

HOUSE BILL No. 4297

February 12, 1997, Introduced by Reps. Oxender, Birkholz, Gilmer, Hammerstrom and Jelinek and referred to the Committee on Tax Policy.

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 reg-
3 istered electors of the participating municipalities who reside
4 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24 and that the municipality has not withdrawn from the authority.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 all of 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 comprised of an odd number of members; the qualifications, method
21 of selection, and terms of office of board members; and the fill-
22 ing of vacancies in the office of board member. The articles
23 shall provide that the school board of each school district lying
24 totally or partially within the territory of the authority is
25 entitled to appoint 1 member of the board of the authority. If
26 board members are elected in at large elections by the qualified
27 and registered electors of the participating municipalities,

1 voting collectively, the election of board members shall be
2 conducted pursuant to the same procedures that govern an election
3 for a tax 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 a 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 shall not withdraw from an authority during
26 the period for which the authority has been authorized to levy a
27 tax 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 not less than once in a newspaper generally circulated
13 within the participating municipalities. The adoption of arti-
14 cles or amendments to the articles by a municipality shall be
15 evidenced by an endorsement on the articles or amendments by the
16 clerk of 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 1846 RS 15,
27 MCL 201.3. Appointed members of the board, if any, may be

1 removed by the appointing authority for good cause after a public
2 hearing. Vacancies shall be filled in the same manner as the
3 original appointment for the unexpired term.

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

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

15 (4) The business that an authority may perform shall be con-
16 ducted at a public meeting of the authority held in compliance
17 with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.
18 Public notice of the time, date, and place of the meeting shall
19 be given in the manner required by the open meetings act, 1976 PA
20 267, MCL 15.261 to 15.275.

21 (5) A writing prepared, owned, or used by an authority in
22 the performance of an official function shall be made available
23 in compliance with the freedom of information act, 1976 PA 442,
24 MCL 15.231 to 15.246.

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

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

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

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

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

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

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

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

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

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

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

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

23 (3) If a special election is proposed, within 10 days after
24 receiving the proposal, the county clerk of the county described
25 in subsection (2) having the greatest population shall request
26 approval of a special election date from the county election
27 scheduling committee of that county. The proposal shall be

1 submitted to the electors of the authority on the date approved
2 by that county election scheduling committee.

3 (4) If a majority of the electors of the authority voting
4 collectively on the question of a tax approve the proposal, the
5 tax levy is authorized. Not more than 2 elections may be held in
6 a calendar year on a proposal for a tax.

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

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

16 (3) If an election on a proposal for a tax is to be held in
17 conjunction with a general election or state primary election and
18 if a participating village is located within a nonparticipating
19 township, the township clerk and election officials shall conduct
20 the election. On the forty-fifth day preceding the election, the
21 village clerk shall provide to the township clerk a list contain-
22 ing the name, address, and birth date of each qualified and reg-
23 istered elector of the village residing in the territory of the
24 authority. Not later than 15 days before the election, the vil-
25 lage clerk shall provide to the township clerk information
26 updating the list as of the close of registration. A person

1 appearing on the list as updated is eligible to vote in the
2 election by special ballot.

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

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

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

1 canvassers of the largest county shall certify the results of the
2 election to the board of the authority.

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

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

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

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

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

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

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

1 of the general property tax act, 1893 PA 206, MCL 211.1 to
2 211.157.

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

9 (2) An authority shall not borrow money or issue bonds or
10 notes for a sum that, together with the total outstanding bonded
11 indebtedness of the authority, exceeds 2 mills of the taxable
12 value of the taxable property within the district as determined
13 under section 27a of the general property tax act, 1893 PA 206,
14 MCL 211.27a.

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

17 (4) Bonds or notes issued under this act are subject to the
18 municipal finance act, 1943 PA 202, MCL 131.1 to 139.3.

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

25 (2) The language of the ballot proposal shall be in substan-
26 tially 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. Not 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, 1968 PA 2, MCL 141.426 to 141.433. The audit
11 shall also be in accordance with generally accepted government
12 auditing standards as promulgated by the United States general
13 accounting office and shall satisfy federal regulations relating
14 to federal grant compliance audit requirements.

15 (2) An authority shall prepare budgets and appropriations
16 acts in the manner provided by sections 14 to 19 of the uniform
17 budgeting and accounting act, 1968 PA 2, MCL 141.434 to 141.439.

18 (3) The state treasurer, the attorney general, a prosecuting
19 attorney, bank, certified public accountant, certified public
20 accounting firm, or other person shall have the same powers,
21 duties, and immunities with respect to the authority as provided
22 for local units in sections 6 to 20 of the uniform budgeting and
23 accounting act, 1968 PA 2, MCL 141.426 to 141.440.

24 (4) If an authority ends a fiscal year in a deficit condi-
25 tion, the authority shall file a financial plan to correct the
26 deficit condition in the same manner as provided in section 21(2)

1 of the state revenue sharing act of 1971, 1971 PA 140, MCL
2 141.921.

3 (5) The board may authorize funds of the authority to be
4 invested or deposited in any investment or depository authorized
5 under section 1 of 1943 PA 20, MCL 129.91.