



**House
Legislative
Analysis
Section**

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THE APPARENT PROBLEM:

Public Act 20 of 1943 limits the investment of surplus municipal funds to certain investments generally considered to be the safest. These investments allow the political subdivisions of the state to raise money much in the same way a private investment firm might do so, except that they are prohibited from making investments considered to be high-risk or which are not guaranteed by the U.S. government. Currently, there are a small number of municipalities that have offered various deferred compensation plans for certain municipal managers, which are based on provisions in a section of the federal Internal Revenue Code that governs state and local government investments. These deferred compensation programs apparently have been developed by a number of state and municipal governments throughout the country to be used as a means of compensating various government managers. Michigan law governing municipal surplus fund investments, however, is silent on how funds held by local governments under deferred compensation programs may be invested, and some municipalities fear they may unintentionally be in violation of state law. Some feel because the state currently offers certain government-insured deferred compensation plans to its employees, as permitted under the federal law, and because federal law allows municipalities to do the same, that Michigan law should be amended to specifically permit this type of investment by municipalities.

THE CONTENT OF THE BILL:

The bill would amend Public Act 20 of 1943, which regulates surplus fund investments of political subdivisions of the state, to allow the governing body of a local unit of government to authorize its treasurer or chief fiscal officer, by resolution, to deposit funds received under an "eligible deferred compensation plan" (one that met federal requirements) in a financial institution that was authorized by law to do business in the state, or with an authorized deferred compensation agent that was appointed by the governing body.

The treasurer or chief fiscal officer could, as authorized by resolution of the governing body, place funds accumulated under an eligible deferred compensation plan with a financial institution, a state or federally licensed investment company or insurance company, or a trust established by public employers for the commingled investment of the amounts held under deferred compensation and retirement plans. These funds would have to be invested by the financial institution, insurance company, investment company, or trust as directed by the governing body. The investment of these funds would also have to be in the manner and for the purposes described in Section 457 of the federal Internal Revenue Code (which governs investments of state and local governments' deferred compensation plans).

DEFERRED COMPENSATION PLAN INVESTMENTS

Senate Bill 879 as passed by the Senate
First Analysis (6-23-88)

RECEIVED

Sponsor: Sen. Harmon Cropsey
Senate Committee: Local Government and Veterans
House Committee: Towns and Counties

Mich. State Law Library

The bill specifies that investment of funds that were accumulated under an eligible deferred compensation plan of a governing body prior to the bill's effective date, and had met the bill's requirements, would be ratified and validated.

MCL 129.91 et al

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would not have any fiscal implications to state government. Its fiscal impact on local governments could not be determined. (6-22-88)

ARGUMENTS:

For:

The bill would specifically permit local governments to invest the funds held for employees under federally-approved deferred compensation plans, without fear of violating statutes governing the investment of surplus funds. Funds held as deferred compensation for municipal employees are not really "surplus" municipal funds, but rather money held in trust for future payment to individuals, similar to retirement funds. Investment standards for these funds should therefore differ from standards used for surplus public funds.

POSITIONS:

The Michigan Municipal League supports the bill. (6-22-88)

S.B. 879 (6-23-88)