

Legislative Analysis



EXEMPT SERVICE CONSOLIDATION FROM COLLECTIVE BARGAINING

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House Bill 4777 without amendment
Sponsor: Rep. Paul Opsommer
Committee: Local, Intergovernmental, and Regional Affairs

First Analysis (6-28-11)

BRIEF SUMMARY: The bill would require that the decision by public officials to consolidate services with other public employers be a "prohibited subject" for collective bargaining.

FISCAL IMPACT: As written, the bill would have no state fiscal impact, and to the extent that costs are achieved at the local level, the impacts are likely to be small.

THE APPARENT PROBLEM:

According to committee testimony, the officials of the City of DeWitt and two nearby townships, DeWitt Charter Township and Riley Township, worked to form a joint fire authority in order to provide fire protection services in a cost-efficient way to their residents. The officials of the three local governmental units considered several funding formulas, and decided, ultimately, to fund the fire authority equally, splitting the cost three ways. The officials' decision-making process did not include the representatives of collective bargaining units.

Legislation has been introduced to ensure that elected public officials can make consolidation and cost-sharing decisions, unilaterally, without consulting the representatives of local bargaining units during contract negotiations.

THE CONTENT OF THE BILL:

House Bill 4777 would amend the Public Employment Relations Act (MCL 423.215) to require that the decision by public officials to consolidate services with other public employers be a "prohibited subject" for collective bargaining.

Now under the law, certain topics cannot be negotiated during collective bargaining, because they remain entirely within the authority of managers to decide. These topics are customarily referred to as "prohibited subjects." The topics that are prohibited under the law may not be discussed at the bargaining table, at the risk of being charged with an unfair labor practice. House Bill 4777 would expand the "prohibited subjects" list to add the consolidation of public services.

Specifically under the bill, public employers and public employees would be prohibited from negotiating "a public employer's decision to consolidate public employers or public services through a merger or inter-local agreement, as permitted by law." Under the bill,

they would also be prohibited from negotiating "a public employer's decision to re-negotiate an existing, applicable bargaining agreement upon a consolidation." Instead, these decisions would "be solely at the discretion of the public employer," and would be prohibited subjects of bargaining under the act.

Further, House Bill 4777 specifies that "each collective bargaining agreement entered into between a public employer and public employees under this act after the effective date of this amendatory act, shall include a provision permitting the public employer to re-negotiate an existing bargaining agreement as to affected public employees upon consolidation of public employers or public services through merger or inter-local agreement, as permitted by law."

ARGUMENTS:

For:

Proponents of the bill argue that decisions to consolidate local services should be made by the primary elected officials within the affected local jurisdictions of government, in a low-key manner without the requirement to collectively bargain the consolidation plans during contract negotiations with their public employees. They say that consolidation plans can easily be derailed at their onset, when too many strong personalities having conflicting goals must agree to take the first steps. Often, following that scenario, the issue to consolidate becomes roiled, and the anger that is expressed as it becomes necessary to sacrifice hard-earned wages and benefits trumps reason, analysis, and even, sometimes, fiscal reality.

Against:

Opponents of the bill point out that the primary elected officials in local government can already—and do, indeed—make low-key decisions to consolidate public services without first consulting their collective bargaining units. They argue that the bill is, then, over-reaching, and unnecessary.

Some opponents of the bill note that this legislation is part of a Midwest regional strategy to wage an assault on working people and their public sector unions. Opponents argue that the bill further erodes the dignity of public workers because it is designed to deprive public employees of a voice. In contrast, Michigan workers and managers have long demonstrated that common problems deserve shared sacrifice; that to achieve the common good both workers and managers must work together. Throughout the state, unionized public sector employees have made wage and benefit concessions, and helped local officials to downsize their organizations, privatize services, and to consolidate operations. Opponents of the bill also observe that in the communities where working people are organized and accustomed to having a voice in their workplace, the legislation to ignore them when making decisions to consolidate local services will provoke labor strife. That labor unrest and resistance will make the consolidation of services more difficult, rather than easier. Workers whose expertise is dismissed, whose voices are silenced, and whose dignity is humiliated cannot apply their energy to solving public problems.

POSITIONS:

The AFL-CIO opposes the bill. (6-23-11)

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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.