

**House Bill 5796 (Substitute H-3)  
Second Analysis (6-2-98)**

**Sponsor: Rep. Kirk A. Profit  
Committee: Tax Policy**

***THE APPARENT PROBLEM:***

Supporters of the arts and other cultural institutions have proposed legislation that could provide additional public funding on a regional basis for cultural organizations and programs. They argue that the "cultural infrastructure" of museums, orchestras, theaters, dance companies, and the like, which explore, explain, and interpret the world around us, is in need of additional support, particularly with the constant threat of reductions in traditional forms of government funding. Legislation has recently been introduced that would address Washtenaw County's arts institutions and programs.

***THE CONTENT OF THE BILL:***

The bill would amend the Metropolitan Council Act 1) to provide for the creation of a new kind of organization, a metropolitan arts council and 2) to make several changes to the provisions dealing with the existing kind of organization, which would now be known as "a metropolitan area council."

Metropolitan Arts Council. This new kind of council could be formed within a "metropolitan district," which would be defined as either 1) a county with at least two state public universities or 2) a county with a population of not more than 100,000 and a boundary contiguous to a county with not less than two state universities. [The bill apparently applies to Washtenaw and Lenawee counties, respectively.] The arts council's articles of incorporation would state its purposes, which could be the development or enhancement of cultural institutions and facilities within the geographic boundaries of the council. The articles would authorize the council to provide supplemental funding for cultural facilities and programs, including public broadcasting stations, museums and historical centers, performing arts centers, orchestras, choruses, chorales, opera theaters, and ballet, dance, and theater companies. (Funding could not be provided for professional sports arenas and stadiums, labor organizations, political organizations, libraries, or schools.) To be eligible

for funding, facilities and programs would have to be provided by a tax-exempt entity that had been in existence for at least 18 consecutive months.

Metropolitan Arts Council Taxing Power. The articles of the metropolitan arts council could authorize the organization to levy, with voter approval, an ad valorem tax not to exceed one-half of one mill of taxable value on all the taxable real and personal property within the council area. The tax would be collected at the same time and in the same manner as the general property tax. The levy would require the approval of a majority of the voters residing in the council area voting collectively.

Formation of a Council. A metropolitan arts council could be formed in a metropolitan district if the county board of commissioners adopted a resolution of intent to participate in the council and adopted by majority vote the articles of incorporation. The articles would have to state the name of the council; its purposes; the powers, duties, and limitations of the council and its officers; the qualifications, method of selection and terms of office of delegates on the council and council officers; and the general method of amending the articles. The board would consist of no more than 12 members, each of whom would be from a different county commission district. Prior to the vote, the articles would have to be published by the county clerk at least once in a newspaper generally circulated within the county.

Other Provisions. The council would be an authority under Article IX, Section 6 of the state constitution and would possess all of the powers necessary for carrying out the purposes of its formation, and the enumeration of specific powers in the bill could not be construed as a limitation on the general powers of the council, consistent with its articles. The council would have a chairperson who would be the principal executive officer and preside at meetings, and the council could have other officers as provided in the articles. The chairperson and other officers would be

elected by council delegates and would have to be council delegates, although the secretary and treasurer would not need to be delegates. A council could appoint an executive director, if provided in the articles, to serve as the council's pleasure as the principal administrator for the council. The director could not be a delegate, would have to be selected on the basis of training and experience, and would have the powers and duties as provided in the council bylaws. The council could establish divisions, bureaus, and committees, including advisory committees.

Administrative costs. A council's articles would have to specify the maximum amount or percentage of revenues received under the act that the council could authorize to spend annually on administrative costs. A council could not spend money unless the specific expenditure was included in the council's annual budget, authorized in the council's articles, or unless approved by a majority vote of the council delegates. A council's annual budget would have to contain a separate account for anticipated expenditures for per diem compensation and expense reimbursement for the chairperson and other council delegates. Such compensation and reimbursement could only be paid if budgeted.

Metropolitan Area Council Amendments. The act currently provides for the formation of a "metropolitan council" by a combination of two or more local units of government in a metropolitan statistical area with a population of less than 1 million. Under the bill, these would be called "metropolitan area councils" and could be formed in metropolitan statistical areas of less than 1.5 million population. Also, the currently existing councils can be authorized to plan, promote, finance, etc. a specified set of services and programs, such as water and sewer improvements, solid waste collection, parks, museums, zoos, wildlife sanctuaries, recreational areas, special use facilities, ground and air transportation facilities, economic development and planning, and higher education public improvements and services. The bill would add community foundations to the list.

The articles of a metropolitan area council can authorize the council to levy a property tax of one-half of one mill. The bill would specify that the articles could not authorize a tax levy unless each delegate serving on the council held an elected office in the local governmental unit that he or she represented on the council.

The act provides that a vote can be held in a local unit that is not participating in the metropolitan area council on the question of participation and says that if a majority of the voters say "yes" the local unit is to become a participating member. The act does not specify what happens if the voters say "no." The bill would provide that if a majority of voters votes "no" then the local unit could not become a participant in the council for at least one year following the date of the vote.

MCL 124.651 et al.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency notes that the bill could result in an indeterminate increase in local revenue, and would have no fiscal impact on the state. (Fiscal Note dated 5-5-98)

### ***ARGUMENTS:***

#### ***For:***

The bill would provide an option for regional funding of cultural organizations. As written, it is tailored for Washtenaw County and Lenawee County. The bill would allow for the creation of a special council which, with voter approval, could levy up to one-half of one mill in property taxes to support arts institutions and programs. The bill specifies that funding could be provided for such things as museums and historical centers, performing arts centers, orchestras, chorales, opera, ballet, theater companies, and public broadcasting stations. According to committee testimony, many valuable artistic and cultural organizations raise perhaps only one-half of their funds through ticket sales and are forced to constantly raise funds to remain in existence. Government funding for the arts is said to be declining (and competition is strong). A strong, vibrant cultural infrastructure contributes greatly to the quality of life of a region and to its sense of identity. (It also can contribute to economic development efforts.) The regional approach recognizes that participants in and audiences for cultural activities are often region-wide. The bill would improve the capacity of citizens of a region to support cultural activities. Any taxes would require the area-wide support of the electorate.

#### ***Against:***

One fear expressed when Proposal A was passed, significantly reducing property taxes for local schools but raising the sales tax and selected other taxes, was that over time new property taxes would be enacted

and erode the benefits of the school tax cuts. This bill could lead to higher property taxes at the county level. Further, it would allow the imposition of property taxes for cultural activities on property owners who themselves lack the economic means to afford tickets to the events and activities supported by their taxes. Patrons of the arts should support their favorite institutions and activities by buying tickets and making charitable contributions. When similar proposals were made in the past, concerns were voiced about the nature of representation on the regional council. How will geographic areas be represented? Will the various kinds of cultural activities be represented? It is important that such a council not be dominated by one locale or hold narrow views on what constitutes worthy projects.

***Response:***

Arts, and cultural pursuits in general, do not benefit only the few. Their contribution to the quality of life of a region is widespread and incalculable. In addition to the intrinsic and educational values associated with the arts, the existence of popular venues can attract tourist dollars to a region and benefit the area's economy as a whole. Further, in this bill, the nature of the representation to be found on the arts council will be determined in the articles of incorporation to be approved by the county board of commissioners, which itself is a representative body. Further, the delegates must each be from a different county commission district.

***For:***

In addition to its principal aim of creating a new kind of council, the bill makes several important changes to the portion of the law governing the existing kind of council, which exists at present only in the Grand Rapids area. The bill would require that for a council to make use of its power to levy tax (which has not yet occurred), its board be made up of elected officials. And it specifies that if a community votes not to participate in a metropolitan area council, another election on the issue could not be held for one year. Prior to this, the act specified what happened if there was a "yes" vote in a community but not if the voters said "no." The bill would require advocates of a regional council to take "no" for an answer, at least for a while.

***POSITIONS:***

A representative of the Washtenaw Council of the Arts testified in support of the bill. (5-6-98)

Analyst: C. Couch

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■ 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.