



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 979 (Substitute S-2 as passed by the Senate)
Senate Bill 999 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Jim Ananich
Committee: Government Operations

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RATIONALE

It is common knowledge that the City of Flint's municipal water supply was contaminated after the city discontinued its water supply contract with the Detroit Water and Sewerage Department early in 2013, and for a period of time used the Flint River at its water source. As a result, declarations of emergency were made at the local, State, and Federal levels. The water contamination presented health risks for individuals, particularly children who were exposed to high levels of lead, and added to the economic challenges of the city, which was experiencing a financial emergency at the time the water supply was switched. To date, the State has spent approximately \$234.0 million to remedy the situation. In March 2016, the State released an action plan to address the water supply and infrastructure, health and human services, education, and economic development. More recently, additional suggestions have been made to improve the situation in Flint.

One suggestion involves the creation of a local authority that would have the power to levy a tax, with voter approval, and issue revenue bonds, in order to assist in the city's economic development. State statutes provide for a number of different authorities that are set up to address various local situations and needs. Some people believe that allowing Flint to establish such an authority would enhance the city's control over its future development and give the city a tool to carry out and pay for its economic recovery efforts.

In addition, it has been suggested that the State should certify a "promise zone" for the city, in order to assist Flint high school graduates with the costs of college or career training. The Michigan Promise Zone Authority Act allows the governing body of an eligible entity, if certified by the Department of Treasury, to establish a promise zone and provide a promise of financial assistance for postsecondary education to students who graduate from a public or nonpublic high school within the zone. (An eligible entity is a city, township, county, local school district, or intermediate school district in which the percentage of families with minor children who are living at or below the Federal poverty level is greater than or equal to the State average.) With certification by the Department, an eligible entity's governing body qualifies to receive captured revenue from the State Education Tax. Since the Department may certify a maximum of 10 promise zones, and they already have been designated, it has been suggested that the cap be increased in order to accommodate Flint.

CONTENT

Senate Bill 979 (S-2) would enact the "Municipal Recovery and Development Authority Act" to:

- Permit a local government in which a drinking water declaration of emergency was issued by the Governor to form a municipal recovery and development authority.**
- Provide that the authority would have a maximum duration of 15 years.**

- **Permit the authority to provide funding to the local government to promote and assist in its recovery and economic development regarding a drinking water declaration of emergency.**
- **Permit the authority, with voter approval, to levy a tax of up to 0.5 mill on taxable property within the local government, for not longer than the authority was in existence.**
- **Permit the authority to borrow money and issue revenue bonds and notes.**
- **Provide that the bonds would have to be sold to the Michigan Finance Authority, and could not mature beyond the existence of the authority.**
- **Require the authority to be governed by an 11-member board of directors, which would have to hire an executive director.**

Senate Bill 999 (S-1) would amend the Michigan Promise Zone Authority Act to permit the Department of Treasury to certify up to 11, rather than 10, governing bodies of eligible entities to establish a promise zone; and require the additional eligible entity to be a city with a population of more than 80,000 and less than 120,000 in which a declaration of emergency was issued for drinking water contamination.

A more detailed description of each bill follows.

Senate Bill 979 (S-2)

Establishment of Authority; Board of Directors

Under the proposed Municipal Recovery and Development Authority Act, a local government could form a municipal recovery and development authority to promote and assist in the recovery and economic development of that local government regarding a drinking water declaration of emergency issued by the Governor. "Local government" would mean a city in which such a declaration was issued.

To initiate the establishment of an authority, a majority of the members of the local government's governing body would have to prepare articles of incorporation. Before the articles were adopted, they would have to be published at least once in a newspaper generally circulated within the local government and would have to be posted on its website. Upon adoption, the clerk of the local government would have to file the articles with the Secretary of State.

The authority would have a duration of not more than 15 years from the date the articles were filed.

The authority would have to be directed and governed by an 11-member board of directors consisting of the following appointed members:

- Two individuals appointed by the Governor from a list of three or more selected by the Speaker of the House of Representatives.
- Two members appointed by the Governor from a list of three or more selected by the Senate Majority Leader.
- One licensed or registered health professional, appointed by the chief executive officer of the local government (the mayor).
- One civil engineer licensed as a professional engineer, appointed by the chief executive officer.
- One certified public accountant appointed by the governing body of the local government.
- One education professional, appointed by the governing body.
- Two at-large members appointed by the chief executive officer.
- One at-large member appointed by the governing body.

At least one of the members appointed by the Governor from the list submitted the Speaker of the House, and at least one appointed from the list submitted by the Senate Majority Leader, would have to be residents of the local government. At least two of the members appointed by the chief executive officer and two appointed by the governing body also would have to be residents of the local government.

The board would be subject to the Open Meetings Act and the Freedom of Information Act.

The board would have to hire an executive director to whom the authority could delegate any of its administrative powers and authorizations. An executive director could not enter into a contract that had a cumulative value of \$100,000 or more without approval of a majority of the board members.

The board also would have to employ and set the compensation of employees of the board and contract for legal and other professional services that it considered necessary.

The board would be required to submit a monthly progress report to the chief executive officer and the governing body of the local government, which would have to make the report available on its internet website. The monthly report would have to include, at least, a list of all expenditures by the authority for the reporting period.

The board also would have to obtain an annual audit of the authority, and report on the audit and auditing procedures, as provided in the Uniform Budgeting and Accounting Act.

If it ended a fiscal year in a deficit condition, the authority would have to file a financial plan to correct the deficit condition as provided in the State Revenue Sharing Act.

Authority Tax

The authority could levy a tax of not more than 0.5 mill on all of the taxable property within the local government. The tax could be levied for a period of time as determined by the board that did not go beyond the existence of the authority. The tax could be levied for the purpose of promoting and assisting in the recovery and economic development of the local government regarding a drinking water declaration of emergency issued by the Governor. The authority could levy the tax only if a majority of the electors in the local government voting on the tax at a statewide general or primary election approved the tax.

A proposal for a tax could not be placed on the ballot unless the proposal was adopted by a resolution of the board and certified by the board not later than the 12th Tuesday before the election to the clerk of the local government. Not more than two elections could be held in a calendar year on a proposal for a tax.

A tax authorized to be levied under the proposed Act would have to be levied and collected at the same time and in the same manner as provided in the General Property Tax Act.

Bonds & Notes

The authority could borrow money and issue revenue bonds and notes for the purpose of promoting and addressing the recovery and economic development of the local government regarding a drinking water declaration of emergency issued by the Governor.

Revenue bonds would be payable upon the terms and conditions specified by the authority in the resolution under which it issued the bonds or in a related trust agreement or trust indenture. Bonds could not mature beyond the existence of the authority.

The resolution would have to contain specified items, including a provision for the deposit of revenue pledged for the payment of bonds into a separate account for the purpose of paying principal and interest on the bonds, the administrative costs associated with them, and any other bonds issued by the authority that were secured by that revenue.

The authority could issue bond anticipation notes secured by the issuance of revenue bonds, in addition to the revenue that the authority would be permitted to pledge for the payment of the bonds or other obligations of the authority.

Bonds issued under the proposed Act would have to be sold to the Michigan Finance Authority.

The bonds would not be subject to the Revised Municipal Finance Act or the Revenue Bond Act.

Other Authority Powers

In addition to the activities described above, the authority could enter into contracts necessary or incidental to the performance of its powers, duties, functions, and responsibilities. The authority could not enter into any contract longer than the existence of the authority.

The authority could solicit, receive, and accept gifts, grants, loans, contributions of money, property, or other things of value, or other aid or payment from any Federal, State, local, or intergovernmental agency, or from any other person or entity, and participate in any other way in a Federal, State, local, or intergovernmental program.

The authority also could apply for and receive loans, grants, guarantees, or other financial assistance from any Federal, State, local, or intergovernmental agency or from any other person or entity.

In addition, the authority could acquire, hold, lease, and dispose of real and personal property, and could convey, sell, transfer, exchange, lease, or otherwise dispose of property or rights or interests in property to any person for consideration.

Senate Bill 999 (S-1)

Under the Michigan Promise Zone Authority Act, if the governing body of an eligible entity submits an application to the Department of Treasury according to procedures in the Act, and the Department determines that the governing body is eligible to establish a promise zone, the Department must certify the eligibility. The governing body then must establish the zone and is eligible to receive captured revenue from the State Education Tax. (A local unit that is not an eligible entity also may create a promise zone but may not receive that revenue.)

For the additional promise zone, the bill would require the Department to review, on a first-come, first-served basis, only those applications submitted by the governing bodies of eligible entities that are cities meeting both of the following:

- The city would have to have a population of more than 80,000 and less than 120,000 according to the most recent decennial census.
- The city would have to be one in which a declaration of emergency was issued for drinking water contamination within the immediately preceding three years.

MCL 390.1664 (S.B. 999)

BACKGROUND

As widely reported, the City of Flint decided early in 2013 to discontinue its water supply contract with the Detroit Water and Sewerage Department (DWSD) and to join the Karegnondi Water Authority (KWA). Because the connection to the KWA required the construction of a new pipeline, which was expected to take at least two years, Flint continued to obtain water from the DWSD. In April 2014, however, after unsuccessful negotiations with the DWSD, and while Flint was under the control of an emergency manager, the city began using the Flint River for its water source. The corrosive effect of the Flint River water on lead pipes and plumbing fixtures then caused excessively high levels of lead in the water supply, a finding that ultimately was confirmed in September 2015. In addition, there have been concerns that the Flint water supply was contaminated with *Legionella*, the bacteria that can cause a serious type of pneumonia called Legionnaires' disease.

On September 14, 2015, Flint Mayor Karen Weaver declared a state of emergency. On January 5, 2016, Governor Rick Snyder issued a declaration that a state of emergency existed in Flint and Genesee County. In response to a request from Governor Snyder, President Barack Obama

declared on January 16, 2016, that an emergency existed in Michigan and ordered Federal aid to supplement State and local response efforts.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The City of Flint and its residents are still experiencing the aftermath of their municipal water contamination. Although the city returned to the DWSD for its drinking water after high lead levels were confirmed,¹ Flint's water had been unsafe for more than a year. The recovery may take years, especially for children who were exposed to dangerously high levels of lead. The State has provided approximately \$234.0 million to ensure safe drinking water, improve nutrition, pay residents' water bills, expand health care, and otherwise address the challenges presented by the municipal water emergency. In addition, private individuals, community foundations, and charitable organizations have invested considerable resources to help Flint's recovery. These efforts are ongoing and likely will continue indefinitely.

The bills propose additional approaches to help Flint recover and ensure a strong future for the city. Senate Bill 979 (S-2) would allow Flint to create a recovery and development authority whose members could address the immediate needs of the city's residents, as well as provide a long-term, stable response, which would be in place even if local elected officials changed. Members would include individuals from specific professions who would provide expertise as well as oversight, to make sure the recovery was occurring in the most effective way. Modeled on similar authorities that have had success, the proposed Flint recovery authority would provide local control and transparency, should Flint's governing body choose to use this tool.

By permitting the Treasury Department to certify a promise zone for Flint, Senate Bill 999 (S-1) would help local high school graduates pay for postsecondary education, including college or career training. Promise zones can pool private resources in addition to receiving captured State Education Tax revenue. Many students in Flint have been exposed to contaminated water and their health may have been compromised, and they are growing up in an environment with serious economic challenges. In addition to giving these students a deserved promise of financial assistance, and a measure of hope, the bill would encourage families to remain in the city, so their children would be able to take advantage of this assistance.

In sum, these proposals would build on the efforts already being made at all levels of government, and in the private and nonprofit sectors, to help Flint and its residents recover and succeed. Flint's future depends not only on water quality but also on economic development and educational attainment.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 979 (S-2)

If established, the proposed municipal recovery and development authority (MRDA) would increase revenue for recovery and development within the City of Flint by an unknown amount. The MRDA would incur administrative costs and the city would incur costs to incorporate the authority. The fiscal impact of the bill would depend on the decision of the city to establish an MRDA and subsequent decisions by the authority board regarding administrative and project costs, bonding, and the levy of a property tax of up to 0.5 mill for up to 15 years. The MRDA could receive revenue from grants; loans; and local, State, and Federal government. An MRDA property tax of 0.5 mill,

¹ Flint decided to move forward with its plan to join the KWA but that water source cannot be used until the city meets testing criteria of the U.S. Environmental Protection Agency, which is not expected to occur until 2017. "Officials: Flint will remain with KWA", *The Detroit News*, 6-21-2016.

if approved by the voters, would raise annual revenue of approximately \$355,000 based on Flint's 2016 taxable value. That amount would likely decline for at least several years because of the phase-in of the exemption from taxation of eligible manufacturing personal property under current law, and the downward trend in taxable value in Flint. Since 2010, taxable value in Flint has declined by approximately 45%. The MRDA would be authorized to issue bonds to raise funds for recovery and economic development, which would be purchased by the Michigan Finance Authority (MFA). Administrative costs of the MRDA would include the cost of an executive director of the authority, audits, and monthly progress reporting. If the MRDA issued bonds, the responsibilities of the MFA within the Department of Treasury would increase. The MFA is funded by program revenue.

Senate Bill 999 (S-1)

The bill would have no fiscal impact on the Department of Treasury and could increase costs to the School Aid budget. The administrative cost to the Department of adding a certified promise zone would be minimal and within current appropriations. However, certifying an additional promise zone would result in higher promise zone reimbursement in the School Aid budget. For FY 2016-17, the School Aid budget appropriated \$1.0 million for promise zone reimbursement. At this time, it is unknown whether or how much the reimbursement would increase as a result of certifying an additional promise zone.

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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.