

REGIONAL WATER AND SEWER BOARD

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 372 as passed by the Senate

Sponsor: Sen. Laura Toy

House Committee: Local Government and Urban Policy

Senate Committee: Local, Urban and State Affairs

Complete to 2-28-06

A SUMMARY OF SENATE BILL 372 AS PASSED BY THE SENATE 2-7-06

Senate Bill 372 would create a new act to require a city that owns or operates a water or sewer system that provides services to at least 20 percent of the state's population (i.e. Detroit) to create a Water Accountability Advisory Board to provide review and oversight of the system's contracting procedures and administration, rates and rate setting procedures, budget, finances, and operations.

Board Membership and Staff

The board would consist of the following individuals:

- One individual from each county, other than the county in which the city that owns the system is located, that is served by the system and has a population of at least 400,000. The person would be appointed by the county board of commissioners.
- One individual from the county in which the city that owns the system is located. The person would be appointed by a majority vote of the chief elected officials of the five largest local governmental units within the county. Also, the person could not live or work in the city that owns the system.
- Three individuals representing the city that owns the system, appointed by the mayor with the advice and consent of the city's governing body.

Appointments would have to be made within 30 days after the bill's effective date or within 30 days after a community qualifies. Board members would serve for terms of four years, although initial members, with certain exceptions, would be appointed for staggered terms of one, two, or three years.

In addition, the board could appoint an executive director and other staff as it considers necessary to carry out its responsibilities. Members of the board would receive a per diem at the same rate as provided to employees of the city that owns the water system and be reimbursed for all reasonable and necessary costs. The system would pay the necessary and reasonable expenses of the board, but would be reimbursed by the state through the annual appropriations process.

In the case of the Detroit Water and Sewerage Department (DWSD), the board would include seven people: three appointees representing the City of Detroit, and one appointee each representing suburban Wayne, Macomb, Oakland, and Genesee counties. The other counties

with communities served by the DWSD – Lapeer, Monroe, St. Clair, and Washtenaw – do not meet the population requirement.

Board Responsibilities

The bill provides that the board would have oversight over and make recommendations concerning the system's ethics policies, rate setting, contracting procedures, and budget and financial operations. The activities of the board would be subject to the Freedom of Information Act and the Open Meetings Act.

Ethics Policy

The bill requires the board to make recommendations regarding the establishment of an ethics manual governing the conduct the water system business and employees that is no less stringent than those provided under Public Act 196 of 1973, concerning the standards of conduct for public officers and employees.

Rates and Rate Setting Procedures

The bill provides that as part of its oversight over the system's rates and rate setting procedures, the board would have to include in an annual report, its assessment of whether rates were "just and reasonable", customers were adequately notified of rate changes prior to taking effect and how the new rates were determined, and rates were changed more than once in a 12-month period.

Contracting

The bill would require the board to recommend that contracts not be awarded by the system unless it is awarded under a competitive bidding process, except for contracts with a lifetime cost (including any extensions or renewals) of less than \$50,000, contracts for emergency repairs or construction, contracts for repairs or construction that are necessary for the protection of life and property, and contracts where competitive bidding is not practicable to effectively and efficiently meet the board's needs or where another procurement method best meet's the public's interest.

The board would review and make recommendations concerning contracts approved by the system for an amount greater than \$50,000, including contracts approved for less than \$50,000 but which have exceeded \$50,000 because of renewals, extensions, and cost overruns. The board would also review and make recommendations concerning contracts not awarded on a competitive bidding process.

Budget and Financial Operations

The bill would require the water system's chief financial officer to provide to the board for its review and recommendations a detailed operating and capital budget for each fiscal year. The budget would have to be submitted to the board at least 60 days prior to the start of the fiscal year, and the board would have to complete its review within 42 days of receiving the budget plan. The system's CFO would also be required to immediately notify the board if

actual expenditures exceed budget amounts, and provide the board with any budgetary and financial information the board considers necessary to carry out its oversight authority.

Additionally, the bill would require the board to retain a certified public accounting firm to conduct annual performance and financial audits of the system. Financial audits would have to be completed within six months of the end of the system's fiscal year.

Miscellaneous Provisions

The bill specifically states that the bill does not limit or alter the powers and rights to own and operate a water and sewer system granted to a city under Article VII, Section 24 of the State Constitution. Additionally, the any lawsuits challenging the validity of the bill would have to be filed with the state Court of Appeals.

FISCAL IMPACT:

The bill would have no impact on state or local revenues. The provisions of the bill stipulate that the state shall appropriate funds to reimburse the board for reasonable expenses. As such, this could increase state costs.

BACKGROUND INFORMATION:

The Detroit Water and Sewerage Department (DWSD), a department of the Detroit city government, is governed by a seven-member Board of Water Commissioners appointed by the city's mayor. Under city charter (Article 7, Chapter 15), at least four board members must be Detroit residents. The three remaining members represent wholesale suburban customers. The current suburban members represent Macomb, Oakland, and suburban Wayne counties. The city's charter also grants the board with the authority to appoint the DWSD's director and deputy director, subject to mayoral approval.

According to the department's website, the department provides water service to nearly one million people in the City of Detroit and an additional three million people in 125 communities in a 1,071 square mile service area in parts of suburban Wayne, Oakland, Macomb, St. Clair, Lapeer, Genesee, Washtenaw, and Monroe counties. This accounts for approximately 43 percent of the state's population. The department also provides sewer services to approximately one million people in the City of Detroit and another two million people in a 946-square mile service area in parts of suburban Wayne, Oakland, and Macomb counties.

Legislative Analyst: Mark Wolf
Fiscal Analyst: Jim Stansell

■ 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.