



HOUSE BILL No. 4442

February 21, 1995, Introduced by Reps. Oxender, Munsell, Profit and Bennane and referred to the Committee on Local Government.

A bill to provide for the establishment of cultural and recreational authorities; to provide powers and duties of an authority; to authorize the assessment of a fee, the levy of a property tax, and the issuance of bonds and notes by an authority; and to provide for the powers and duties of certain government officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "cultural and recreational authorities act".

3 Sec. 3. As used in this act:

4 (a) "Articles" means the articles of incorporation of an
5 authority.

6 (b) "Authority" means a cultural and recreational authority
7 established under section 5.

1 (c) "Board" means the board of directors of the authority.

2 (d) "Electors of the authority" means the qualified and
3 registered electors of the participating municipalities who
4 reside within the territory of the authority.

5 (e) "Largest county" means, of those counties in which a
6 participating municipality is located, the county having the
7 greatest population.

8 (f) "Municipality" means a city, village, or township.

9 (g) "Park" means an area of land or water, or both, dedi-
10 cated to 1 or more of the following uses:

11 (i) Recreational purposes, including but not limited to
12 landscaped tracts; picnic grounds; playgrounds; athletic fields;
13 camps; campgrounds; zoological and botanical gardens; boating,
14 hunting, fishing, and birding areas; swimming areas; and foot,
15 bicycle, and bridle paths.

16 (ii) Open or scenic space.

17 (iii) Environmental, conservation, nature, or wildlife
18 areas.

19 (h) "Participating", in reference to a municipality, means
20 that the municipality is named in articles of incorporation or
21 proposed articles of incorporation as joining in the original
22 establishment of an authority, or the municipality joins an
23 existing authority and is added to the articles of incorporation,
24 and that the municipality has not withdrawn from the authority.

25 (i) "Swimming pool" includes equipment, structures, areas,
26 and enclosures intended for the use of individuals using or

1 operating a swimming pool, such as equipment, dressing, locker,
2 shower, and toilet rooms.

3 (j) "Territory of the authority" means the combined terri-
4 tory of the participating municipalities that is served by an
5 authority.

6 Sec. 5. (1) Two or more municipalities may establish a cul-
7 tural and recreational authority. A cultural and recreational
8 authority is an authority under section 6 of article IX of the
9 state constitution of 1963.

10 (2) To initiate the establishment of an authority, articles
11 of incorporation shall be prepared. The articles of incorpora-
12 tion shall include the following:

13 (a) The name of the authority.

14 (b) The names of the participating municipalities.

15 (c) A description of the territory of the authority. The
16 articles may provide that only a portion of the territory of a
17 participating municipality is included in the territory of the
18 authority.

19 (d) The size of the board of the authority, which shall be
20 an odd number; the qualifications, method of selection, and terms
21 of office of board members; and the filling of vacancies in the
22 office of board member. The articles shall provide that the
23 school board of each school district lying totally or partially
24 within the territory of the authority is entitled to appoint 1
25 member of the board of the authority. If board members are
26 elected in at large elections by the qualified and registered
27 electors of the participating municipalities, voting

1 collectively, the election of board members shall be conducted
2 pursuant to the same procedures that govern an election for a tax
3 under sections 13 to 17.

4 (e) The purposes for which the authority is established,
5 which shall be 1 or more of the following:

6 (i) The acquisition, construction, operation, maintenance,
7 and improvement of a public swimming pool.

8 (ii) The acquisition, construction, operation, maintenance,
9 and improvement of a public recreation center.

10 (iii) The acquisition, construction, operation, maintenance,
11 and improvement of a public auditorium.

12 (iv) The acquisition, construction, operation, maintenance,
13 and improvement of a public conference center.

14 (v) The acquisition, construction, operation, maintenance,
15 and improvement of a public park.

16 (f) The procedure and requirements for a municipality to
17 become a participating municipality in, and for a participating
18 municipality to withdraw from, an existing authority. For a
19 municipality to become a participating municipality in an exist-
20 ing authority, a majority of the electors of the municipality
21 residing in territory of the municipality proposed to be included
22 in the territory of the authority and voting on the question
23 shall approve any tax that the authority has been authorized to
24 levy by a vote of the electors of the authority under section
25 11. A municipality may not withdraw from an authority during the
26 period for which the authority has been authorized to levy a tax
27 by the electors of the authority.

1 (g) Any other matters considered advisable.

2 (3) The articles shall be adopted and may be amended by an
3 affirmative vote of a majority of the members serving on the leg-
4 islative body of each participating municipality. Unless the
5 articles provide otherwise, the requirements of this subsection
6 do not apply to an amendment to the articles to allow a munici-
7 pality to become a participating municipality in, or to allow a
8 participating municipality to withdraw from, an existing
9 authority.

10 (4) Before the articles or amendments to the articles are
11 adopted, the articles or amendments to the articles shall be pub-
12 lished at least once in a newspaper generally circulated within
13 the participating municipalities. The adoption of articles or
14 amendments to the articles by a municipality shall be evidenced
15 by an endorsement on the articles or amendments by the clerk of
16 the municipality.

17 (5) Upon adoption of the articles or amendments to the arti-
18 cles by each of the participating municipalities, a printed copy
19 of the articles or the amended articles shall be filed with the
20 secretary of state by the clerk of the last participating munici-
21 pality to adopt the articles or amendments.

22 (6) The authority's articles of incorporation, or amendments
23 to the articles, take effect upon filing with the secretary of
24 state.

25 Sec. 7. (1) A vacancy shall occur on the board on the hap-
26 pening of any of the events set forth in section 3 of chapter 15
27 of the Revised Statutes of 1846, being section 201.3 of the

1 Michigan Compiled Laws. Appointed members of the board, if any,
2 may be removed by the appointing authority for good cause after a
3 public hearing. Vacancies shall be filled in the same manner as
4 the original appointment for the unexpired term.

5 (2) A majority of the members of the board constitutes a
6 quorum for the purpose of conducting business and exercising the
7 powers of an authority. Official action may be taken by an
8 authority upon the vote of a majority of the board members
9 present, unless the authority adopts bylaws requiring a larger
10 number.

11 (3) A member of the board shall not receive compensation for
12 services as a member of the board but is entitled to reimburse-
13 ment for reasonable expenses, including expenses for travel pre-
14 viously authorized by the board, incurred in the discharge of his
15 or her duties.

16 (4) The business that an authority may perform shall be con-
17 ducted at a public meeting of the authority held in compliance
18 with the open meetings act, Act No. 267 of the Public Acts of
19 1976, being sections 15.261 to 15.275 of the Michigan Compiled
20 Laws. Public notice of the time, date, and place of the meeting
21 shall be given in the manner required by Act No. 267 of the
22 Public Acts of 1976.

23 (5) A writing prepared, owned, or used by an authority in
24 the performance of an official function shall be made available
25 in compliance with the freedom of information act, Act No. 442 of
26 the Public Acts of 1976, being sections 15.231 to 15.246 of the
27 Michigan Compiled Laws.

1 (6) At its first meeting, a board shall elect a chairperson,
2 a secretary, a treasurer, and any other officers it considers
3 necessary. A board shall meet at least quarterly.

4 (7) A board may adopt bylaws to govern its procedures.

5 Sec. 9. An authority has all the powers necessary to carry
6 out the purposes for which it is established, including, but not
7 limited to, the following:

8 (a) Acquire and hold, by purchase, lease with or without
9 option to purchase, grant, gift, devise, land contract, install-
10 ment purchase contract, bequest, condemnation, or other legal
11 means, real and personal property inside or outside the territory
12 of the authority. The property may include franchises, ease-
13 ments, or rights of way on, under, or above any property. The
14 authority may pay for the property from, or pledge for the pay-
15 ment of the property, revenue of the authority.

16 (b) Apply for and accept grants or contributions from indi-
17 viduals, the federal government or any of its agencies, this
18 state, a municipality, or other public or private agencies to be
19 used for any of the purposes of the authority.

20 (c) Hire full-time or part-time employees and retain profes-
21 sional services.

22 (d) Provide for the maintenance of all of the real and per-
23 sonal property of the authority.

24 (e) Assess and collect fees for services provided by and
25 expenses incurred by the authority.

26 (f) Receive revenue as appropriated by the legislature of
27 this state or a participating municipality.

1 (g) Enter into contracts incidental to or necessary for the
2 accomplishment of the purposes of the authority.

3 Sec. 11. (1) An authority may levy a tax of not more than 3
4 mills for a period of not more than 20 years on all of the tax-
5 able property within the territory of the authority for the pur-
6 poses of acquiring, operating, maintaining, and improving a
7 public swimming pool, public recreation center, public auditorium
8 or conference center, or public park. The authority may levy the
9 tax only upon the approval of a majority of the electors of the
10 authority voting collectively on the tax at a general or special
11 election. The proposal for a tax shall be submitted to a vote of
12 the electors of the authority by resolution of the board.

13 (2) A ballot proposal for a tax shall state the amount and
14 duration of the millage and the general purposes for which the
15 millage may be used. A proposal for a tax shall not be placed on
16 the ballot unless the proposal is adopted by a resolution of the
17 board and certified by the board not later than 60 days before
18 the election to the county clerk of each county in which all or
19 part of the territory of the authority is located for inclusion
20 on the ballot. The proposal shall be certified for inclusion on
21 the ballot at the next general election, the state primary imme-
22 diately preceding the general election, or a special election not
23 occurring within 45 days of a state primary or a general elec-
24 tion, as specified by the board's resolution.

25 (3) If a special election is proposed, within 10 days after
26 receiving the proposal, the county clerk of the county described
27 in subsection (2) having the greatest population shall request

1 approval of a special election date from the county election
2 scheduling committee of that county. The proposal shall be sub-
3 mitted to the electors of the authority on the date approved by
4 that county election scheduling committee.

5 (4) If a majority of the electors of the authority voting
6 collectively on the question of a tax approve the proposal, the
7 tax levy is authorized. No more than 2 elections may be held in
8 a calendar year on a proposal for a tax.

9 Sec. 13. (1) The county election commission of each county
10 in which all or part of a participating municipality is located
11 shall provide ballots for an election for a tax under section 11
12 for each participating municipality or part of a participating
13 municipality located within the county.

14 (2) Except as otherwise provided in subsection (4), an elec-
15 tion for a tax shall be conducted by the city and township clerks
16 and election officials of the municipalities located within the
17 territory of the authority.

18 (3) If an election on a proposal for a tax is to be held in
19 conjunction with a general election or state primary election and
20 if a participating village is located within a nonparticipating
21 township, the township clerk and election officials shall conduct
22 the election. On the forty-fifth day preceding the election, the
23 village clerk shall provide to the township clerk a list contain-
24 ing the name, address, and birth date of each qualified and reg-
25 istered elector of the village residing in the territory of the
26 authority. By the fifteenth day preceding the election, the
27 village clerk shall provide to the township clerk information

1 updating the list as of the close of registration. Persons
2 appearing on the list as updated are eligible to vote in the
3 election by special ballot.

4 (4) If a tax is to be voted on at a special election not
5 held in conjunction with a general election or state primary
6 election and if a participating village is located within a non-
7 participating township, the village clerk and election officials
8 shall conduct the election.

9 Sec. 15. (1) If an election for a tax under section 11 is
10 to be held in conjunction with a general election or a state pri-
11 mary election, the notices of close of registration and election
12 shall be published as provided for by the state election laws.
13 Otherwise, the county clerk of the largest county shall publish
14 the notices of close of registration and election. The notice of
15 close of registration shall include the ballot language of the
16 proposal.

17 (2) The results of an election for a tax shall be canvassed
18 by the board of county canvassers of each county in which a par-
19 ticipating municipality is located. The board of county canvass-
20 ers of a county in which a participating municipality is located
21 and which is not the largest county shall certify the results of
22 the election to the board of county canvassers of the largest
23 county. The board of county canvassers of the largest county
24 shall make the final canvass of an election for a tax based on
25 the returns of the election inspectors of the participating
26 municipalities in that county and the certified results of the
27 board of county canvassers of every other county in which a

1 participating municipality is located. The board of county
2 canvassers of the largest county shall certify the results of the
3 election to the board of the authority.

4 Sec. 17. (1) A county clerk shall charge the authority and
5 the authority shall reimburse the county for the actual costs the
6 county incurs in an election for a tax under section 11.

7 (2) If a participating municipality conducts an election for
8 a tax, the clerk of that participating municipality shall charge
9 the authority and the authority shall reimburse the participating
10 municipality for the actual costs the participating municipality
11 incurs in conducting the election if 1 or both of the following
12 apply:

13 (a) The election is not held in conjunction with a regularly
14 scheduled election in that municipality.

15 (b) Only a portion of the territory of a participating
16 municipality is included in the territory of the authority.

17 (3) In addition to costs reimbursed pursuant to subsection
18 (1) or (2), a county or municipality shall charge the authority
19 and the authority shall reimburse the county or municipality for
20 actual costs that the county or municipality incurs and that are
21 exclusively attributable to an election for a tax.

22 (4) The actual costs that a county or municipality incurs
23 shall be based on the number of hours of work done in conducting
24 the election, the rates of compensation of the workers, and the
25 cost of materials supplied in the election.

26 Sec. 19. The tax shall be collected with county taxes and
27 distributed by the local tax collecting unit under the provisions

1 of the general property tax act, Act No. 206 of the Public Acts
2 of 1893, being sections 211.1 to 211.157 of the Michigan Compiled
3 Laws.

4 Sec. 21. (1) An authority may borrow money and issue bonds
5 or notes to finance the acquisition, construction, and improve-
6 ment of a public swimming pool, a public recreation center, a
7 public auditorium, a public conference center, or a public park,
8 including the acquisition of sites and the acquisition and
9 installation of furnishings and equipment for these purposes.

10 (2) An authority shall not borrow money or issue bonds or
11 notes for a sum that, together with the total outstanding bonded
12 indebtedness of the authority, exceeds 2 mills of the state
13 equalized valuation of the taxable property within the district.

14 (3) Bonds or notes issued by an authority are a debt of the
15 authority and not of the participating municipalities.

16 (4) Bonds or notes issued pursuant to this act are subject
17 to the municipal finance act, Act No. 202 of the Public Acts of
18 1943, being sections 131.1 to 139.3 of the Michigan Compiled
19 Laws.

20 Sec. 23. (1) An authority may issue general obligation
21 unlimited tax bonds upon approval of a majority of the electors
22 of the authority voting collectively on the question of issuing
23 the bonds. The proposal to issue general obligation unlimited
24 tax bonds shall be submitted to a vote of the electors of the
25 authority by resolution of the board.

26 (2) The language of the ballot proposal shall be in
27 substantially the following form:

1 "Shall [name of authority], formed by [names of
 2 participating municipalities], borrow the sum of
 3 not to exceed _____ dollars (\$_____))
 4 and issue its general obligation unlimited tax
 5 bonds for all or a portion of that amount for
 6 the purpose of _____?

7 Yes [] No []".

8 (3) The election shall be conducted in the manner provided
 9 in sections 11 to 17 for an election for a tax. No more than 2
 10 elections on the question of issuing general obligation unlimited
 11 tax bonds may be held in a calendar year.

12 (4) If an authority issues general obligation unlimited tax
 13 bonds under this section, the board, by resolution, shall autho-
 14 rize and levy the taxes necessary to pay the principal of and
 15 interest on the bonds.

16 Sec. 25. (1) An authority may issue general obligation
 17 limited tax bonds for the purposes provided in section 21 by res-
 18 olution of the board, without submitting the question to the
 19 electors of the authority.

20 (2) The board shall not authorize or levy a tax to pay the
 21 principal of and interest on the general obligation limited tax
 22 bonds that exceeds the tax levy authorized by a vote of the qual-
 23 ified electors of the district as provided in section 11.

24 Sec. 27. (1) An authority may borrow money and issue its
 25 negotiable bonds and notes for the purpose of refunding
 26 outstanding debt obligations of the district by resolution of the

1 board, without submitting the question to the electors of the
2 authority.

3 (2) Refunding bonds or the refunding part of a bond issue
4 shall not be considered to be within the 2-mill limitation of
5 section 21(2), but shall be considered to be authorized in addi-
6 tion to the 2-mill limitation.

7 Sec. 29. (1) A board shall obtain an annual audit of the
8 authority, and report on the audit and auditing procedures, in
9 the manner provided by sections 6 to 13 of the uniform budgeting
10 and accounting act, Act No. 2 of the Public Acts of 1968, being
11 sections 141.426 to 141.433 of the Michigan Compiled Laws. The
12 audit shall also be in accordance with generally accepted govern-
13 ment auditing standards as promulgated by the United States gen-
14 eral accounting office and shall satisfy federal regulations
15 relating to federal grant compliance audit requirements.

16 (2) An authority shall prepare budgets and appropriations
17 acts in the manner provided by sections 14 to 19 of the uniform
18 budgeting and accounting act, Act No. 2 of the Public Acts of
19 1968, being sections 141.434 to 141.439 of the Michigan Compiled
20 Laws.

21 (3) The state treasurer, the attorney general, a prosecuting
22 attorney, bank, certified public accountant, certified public
23 accounting firm, or other person shall have the same powers,
24 duties, and immunities with respect to the authority as provided
25 for local units in sections 6 to 20 of Act No. 2 of the Public
26 Acts of 1968, being sections 141.426 to 141.440 of the Michigan
27 Compiled Laws.

1 (4) If an authority ends a fiscal year in a deficit
2 condition, the authority shall file a financial plan to correct
3 the deficit condition in the same manner as provided in
4 section 21(2) of the state revenue sharing act of 1971, Act
5 No. 140 of the Public Acts of 1971, being section 141.921 of the
6 Michigan Compiled Laws.

7 (5) The board may authorize funds of the authority to be
8 invested or deposited in any investment or depository authorized
9 under section 1 of Act No. 20 of the Public Acts of 1943, being
10 section 129.91 of the Michigan Compiled Laws.