The Detroit News

JUNE 24, 2013

Bill helps control budgeting-by-lawsuit

Budgets should be decided by those elected to do the job, not by the courts

One of the first pieces of legislation that the Michigan Legislature should approve when it resumes regular sessions this fall is a bill that keeps courts out of local budgeting battles. The measure sets new limits on intra-governmental lawsuits, where one elected official may sue a governing board over its budget appropriations.

An example is the suit brought by Wayne County Prosecutor Kym Worthy against the Wayne County Board of Commissioners. Worthy contended her budget wasn't adequate and went to court to get more money.

The problem with this approach is that it takes the budgeting process out of the hands of those who were elected to make such decisions and gives the power to a circuit court judge. It isn't a trial judge's responsibility to address budget policy, and the presiding judge may have a vested interest in the outcome.

Under the proposed bill, which was approved by the House and awaits authorization in the Senate, any lawsuits from elected officials would go before the Michigan Court of Appeals, and not the circuit court. Because it is one-step higher in the judicial chain of command, it is expected the Appeals Court would be more impartial.

Also, the bill would allow the Appeals Court to consider a county or governmental unit's ability to pay. These lawsuits are expensive and the loser is always the taxpayer. Public funds not only pay the attorney fees for both sides of such litigation but also are used in any settlements. Wayne County spent more than $3 million in legal fees last year. The costs for Worthy's suit hasn't been determined yet but is expected to total six figures.

The budget process belongs to the policymakers, and should not be usurped by a circuit court judge. Often in such cases, the governmental unit ends up in the unenviable position of having to rob Peter to pay Paul. As Wayne County Commission Chairman Gary Woronchak's notes, in Worthy's lawsuit, "the only way to give the prosecutor more money would be to layoff people in other areas."

Ideally, elected officials who want more money for their departments should be skilled enough politicians to work the legislative branch and the public. Unfortunately, some like to try other means.

A similar bill passed the House last year but died in the Senate in December when the lame-duck Legislature adjourned without taking action on it. That bill took a stronger stance than the current legislation. It would have barred elected officials, such as prosecutors and sheriffs, from suing to compel additional appropriations from county commissions or executives.

But since that bill failed to win final approval, the new version is an appropriate alternative. This legislation, while it wouldn't halt lawsuits altogether, would help return budget-making to the right venue.

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