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Senate Bill 867 (as introduced 10-28-99)  
Sponsor: Senator Glenn D. Steil  
Committee: Local, Urban and State Affairs

Date Completed: 11-3-99

## **CONTENT**

The bill would create the "Convention Facility Authority Act" to do the following:

- Allow a qualified city and a qualified county jointly to establish a convention facility authority.
- Permit the authority to develop a convention facility, and issue negotiable revenue bonds.
- Specify that the authority could not levy a tax, but enable the authority to receive accommodations tax revenue.
- Create a convention facility authority fund.
- Prohibit the authority from using funds received under Section 103 of Public Act 137 of 1999 to defray costs incurred before the State Treasurer released the funds.

(Section 103 of Public Act 137 appropriates \$60 million for the Grand Rapids convention facility. The Act specifies that the funds are to be held by the Department of Treasury until the Legislature creates a convention facility development authority that will serve as an oversight body for the approval of plans and timely disbursement of the funds. If an authority is not created by January 1, 2000, these responsibilities are to be carried out by the Department Director.)

### **Creation of Authority**

A qualified city and a qualified county could, by resolutions of their respective legislative governing bodies, jointly establish an authority. On the date on which all the certified copies of the resolutions were filed with the Secretary of State, the authority would be created. The bill would define "qualified city" as "a city with a population of more than 170,000 that is the most populous city in a qualified county". "Qualified county" would mean "a county with a population of more than 500,000 that is not a charter county or a county with an optional unified form of government and contains a qualified city".

The bill specifies that the authority would be "an authority organized pursuant to state law" for purposes of Public Act 263 of 1974. (Public Act 263 authorizes a county with a population under 600,000, having a city with a population of at least 40,000, to levy an accommodations tax. Revenue from the tax must be deposited in a special fund to be used by the county, or by an authority that is organized pursuant to State law, for specific purposes. These purposes include financing the acquisition, construction, improvement, or maintenance of convention and entertainment facilities.)

### **Authority Board**

The powers, duties, and functions of the authority would have to be exercised by a board of directors that consisted of the following five members:

- Two residents of the qualified county, appointed by the county board of commissioners, including one from the private sector with experience in economic development.
- Two residents of the qualified county, appointed by the mayor of the qualified city with the approval of its legislative body, including one from the private sector with experience in economic development.
- One member appointed by the Governor.

Members of the board would have to be appointed for four-year terms, although one of the members first appointed by the county and one of the members first appointed by the city would serve for a two-year term. A person would not be eligible to be a board member if he or she had served 12 or more consecutive years

as a member of the board.

Board members and officers and employees of the authority would be subject to Public Act 317 of 1968, which governs contracts between public servants and public entities. Board members and officers, employees, and agents of the authority would have to discharge the duties of their positions in a nonpartisan manner, in good faith, and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging their duties, these individuals could rely upon any of the following:

the opinion of counsel for the authority; the report of an independent appraiser selected by the board; and financial statements of the authority represented to be correct by the officer of the authority in charge of its books of account or stated in a written report by the State Auditor General or a certified public accountant, to reflect the authority's financial condition.

The board would have to organize and make its own policies and procedures, and adopt bylaws governing its operations. Board members would have to serve without compensation for their membership on the board, but could receive reasonable reimbursement for necessary travel and expenses. The board would be subject to the Open Meetings Act.

The Freedom of Information Act would not apply to a record, material, or other data received, prepared, used, or retained by the authority that related to financial or proprietary information that was identified in writing by the person submitting the information and acknowledged by the board as confidential. The board could meet in closed session to determine whether it acknowledged any financial or proprietary information as confidential. ("Financial or proprietary information" would mean information that had not been publicly disseminated or that was unavailable from other sources, whose release could cause the person submitting the information competitive harm.)

#### Authority Powers

The authority could do all things necessary or convenient to carry out the purposes, objectives, and provisions of the proposed Act, and the purposes, objectives, and powers delegated to the authority or the board by other laws or executive orders. These would include the power to issue negotiable revenue bonds under the Revenue Bond Act, and develop a convention facility. The authority could not levy a tax.

The authority would be required to prepare and adopt an annual budget. The accounts of the authority would be subject to annual audits by the State Auditor General or a certified public accountant selected by the authority. Copies of the audits would have to be forwarded annually to the State Treasurer. Records would have to be maintained according to generally accepted accounting principles.

#### Fund

A convention facility authority fund would be created for the authority, which would have to deposit all money received and generated by the convention facility into the fund. The authority could pay principal, interest, and other costs associated with bonds issued by it from any of the following revenues:

- Federal grants, loans, appropriations, payments, or contributions.
- The proceeds from the sale, exchange, mortgage, lease, or other disposition of property that the authority had acquired.
- Grants, loans, appropriations, payments, proceeds from repayments of loans made by the authority, or contributions from public or private sources.
- Money in the fund, including rents, admission fees, or other charges for use of the convention facility.
- Investment earnings on the revenues described above.

#### Bonds

The authority could issue negotiable revenue bonds under the Revenue Bond Act, only. It could not issue any other kinds of bonds, notes, or other obligations. Revenue bonds issued by the authority would not be a debt or liability of the qualified county, the qualified city, or the State, and would not create or constitute an indebtedness, liability, or obligation or constitute a pledge of faith and credit of the State, the county, or the city.

The bonds would be payable from revenues or funds pledged or available for their payment as authorized in the bill, or as provided in the resolution of the board authorizing the bonds.

Bonds issued by the authority, and the interest on or income from them, would be exempt from all taxation of this State or a political subdivision of the State.

#### Authority Property

Property of the authority would be public property devoted to an essential public and governmental function and purpose. Income of the authority would be for a public purpose.

The property, income, and operations of the authority would be exempt from all taxes and special assessments of the State or a political subdivision of the State. Property, income, and operations that were leased to private persons, however, would not be exempt from any tax or special assessment. Property of the authority would be exempt from any ad valorem property taxes levied under the General Property Tax Act.

Legislative Analyst: S. Lowe

#### **FISCAL IMPACT**

Section 301 of Public Act 137 of 1999 specified that of the \$62.0 million appropriated in the Act for convention center grants for development/expansion, \$60.0 million was for the Grand Rapids convention facility. The Act requires the funds to be held by the Department of Treasury until a convention facility development authority is created by the Legislature to serve as an oversight body for the approval of plans and timely disbursement of the funds. If the authority is not created by January 1, 2000, the Director of the Department of Treasury will carry out these responsibilities.

Given that the appropriation has already been made, and that the release of funds and oversight responsibilities will occur even in absence of a convention center authority, the bill would have no direct State fiscal impact.

Fiscal Analyst: M. Hansen

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.