

**URBAN COOPERATION ACT
AMENDMENTS**

**Senate Bill 1379 (Substitute H-2)
First Analysis (12-12-00)**

Sponsor: Sen. Bill Schuette
**House Committee: Local Government and
Urban Affairs**
**Senate Committee: Economic Development,
International Trade, and Regulatory Affairs**

THE APPARENT PROBLEM:

The term “dominion” was used to denote the self-governing countries of the British Empire. Unlike colonies in the British Empire, it was thought that Canada, Australia, New Zealand, and South Africa exercised a substantial measure of self-government, and therefore it did not seem appropriate to describe them as colonies. To distinguish them from more dependent territories of the British Empire, they were known as dominions. See *BACKGROUND INFORMATION* below.

For example, in 1867 the Dominion of Canada was formed when Nova Scotia, New Brunswick, Quebec, and Ontario united in a confederation, and Sir John A. Macdonald was named the first prime minister. Subsequently other regions joined: Manitoba (in 1870); British Columbia (1871); Prince Edward Island (1873); Yukon (given territorial status in 1898); Alberta and Saskatchewan (1905); and Newfoundland (1949).

However, since the British Empire has become known as the British Commonwealth, use of the concept and word “dominion” gradually has been eliminated throughout Canada. Specifically, beginning in 1931 the Statute of Westminster gave Canada complete independence from Great Britain. Fifty-one years later, Canada adopted a new constitution that ended British control over constitutional amendments (and added its Charter of Rights and Freedoms).

Given this evolution of self-governance, it seems appropriate to eliminate the reference in Michigan law to the “dominion of Canada”, and legislation has been proposed to do so.

Further, according to committee testimony, about a year ago the Department of Consumer and Industry Services negotiated a reciprocity agreement with the Province of

Ontario, so that the provincial government could collect wages and fringe benefits owed to Michigan workers, and the Department of Consumer and Industry Services could collect wages and fringe benefits owed to Ontario workers. The Office of the Attorney General has since advised the department that it did not have the legal authority to negotiate and enter into the agreement. Consequently, an amendment to the law has been proposed.

Finally, Michigan has a single federal tribally controlled community college. That community college is administered by an Indian tribe in the Upper Peninsula on the Bay Mills Indian Reservation which is located on the straits of the St. Mary’s River west of Sault Ste. Marie. If the community college were considered a ‘public agency’, it could enter into local agreements with the regional economic development corporation and that would allow it to better serve members of the tribe. To enable the tribal community college to be considered as a ‘public agency’ for some purposes, legislation has been proposed.

THE CONTENT OF THE BILL:

Senate Bill 1379 would amend the Urban Cooperation Act (MCL 124.502 et al.) to replace the act’s references to the phrase “Dominion of Canada” with references to the word “Canada”.

In addition, the bill expands the definition of “public agency” to specify that “public agency” would “mean an entity created under this act,” and also “a federal tribally controlled community college that is recognized under the tribally controlled Community College Assistance Act of 1978, Public Law 95-471, 92 Stat. 1325.”

Finally, Senate Bill 1379 clarifies that a public agency of this state may exercise jointly with any other public agency of any state, Canada, or the United States, any power, privilege, or authority that the agencies share in common, and separately, “including, but not limited to, the collection of wages, fringe benefits, and penalties assessed under authority of section 18 of 1978 Public Act 390, MCL 408.488.”

HOUSE COMMITTEE ACTION:

The House Committee on Local Government and Urban Policy made two changes to the Senate-passed version of Senate Bill 1379 and reported the bill as a substitute. The changes included the following:

-Limited the amendment added on the Senate floor to define a “public agency”. Under the House committee version of the bill, “public agency” would include, among other entities already specified in the law, “an entity created under this act;” and also “a federal tribally controlled community college that is recognized under the tribally controlled community college Assistance Act of 1978, Public Law 95-471, 92 Stat. 1325”. The Senate-passed version of the bill would also have included “a federally recognized Indian tribe” in the definition of “public agency”, and this language was removed from the definition.

-Adopted one amendment to clarify that a public agency of this state may exercise jointly with any other public agency of any state, Canada, or the United States, any power, privilege, or authority that the agencies share in common, and that each might exercise separately, “including, but not limited to, the collection of wages, fringe benefits, and penalties assessed under authority of section 18 of 1978 Public Act 390, MCL 408.488.”

BACKGROUND INFORMATION

To explain the evolution of the Canadian nation’s name, officials from the Canadian Embassy in Washington, D.C., refer readers to a book entitled *Constitutional Law of Canada* written by Peter W. Hogg, Dean of the Osgoode Hall Law School of York University, in Toronto. According to the book’s author, Canada’s British North America Act of 1867 created “one Dominion under the name of Canada”, but did not actually name the country the Dominion of Canada. Nonetheless, after 1867 the country was usually described officially as “the Dominion of Canada”.

After World War II, the term “dominion” became unfashionable because it was thought to carry a colonial connotation. Thus, outside of Canada, the term “member of the Commonwealth” superseded the term “dominion” to describe self-governing countries of the Commonwealth.

Objections to “dominion” were significant in Canada where the word was part of the official name of the country. In the 1930s, the Canadian federal government changed the country’s official name from the Dominion of Canada to Canada. Subsequently, various acts of the Canadian Parliament have discontinued the use of the word “dominion”. For example, what formerly were dominion-provincial conferences have been known since 1950 as federal-provincial conferences. In addition, “dominion” was removed from many of the titles of federal agencies in the 1960s. Subsequently, the federal Parliament passed a bill in 1982 to replace Dominion Day (first established as July 1 in 1879) with Canada Day.

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that the direct state fiscal impact of the bill is indeterminate. (12-11-00)

ARGUMENTS:

For:

Senate Bill 1379 would update the Urban Cooperation Act by replacing references to “Dominion of Canada” with “Canada”. This change in terminology would more accurately reflect the self-governmental status of the country which has, since 1931, been completely independent of Great Britain, and, since 1982, has had a new Constitution that ended British control over the country’s constitutional process.

Response:

Some point out that when the Canadian Constitution was patriated from Britain in 1982, the entire British North America Act was incorporated into it as the Constitution Act of 1867, and that the act refers to the first confederation of four provinces as the Dominion of Canada. Therefore, they contend that “dominion” continues to be part of the official title of Canada.

For:

This legislation would allow the Department of Consumer and Industry Services to sign an agreement with the Province of Ontario so that the provincial government could collect wages and fringe benefits owed to Michigan workers, and the department could collect wages and fringe benefits owed to Ontario

workers. Although the department negotiated a reciprocity agreement for this purpose about a year ago, the Office of the Attorney General has since advised the state agency that it acted without the legal authority to do so. This legislation would ground a new reciprocity agreement in law.

For:

The bill would allow the Bay Mills Community College west of Sault Ste. Marie to enter into local agreements with units of government, in order to offer services to those who attend the community college. If this bill were to become law the college could, for example, enter into a partnership with the regional economic development corporation, and provide employment training and job opportunities for people throughout the region. Although Indian tribes are 'domestic sovereign nations', and are not included as a political subdivision within the definition of 'public agency' under the Urban Cooperation Act, a community college operated by an Indian tribe should be able to participate in local agreements, and also be able to receive state grants when doing so.

POSITIONS:

There are no positions on the bill.

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#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.