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BILL



ANALYSIS

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Senate Bill 986 (as passed by the Senate)
Sponsor: Senator Mike Kowall
Committee: Government Operations

Date Completed: 9-29-16

RATIONALE

The Michigan Health Endowment Fund was created by Public Act 4 of 2013, which amended the Nonprofit Health Care Corporation Reform Act to change the operation and structure of Blue Cross Blue Shield of Michigan (BCBSM). Among other things, the Act requires BCBSM to contribute up to \$1.56 billion over 18 years to the Fund. The Fund is a private, nonprofit corporation, organized for specific charitable purposes. These include supporting efforts that improve the quality of health care while reducing costs to residents of the State; subsidizing the cost of Medigap coverage to eligible individuals who demonstrate a financial need; and benefitting the health and wellness of minor children and seniors throughout the State with a significant focus in specific areas. In light of the Flint drinking water emergency, where the municipal water supply was contaminated with lead and other toxins after the city switched its water source, some people believe that the Fund's areas of focus should include public health emergencies.

CONTENT

The bill would amend the Nonprofit Health Care Corporation Reform Act to include a significant focus on public health emergency, in the areas in which the Michigan Health Endowment Fund benefits the health and wellness of children and seniors.

The Act requires the articles of incorporation of the Fund to provide that it is organized for specific purposes. These include benefiting the health and wellness of minor children and seniors throughout the State with a significant focus in the following areas:

- Access to prenatal care and reduction of infant mortality rates.
- Health services for foster and adopted children.
- Access to healthy food.
- Wellness programs and fitness programs.
- Access to mental health services.
- Technology enhancements.
- Health-related transportation needs.
- Foodborne illness prevention.

The bill would add "public health emergency" to those areas.

MCL 550.1653 & 550.1655

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

When legislation was enacted in 2013 to permit Blue Cross Blue Shield of Michigan to become a nonprofit mutual insurer, it maintained BCBSM's social mission by providing for the creation of the

Michigan Health Endowment Fund and requiring BCBSM to contribute \$1.56 billion to it. As stated in its 2016-2020 Strategic Plan, the mission of the Fund is to "improve the health of Michigan residents, with special emphasis on the health and wellness of children and seniors, while reducing the cost of health care". Including a focus on public health emergencies would be consistent with this mission and help carry it out.

The Flint drinking water crisis is a prime example of a public health emergency that would benefit from contributions from the Fund. As widely reported, the city decided early in 2013 to discontinue its water supply contract with the Detroit Water and Sewerage Department (DWSD) and to join the Karegnondi Water Authority (KWA). Because the connection to the KWA required the construction of a new pipeline, which was expected to take at least two years, Flint continued to obtain water from the DWSD. In April 2014, after unsuccessful negotiations with the DWSD and while Flint was under the control of an emergency manager, the city began using the Flint River for its water source. The corrosive effect of the Flint River water on lead pipes and plumbing fixtures then caused excessively high levels of lead in the water supply, a finding that ultimately was confirmed in September 2015. Although the city then returned to the DWSD to supply its drinking water,¹ Flint residents had been exposed to unsafe water for more than a year. On January 5, 2016, Governor Snyder issued a declaration that a state of emergency existed in Flint and Genesee County; to date, the declaration remains in effect.

The health risks of lead exposure in children are well documented. According to the Centers for Disease Control and Prevention, no safe blood lead level in children has been identified. Lead can increase children's risks for damage to the brain and nervous system, anemia, delayed growth and development, learning and behavioral problems, and speech and hearing problems. Lead exposure in pregnant women can reduce the growth of the fetus and cause premature birth. Adults exposed to lead can suffer from cardiovascular effects, decreased kidney function, and reproductive problems.

In addition to lead contamination, there are concerns that the Flint water supply may have been contaminated with *Legionella*, the bacteria that can cause a serious type of pneumonia called Legionnaires' disease. According to a recent article in the *Detroit Free Press*, "There were at least 12 deaths linked with an outbreak of Legionnaires' disease...in the Flint area and 91 confirmed cases during a 17-month period in 2014 and 2015... In previous years, six to 13 cases were typically confirmed annually in Genesee County." ("Genesee County confirms its first case of Legionnaires'", *Detroit Free Press*, 7-6-2016.) As the article pointed out, the source of the outbreak was never definitively determined or officially connected to the municipal water system, but the illnesses began after Flint changed its water supply.

Considering the undeniable, serious health effects on children and others from the Flint water emergency, it is clear that assistance from the Michigan Health Endowment Fund would be appropriate in this situation. By including a public health emergency among the areas on which the Fund is required to focus, the bill could encourage the Fund's board of directors to direct grants to the Flint community. Public health emergencies would not be limited to Flint, however. Other municipalities or populations also may experience emergency situations in which the public health is at risk, and could benefit from assistance from the Fund.

Opposing Argument

Emergency assistance is not consistent with the types of grants that the Michigan Health Endowment Fund (MHEF) makes. The Fund's 2016-2020 Strategic Plan lists its guiding principles and the first one states, "We emphasize efforts that are likely to achieve *long-term impact* with measurable outcomes". The Fund's strategy incorporates what it calls "proactive initiatives" and "responsive grantmaking". With respect to proactive initiatives, the Strategic Plan states, "[T]he Fund is dedicated to supporting proposals that have the greatest potential for *long-term impact*." The Plan also states, "Resources budgeted for responsive grantmaking will enable the Fund to

¹ Flint recently decided to move forward with its plan to join the KWA but that water source cannot be used until the city meets testing criteria of the U.S. Environmental Protection Agency, which is not expected to occur until 2017. "Officials: Flint will remain with KWA", *The Detroit News*, 6-21-2016.

respond to important community needs where one-time grants could leverage *long-term impact...*". (Emphasis added in all quotes.) In addition, the Plan lists several limitations on its grant-making and the first one states, "Needs relating to health-related emergencies (though MHEF might in some situations consider support to address longer-term rebuilding or other needs following emergency situations)".

Revising the statute to include a focus on public health emergencies is unnecessary and could be counterproductive. The Fund already can and does respond to emergency situations in a manner that is consistent with its guiding principles. According to information supplied by the MHEF, as of August 10, 2016, the Fund made grant investments specific to Flint in 2015 and 2016 totaling \$1,126,715. This amount includes \$514,825 awarded in January 2016 and \$250,000 awarded in July 2016 to the Community Foundation of Greater Flint for various purposes, including nutrition, as well as \$97,500 awarded in April 2016 to the Greater Flint Health Coalition. Also, in 2014, portions of MHEF grants awarded to several statewide organizations, including the Michigan Association of United Ways and the Food Bank Council of Michigan, were used toward work in Flint specific to the water crisis.

Furthermore, as noted above, the Fund's purposes include "benefiting the health and wellness of minor children and seniors *throughout the state*" (emphasis added). Focusing on a local public health emergency would reduce the resources available to assist other communities across Michigan. For example, the Fund recently announced \$4.7 million in grants to 11 organizations working to improve behavioral health care for residents of the State.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

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

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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.