

Legislative Analysis



LAWSUITS CHALLENGING ADOPTED BUDGETS OF LOCAL UNITS OF GOVERNMENT

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House Bill 5076

Sponsor: Rep. Peter Pettalia

Committee: Judiciary

Complete to 2-15-12

A SUMMARY OF HOUSE BILL 5076 AS INTRODUCED 10-13-11

The bill would amend the Uniform Budgeting and Accounting Act to specify who can bring lawsuits about levels of funding in a local unit's general appropriations act and lawsuits about the administration, execution, and enforcement of a general appropriation act.

Under the statute, a **general appropriations act** means the budget as adopted by the local legislative body or as otherwise given legal effect under a charter.

The bill contains language asserting that a general appropriations act, including any amendment to that act, "is presumed to fund those activities of a local unit mandated by law at a serviceable level."

The bill would specify the following:

Suits against the legislative body

- The chief administrative officer of a local unit has exclusive standing to bring suit against a legislative body of that local unit concerning a general appropriations act, including any challenge to serviceable levels of funding for any department or branch of that local unit, including a department or branch headed by another elected or appointed official.
- A court funded by a local unit has standing to bring a suit on its own behalf against the legislative body of that local unit concerning a general appropriations act, including any challenge to serviceable levels of funding for that court.
- A court hearing a suit must consider the financial ability of the local unit to pay when considering any challenge as to serviceable levels of funding.

Suits against the chief administrative officer

- The administration, execution, and enforcement of a general appropriations act approved by a local legislative body are powers exclusively vested in the chief administrative officer of that unit.

- The legislative body of a local unit has exclusive standing to bring suit against the chief administrative officer of that unit concerning an action relating to the administration, execution, and enforcement of a general appropriations act for any department or branch of that local unit, including a department or branch headed by another elected or appointed official.
- A court funded by a local unit has standing to bring suit on its own behalf against the chief administrative officer of that local unit concerning an action relating to the administration, execution, and enforcement of a general appropriations act for that court.

Suits described above could only be brought in the Michigan Court of Appeals within 30 days after (1) the adoption of a general appropriations act; (2) an amendment to a general appropriations act, if the amendment is a basis for the suit; or (3) an action relating to the administration, execution, and enforcement of the general appropriations act, if the action is a basis for the suit.

Unless an action brought under these provisions is timely preserved for review by the Court of Appeals, litigation on any issue as to a general appropriations act, or an amendment to that act, or an action relating to the administration, execution, and enforcement of that act, is barred.

The pendency of a claim in a suit described in the bill would not constitute a basis for expenditure of funds by any department or branch of the local unit, or a court funded by the local unit, in excess of that authorized by a general appropriations act, including an amendment to that act.

The bill specifies that if any portion of the two new sections added by the bill or the application of the sections to any circumstance is found invalid by a court, the invalidity would not affect the remaining portions of application of the sections that could be given effect without the invalid portion or applications. The provisions of the proposed sections are severable.

Under the Uniform Budgeting and Accounting Act, the term "local unit" applies to counties, county road commissions, cities, villages, townships, intermediate and local school districts, charter schools, and an authority or organization of government established by law that may expend funds of the authority or organization. The term "chief administrative officer" applies to the village manager or president; the township manager or supervisor; the city manager or mayor; a school superintendent; a person designated by the board of a charter school; and an elected county executive, appointed county manager, county controller, or person designated by the county commissioners, depending on county organization.

MCL 141.436 and 438

FISCAL IMPACT:

A fiscal analysis is in process.

Legislative Analyst: Chris Couch

■ 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.