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RECREATION AND CULTURAL AUTHORITIES ACT

House Bill 4297 (Substitute H-2)
First Analysis (2-24-98)

Sponsor: Rep. Glenn Oxender
Committee: Tax Policy

THE APPARENT PROBLEM:

Some communities in southwestern Michigan (and perhaps elsewhere) would like to join together in operating recreational facilities for area residents by creating a regional recreational authority. This could be accomplished now, say local government experts, but only through extremely complicated interlocal agreements. Legislation has been introduced to allow a streamlined method.

THE CONTENT OF THE BILL:

The bill would create the Cultural and Recreational Authorities Act. Under this act, two or more municipalities in a county with a population of under 300,000 could establish a cultural and recreational authority, which with voter approval could levy a tax of not more than 3 mills for a period of not more than 20 years for the purposes of acquiring, operating, maintaining, or improving a public swimming pool, public recreation facility, public auditorium or conference center, or public park. (The term "municipality" would refer to a city, village, or township.)

To establish an authority, articles of incorporation would have to be prepared and then adopted by a majority of the members serving on the legislative body of each participating municipality. Before the articles (or subsequent amendments) could be adopted, they would have to be published at least once in a newspaper generally circulated in the participating municipalities. Once adopted, the articles (or subsequent amendments) would have to be filed with the secretary of state by the clerk of the last municipality to adopt them, and they would take effect upon filing. The articles would address the name of the authority, its purposes, the participating municipalities, a description of the authority's territory, the size of its board, the procedure for joining and withdrawing from the authority, and other appropriate matters. The authority would be an authority under Section 6 of Article IX of the state constitution (which means the taxes it levied would not count toward certain constitutional limitations on ad valorem taxes).

The qualifications, method of selection, and terms of office of board members would be determined by the articles of incorporation. However, the articles would have to provide that the school board of each district lying totally or partially within the territory of the authority was entitled to appoint one member to the board of the authority. If board members were elected in at large elections with the voters of the participating municipalities voting collectively, the election would be conducted as prescribed in the bill (using the same procedures as the election involving a ballot proposal on a tax by the authority). A majority of the members would constitute a quorum, and official action could be taken upon the vote of a majority of the members present unless bylaws required a larger number. Board members would not receive compensation but would be entitled to reimbursement for reasonable expenses, including previously authorized travel. Board members could be removed by the appointing authority for good cause after a public hearing. Vacancies would be filled in the same manner as the original appointment. An authority would be subject to the Open Meetings Act and the Freedom of Information Act.

An authority would have the powers necessary to carry out its purposes, including the acquisition of property inside or outside its territory and the maintenance of property; the hiring of employees; the assessing and collecting of fees; the receipt of revenue from the state legislature or a participating municipality; and the acceptance of grants or contributions from individuals, the federal government, the state, a municipality, or other private and public agencies.

To the extent authorized by its articles, an authority could levy a tax of not more than 3 mills for up to 20 years on all of the taxable property within its territory only upon the approval of a majority of the electors of the authority voting collectively on the tax at a general or special election. The proposal for a tax would have to be submitted to the voters by resolution of the authority board. A ballot proposal would have to state the amount

and duration of the millage and the general purposes for which it could be used. No more than two elections could be held in a calendar year on a tax proposal. The bill would specify how the election was to be conducted. The provisions are similar to those found in the Metropolitan Council Act. The tax would be collected with county taxes and distributed by the local tax collecting unit following the provisions of the General Property Tax Act.

An authority would be able to borrow money and issue bonds for its purposes not to exceed 2 mills of the taxable value of the taxable property within the authority's territory. Bonds or notes would be a debt of the authority and not of the participating municipalities. They would be subject to the Municipal Finance Act. General obligation unlimited tax bonds would require the approval of the voters. General obligation limited tax bonds could be issued by resolution of the authority board. An authority could issue bonds or notes for the purpose of refunding outstanding debt obligations by resolution of the board and refunding bonds would not be considered to be within the 2-mill limitation.

An authority board would be subject to the Uniform Budgeting and Accounting Act as regards annual audits, the preparation of budgets and appropriation acts, and the powers, duties, and immunities of the state treasurer, the attorney general, a prosecuting attorney, bank, certified public accountant or accounting firm, and others with respect to the authority. An authority that ended a year in a deficit condition would have to file a financial plan in the manner provided in the State Revenue Sharing Act. The board could authorize the funds of the authority to be invested or deposited in any investment or depository authorized under Section 1 of Public Act 20 of 1943, which governs the investment of surplus funds of political subdivisions.

FISCAL IMPLICATIONS:

The bill would have no fiscal impact on the state, according to the House Fiscal Agency. (2-18-98)

ARGUMENTS:

For:

The bill would provide an orderly mechanism for municipalities to band together to provide recreational and cultural opportunities. For example, two towns could share the operation of a public swimming pool, of ballfields, a park, or a conference center. It is permissive; the bill itself creates no authorities and levies no taxes. An authority could only be created by the legislative bodies of participating municipalities, and taxes could only be levied by a vote of the people. Much of what the bill would permit can be accomplished now, but only through complicated interlocal agreements. The bill would provide a more orderly, less cumbersome, and less costly method. It is limited to counties with a population of under 300,000. (That leaves out Genesee, Macomb, Oakland, and Wayne counties.)

Against:

Some people would prefer that the vote to levy taxes for a recreational or cultural authority under the bill not be held at a special election, but only at a regularly scheduled election, in order to ensure a respectable voter turnout.

POSITIONS:

The Michigan Municipal League supports the bill. (2-18-98)

Representatives of the St. Joseph County Economic Development Corporation, the City of Sturgis, and River Country Tourism testified in support of the bill. (2-18-98)

Analyst: C. Couch

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.