HOUSE BILL REPORT
E2SHB 1828

As Passed House:
March 11, 2013

Title: An act relating to the fiscal conditions of local government.

Brief Description: Addressing the fiscal conditions of local government.

Sponsors: House Committee on Appropriations Subcommittee on General Government (originally sponsored by Representatives Springer, Wilcox, Takko, Chandler, Hunter, Condotta, Nealey, Fey and Tharinger; by request of State Treasurer).

Brief History:
Committee Activity:
Local Government: 2/19/13, 2/22/13 [DPS];
Appropriations Subcommittee on General Government: 2/25/13 [DP2S(w/o sub LG)].
Floor Activity:
Passed House: 3/11/13, 57-38.

Brief Summary of Engrossed Second Substitute Bill

- Removes the requirement of the Governor to appoint one member of the local government fiscal health commission (commission) as the chair.
- Provides that the chair of the commission will be appointed by the membership of the commission.
- Makes changes to rule making authority.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Takko, Chair; Fitzgibbon, Vice Chair; Liias, Springer and Upthegrove.

Minority Report: Do not pass. Signed by 3 members: Representatives Taylor, Ranking Minority Member; Kochmar, Assistant Ranking Minority Member; Buys.

Staff: Michaela Murdock (786-7289).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Local Government. Signed by 5 members: Representatives Hudgins, Chair; Dunshee, Hunt, Pedersen and Springer.

Minority Report: Do not pass. Signed by 4 members: Representatives Parker, Ranking Minority Member; Buys, Chandler and Taylor.

Staff: Danielle Cruver (786-7157).

Background:

City-County Assistance Account.
Prior to 2000 Washington's Motor Vehicle Excise Tax (MVET) provided a revenue stream for localities throughout the state. In 1999 however, the MVET was repealed by Initiative 695. Although the Washington Supreme Court ultimately found Initiative 695 unconstitutional, the Legislature subsequently repealed the MVET in 2000 and provided funds to cities and counties to backfill funds previously received from the MVET.

Legislation adopted in 2005 (i.e., Engrossed Substitute Senate Bill 6050, enacted as chapter 450, Laws of 2005) created a new source of funding for cities and counties. Among other things, the bill created the city-county assistance account (CCAA). The CCAA receives funds from a portion of Real Estate Excise Tax (REET) revenues, and distributes the funds to cities and counties based on an equalization formula similar to one formerly used by the MVET.

Engrossed Substitute Senate Bill 6050 also directed the Joint Legislative Audit and Review Committee (JLARC) to review CCAA fund distributions to cities and counties to determine the extent to which the distributions target the needs of cities and counties for which repeal of the MVET had the greatest impact. The JLARC was directed to report its findings to the Legislature by December 31, 2008.

Recent Studies of Local Government Fiscal Health.
In 2005 Ferry County requested that the state intervene in its financial operations and provide supplemental operating funds sufficient for the county to meet its expenses. In response, the state provided the county with an emergency fund of $150,000, and required that a management review of the county be completed. The management review found that Ferry County had insufficient revenue and an insufficient revenue base to meet its on-going basic operating expenses and that the county would likely need continued state assistance. The review also identified fiscal stress in other counties.

In 2007 the Legislature directed the Department of Community, Trade, and Economic Development (CTED) (now the Department of Commerce) to conduct a study examining the fiscal health of counties and to present it to the Legislature by December 1, 2007. The study, *County Financial Health and Governance Alternatives*, found that "counties' revenue base had become more inelastic over the last decade, significantly contributing to fiscal distress and jeopardizing equal access across the state to basic services provided by counties." In particular, three actions were found to have changed county general fund revenues: reductions in sales tax revenue due to annexation and incorporation; elimination and replacement of the MVET; and limitations on property taxes.

A year later on December 3, 2008, the JLARC released its report to the Legislature on distributions from the CCAA, *Review of Distributions from the City-County Assistance Account*. In its report, the JLARC found that funding provided through the CCAA was less than what would have been provided to local governments for equalization through the MVET. The report also found that the REET revenues deposited into the CCAA are influenced by changes in the real estate market, and the revenues were variable over the review period.

In June 2010 the Office of the State Treasurer (treasurer's office) requested the assistance of the Department of Commerce's Research Services in updating an earlier 2005 study of local government by the CTED. The treasurer's office released its report, *Washington State Local Government Financial Health Indicators*, in August 2010. The study found that the financial condition of Washington's local governments generally declined between 2004 and 2008 based on selected stress indicators. Cities and counties showed more financial stress overall than in 2004.

Summary of Engrossed Second Substitute Bill:

Intent. The Legislature finds that some local governments, such as cities, towns, counties, and special purpose districts, are showing signs of declining financial health. The Legislature intends to create a fiscal health review and response capability that will allow the state and local governments to identify and respond to financial problems encountered by local governments.

Commission. A 12-member local government fiscal health commission (commission) is created. The commission is comprised of the State Treasurer; the State Auditor; representatives of cities, counties, county officials, city and county managers, and employees; the executive director of the Municipal Research and Services Center; and Governor appointees. The members hold four-year terms of office. The offices of the State Auditor and Treasurer must provide staff support for the commission, and the commission is authorized to hire staff.

Commission Duties. The commission must monitor, track, and research factors that can cause fiscal stress in local governments. For local governments that may be experiencing financial stress, the commission may offer the local government resources and support, engage professionals to provide guidance and assistance to the local government, or create financial and management plans.

Preliminary and Formal Review of Financial Condition. Local governments may request that the commission conduct a preliminary review of the local government based on an existing or emerging financial condition. If the commission and the local government determine that factors exist supporting a finding of financial stress, the commission may appoint a three-person committee to conduct a thorough formal review of the financial condition of the local government. A formal review may not be conducted without the consent of the local government.

Liability. The state, the commission, and certain individuals are not liable for any obligation or claim against a local government resulting from actions taken pursuant to this bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Local Government):

(In support) Studies conducted recently have determined that local governments and special purpose districts are under stress. The Legislature has done a good job of identifying this problem, but it needs to provide a mechanism for responding to financial stress. When the state reacts to financial stress, it is usually late, expensive, and causes other problems. The bill will provide an early warning, proactive system to identify and respond to stress in our local governments. This will help ensure that local governments are capable of carrying out programs adopted by the Legislature.

Although the bill could use some changes, there are opportunities to perfect it. For example, issues have been raised with regard to the size of the commission, its location, and public disclosure.

The bill will create a monitoring system, feedback system, and policy advisory body. Most importantly, it will provide the Legislature with a mechanism to receive policy recommendations to fix fiscal problems in local governments. By creating such a mechanism, the state will be able to work with local government to avoid future financial failure and save money. One way that the bill will save money is with regard to the issuance and price of bonds. Rating agencies for bonds view feedback and response systems between states and local governments positively.

(With concerns) Local governments are starving for revenue. Impacts on revenue from Initiative 695, property tax limitations, and other actions by the Legislature have cut off revenue for local governments and caused them financial stress.

The bill sets up an unnecessary bureaucracy. If the state is going to spend money, it should give that money directly to local governments rather than setting up the commission. Also, the bill is vague and broad as to the duties and powers of the commission.

The procedures authorized by the bill focus entirely on expenditures by local government; it does not provide for review of revenue to local government. By focusing on expenditures, any examination of local government will look to its employees as the problem. Also, employees of local governments ought to have representation on the commission.

The bill does not address concerns about public disclosure of information obtained by the commission during a review of local government. This issue is particularly sensitive for port districts that partner with the private sector. If it were to become public knowledge that a port district is distressed or financially at risk, it could negatively impact the district's ability to secure financing, contract with tenants, or bring in new industries.

(Other) The bill provides procedural help to counties, but counties need more than that; they need substantive help. County revenue is not diverse, flexible, or keeping up with costs. The procedural mechanisms of the bill should be linked to receiving additional tools and resources from the Legislature. Also, counties need better data. A centralized method of obtaining data will be helpful.

Local governments have suffered financial stress for longer and at a deeper level than the state, starting before the recession. For any commission review of local government, the local government should not have to contribute financially.

The bill should be amended to add a member to the commission that is a representative of an association representing the executive branch of county government.

Other measures addressing fiscal health currently and previously pending before the Legislature would provide local government with more direct and immediate help. Also, the bill's language regarding the commission's rule-making authority seems broad, vague, and unnecessary.

The voluntary nature of any review and the provision for representation of local government on the commission are both appropriate. It is also important that the commission maintain a strong level of independence, and it should not necessarily be tied to the offices of the State Auditor or State Treasurer.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations Subcommittee on General Government):

(In support) The State Treasurer is aware of this issue. Problems from local jurisdictions run up to state government. This bill would eliminate the potential fiscal crisis because the local government fiscal health commission can anticipate problems. The State Treasurer must move forward, so advisory councils would be helpful. Cities and the State of Washington (State) must sign inter-local agreements before the State can review local fiscal issues. This process would be collaborative. New York developed a model to look forward so they can have a proactive response to local fiscal matters. The proposed amendments clarify the process.

(Opposed) None.

Persons Testifying (Local Government): (In support) Representative Springer, prime sponsor; and Scott Merriman, Office of the State Treasurer.

(With concerns) Geoff Simpson, Washington State Council of Firefighters; J. Pat Thompson, Washington State Council of County and City Employees; and Ginger Eagle, Washington Public Ports Association.

(Other) Josh Weiss, Washington State Association of Counties; James McMahan, Washington Association of County Officials; and Victoria Lincoln, Association of Washington Cities.

Persons Testifying (Appropriations Subcommittee on General Government): Representative Springer, prime sponsor; and Scott Merriman, Office of the State Treasurer.

Persons Signed In To Testify But Not Testifying (Local Government): None.

Persons Signed In To Testify But Not Testifying (Appropriations Subcommittee on General Government): None.