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CUT POWERS OF MET. COUNCILS

House Bill 5139

Sponsor: Rep. Harold Voorhees

Committee: Local Government

Complete to 1-21-94

A SUMMARY OF HOUSE BILL 5139 AS INTRODUCED 10-19-93

The Metropolitan Council Act was created in 1989 to permit two or more local governmental units (counties, townships, cities and villages) in a metropolitan area to form a metropolitan council by adopting articles of incorporation as specified in the act. Under the act, a council so formed is an authority under Section 6 of Article IX of the state constitution. Among other things, the articles of incorporation may require each participating local government to pay annually to the council an amount equal to 0.2 mill multiplied by the state equalized valuation (SEV) of all the taxable real and personal property within the local government; this levy is not subject to approval by electors of a participating local government. Also, the articles may authorize a council to levy on all such property within the council area an ad valorem tax of up to 0.5 mill on each dollar of assessed valuation of taxable property; this levy, however, must be approved by the participating municipality's electors.

Elimination of taxing authority. The bill would amend the act to eliminate a council's authority to levy taxes pursuant to its articles of incorporation and, instead, specifies that the articles could require each participating local government in a council to pay to it an amount determined by a formula "based on the population" of that local government. Under the bill, the articles could provide different formulae for determining the amount to be paid by "different classes" of local governmental units. The bill also would delete language specifying that a council formed under the provisions of the act is an authority under Section 6 of Article IX of the state constitution.

The act currently provides that if a participating municipality that withdraws from a council has unpaid obligations to the council, a tax levied by the council before the withdrawal occurred must continue to be levied in that municipality to the extent and in an amount needed to satisfy the unpaid obligations--until the obligations are paid or the tax expires, whichever comes first. A municipality that withdraws from a council must continue to receive services from the council until the municipality is no longer required to pay a tax levied by the council. The bill would delete these provisions from the act.

Adoption of articles. The bill would revise procedures that govern the way in which the articles of incorporation may be adopted by a local governmental unit. Currently, the articles of a council must be adopted and may be amended by an affirmative vote of a majority of the members elected to and serving on a participating municipality's legislative body. Under the bill, each local governmental unit that wished to participate in a council would still have to adopt the articles, but this could occur in one of two ways: 1) if a majority of the members elected to and serving on the legislative body voted to adopt the

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articles or 2) if a majority of the local government's electors voted to adopt the articles. But even if a legislative body voted to adopt the articles, electors of that municipality would still hold the right to vote in a referendum on the question as set forth in the bill.

Amending of articles. The bill further provides that the articles could only be amended if a majority of elected and serving members of a municipal legislative body participating in a council voted to do so (except when the articles needed amending to provide for the inclusion of another local government to the council, in which case at least a two-thirds majority vote of the delegates serving on the council would be required.) For a local government to be added to a council, the bill would require either a majority vote in favor of inclusion by a local government's legislative body (subject to approval by the municipality's voters), or an affirmative vote on the question by the municipality's electors.

Petitioning, limited actions after decision. A petition for a referendum either to adopt a council's articles or be included as a participating local government in a council would have to be filed no later than 90 days after action by a legislative body on either of these matters. The bill would clarify that a petition would have to be filed with the clerk of the municipality, and specifies that a rebuttable presumption would exist that the signature on a petition would be stale and void if it had been made more than 90 days before the petition had been filed with the clerk. If a local governmental unit was not a participant to a council and if, in the previous three years, neither the legislative body nor the electors had voted on the question of whether the municipality should join the council, a petition could be filed requesting a vote of the electors on the question of participating.

However, a vote by electors of a municipality relative to adopting a council's articles or being added to a council would bar the following actions for a period of three years after the election:

- * The filing of a petition for a referendum on whether to adopt a council's articles or be added to a council;

- * A vote of that municipality's legislative body on whether to 1) adopt articles of incorporation, 2) be added to a council after the council had been incorporated, or 3) withdraw from membership in the council.

Other council powers eliminated. The act lists a number of activities a council is authorized to perform in its official capacity, including--to the extent permitted in its articles--planning, promoting, financing, issuing bonds for, acquiring, improving, enlarging, extending, owning, constructing, replacing, or contracting for public improvements and services. Public improvements and services include, but aren't limited to, water and sewer public improvements or services; solid waste collection, recycling and disposal; parks, museums, zoos, wildlife sanctuaries and recreational facilities; "special use" facilities; ground and air transportation and facilities, including airports; economic development and planning for the council area; and higher education public improvements or services. The act specifically prohibits the council from contracting for the operation by another person of a public improvement or service acquired by the council in any of these ways. The bill would eliminate all of these provisions from the act.

In addition, a provision authorizing a council to contract with a participating municipality to provide--for a charge as specified in the contract--any of these public services for the respective municipality for a period not exceeding 30 years would be deleted. Other powers relating to this authority would also be eliminated (i.e., entering into such a contract with a nonparticipating municipality and charging them more than that charged to participating municipalities for the same service, increasing a charge specified in a contract if needed to meet council obligations).

A council currently may use various methods (purchase, lease, grant, gift, and various other means including condemnation) to acquire and "hold" real property located within or outside of the participating municipalities, but is specifically prohibited from condemning public property. The bill would remove a council's authority to hold property, and would eliminate council authority to acquire property via condemnation. The bill also would delete the provision barring a council from condemning public property.

MCL 124.653 et al.