



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 395 (as enacted)
Senate Bills 396, 397, and 398 (as enacted)
Sponsor: Senator Jud Gilbert, II (S.B. 395)
Senator Roger Kahn, M.D. (S.B. 396)
Senator Randy Richardville (S.B. 397)
Senator Bruce Patterson (S.B. 398)
Senate Committee: Government Operations and Reform
House Committee: Government Operations

PUBLIC ACT 99 of 2007
PUBLIC ACTS 96, 97, & 98 of 2007

Date Completed: 10-4-07

RATIONALE

In recent years, Michigan's economic troubles and budget shortfalls have generated an interest in examining both the cost of State mandates imposed on local units of government and measures to improve the efficiency of State government. It was suggested that commissions, consisting mostly of people representing the private sector, be established to conduct a comprehensive review and analysis of State administrative functions and mandates imposed upon local units, and then recommend potential cost-saving reforms to the Legislature and the Governor.

CONTENT

Senate Bills 396 and 397 added Chapter 7A to the Legislative Council Act to do the following:

- Create the Legislative Commission on Government Efficiency.
- Require the Commission to review and investigate ways to make State government more efficient, and review, investigate, and collect information necessary to evaluate each State agency's functions and services.
- Require the Commission, by December 1, 2009, to report specific determinations to the Legislature and the Governor and report to the Legislature on how to consolidate, streamline, and make more efficient

State agencies' functions and services.

- Require the Commission to give the Legislature and the Governor an interim report on the status of its determinations.

Senate Bills 395 and 398 added Chapter 7B to the Legislative Council Act to:

- Create the Legislative Commission on Statutory Mandates.
- Require the Commission to review and investigate all mandates and reporting requirements imposed on local units of government in State law, and determine the cost of each.
- Require the Commission, by December 1, 2009, to report specific determinations to the Legislature and the Governor and report to the Legislature on how to consolidate, streamline, or eliminate mandates and reporting requirements.
- Require the Commission to give the Legislature and the Governor an interim report on the status of its determinations.

Both Commissions may request the Legislative Council to issue subpoenas and compel the appearance of witnesses and the production of documents.

Chapters 7A and 7B will be repealed on September 30, 2010.

The bills took effect on October 1, 2007. They were tie-barred to House Bills 5194 and 5198.

(House Bill 5194 (Public Act 94 of 2007) amended the Income Tax Act to do the following:

- Increase the income tax rate from 3.9% to 4.35%, effective October 1, 2007.
- Reduce the rate from 4.35% by 0.1 each October 1, beginning in 2011, until it is 3.95%.
- Reduce the rate from 3.95% to 3.9% on October 1, 2015.

House Bill 5198 (Public Act 93 of 2007) amended the Use Tax Act to extend the 6% use tax to the use or consumption of certain services.)

Senate Bill 396

The bill defines "State agency" as any of the following:

- A department, commission, authority, or board in the executive branch.
- The Supreme Court, Court of Appeals, State Court Administrative Office, or other commission, office, or agency in the judicial branch.

The bill establishes the Legislative Commission on Government Efficiency in the Legislative Council. The Commission must consist of the following nine members:

- One member appointed by the Speaker of the House of Representatives.
- One member appointed by the Minority Leader of the House.
- The director of the House Fiscal Agency.
- One member appointed by the Senator Majority Leader.
- One member appointed by the Minority Leader of the Senate.
- The director of the Senate Fiscal Agency.
- Three members jointly selected by the Speaker of the House and the Senator Majority Leader.

Except for the heads of the House and Senate Fiscal Agencies, public employees are not eligible to be Commission members. A person with a business or financial interest

in a contract with the State is not eligible to be a member. Commission members must be individuals who have knowledge of, education in, or experience with the best practices in organizational efficiency, government operations, public finance, and/or administrative law.

The members first appointed must be appointed within 60 days after the bill's effective date. Members will serve for a three-year term. A member must discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a similar position. If a vacancy occurs, the member must be replaced in the same manner as the original appointment.

The Speaker of the House must call the first meeting of the Commission within 60 days after the bill's effective date. The member appointed by the Senate Majority Leader and the member appointed by the Speaker of the House will be co-chairpersons. The chairperson position will rotate each month between the two appointees. At the first meeting, the Commission must elect other officers it considers necessary or appropriate. After the first meeting, the Commission must meet at least monthly, or more frequently at the call of the chairperson or the request of three or more members. The Commission is subject to the Open Meetings Act and the Freedom of Information Act.

A majority of the members constitutes a quorum for the transaction of business at a Commission meeting. A majority of the members is required for official Commission action.

Commission members must serve without compensation but may be reimbursed for reasonable and necessary expenses incurred in the performance of their official duties as members of the Commission, subject to available appropriations.

By December 31, 2008, the Commission must do the following:

- Determine the complete cost of each function or service performed by a State agency.

- Determine the total number of FTEs for each function or service performed by a State agency.
- Determine how each function or service is funded in each State agency.
- Determine the total and complete cost of all functions and services combined.
- Review and investigate all funded and unfunded mandates imposed on State agencies in State law.
- Review and investigate all reporting requirements imposed on State agencies in State law.
- Determine the complete cost of each funded and unfunded mandate imposed on a State agency in State law.
- Determine the complete cost of each reporting requirement imposed on a State agency in State law.

Also, by December 31, 2008, the Commission must review and investigate ways to make State government more efficient, and review, investigate, and collect information necessary to evaluate all functions and services provided by each State agency, including the following:

- Human resource duties and responsibilities.
- Payroll services.
- Internal auditing, accounting, and financial services.
- Purchasing programs.
- Printing services.
- Mail services.
- Maintenance services.
- Janitor or cleaning services.
- Motor vehicle fleet operations.
- Transportation services.
- Fiscal analysis.

By October 1, 2009, the Commission must make specific determinations of the items listed above and report the determinations to each house of the Legislature and the Governor. The Commission also must make an interim report to the Senate and House and the Governor on the status of its determinations by June 1, 2009.

The Governor may direct that State agencies subject to the supervision of the Governor under Article V, Section 8 of the State Constitution provide information to the Commission to assist it in fulfilling its duties under the bill. (Article V, Section 8 states that each principal department is under the

supervision of the Governor unless otherwise provided by the Constitution.)

Upon request, the Commission must be given access to all information, records, and documents in the possession of a State agency that the Commission considers necessary to fulfill its duties. The Commission may hold hearings and request that any person appear before it, or at a hearing, and give testimony or produce documentary or other evidence the Commission considers relevant to its duties.

In connection with its duties, the Commission may request the Legislative Council to issue a subpoena to compel the attendance and testimony of witnesses or to compel the production of a book, account, paper, document, or record related to the Commission's duties. The Legislative Council may issue a subpoena only upon the concurrence of a majority of the House and Senate members of the Council. A person who refuses to comply with a subpoena issued by the Council may be punished as for contempt of the Legislature.

Senate Bill 397

The bill requires the Commission on Government Efficiency, by December 1, 2009, to report to each house of the Legislature recommendations on how to consolidate, streamline, and make more efficient the functions and services conducted by State agencies, including recommended reforms to reduce the number of position classifications and layers of management positions within State agencies and throughout Michigan in the application of administrative rules and standards consistent with State law. This is required in addition to the report required under Section 752 (which Senate Bill 396 enacted).

Senate Bill 398

The bill creates the Legislative Commission on Statutory Mandates within the Legislative Council. The Commission must consist of the following five members:

- One member appointed by the Speaker of the House.
- One member appointed by the Minority Leader of the House.
- One member appointed by the Senate Majority Leader.

- One member appointed by the Minority Leader of the Senate.
- One member of the public appointed jointly by the Speaker of the House and the Senate Majority Leader, who is an attorney licensed to practice in this State.

Provisions of the bill regarding appointments, terms, meetings, officers, and compensation are same as those in Senate Bill 396 for the Commission on Government Efficiency, except that Senate Bill 398 provides that legislators and other State employees (rather than public employees) are not eligible to serve on the Commission on Statutory Mandates. Additionally, the Senate Majority Leader (rather than the Speaker of the House) must call the first meeting, and the member appointed by the Senate Majority Leader must serve as the first chairperson. The Commission on Statutory Mandates also is subject to the Open Meetings Act and the Freedom of Information Act.

By December 31, 2008, the Commission must do the following:

- Review and investigate all funded and unfunded mandates imposed on local units of government in State law.
- Review and investigate all reporting requirements imposed on local units in State law.
- Determine the complete cost of each funded and unfunded mandate imposed on a local unit of government in State law.
- Determine the complete cost of each reporting requirement imposed on a local unit in State law.

By October 1, 2009, the Commission must make specific determinations of those items and report the determinations to each house of the Legislature and the Governor. Additionally, the Commission must give the Senate and House an interim report on the status of its determinations by June 1, 2009.

Provisions regarding assistance to the Commission, access to information, hearings, subpoenas, and orders are the same as described above for the Commission on Government Efficiency.

Senate Bill 395

The bill requires the Commission on Statutory Mandates, by December 1, 2009, to report to each house of the Legislature recommendations on how to consolidate, streamline, or eliminate funded and unfunded mandates and reporting requirements imposed on local units of government in State law. This is required in addition to the report required under Section 782 (which Senate Bill 398 enacted).

MCL 4.1783 (S.B. 395)
 4.1751 & 4.1752 (S.B. 396)
 4.1753 (S.B. 397)
 4.1781 & 4.1782 (S.B. 398)

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

Reportedly, each Michigan taxpayer pays an average of \$2,324 in State taxes every year. The State has a responsibility to use this money wisely, particularly in light of its current budget problems. The Commission on Government Efficiency will use the expertise of those in the private sector, as well as the directors of the Senate and House Fiscal Agencies, to help identify redundancies between various government systems and evaluate whether State agencies and employees operate efficiently. The Commission on Statutory Mandates will determine whether State mandates and reporting requirements impose an undue burden on local units of government. Using this information, the Commissions will formulate recommendations to use taxpayer dollars in more cost-effective ways.

Opposing Argument

Although attempting to identify and eliminate inefficiencies and excessive regulation is a worthwhile goal, many of the duties of the two Commissions already are performed by the Auditor General, and legislative committees may examine the issues of efficiency and regulation in their oversight role. Additionally, the Legislature has the power to subpoena individuals and documents, if necessary, to obtain the information specified in the bills. The creation of two new bodies with similar powers and duties might increase, rather

than reduce, State government bureaucracy and inefficiency.

Response: While the Auditor General is charged with monitoring whether tax dollars are used appropriately and State agencies are fulfilling their statutory duties, the Commissions will consist mostly of people from outside of government who can apply their successful business practices to State and local operations. Those in the private sector, who must adapt to remain competitive and thrive, will bring a different perspective to the review process. The members of the two Commissions will mitigate the influence of politics on decision-making and regulations imposed on local units, and bring their experience from the private sector to identify inefficiencies and recommend creative solutions to the State's budget problems. Furthermore, the bills set specific deadlines for the Commissions to conduct their investigations and make recommendations, which might spur reform in a more timely fashion.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

There might be an indeterminate cost for reimbursing Commission members; however, the cost should be minimal. No costs will be associated with the requirements that the Commissions report to the Legislature.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.