



HOUSE BILL No. 5079

October 5, 1993, Introduced by Rep. Bryant and referred to the Committee on Taxation.

A bill to provide for the incorporation of authorities for certain purposes related to education; to provide for compensation of authority commissioners; to permit transfers of property to an authority; to authorize an authority to impose certain taxes to finance the activities of the authority; and to provide for certain other powers, rights, and duties of an authority and incorporating units.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Authority" means an authority incorporated under this
3 act.

4 (b) "Community college" means a community college estab-
5 lished under the community college act of 1966, Act No. 331 of
6 the Public Acts of 1966, being sections 389.1 to 389.195 of the
7 Michigan Compiled Laws.

1 (c) "Intermediate school district" means that term as
2 defined in the school code of 1976, Act No. 451 of the Public
3 Acts of 1976, being sections 380.1 to 380.1852 of the Michigan
4 Compiled Laws.

5 (d) "School district" means that term as defined in Act
6 No. 451 of the Public Acts of 1976, or a local act school dis-
7 trict as defined in Act No. 451 of the Public Acts of 1976.

8 (e) "State university" means an institution of higher educa-
9 tion established under section 4, 5, or 6 of article VIII of the
10 state constitution of 1963.

11 Sec. 2. Any combination of 2 or more school districts,
12 intermediate school districts, community colleges, or state uni-
13 versities may incorporate an authority for the purpose of provid-
14 ing programs and services offered in the form of higher education
15 courses, enrichment educational offerings, gifted and talented
16 programs, special education, vocational education, hands-on
17 work-study, cooperative education, seminars, after school pro-
18 grams, weekend courses, summer courses, camps, or similar pro-
19 grams, and for providing related materials and equipment, if the
20 programs or services are related to 1 or more of the following
21 types of education:

22 (a) Vocational education.

23 (b) Science.

24 (c) Mathematics.

25 (d) Foreign language.

26 (e) Performing arts.

1 (f) Gifted and talented.

2 (g) Special education.

3 (h) Work-study.

4 (i) Higher education.

5 Sec. 3. The incorporation of an authority shall be accom-
6 plished by the adoption of articles of incorporation by the gov-
7 erning board of each incorporating unit by affirmative vote of
8 the majority of the members elected and serving of each governing
9 board. The articles of incorporation shall be executed for and
10 on behalf of each incorporating unit by the president and secre-
11 tary of the governing board of each incorporating unit. The sec-
12 retary of each incorporating unit shall also affix to the arti-
13 cles of incorporation following the signatures a certificate in
14 substantially the following form:

15 "The foregoing articles of incorporation were adopted by the
16 [insert name of incorporating unit], at a meeting duly held on
17 the day of, 19.....

18 Dated:....., 19.....

19
20 (Secretary)''

21 Sec. 4. The articles of incorporation of an authority
22 shall set forth the name of the authority; the names of the
23 incorporating units; the purpose for which the authority is cre-
24 ated; the number, terms, and manner of selection of its officers
25 including its board of commissioners; the powers and duties of
26 the authority and of its officers; the date upon which the
27 authority shall become effective; the name of the newspaper in

1 which the articles of incorporation shall be published; and any
2 other matters considered necessary.

3 Sec. 5. (1) An authority shall be directed and governed by
4 a board of commissioners consisting of a number of members equal
5 to a multiple of the number of incorporating units, as specified
6 in the articles of incorporation. The governing board of each
7 incorporating unit shall elect an equal number of commissioners
8 to the board of commissioners. The commissioners shall serve for
9 4-year terms. A member of a governing board of an incorporating
10 unit is not eligible to serve as a commissioner.

11 (2) The commissioners shall designate 1 member as chair-
12 person and 1 as secretary, and shall adopt bylaws and rules of
13 procedure.

14 (3) The business the board of commissioners performs shall
15 be conducted at a public meeting of the board of commissioners
16 held in compliance with the open meetings act, Act No. 267 of
17 the Public Acts of 1976, being sections 15.261 to 15.275 of the
18 Michigan Compiled Laws. Public notice of the time, date, and
19 place of the meeting shall be given in the manner required by Act
20 No. 267 of the Public Acts of 1976.

21 (4) A writing prepared, owned, used, in the possession of,
22 or retained by the authority in the performance of an official
23 function is subject to the freedom of information act, Act
24 No. 442 of the Public Acts of 1976, being sections 15.231 to
25 15.246 of the Michigan Compiled Laws.

1 Sec. 6. Members of the board of commissioners may receive
2 compensation as provided by the board of commissioners with the
3 approval of the incorporating units.

4 Sec. 7. (1) The articles of incorporation shall be exe-
5 cuted in multiple originals and an original shall be delivered to
6 the county clerk of each county in which an incorporating unit
7 other than a state university is located, who shall maintain the
8 copy on file in his or her office. One original shall also be
9 maintained on file with the recording officer of the authority
10 when selected.

11 (2) The officer designated in the articles of incorporation
12 shall cause a copy of the articles of incorporation to be pub-
13 lished once in 1 or more newspapers designated in the articles of
14 incorporation and circulated within the incorporating units
15 accompanied by a statement that the right exists to question the
16 incorporation in court as provided in this section.

17 (3) The county clerk in each county in which an incorporat-
18 ing unit other than a state university is located shall file 1
19 copy of the articles of incorporation with the secretary of state
20 and 1 copy in his or her office, with his or her certificate
21 attached to each setting forth that the same is a true and com-
22 plete copy of the original articles of incorporation on file in
23 his or her office and also the date and place of the publication
24 of the articles of incorporation.

25 (4) An authority under this act becomes effective at the
26 time provided in the articles of incorporation.

1 (5) The validity of the incorporation is conclusively
2 presumed unless questioned in a court of competent jurisdiction
3 within 60 days after the filing of the certified copies with the
4 secretary of state and the county clerk.

5 Sec. 8. An authority is a body corporate with power to sue
6 and be sued in any court of this state. The authority has all
7 the powers necessary to carry out the purpose of its incorpora-
8 tion and those incident to that purpose. The enumeration of any
9 powers in this act is not a limitation upon an authority's gen-
10 eral powers.

11 Sec. 9. (1) For the purpose of accomplishing the purposes
12 of its incorporation, an authority may acquire property by pur-
13 chase, construction, lease, gift, or devise.

14 (2) The governing board of any incorporating unit, by a
15 majority vote of its members elected and serving, may transfer
16 any real property owned by the incorporating unit to an
17 authority.

18 Sec. 10. Amendments may be made to articles of incorpora-
19 tion if adopted by the governing board of each incorporating
20 unit. A school district, intermediate school district, community
21 college, or state university that was not an incorporating unit
22 may become an incorporating unit of the authority by amendment to
23 the articles of incorporation adopted by its governing board and
24 by the board of commissioners of the authority. Each amendment
25 to the articles of incorporation shall be adopted, executed, and
26 published, and certified printed copies filed, in the same manner
27 as provided for the original articles of incorporation.

1 Sec. 11. All property owned by an authority is exempt from
2 taxation by the state or any local taxing unit.

3 Sec. 12. (1) The board of commissioners shall prepare an
4 annual operating budget for the authority.

5 (2) Not later than March 1 of each year, the board of com-
6 missioners shall submit the budget to a meeting of 1 governing
7 board member named from each incorporating unit to represent the
8 incorporating unit. At the meeting, the president of the board
9 of commissioners shall preside and the secretary of the board of
10 commissioners shall keep the minutes. The representatives of
11 incorporating units, by a majority vote of those present and
12 voting, shall determine the maximum amount of the authority's
13 operating budget, but shall not make final determinations as to
14 line items in the budget. After the meeting, the board of com-
15 missioners shall file its budget with the county clerks of the
16 counties in which the incorporating units are situated. The max-
17 imum amount of the budget shall not exceed that approved by the
18 majority of the representatives of incorporating units.

19 (3) With the approval of a majority of the electors of each
20 of the incorporating units other than a state university within
21 an authority, that authority may levy an ad valorem property tax
22 at a rate of not more than 10 mills on the state equalized valua-
23 tion of property located within the incorporating units each year
24 for a period of not more than 20 years. The taxes shall be used
25 to fund the purposes of the authority, in accordance with the
26 budget adopted under subsection (1).

1 (4) The question of approving the tax levy under subsection
2 (3) shall be submitted to the electors of each incorporating unit
3 other than a state university at a regular election of the incor-
4 porating unit or at a special election called for that purpose.
5 Each incorporating unit shall conduct the election in the same
6 manner as any other millage election conducted by the incorporat-
7 ing unit.

8 (5) Not later than 5 days after a tax is approved under sub-
9 section (4), the secretary of the board of commissioners shall
10 certify the taxes to be levied on the taxable property within the
11 incorporating units of the authority with the clerk of each city
12 and township in which all or part of an incorporating unit other
13 than a state university is situated.

14 (6) For the purposes of section 27a of the general property
15 tax act, Act No. 206 of the Public Acts of 1893, being section
16 211.27a of the Michigan Compiled Laws, millage levied under this
17 act is not millage levied for local school district operating
18 purposes or for intermediate school district operating purposes.

19 Sec. 13. (1) Authority taxes under this act shall be spread
20 on the tax roll and shall be collected pursuant to this act at
21 the same times and in the same manner as taxes under the general
22 property tax act, Act No. 206 of the Public Acts of 1893, being
23 sections 211.1 to 211.157 of the Michigan Compiled Laws.

24 (2) Taxes collected under this act by a city or township
25 treasurer shall be paid to the treasurer of the board of commis-
26 sioners of the authority in the same manner as under section 43

1 of Act No. 206 of the Public Acts of 1893, being section 211.43
2 of the Michigan Compiled Laws.

3 (3) Authorities are subject to the property tax limitation
4 act, Act No. 62 of the Public Acts of 1933, being sections
5 211.201 to 211.217a of the Michigan Compiled Laws.

6 (4) The county treasurer shall submit to the board of com-
7 missioners of an authority the same reports of delinquent taxes
8 due to the authority as the treasurer is required by law to file
9 with township and city clerks.