

SENATE BILL No. 867

October 28, 1999, Introduced by Senators STEIL and SIKKEMA and referred to the Committee on Local, Urban and State Affairs.

A bill to create certain authorities; to authorize creation of certain funds; to authorize expenditures from the funds; to finance the purchase of land and the development of certain convention facilities and of public improvements or related facilities; and to prescribe the powers and duties of certain state and local officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as "the
2 convention facility authority act".

3 Sec. 2. The legislature of this state finds that there
4 exists in this state a continuing need for programs to promote
5 tourism and convention business in order to assist in the preven-
6 tion of unemployment and the alleviation of the conditions of
7 unemployment, to preserve existing jobs, and to create new jobs
8 to meet the employment demands of population growth. To achieve

1 these purposes, it is necessary to assist and encourage local
2 units of government to acquire, construct, improve, enlarge,
3 renew, replace, repair, finance, furnish, and equip convention
4 facilities and the real property on which they are located and to
5 refinance these activities.

6 Sec. 3. As used in this act:

7 (a) "Authority" means a convention facility authority cre-
8 ated under section 4.

9 (b) "Board" means the board of directors of an authority.

10 (c) "Convention facility" means all or any part of, or any
11 combination of, a convention hall, auditorium, arena, meeting
12 rooms, exhibition area, and related adjacent public areas that
13 are generally available to the public for lease on a short-term
14 basis for holding conventions, meetings, exhibits, and similar
15 events, together with appurtenant property, including parking
16 lots or structures, necessary and convenient for use in connec-
17 tion with the convention facility.

18 (d) "Develop", unless the context clearly indicates a dif-
19 ferent meaning, means to acquire, market, promote, construct,
20 improve, enlarge, renew, renovate, replace, lease, equip, fur-
21 nish, or operate.

22 (e) "Fund" means the convention facility authority fund cre-
23 ated for each authority as provided in section 10.

24 (f) "Qualified city" means a city with a population of more
25 than 170,000 that is the most populous city in a qualified
26 county.

1 (g) "Qualified county" means a county with a population of
2 more than 500,000 that is not a charter county or a county with
3 an optional unified form of government and contains a qualified
4 city.

5 Sec. 4. (1) A qualified county and a qualified city may by
6 resolutions of their respective legislative governing bodies
7 jointly establish an authority under this act. On the date on
8 which all the certified copies of the resolutions establishing
9 the authority are filed with the secretary of state, the author-
10 ity is created as a body corporate and politic.

11 (2) An authority under this act is an authority organized
12 pursuant to state law for purposes of 1974 PA 263, MCL 141.861 to
13 141.867.

14 Sec. 5. (1) The powers, duties, and functions of an author-
15 ity are vested in and shall be exercised by a board of
16 directors. The board shall consist of 5 members as follows:

17 (a) Two members who are residents of the qualified county
18 appointed by the county board of commissioners of the qualified
19 county, 1 of whom is from the private sector with experience in
20 economic development.

21 (b) Two members who are residents of the qualified county
22 appointed by the mayor of the qualified city with approval by the
23 legislative body of the qualified city, 1 of whom is from the
24 private sector with experience in economic development.

25 (c) One member appointed by the governor.

26 (2) Except as otherwise provided in this subsection, members
27 of the board shall be appointed for a term of 4 years. One of

1 the board members first appointed by the county board of
2 commissioners of the qualified county and 1 of the board members
3 first appointed by the mayor of the qualified city with the
4 approval of the legislative body of the qualified city shall be
5 appointed for a term of 2 years. A person is not eligible to be
6 a member of the board if that person has served 12 or more con-
7 secutive years as a member of that board.

8 (3) Upon appointment to a board under subsection (1) and
9 upon taking and the filing of the constitutional oath of office,
10 a member of the board shall enter office and exercise the duties
11 of the office to which he or she is appointed.

12 (4) A vacancy on a board of a member serving for a fixed
13 term shall be filled in the same manner as the original appoint-
14 ment for the balance of the unexpired term. A member of the
15 board holds office until a successor is appointed and qualified.

16 Sec. 6. (1) Members of a board and officers and employees
17 of the authority are subject to 1968 PA 317, MCL 15.321 to
18 15.330. A member of the board or an officer, employee, or agent
19 of the authority shall discharge the duties of his or her posi-
20 tion in a nonpartisan manner, in good faith, and with the degree
21 of diligence, care, and skill that an ordinarily prudent person
22 would exercise under similar circumstances in a like position.
23 In discharging his or her duties, a member of the board or an
24 officer, employee, or agent of the authority, when acting in good
25 faith, may rely upon any of the following:

26 (a) The opinion of counsel for the authority.

1 (b) The report of an independent appraiser selected by the
2 board.

3 (c) Financial statements of the authority represented to the
4 member of the board, officer, employee, or agent to be correct by
5 the officer of the authority having charge of its books of
6 account or stated in a written report by the state auditor gen-
7 eral or a certified public accountant, or a firm of certified
8 accountants, to reflect the financial condition of the
9 authority.

10 (2) A board shall organize and make its own policies and
11 procedures and shall adopt bylaws governing its operations. A
12 majority of the members of a board constitutes a quorum for
13 transaction of business, notwithstanding the existence of 1 or
14 more vacancies on the board. Except as otherwise provided in
15 this act, actions taken by the board shall be by a majority vote
16 of the members present in person at a meeting of the board or, if
17 authorized by the bylaws, by the use of amplified telephonic or
18 video conferencing equipment. The authority shall meet at the
19 call of the chairperson and as may be provided in the bylaws.

20 (3) Members of a board shall serve without compensation for
21 their membership on the board, but members of the board may
22 receive reasonable reimbursement for necessary travel and
23 expenses.

24 Sec. 7. (1) A board shall conduct all business at public
25 meetings held in compliance with the open meetings act, 1976 PA
26 267, MCL 15.261 to 15.275. Public notice of the time, date, and

1 place of each meeting shall be given in the manner required by
2 the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

3 (2) A record or a portion of a record, material, or other
4 data received, prepared, used, or retained by the authority that
5 relates to financial or proprietary information that is identi-
6 fied in writing by the person submitting the information and
7 acknowledged by the board as confidential is not subject to the
8 disclosure requirements of the freedom of information act, 1976
9 PA 442, MCL 15.231 to 15.246. The board may meet in closed ses-
10 sion pursuant to the open meetings act, 1976 PA 267, MCL 15.261
11 to 15.275, to make a determination of whether it acknowledges as
12 confidential any financial or proprietary information submitted
13 and considered by the person submitting the information as
14 confidential. For the purpose of this subsection, "financial or
15 proprietary information" means information that has not been pub-
16 licly disseminated or that is unavailable from other sources, the
17 release of which might cause the person submitting the informa-
18 tion competitive harm.

19 Sec. 8. (1) An authority may do all things necessary or
20 convenient to carry out the purposes, objectives, and provisions
21 of this act and the purposes, objectives, and powers delegated to
22 the authority or the board by other laws or executive orders,
23 including, without limitation, all of the following:

24 (a) Adopt bylaws for the regulation of its affairs and alter
25 the bylaws at its pleasure.

26 (b) Sue and be sued in its own name.

1 (c) Enter into contracts and other instruments necessary,
2 incidental, or convenient to the performance of its duties and
3 the exercise of its powers and designate the person or persons
4 who have authority to execute those contracts and investments on
5 behalf of the authority.

6 (d) Solicit, receive, and accept from any source gifts,
7 grants, loans, or contributions of money, property, or other
8 things of value, and other aid or payment, or participate in any
9 other way in a federal, state, or local government program.

10 (e) Procure insurance against loss in connection with the
11 property, assets, or activities of the authority.

12 (f) Invest money of the authority under 1943 PA 20, MCL
13 129.91 to 129.96, and deposit money of the authority under 1932
14 (1st Ex Sess) PA 40, MCL 129.11 to 129.16.

15 (g) Engage, on a contract basis, the services of private
16 consultants, managers, legal counsel, and auditors for rendering
17 professional or technical assistance and advice payable out of
18 any money of the authority.

19 (h) Indemnify and procure insurance indemnifying members of
20 the board from personal loss or accountability for liability
21 asserted by a person with regard to bonds or other obligations of
22 the authority, or from any personal liability or accountability
23 by reason of the issuance of the bonds or other obligations or by
24 reason of any other action taken or the failure to act by the
25 authority.

26 (i) Establish and maintain an office and employ and fix
27 compensation for personnel of the authority. To hire an

1 executive director or other chief administrative officer who is
2 authorized to establish and fix a schedule of rents, admission
3 fees, or other charges for occupancy, use of, or admission to any
4 convention facility operated by the authority and provide for the
5 collection and enforcement of those rents, admission fees, or
6 other charges.

7 (j) Hold, clear, remediate, improve, maintain, manage, con-
8 trol, sell, exchange, mortgage and hold mortgages on and other
9 security interests in, lease, as lessor or lessee, and obtain or
10 grant easements and licenses on property that the authority
11 acquires. A sale, exchange, lease, or other disposition of
12 authority property shall be to a person or persons for a project
13 or projects involving a convention facility. Property acquired
14 by the authority and later determined by the authority to be not
15 necessary for a convention facility may be sold or otherwise dis-
16 posed of for use or uses not inconsistent with the purposes of
17 this act. Temporary or permanent easements or licenses or other
18 appropriate interests in property acquired by the authority may
19 be conveyed or granted by the authority for utility, vehicular,
20 or pedestrian traffic facilities, or related purposes not incon-
21 sistent with this act. The authority does not have the power to
22 condemn property.

23 (k) Issue negotiable revenue bonds under the revenue bond
24 act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds
25 issued by the authority are not a debt of the qualified county,
26 qualified city, or this state.

1 (l) Develop a convention facility.

2 (m) Do all other acts and things necessary or convenient to
3 carrying out the purposes for which the authority was
4 established.

5 (2) An authority established under this act shall not levy a
6 tax.

7 Sec. 9. (1) An authority may employ staff, including legal
8 and technical experts, and other officers, or employees, per-
9 manent or temporary, paid from the funds of the authority.

10 (2) The accounts of an authority are subject to annual
11 audits by the state auditor general or a certified public accoun-
12 tant selected by the authority. Copies of the audits shall be
13 forwarded annually to the state treasurer as provided in the uni-
14 form budgeting and accounting act, 1968 PA 2, MCL 141.421 to
15 141.440a. Records shall be maintained according to generally
16 accepted accounting principles.

17 (3) The authority shall prepare and adopt an annual budget.

18 Sec. 10. A convention facility authority fund is created
19 for each authority. An authority shall deposit all money
20 received and generated by the convention facility into the fund.

21 Sec. 11. The payment of principal, interest, and other
22 costs including engineering, financial, and issuance costs, asso-
23 ciated with bonds issued by the authority may be made by the
24 authority from any of the following revenues:

25 (a) Federal grants, loans, appropriations, payments, or
26 contributions.

1 (b) The proceeds from the sale, exchange, mortgage, lease,
2 or other disposition of property that the authority has
3 acquired.

4 (c) Grants, loans, appropriations, payments, proceeds from
5 repayments of loans made by the authority, or contributions from
6 public or private sources.

7 (d) Money in the fund including rents, admission fees, or
8 other charges for use of the convention facility.

9 (e) Investment earnings on the revenues described in subdi-
10 visions (a) to (d).

11 Sec. 12. (1) An authority may only issue negotiable revenue
12 bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101
13 to 141.140. An authority may not issue any other kinds of bonds,
14 notes, or other obligations.

15 (2) An authority may authorize and issue its negotiable rev-
16 enue bonds payable solely from the revenues or funds available to
17 the authority under section 10. Bonds, notes, or other obliga-
18 tions of an authority are not a debt or liability of this state,
19 a qualified county that established the authority, or a qualified
20 city that established the authority and do not create or consti-
21 tute an indebtedness, liability, or obligation or constitute a
22 pledge of faith and credit of this state, the qualified county
23 that established the authority, or a qualified city that estab-
24 lished the authority. Bonds issued by an authority are payable
25 solely from revenues or funds pledged or available for their pay-
26 ment as authorized in this act or as provided in the resolution
27 of the board authorizing the bonds.

1 Sec. 13. (1) Property of an authority is public property
2 devoted to an essential public and governmental function and
3 purpose. Income of the authority is for a public purpose.

4 (2) Except as otherwise provided in this subsection, the
5 property of the authority and its income and operations are
6 exempt from all taxes and special assessments of this state or a
7 political subdivision of this state. Property of the authority
8 and its income and operations that are leased to private persons
9 are not exempt from any tax or special assessment of this state
10 or a political subdivision of this state. Property of the
11 authority is exempt from any ad valorem property taxes levied
12 under the general property tax act, 1893 PA 206, MCL 211.1 to
13 211.157.

14 (3) Bonds issued by the authority, and the interest on or
15 income from those bonds, are exempt from all taxation of this
16 state or a political subdivision of this state.

17 Sec. 14. Funds received by the authority pursuant to
18 section 301 of 1999 PA 137 shall not be used by the authority to
19 defray costs incurred before the date on which the funds are
20 released by the state treasurer.