### Contractual Provisions

A contract to form a joint endeavor could provide for the purpose of the joint endeavor with reference to the functions, services, powers, or privileges to be performed or exercised and the methods by which the purpose would be accomplished or the manner in which the joint endeavor would be exercised or performed.

The contract also could provide for an authority, including the precise organization, composition, and nature of the authority and its board with the functions, duties, obligations, powers, and privileges given to the authority and board. If the contract did not create an authority, it could provide for the precise organization, composition, and nature of any separate legal or administrative entity created by the joint endeavor with the powers designated to that entity.

In addition, the contract could provide for the following:

- The entity or entities that would function as the employer or employers of personnel and staff needed for the joint endeavor.
- The method of financing to be used and the amount to be paid by each participating local government or public agency in relation to the purpose of the joint endeavor.
- The method for submitting the question of a tax levy to the electors served by the joint endeavor.
- The designation and selection of officers of an authority board or any legal or administrative entity created by the joint endeavor in the contract.
- The acquisition and disposal of personal or real property.
- The operation, maintenance, repair, replacement, construction, and improvement of personal or real property.

The contract also could provide for:

- The duration of the contract and the method by which it could be terminated early by any participating local government or public agency.
- The making and promulgation of necessary rules and regulations and their enforcement by or with the assistance of the parties to the contract.
- The manner of allocating risks and responding to any claims of liability that could result from the joint endeavor or being a party to the contract, and for insuring against any such liability.
- The methods of addressing and resolving disputes among the parties to the contract.

-- Any other matters agreed upon by the parties.

Further, the contract could provide for one or more parties to administer or execute it or to exercise or perform some or all of the functions, services, powers, or privileges to be exercised or performed by the joint endeavor.

A contract entered into under the proposed Act would not be subject to referendum under any local charter provision or ordinance.

The authorization to enter into contracts under the Act would be in addition to and could be exercised separately from any authorization to enter into contracts under any other State statute.

### Tax Revenue

Notwithstanding any local charter or ordinance to the contrary, a party to a contract forming a joint endeavor could use tax revenue that was dedicated to pay for the exercise or performance of any function, service, power, or privilege by that party individually, to fund the exercise or performance of that function, service, power, or privilege under the contract.

The joint endeavor could levy a tax of up to five mills on all taxable property in the areas it served for the purpose of providing revenue to the joint endeavor. The joint endeavor could levy the tax only if it were approved by a majority of electors served by the joint endeavor voting on the tax.

### Local Authority; Collective Bargaining

The local governments that were parties to a contract under the proposed Act would have the responsibility, authority, and right to manage and direct on behalf of the public the functions or services performed or exercised in connection with the contract.

The following matters would be prohibited subjects of bargaining between a local government and a bargaining representative of its employees:

- Whether the local government would enter into a contract for a joint endeavor under the proposed Act for or in connection with one or more functions or services.
- The procedures for obtaining the contract for a joint endeavor.
- The identities of the other parties to the contract.

The contents or language of a contract would be a permissive subject of collective bargaining. If a local government and a bargaining representative of its employees engaged in collective bargaining before the contract was approved, however, and the parties reached an agreement on issues that would obligate an entity that would function as an employer in the joint endeavor, the contract would have to include those obligations.

Nothing in the proposed Act would relieve a local government of the duty, to the extent a duty existed under applicable law, to bargain collectively with its employees over the effect of the joint endeavor on the employees.

Proposed MCL 423.201a (S.B. 9)

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

Senate Bill 8 (S-5) would potentially increase State and/or local unit revenue and/or expenditures by an unknown amount. If a joint endeavor were funded from existing

revenue, the bill would not increase revenue but would likely allocate expenditures differently.

Senate Bill 8 (S-5) would allow a property tax of up to five mills to be levied on all areas served by a joint endeavor. If a joint endeavor were to involve a contract between the State and a local unit to provide some service statewide, the bill would appear to allow an election for a statewide tax to fund the activity.

Senate Bill 9 (S-1) would have an unknown effect, which would depend on how subjecting the public employment relations Act (PERA) to the proposed Municipal Partnership Act would affect the terms of any public service employment. Senate Bill 8 (S-5) does not place any restrictions on the terms of public employee contracts and Senate Bill 9 (S-1) would effectively exempt such contracts, as well as agreements under the Urban Cooperation Act, Public Act 52 of 1988, and Public Act 8 of 1967 (Ex sess), from the requirements of PERA, as well as prohibit certain issues from being subject to collective bargaining.

The bills would have no impact on State revenue or expenditure, unless the State were to enter into a contract allowed under Senate Bill 8 (S-5).

Fiscal Analyst: David Zin

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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.