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

BILL ANALYSIS

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

House Bill 5701 (Substitute H-2 as reported without amendment)
Sponsor: Representative Robert Brackenridge
House Committee: Local Government
Senate Committee: Local, Urban and State Affairs

Date Completed: 10-16-96

RATIONALE

Public Act 156 of 1851 defines the powers and duties of county boards of commissioners and specifies the powers that can be exercised only by a two-thirds vote of a county board. Some of the actions that require a two-thirds vote include purchasing real estate needed for the construction of buildings to support a county's poor; designating a new site for a county building; and abolishing the distinctions between township and county poor. In addition, the Act enumerates the powers of a county board in one section and lists the powers that require a two-thirds vote in another section, which has resulted in confusion among some county officials. Thus, some county boards have taken action by a majority vote of the board instead of a two-thirds vote as required by the Act. Some people believe that the Act should be updated and the voting requirements clarified.

CONTENT

The bill would amend Public Act 156 of 1851 to repeal a provision that requires a two-thirds vote of the members elected to a county board in order for the board to exercise certain powers; and permit a county to require either a majority vote of the members elected or two-thirds of the members present, whichever was greater, to pass a nonagenda item.

Currently, a majority of the members present may determine questions that arise at a county board of commissioners meeting, but the final passage or adoption of a measure or resolution, or the allowance of a claim against the county, requires a majority of the members elected and serving. The bill would add that a county board of commissioners could require in its bylaws that the votes of two-thirds of the members present or a majority of the members elected and serving, whichever was greater, would be required on final passage or adoption of a nonagenda item. The bill specifies that these voting requirements would not apply if the Act's provisions prescribing a county board's powers or any other provision of law imposed a higher voting requirement.

Currently, the Act specifies that a county board, at a lawfully held meeting, has the power to perform certain functions, including determining the site of a county building. Under the bill, the exercise of the authority to determine the site of, remove, or designate a new site for a county building would be subject to any requirements of law that the building be located at the county seat. The Act also permits a county board to borrow or raise by tax upon the county those funds authorized by law. Under the bill, the exercise of this authority would be subject to any voting requirement provided by law authorizing the borrowing or tax if it were different from the majority voting requirement under the Act.

The bill also would delete provisions in the Act that permit a county board to do the following:

-- Purchase, for a county's use, real estate needed for the erection of buildings for the support of a county's poor and for a farm to be used in connection with that support.
-- Remove or designate a new site for a county building to be at the county seat, if the new site is not outside of the limits of the village or city in which the county seat is situated, and remove or designate a new site for a county infirmary or medical care facility.
-- Abolish or revive the distinctions between township and county poor.

-- Authorize a township in a county, by a vote of the township's electors, to borrow or raise by tax on the township money to build or repair roads or bridges in the township.

Currently, a county board may purchase or lease, for up to five years, real estate needed for the site of a courthouse, jail, clerk's office, or other county building. The bill would increase the term of a lease to 20 years.

The bill also would repeal a provision requiring a vote of two-thirds of a board's elected members to do the following: determine the site of a county building; remove or designate a new site for a county building required to be at the county seat, if the new site is not outside the limits of the village or city in which the county seat is located, and remove or designate a new site for a county infirmary or medical care facility; erect buildings for jails, clerks' offices, and other county buildings, and prescribe the time and manner of erecting these buildings; abolish or revive the distinctions between township and county poor; authorize the making of a new tax roll; authorize a township, by a vote of its electors, to borrow or raise by tax on the township money to build or repair roads or bridges; and, represent the county and have the care and management of the property and business of the county if other provisions are not made (MCL 46.12).

MCL 46.3 et al.

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

The bill would update Public Act 156 to clarify voting requirements for a county board and remove outdated provisions that currently require a two-thirds vote of a county board. Most of the enumerated powers concern routine matters that should not require a two-thirds vote. By requiring a majority vote instead of a two-thirds vote on routine matters, the bill would enable county boards to take action by a simple majority vote, which other local governments are permitted to do. The bill also would permit a county to require either a majority vote of the members elected or two-thirds of the members present, whichever was greater, to pass a nonagenda item. Proponents of the bill contend that this provision would protect county residents by preventing controversial items, which were not listed on a meeting agenda, from being brought up unexpectedly at a county board meeting and railroaded through the board. Thus, county commissioners still could conduct most of their business by majority vote, except when board bylaws or other tax and borrowing statutes required otherwise.

Supporting Argument

Under Public Act 156, counties are prohibited from purchasing or leasing for more than five years real estate in a county on which to locate county buildings. Some county officials contend that this restriction is not reasonable in today's business climate in which property owners as well as purchasers or lessees seek long-term arrangements. The bill would increase to 20 years the term for which a county board of commissioners may purchase or lease real estate. Lengthening the term of a purchase or lease would facilitate future county negotiations for the purchase or lease of property and would permit counties to enter into long-term agreements, as municipalities and townships currently are permitted to do.

Opposing Argument

By specifying that either a majority of the elected members of a county board or a two-thirds vote of the members present would be needed to pass a nonagenda item, the bill would place on county boards of commissioners a voting requirement that is not imposed on other local governmental boards.

Response: The bill would *permit* a county board to require a majority or two-thirds vote for nonagenda items.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross

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