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BILL ANALYSIS

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House Bill 4468 (as reported without amendment)
Sponsor: Representative Rob VerHeulen
House Committee: Transportation and Infrastructure
Senate Committee: Transportation

Date Completed: 6-9-15

RATIONALE

Kent County's Gerald R. Ford International Airport (GFIA) currently is managed and operated by the county's Department of Aeronautics, while a seven-member board appointed by the county board of commissioners is responsible for policy and general oversight of the airport. For some time, there has been considerable public discussion regarding the creation of an authority independent from Kent County to assume operational jurisdiction over the GFIA. Supporters of the proposal believe the change would emphasize the airport's role as a regional asset and improve its competitive position in the air travel industry. Thus, it has been suggested that legislation be enacted to enable the transfer of jurisdiction over a publicly owned airport from a local unit of government to an incorporated regional authority.

CONTENT

The bill would add Chapter VIIA, the "Regional Airport Authority Act", to the Aeronautics Code to provide for the incorporation of a regional airport authority to assume operational jurisdiction of an airport owned or operated by a local government. Specifically, the bill would do the following:

-- **Prescribe procedures by which a local government could incorporate a regional aiport authority.**
-- **Provide for the airport's transition from ownership by the local government to the operational jurisdiction of the authority, including the assumption of existing contracts, obligations, and commitments, and the transfer of airport employees and associated retirement obligations from the local government to the authority.**
-- **Require the regional authority to be directed and governed by a board, and prescribe the board's membership and procedures.**
-- **Require the board to appoint a chief executive officer (CEO), who would be responsible for the day-to-day operation of the airport.**
-- **Require the CEO to appoint a chief financial officer (CFO) to serve as the authority's treasurer.**
-- **Require the authority to establish procurement policies and procedures and authorize it to enter into purchase contracts.**
-- **Require the board to establish an ethics policy governing the conduct of airport business and of airport employees, and take steps to preclude conflicts of interest in authority transactions.**
-- **Prohibit an authority from imposing or levying taxes.**
-- **Provide for the financing of the authority's activities, including the authority's issuance of self-liquidating bonds or borrowing money, as well as financial assistance from the local government.**
-- **Exempt the authority from payment of taxes or assessments on any property used for airport or airport facility purposes, or on any rates, fees, rentals, receipts, or income received by the authority.**

Incorporation of Authority

A regional airport authority created under the bill would be a public body corporate for purposes of State and Federal law, and would have to comply with the Open Meetings Act, the Freedom of Information Act, and the Uniform Budget and Accounting Act.

The bill would authorize a local government that owned or operated an airport to, by resolution, declare its intention to incorporate a regional authority. In the resolution, the local government's legislative body would have to set a date for a public hearing on the adoption of a proposed resolution incorporating the authority. The public hearing would have to be held in accordance with the Open Meetings Act. After the hearing, if the legislative body intended to proceed with the authority's incorporation, it would have to adopt, by majority vote of its members, a resolution adopting the articles of incorporation of the authority. Adoption of the resolution would be subject to any applicable statutory or charter provisions with respect to the approval or disapproval by an officer of the local government and the adoption of an ordinance over the officer's veto. The articles of incorporation would take effect on being filed with the Secretary of State.

("Local government" would mean a county, city, township, or village that created a regional airport authority. "Airport" would mean a publicly owned airport licensed by the Michigan Department of Transportation, Bureau of Aeronautics, and would include all airport facilities at the airport. An airport would be publicly owned if the portion used for the landing and taking off of aircraft were owned, operated, controlled, leased to, or leased by the United States or an agency or department of the United States, the State of Michigan, a local government, or another public corporation.)

The validity of the incorporation of a regional authority would be conclusively presumed unless questioned in an original action filed in the Court of Appeals within 60 days after the authority's creation or incorporation. The Court of Appeals would have original jurisdiction to hear an action and would have to hear it in an expedited manner. The Michigan Department of Transportation (MDOT) would be a necessary party in such an action.

The MDOT Bureau of Aeronautics could not promulgate rules under proposed Chapter VIIA.

Authority Board

A regional airport authority would have to be directed and governed by a board consisting of between five and nine members, who would serve three-year terms. The initial terms would have to be staggered so that the terms of at least 20% of the members expired each year.

The articles of incorporation would have to specify the number and qualifications of board members; however, not more than 45% of the members could be elected officials, and at least one member would have to be a resident of a jurisdiction in Michigan located outside the boundaries of the local government. At a minimum, a board member would have to have experience in aviation, business, accounting, finance, marketing, engineering, law, real estate, economic development, management, or another field of value to the operation of the airport. A full-time paid employee of the local government would not be eligible for appointment to the board.

Within 60 days after incorporation of a regional authority, the local government's legislative body would have to appoint the board members.

A board member whose term expired would hold office until his or her successor was appointed and qualified, or until resignation or removal. If a member were removed or unable to complete his or her term of office, the legislative body would have to appoint a successor to complete the term.

The local government could remove a board member only for cause, which would include failure to attend at least 70% of the board meetings each fiscal year, conviction of a felony, breach of fiduciary duty to the regional authority, and other conduct as specified in the authority's articles of incorporation or bylaws.

Within 90 days after a regional authority was incorporated, the board would have to hold its first meeting. At that meeting, the board would have to elect a chairperson, a vice-chairperson, a secretary, and any additional officers that the board considered necessary. With the exception of the treasurer, all officers would have to be elected annually by, and would have to be members of, the board.

A regional authority could not compensate a board member for service to the authority or meeting attendance, but could reimburse a member for an actual and necessary expense incurred in the discharge of his or her official duties.

A board could act only by resolution or ordinance.

After organization, a board would have to adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. The board would have to meet at least quarterly.

A board would have to appoint an audit committee consisting of at least two board members. The committee would have to meet at least annually with the chief financial officer, the CEO, and the independent auditors of the authority to review reports related to the financial condition, operations, performance, and management of the authority and airport.

Chief Executive Officer & Chief Financial Officer

The bill would require a regional authority board to appoint a CEO who had professional qualifications commensurate with the responsibility of the jobs to be performed by CEOs. The CEO would be an ex officio nonvoting board member. The CEO would serve at the pleasure of the board. The board could contract with the CEO for a commercially reasonable length of time commensurate with the length of time for the contracts of airport CEOs, directors, or managers with similar responsibilities at other airports or airport authorities in or outside of the State with a comparable number of annual enplanements. A contract would be terminable at will by the board.

A CEO would have to appoint a CFO, who would serve as the authority's treasurer. The CFO would have to have professional qualifications commensurate with the responsibility of the jobs to be performed by CFOs. Notwithstanding any law to the contrary, the CFO would have to receive all money belonging to the regional authority or arising or received in connection with the airport from any source. The CFO would have to deposit, invest, and pay money of the authority only in accordance with applicable State law and policies, procedures, ordinances, or resolutions adopted by the board.

The board would have to require the CFO and CEO to post a suitable bond of at least $100,000 by a responsible bonding company. The authority would have to pay the premium of the bond.

The board would have to prescribe the duties and responsibilities of the CEO that were in addition to those imposed by the bill. The CEO would have to supervise, and would be responsible for, all of the following:

-- The day-to-day operation of the airport, including the control, supervision, management, and oversight of its functions.
-- The issuance of bonds and notes as approved by the board.
-- The negotiation, establishment, and approval of compensation and other terms and conditions of employment for employees of the authority, within the budget approved by the board.
-- The appointment, dismissal, discipline, demotion, promotion, and classification of authority employees.
-- The negotiation, supervision, and enforcement of other contracts as approved by the board and entered into by the authority, and the supervision of contractors and subcontractors in the performance of their duties.

Any collective bargaining agreements for represented employees would be subject to board approval.

The CEO would have all powers incident to the performance of his or her duties that were prescribed the bill or the board. The board could delegate additional powers to the CEO not enumerated in the bill. Except for those powers reserved or delegated to a regional authority's CEO by the bill or by the board, the authority board could withdraw from the CEO any power that it had delegated to him or her.

Ownership of Money & Property

On and after the "approval date", a regional airport authority would be considered the owner of all money or other property previously or later received by the treasurer of the local government or deposited in the treasury of the local government to the credit of the airport for which operational jurisdiction had been transferred to the authority. The authority would be entitled to all interest and other earnings on the money on and after the approval date. The treasurer of a local government that received or had custody of money or other property that belonged to an authority promptly would have to transfer it to the custody of the authority's CFO.

(For airports certificated under 14 CFR Part 139 (which applies to airports serving schedule passenger-carrying operations of a carrier operating aircraft configured for more than nine passenger seats, and unscheduled operations of a carrier operating aircraft configured for at least 31 passenger seats), "approval date" would mean the date of the issuance by the FAA to the regional authority assuming operational jurisdiction of the airport or a certificate with respect to the airport, and the concurrence by the FAA of the designation of the authority as a sponsor of the airport, including the FAA's approval of the assignment of existing grant agreements to the authority. For an uncertificated airport, the term would mean the date specified in the agreement pursuant to which the airport was to be transferred to the authority, as approved by the FAA.)

Procurement

A regional authority would have to establish procurement policies and procedures consistent with those of the Federal Aviation Administration and any applicable State laws or rules, including any competitive bidding requirement.

A regional authority could enter into a lease purchase or installment purchase contract for a period that did not exceed the useful life of the purchased item. The authority could enter into a cooperative purchasing agreement with the State or Michigan or another public entity for the purchase of goods, including recycled goods, and services necessary for the authority.

Ethics & Liability

The bill provides that a board member or an officer, appointee, or employee of a regional airport authority would be a public servant under Public Act 317 of 1968 (which governs contracts of public servants with public entities), and would be subject to any other applicable law with respect to conflicts of interest. The board would have to establish an ethics policy governing the conducting of airport business and the conduct of airport employees. A regional authority would have to establish policies that were no less stringent than those provided for public officers and employees by Public Act 196 of 1973 (which governs standards of conduct for public officers and employees), and coordinate efforts for the authority to preclude the opportunity for and the occurrence of transactions that would create a conflict of interest involving board members or authority employees.

A board member of an authority officer, appointee, or employee would not be subject to personal liability when acting in good faith within the scope of his or her authority, and would not be subject to liability for any liability of the regional authority. The board could defend and indemnify a board member of an authority officer, appointee, or employee against liability arising out of the discharge of his or her official duties. A regional authority could indemnify and procure insurance indemnifying board members and authority officers, appointees, and employers from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the authority.

A regional authority would have to indemnify and hold harmless the local government for any civil claim existing or any civil action or proceeding pending by or against the local government involving or relating to the airport, airport facilities, or any civil liability related to the local government's obligations issued or incurred with respect to the airport that was pending at the time of, or that was incurred before, the transfer of operational jurisdiction of the airport to the authority.

<u>Scope of Regional Authority Powers</u>

Under the bill, a regional airport authority could do any of the following:

-- Plan, promote, extend, maintain, acquire, purchase, construct, install, improve, repair, enlarge, and operate all airports and airport facilities under the operational jurisdiction of or owned by the authority.
-- Assume and perform the obligations and the covenants related to the airport that were contained in an agreement or other document by the local government or between the local government and the State or the FAA relative to grants for the airport or airport facilities.
-- Acquire (including by eminent domain), own, and dispose of real and personal property the authority considered necessary for the construction or operation of airport facilities.
-- Enter into contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under the bill.
-- Study and plan any improvements, expansion, or enhancements that affected the airport, and commission studies.
-- Exercise responsibility for developing all aspects of the airport and airport facilities.
-- Adopt and enforce in court reasonable rules, regulations, and ordinances for the orderly, safe, efficient, and sanitary operation and use of airport facilities, and establish civil and criminal penalties for violations to the same extent as the local government.
-- Apply for and receive loans, grants, guarantees, or other financial assistance in aid of airport facilities and the operation of the airport from a State, Federal, county, or municipal government or from another public or private source.
-- Invest its money, consistent with applicable State law and contractual obligations, at the board's discretion, in instruments, obligations, securities, or property determined proper by the board.
-- Fix, charge, and collect rates, fees, rentals, and charges in and for the use and operation of the airport or airports under its operational jurisdiction.

In addition, an authority could act as a sponsor and submit requests for, accept, and be responsible to perform all of the assurances associated with accepting grants from the FAA or another agency of the U.S. or of Michigan with respect to the airport under the authority's operational jurisdiction, and perform the duties and responsibilities previously assumed by the local government by virtue of its acceptance of grants from the FAA or another agency. An authority could enter into agreements to use the facilities or services of the State, a county or municipality, the Federal government, or a Federal agency as necessary or desirable to accomplish the purposes of the bill for consideration or pursuant to a cost-allocation formula, in compliance with its obligations under applicable Federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the U.S. or Michigan.

An authority could allow the State, a subdivision or department of the State, a county or municipality, the Federal government, or a Federal agency to use airport facilities or the services of the authority as necessary or desirable to accomplish the purposes of the bill, for consideration acceptable to the authority in compliance with its obligations under applicable Federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or Michigan.

An authority could enter into contracts, leases, franchises, or other arrangements with any person for granting the privilege of using, improving, or having access to the airport or airport facilities for commercial airline-related purposes consistent with its obligations under Federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or Michigan.

An authority also could appoint airport law enforcement officers, guards, or police officers. The officers or guards would have the full police powers and authority of peace officers in the areas over which the authority had operational jurisdiction; and the power to investigate and enforce the laws of Michigan, rules, regulations, and ordinances issued by the regional authority, and, to the extent permitted or required by Federal law, requirements of Federal law and regulations governing airport security. An authority would be responsible for all actions of its officers committed under color of their official position and authority.

Except as otherwise prohibited by the bill, a regional authority would have all of the powers of a political subdivision under the Aeronautics Code. The bill provides that the powers granted to a regional authority would be public and governmental functions.

Except for the authority's exclusive jurisdiction over landing fields and other aeronautical facilities, the bill would not limit the power of a local government in which an airport was located to zone property under the Michigan Zoning Enabling Act, or to engage in land planning under the Michigan Planning Enabling Act, with respect to property that was not part of the airport.

Notwithstanding any other provision of law to the contrary, a regional authority could not impose or levy taxes, but could impose fees or charges permitted by Federal law.

Unless an authority obtained the approval of the legislative body, it could not incur any indebtedness pledging, on a superior basis, any revenue from airport facilities that were otherwise pledged to secure any obligation, note, bond, or other instrument of indebtedness for which the full faith and credit of the local government had been pledged. The local government could establish conditions under which the authority could incur indebtedness pledging, on a parity basis, any airport facility revenue that was otherwise pledged.

On the creation or incorporation of a regional airport authority, the local government could not pledge airport facilities or assets to secure any instrument of indebtedness except to secure bonds issued for airport capital improvement projects after the authority's creation or incorporation and before the approval date.

A regional authority could not take any action contrary to obligations assumed or entered into under State law or Federal rules or regulations, or any agreement entered into or assumed with respect to State or Federal grants.

A local government could not take any action contrary to obligations or covenants under applicable State or Federal law, regulations, and assurances associated with the State or Federal government.

If a local government previously acted as a sponsor and action by, or concurrence of, the local government were required to complete a project related to the airport or airport facilities, the local government could not withhold, condition, or delay concurrence with any authority action necessary to complete the project in accordance with obligations under applicable Federal law, regulations, and assurances associated with accepting grants from the FAA or another U.S. or Michigan agency.

A regional authority would serve as the agent of the local government for the preparation, submission, execution, and administration of any State or Federal grants pending on the approval date. The authority also would act as the custodian of all money received or to be received by the local government or the authority for the projects for which the grants were awarded.

Assumption by Regional Authority

The bill provides that all of the events or actions described below would occur on the approval date.

The authority could acquire, and would assume the exclusive right, responsibility, and authority to occupy, operate, control, and use, the airport and airport facilities owned by the local government on that date, subject only to any restrictions imposed by the Aeronautics Code.

The local government would have to convey title to or enter into a lease of the real property comprising the airport with the authority, which would otherwise acquire and succeed to all rights, title, and interests in and to the fixtures, equipment, materials, furnishings, and other personal property owned and used for purposes of the airport on that date by the local government. The local government's officers would have to execute the instruments of conveyance, assignment, and transfer that were necessary and appropriate to comply with this requirement.

The authority would assume, accept, and become solely liable for all of the lawful obligations, promises, covenants, commitments, and other requirements in respect of the airport of the local government, whether known or unknown, contingent or matured, except for any full faith and credit pledge of the local government in respect of bonds it had issued for airport purposes. The authority also would have to perform all of the duties and obligations and would be entitled to all of the rights of the local government in respect of the airport under any ordinances, agreements, or other instruments and under law.

All lawful actions, commitments, and proceedings, including revenue bond financings for which a notice of intent resolution had been adopted, of the local government made, given, or undertaken before the date of assumption by the authority would be ratified, confirmed, and validated on assumption by the authority. All actions, commitments, or proceedings of the local government in respect of the airport in the process of being undertaken by, but not yet a commitment or obligation of, the local government could, from and after the date of assumption by the authority, be undertaken and completed by the authority in the manner and at the times provided in the bill or other applicable law and in any lawful agreements made by the local government before the authority's date of assumption.

The exclusive right and authority to occupy, operate, control, and use airport facilities would include the following:

-- Operational jurisdiction over all real property of the airport, subject to any liens on the property and restrictions and limitations on its use.
-- The local government's right, title, and interest in, and all of the local government's responsibilities arising under, leases, concessions, and other contracts for airport facilities.

The acquisitions, assumptions, successions, or transfers subject to these provisions would include all of the following:

-- All contracts and other obligations with airlines, tenants, concessionaires, leaseholders, and others at the airport.
-- All financial obligations secured by revenue and fees generated from airport operations, including airport revenue bonds, special facilities revenue bonds, and all bonded indebtedness associated with the airport.
-- All cash balances and investments relating to or resulting from operations of the airport for which operational jurisdiction was transferred to a regional authority, all money held under an ordinance, resolution, or indenture related to or securing obligations of the local government that were assumed by the authority, all of the accounts receivable or choses in action arising from airport operations, and all benefits of contracts and agreements.

The transfer of the operational jurisdiction over an airport to a regional authority could not in any way impair any contract with an airline, vendor, tenant, bondholder, or other party in privity with the local government. On the transfer of operational jurisdiction, the local government would be relieved from all further costs and responsibility arising from or associated with control, operation, development, and maintenance of the airport, except as otherwise required under obligations retained by the local government or as otherwise agreed by the local government.

Local Government Requirements

The bill would require the local government to do all of the following:

- Refrain from any action that would impair the authority's exercise of the powers granted to it or that could cause the authority to violate its rate or bond covenants.
- Refrain from any action to sell, transfer, or otherwise encumber or dispose of airport facilities owned by the local government without the consent of the authority and, if necessary, the FAA and the MDOT Bureau of Aeronautics.
- Take all action reasonably necessary to cure any defects in title to airport facilities transferred to the authority.
- On incorporation of a regional authority and before the approval date, conduct airport operations in the ordinary and usual course of business.
- Maintain and repair any road that provided ingress and egress to the airport over which responsibility for maintenance and repair was retained by the local government pursuant to agreement or law.

At the request of a regional authority, the local government could provide the authority with transitional services previously performed by the local government and related to the airport's operation until the date the authority elected to assume the services. The authority would have to pay the cost of the services in compliance with its obligations under applicable Federal law, regulations, and assurances associated with accepting grants from the FAA or another U.S. or Michigan agency.

Transfer of Airport Employees

Employees at an airport could transfer to the authority to which operational jurisdiction of the airport would be transferred on one or more dates agreed to by the authority and the local government. The date or dates would have to be as soon as administratively feasible, but not more than 180 days after the approval date. The initial terms of employment, including for purposes of pension and other benefits, for transferring employees would have to be substantially similar to the terms for those employees immediately before the transfer. The authority would have to offer to enter into a collective bargaining agreement covering transferring employees who on their transfer date were covered by a collective bargaining agreement with the local government. The agreement offered by the authority would have to contain substantially similar terms of employment as the local government's agreement and remain in effect for the same period.

("Transfer date" would mean the earlier of the date of transfer or the deadline for transfer of employment to the regional authority.)

The authority would become the employer of the transferring employees on the date of transfer without a break in employment, and would have to recognize their length of service with the local government for purposes of the authority's benefit plans and programs. The local government would not be an employer of any airport employee after the transfer date. The accrued local government pension benefits or credits of a transferring employee could not be diminished because of the transfer, and would have to be transferred to the retirement system or pension plan established by the authority.

By the approval date, the authority would have to establish a retirement system or pension plan that initially provided benefits to each transferring employee that were substantially similar to the benefits provided by the local government's retirement system or pension plan before the approval date. The authority's system or plan would have to credit a transferring employee for his or her prior employment with the local government, and the employee would have to make any mandatory employee contribution to the authority's system or plan.

As soon as administratively feasible, but not later than 180 days after all employee transfers, the local government would have to transfer to the trustees of the regional authority's retirement system or pension plan both of the following:

-- For defined benefit plans, all accrued benefits and liabilities and a share of the assets of the local government's plan sufficient to fund the transferring employee's accrued benefits, to the extent that the benefits had been funded by the local government on or before the transfer date.
-- For defined contribution plans, the amount credited to each transferring employee's account in the local government's system or plan on or before the transfer date.

With regard to defined contribution plans, the local government would have to fully vest the account of the transferring employee on the day before the transfer date, and would have to make contributions on behalf of the employee for the portion of the transfer year in which the employee was employed by the local government and eligible to participate in the plans, regardless of any allocation requirements that otherwise could prevent the transferring employee from receiving a contribution for the year of the transfer.

The local government would have to make the required transfers in cash or in some other form acceptable to the trustees. The transfer would terminate the local government's obligation to the transferring employees and the transferring employees' rights under the local government's retirement system and pension plans.

If the local government had an obligation to provide retiree health benefits or payments to transferring employees, the authority would have to assume these obligations. It could not assume obligations in excess of the amount properly allocable to the transferring employees. As soon as administratively feasible but not more than 180 days after all employee transfers, the local government would have to transfer to the authority an amount sufficient to fund the transferring employee's accrued benefits to the extent that they had been funded by the local government on or before the transfer date. The authority would have to transfer the required amounts to a qualifying entity established by the authority in cash, or in some other form acceptable to the qualifying entity. The transfer would terminate the local government's obligations to the transferring employees and the employees' rights to receive the benefits from the local government.

<u>New Hires</u>

An employee hired by the regional authority, other than a transferring employee, would be eligible to participate in the benefit plans established by the authority, in accordance with and subject to the plan terms as established by the authority, in its sole discretion.

<u>Transfer of Jurisdiction over Other Airports</u>

The bill would authorize a regional airport authority to accept the transfer of operational jurisdiction of other publicly owned airports, in and outside of the local government. In accepting such a transfer, the authority could not assume financial obligations other than those associated with the operation of the airport being transferred and with debt issued to finance improvements at that airport.

<u>Authority Financing</u>

For the purposes of acquiring, purchasing, constructing, improving, installing, enlarging, furnishing, equipping, reequipping, or repairing airports and airport facilities for which operational jurisdiction was transferred under the bill or was acquired by the regional authority, a regional authority could issue self-liquidating bonds in accordance with and exercise all of the powers conferred on public corporations by the Revenue Bond Act. An authority could borrow money and issue municipal securities in accordance with and exercise all of the powers conferred on municipalities by the Revised Municipal Finance Act.

All bonds or other evidences of indebtedness issued by a regional authority, and the interest on them, would be exempt from all taxation in Michigan, except inheritance and estate taxes and taxes realized from their sale, payment, or other disposition.

On request of the board of a regional authority, the legislative body could take one or more of the following actions:

-- Pledge the full faith and credit of the local government behind any authority obligation or evidence of indebtedness.
-- Advance money to the authority for working capital and other purposes of the authority on terms and conditions agreed to by the authority and the local government consistent with obligations under applicable Federal law, regulations, and assurances associated with accepting grants from the FAA or another U.S. or Michigan agency.
-- Appropriate and grant money to the authority in furtherance of its purposes.
-- Grant and convey to the authority real or personal property, or any interest in real or personal property, for carrying out the authority's authorized purposes.

A pledge made under the bill would have to be at the discretion of the legislative body and could be subject to an agreement providing for terms and conditions of the pledge and repayment of any amount paid under it as the authority and the local government determined to be necessary and advisable consistent with obligations under applicable Federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the U.S. or Michigan.

An agreement by an authority to repay an advance and any obligation it incurred under the agreement would not be subject to the Revised Municipal Finance Act.

Bonds, notes, or evidences of indebtedness or liability that were assumed by a regional authority would be payable solely from and secured solely by the sources of revenue that were pledged to those bonds, notes, or evidences of indebtedness or liability under the ordinance, resolution, or other proceedings of the local government.

The bill and any other law would not relive an authority from any bonded or other debt or liability lawfully contracted by the local government with respect to the airport and outstanding on the effective date of the transfer of the operational jurisdiction over the airport to the regional authority.

Proposed MCL 259.137-259.149

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 bill would facilitate the transfer of operational jurisdiction of the Gerald R. Ford International Aiport from Kent County to an independent regional authority. An autonomous authority would have more flexibility than the county does to respond to changing market conditions, which would make the authority more competitive in attracting airlines to the facility. For example, as an entity of Kent County, the existing governing body must comply with the county's wage restrictions, which might deter highly qualified people from seeking employment with the airport. A separate authority would have the freedom to create a pay structure that was more attractive to industry talent. Similarly, the county's allowance for business-related meals reportedly is inadequate for the purposes of meeting with representatives of airlines sought by the GFIA. If such limitations were removed, an authority structure would better position the airport to modernize and otherwise improve service, ultimately benefitting the traveling public. Furthermore, the transition to an authority structure would expand the GFIA's profile in the region, enhancing economic development. Reportedly, under the current governance model, the airport is associated with approximately 40,000 jobs and billions of dollars in economic activity; moving to an authority structure would magnify these benefits.

Although the legislation was introduced in response to a situation involving a particular airport, the bill's regional authority approach to operation and management could be implemented elsewhere in the State if local officials determined it to be beneficial. In recent years, many of the nation's best airports have recognized the advantages of this governance structure and have chosen to reorganize as regional authorities, with the approval of the FAA. This more business-oriented model would more effectively promote airports as anchors of regional economic opportunity, which would in turn benefit the entire State.

Response: In the case of the GFIA, it is not clear that the existing governance model has impeded the airport's flexibility and competitiveness, or that the proposed regional authority structure would be an improvement in this regard. Over the last few years, despite the absence of a regional airport authority, a coalition of business interests dedicated to improving commercial air service in West Michigan has been successful in drawing several airlines to the GFIA. It could be imprudent to incur the costs associated with the transition to a regional authority when the benefit is uncertain.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The impact of the bill on local government would be limited to a local government that operated an airport and determined to convert airport operations to a regional airport authority pursuant to the option provided by the bill, which would have an unknown impact on the costs of airport operations. Changing to a regional airport authority would entail the shift from a local government to a newly created regional airport authority of airport revenue, spending, employees, pension and retiree health care obligations, and funds reserved for those obligations. The ownership of the real property of the airport could be conveyed to the regional airport authority or the local government could lease the property to the regional airport authority. A regional airport authority would not be able to levy a tax. It would be authorized to impose fees allowed by Federal law. While the finances of the airport would be separated from the local government and the local government would have no further costs associated with operation of the airport (except obligations required to remain in force), the regional airport authority would be able to request financial support from the local government and the legislative body of the local government would retain the ability to financially support the regional airport authority by grants, appropriations, issuance of general obligation bonds, and grant and conveyance of real and personal property.

A newly established regional airport authority would incur costs for several specific activities required by the bill, including employment of a chief executive officer and a chief financial officer. The regional airport authority initially would receive transferred employees from the local government at substantially similar terms of employment, including pension and other benefits. The regional airport authority could offer newly hired employees compensation plans established by the authority. Similarly, existing contracts with vendors, airlines, tenants, and bondholders would not be impaired by the change in governance. The potential impact of the change in governance on the future costs and revenue of airport operations is unknown.

With respect to the Gerald R. Ford International Airport, financial reports show that airport operations are budgeted as an enterprise fund, separate from the county general fund.

Fiscal Analyst: Elizabeth Pratt

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