

SENATE BILL NO. 671

June 17, 1999, Introduced by Senators NORTH, Koivisto and
Bullard referred to the Committee on Local, Urban and
State Affairs

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, county, village, township,
9 or school district.

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

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

17 (ii) Open or scenic space.

18 (iii) Conservation, nature, or wildlife 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24 and that the municipality has not withdrawn from the authority.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.

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

11 (a) The name of the authority.

12 (b) The names of the participating municipalities.

13 (c) A description of the territory of the authority. The
14 articles may provide that only a portion of the territory of a
15 participating municipality is included in the territory of the
16 authority. However, the taxable property of a taxpayer located
17 in a township shall not be included in the territory of an
18 authority if all of the following criteria apply:

19 (i) The township has a population of not less than 2,400 and
20 not more than 2,600 as determined by the 1990 federal decennial
21 census.

22 (ii) The township is located in a county with a population
23 of not less than 161,000 and not more than 162,000 as determined
24 by the 1990 federal decennial census.

25 (iii) The total state equalized value of the taxpayer's
26 property in the township is not less than 75% of the total state
27 equalized value of the taxable property in the township.

1 (d) The size of the board of the authority, which shall be
2 comprised of an odd number of members; the qualifications, method
3 of selection, and terms of office of board members; and the fill-
4 ing of vacancies in the office of board member. If board members
5 are elected in at large elections by the qualified and registered
6 electors of the participating municipalities, voting collective-
7 ly, the election of board members shall be conducted pursuant to
8 the same procedures that govern an election for a tax under
9 sections 13 to 17.

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

12 (i) The acquisition, construction, operation, maintenance,
13 or improvement of a public swimming pool.

14 (ii) The acquisition, construction, operation, maintenance,
15 or improvement of a public recreational facility.

16 (iii) The acquisition, construction, operation, maintenance,
17 or improvement of a public park.

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

1 the period for which the authority has been authorized to levy a
2 tax by the electors of the authority. However, a participating
3 municipality shall withdraw from an authority if the majority of
4 its electors voting on the question of a tax under section 11
5 disapprove the proposal.

6 (g) Any other matters considered advisable.

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

15 (4) Before the articles or amendments to the articles are
16 adopted, the articles or amendments to the articles shall be pub-
17 lished not less than once in a newspaper generally circulated
18 within the participating municipalities. The adoption of arti-
19 cles or amendments to the articles by a municipality shall be
20 evidenced by an endorsement on the articles or amendments by the
21 clerk of the municipality.

22 (5) Upon adoption of the articles or amendments to the arti-
23 cles by each of the participating municipalities, a printed copy
24 of the articles or the amended articles shall be filed with the
25 secretary of state by the clerk of the last participating munici-
26 pality to adopt the articles or amendments.

1 (6) The authority's articles, or amendments to the articles,
2 take effect upon filing with the secretary of state.

3 Sec. 7. (1) A vacancy shall occur on the board on the hap-
4 pening of any of the events set forth in section 3 of 1846 RS 15,
5 MCL 201.3. Appointed members of the board, if any, may be
6 removed by the appointing authority for good cause after a public
7 hearing. Vacancies shall be filled in the same manner as the
8 original appointment for the unexpired term.

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

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

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

26 (5) A writing prepared, owned, or used by an authority in
27 the performance of an official function shall be made available

1 in compliance with the freedom of information act, 1976 PA 442,
2 MCL 15.231 to 15.246.

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

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

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

10 (a) Acquire and hold, by purchase, lease with or without
11 option to purchase, grant, gift, devise, land contract, install-
12 ment purchase contract, bequest, or other legal means, real and
13 personal property inside or outside the territory of the
14 authority. The property may include franchises, easements, or
15 rights of way on, under, or above any property. The authority
16 may pay for the property from, or pledge for the payment of the
17 property, revenue of the authority. However, an authority may
18 acquire and hold real and personal property by condemnation only
19 with the approval of the governing body of the municipality in
20 which the property is located.

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

25 (c) Hire full-time or part-time employees, retain profes-
26 sional services, and utilize full-time or part-time employees of
27 a municipality that is participating in the authority.

1 (d) Provide for the maintenance of all of the real and
2 personal property of the authority.

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

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

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

9 Sec. 11. (1) To the extent authorized by its articles, an
10 authority may levy a tax of not more than 2 mills for a period of
11 not more than 20 years on all of the taxable property within the
12 territory of the authority for the purposes of acquiring, operat-
13 ing, maintaining, or improving a public swimming pool, public
14 recreational facility, public auditorium or conference center, or
15 public park. The proposal for a tax shall be submitted to a vote
16 of the electors of the authority by resolution of the board.

17 (2) A ballot proposal for a tax shall state the amount and
18 duration of the millage and the general purposes for which the
19 millage may be used. A proposal for a tax shall not be placed on
20 the ballot unless the proposal is adopted by a resolution of the
21 board and certified by the board not later than 60 days before
22 the election to the county clerk of each county in which all or
23 part of the territory of the authority is located for inclusion
24 on the ballot. The proposal shall be certified for inclusion on
25 the ballot at the next general election or the state primary
26 immediately preceding the general election.

1 (3) The tax levy is authorized in each of the participating
2 municipalities of the authority in which a majority of the
3 electors of the municipality voting separately on the question of
4 a tax approve the proposal. Not more than 1 election may be held
5 in a 2-year period on a proposal for a tax.

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

11 (2) An election for a tax shall be conducted by the city and
12 township clerks and election officials of the municipalities
13 located within the territory of the authority.

14 (3) If a participating village is located within a nonpar-
15 ticipating township, the township clerk and election officials
16 shall conduct the election. On the forty-fifth day preceding the
17 election, the village clerk shall provide to the township clerk a
18 list containing the name, address, and birth date of each quali-
19 fied and registered elector of the village residing in the terri-
20 tory of the authority. Not later than 15 days before the elec-
21 tion, the village clerk shall provide to the township clerk
22 information updating the list as of the close of registration. A
23 person appearing on the list as updated is eligible to vote in
24 the election by special ballot.

25 Sec. 15. (1) The notices of close of registration and elec-
26 tion shall be published as provided for by the state election
27 laws. Otherwise, the county clerk of the largest county shall

1 publish the notices of close of registration and election. The
2 notice of close of registration shall include the ballot language
3 of the proposal.

4 (2) The results of an election for a tax shall be canvassed
5 by the board of county canvassers of each county in which a par-
6 ticipating municipality is located. The board of county canvass-
7 ers of a county in which a participating municipality is located
8 and that is not the largest county shall certify the results of
9 the election to the board of county canvassers of the largest
10 county. The board of county canvassers of the largest county
11 shall make the final canvass of an election for a tax based on
12 the returns of the election inspectors of the participating
13 municipalities in that county and the certified results of the
14 board of county canvassers of every other county in which a par-
15 ticipating municipality is located. The board of county canvass-
16 ers of the largest county shall certify the results of the elec-
17 tion to the board of the authority.

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

21 (2) If a participating municipality conducts an election for
22 a tax, the clerk of that participating municipality shall charge
23 the authority and the authority shall reimburse the participating
24 municipality for the actual costs the participating municipality
25 incurs in conducting the election if only a portion of the terri-
26 tory of a participating municipality is included in the territory
27 of the authority.

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

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

10 Sec. 19. The tax shall be collected with county taxes and
11 distributed by the local tax collecting unit under the provisions
12 of the general property tax act, 1893 PA 206, MCL 211.1 to
13 211.157.

14 Sec. 21. (1) An authority may borrow money and issue bonds
15 or notes to finance the acquisition, construction, or improvement
16 of a public swimming pool, a public recreational facility, a
17 public auditorium, a public conference center, or a public park,
18 including the acquisition of sites and the acquisition and
19 installation of furnishings and equipment for these purposes.
20 The authority may pledge any admission fees and charges generated
21 by the public project financed under this section to the repay-
22 ment of the debt.

23 (2) An authority shall not borrow money or issue bonds or
24 notes for a sum that, together with the total outstanding bonded
25 indebtedness of the authority, exceeds 0.2% of the taxable value
26 of the taxable property within the district as determined under

1 section 27a of the general property tax act, 1893 PA 206,
 2 MCL 211.27a.

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

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

7 Sec. 23. (1) An authority may issue general obligation
 8 unlimited tax bonds upon approval of a majority of the electors
 9 of the authority voting collectively on the question of issuing
 10 the bonds. The proposal to issue general obligation unlimited
 11 tax bonds shall be submitted to a vote of the electors of the
 12 authority by resolution of the board.

13 (2) The language of the ballot proposal shall be in substan-
 14 tially the following form:

15 "Shall [name of authority], formed by [names of
 16 participating municipalities], borrow the sum of
 17 _____ dollars (\$_____)
 18 and issue its general obligation unlimited tax
 19 bonds for all or a portion of that amount for
 20 the purpose of _____?
 21 Yes [] No []".

22 (3) The election shall be conducted in the manner provided
 23 in sections 11 to 17 for an election for a tax. Not more than 1
 24 election on the question of issuing general obligation unlimited
 25 tax bonds may be held in a 2-year period.

26 (4) If an authority issues general obligation unlimited tax
 27 bonds under this section, the board, by resolution, shall

1 authorize and levy the taxes necessary to pay the principal of
2 and interest on the bonds.

3 (5) An election shall not be conducted under this section in
4 a participating municipality that has not approved the levy of a
5 tax under section 11.

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

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

14 Sec. 27. (1) An authority may borrow money and issue its
15 negotiable bonds and notes for the purpose of refunding outstand-
16 ing debt obligations of the district by resolution of the board,
17 without submitting the question to the electors of the
18 authority.

19 (2) Refunding bonds or the refunding part of a bond issue
20 shall not be considered to be within the 0.2% limitation of sec-
21 tion 21(2), but shall be considered to be authorized in addition
22 to the 0.2% limitation.

23 Sec. 29. (1) A board shall obtain an annual audit of the
24 authority, and report on the audit and auditing procedures, in
25 the manner provided by sections 6 to 13 of the uniform budgeting
26 and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit
27 shall also be in accordance with generally accepted government

1 auditing standards as promulgated by the United States general
2 accounting office and shall satisfy federal regulations relating
3 to federal grant compliance audit requirements.

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

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

13 (4) If an authority ends a fiscal year in a deficit condi-
14 tion, the authority shall file a financial plan to correct the
15 deficit condition in the same manner as provided in section 21(2)
16 of the state revenue sharing act of 1971, 1971 PA 140,
17 MCL 141.921.

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