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BILL ANALYSIS

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Senate Bill 1130 (Substitute S-1)  
Sponsor: Senator Cameron S. Brown  
Committee: Agriculture, Forestry and Tourism

Date Completed: 6-23-04

## **CONTENT**

**The bill would amend the Michigan Exposition and Fairgrounds Act to do the following:**

- **Create the State Exposition and Fairgrounds Authority within the Department of Management and Budget (DMB).**
- **Transfer to the Authority responsibilities of the Michigan Department of Agriculture (MDA) related to the management of the State Exposition and Fairgrounds.**
- **Provide for an 11-member Authority board, which would replace the nine-member State Exposition and Fairgrounds Council.**
- **Provide for a manager of the Authority (rather than of the State Exposition and Fairgrounds), and expand his or her responsibilities.**
- **Require the Authority to submit to the Governor and the Legislature each year a rolling five-year operational plan and construction plan.**
- **Permit the Authority board to issue bonds and notes payable from revenue or funds available to the Authority.**

The bill would take effect on October 1, 2004.

### Authority Creation

Under the Act, the State Exposition and Fairgrounds Council is established within the MDA. Under the bill, the State Exposition and Fairgrounds Authority would be created as a public body corporate within the DMB.

The Authority would be administered under the DMB's supervision but would exercise its powers and functions independently of the Department. Funds of the Authority would have to be handled in the manner and subject to the provisions of law that apply to State funds, or in a manner specified in a resolution of the Authority board authorizing the issuance of bonds and notes, with the State Treasurer's approval.

The activities, powers, duties, functions, responsibilities, and rule-making authority of the MDA related to the management of the State Exposition and Fairgrounds would be transferred to the Authority by a Type I transfer. (A Type I transfer, under the Executive Organization Act, transfers an existing board, commission, or other agency intact to a principal department. The board, commission, or agency must exercise its duties and functions of rule-making, licensing, and registration independently of the head of the department, and its budgeting, procurement, and related management functions must be performed under the direction and supervision of the head of the department.)

All records, personnel, property, grants, and unspent balances of appropriations, allocations, and other funds used, held, or available to the MDA for the activities, powers, functions, and duties transferred to the Authority, also would be transferred.

### Authority Duties & Functions

Under the Act, the MDA is responsible for conducting an annual State Fair and other exhibits or events for the purpose of promoting all phases of the State economy.

The Act requires the fair and exhibits or events to encourage and demonstrate agricultural, industrial, commercial, and recreational pursuits. The bill would add educational, entertainment, tourism, technological, and cultural pursuits.

The Act requires the MDA to lease the fairgrounds and rent out the use of the buildings and grounds where appropriate, and enter into contracts to conduct the Fair, exhibits, or other events. The bill would transfer these responsibilities to the Authority.

Currently, the control of all land and other property held or acquired by the State for the purpose of holding and conducting the State Fair (excluding the Upper Peninsula State Fair) is vested in the MDA; under the bill, control of land and property would be vested in the Authority.

Annually, the MDA must present to the Governor, the Legislature, and the State Exposition and Fairgrounds Council, a report describing the receipts or expenditures that have a material bearing on the operation of the State Fair and fairgrounds. Under the bill, the Authority would have to present the same report to the Governor, the Legislature, and the DMB.

The bill would permit the Authority, rather than the MDA, to enter into licensing agreements with concessionaires permitting games of skill.

Under the Act, the MDA may promulgate rules governing the conduct of the State Fair. Under the bill, the Authority could promulgate rules. Any rules in effect on the bill's effective date would remain in effect until rescinded.

The bill would permit the Authority to enter into cooperative agreements, contracts, or other agreements with one or more governmental entities to use their personnel, services, or facilities in order to assist the Authority with carrying out its duties. The Authority also could contract with the DMB for the purpose of maintaining and improving the rights and interests of the Authority.

The Authority could employ legal and technical experts and other officers, agents, or employees, paid from Authority funds. It

would have to determine employees' qualifications, duties, and compensation, but an employee could not be paid a higher salary than the manager was paid.

#### Authority Board

Creation & Membership. Currently, the State Exposition and Fairgrounds Council consists of the Directors of the MDA and the Department of Natural Resources (DNR), or their representatives, and nine members appointed by the Governor and with the advice and consent of the Senate. Not more than five of the appointed members may be members of the same political party. Of the appointed members, three must represent the agriculture industry; one must represent labor; two, business; and one, the travel industry. The remaining two members must be from the general public. Each member's term of office is three years.

The bill would delete reference to the Council and its membership. Under the bill, the Authority would be governed by an Authority board. The board would consist of the Directors of the DMB, DNR, and MDA (or their designees), and 11 members appointed by the Governor with the advice and consent of the Senate. Not more than six of the appointed members could belong to the same political party. The term of office would remain three years, but, of the members first appointed, three would serve for one year, four for two years, and four for three years. As currently provided for the Council, the Directors of the Departments would be prohibited from serving as Authority officers.

The members serving on the Council on the bill's effective date would have to serve as members of the Authority until October 1, 2004. The terms of the newly appointed members would begin on that date. Council members would be eligible for appointment if otherwise qualified.

The 11 voting members would have to be chosen from the following categories, "with the intent that the representation be statewide":

- Three representatives of agricultural interests.
- One State Fair volunteer.
- One member of a recognized State association promoting tourism in Michigan.

- One Fair exhibitor.
- Two members of the general public, including one resident of Detroit.
- One representative of organized labor.
- One representative of the business community.
- One representative of a county fairs association.

Regardless of the cause of a vacancy on the board, the Governor would have to fill the vacancy by appointment by and with the advice and consent of the Senate. A vacancy would be filled for the balance of the unexpired term.

Currently, Council members are paid a per diem compensation and receive reimbursement of expenses. Under the bill, Authority board members would serve without compensation but would receive reimbursement for actual and necessary expenses, subject to available appropriations.

Members of the board 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). A board member or Authority officer or employee would have to discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances.

Currently, the Council selects a chairperson and other officers. Under the bill, the Governor would have to designate a board member to serve as its chairperson at the pleasure of the Governor. The board would have to select other officers from its voting membership annually.

As provided for the Council, the board would be subject to the Open Meetings Act and the Freedom of Information Act. The board could adopt bylaws and policies and procedures for conducting its business.

Responsibilities. The bill would require the board, except as otherwise provided in the Michigan Exposition and Fairgrounds Act, to do all things necessary or convenient to implement the purposes, objectives, and powers delegated to the Authority by other laws or executive orders. The board would

be required to do at least all of the following:

- Review and approve policies, including dates for the fair and the budget.
- Develop and submit to the DMB, the Legislature, and the Governor on a yearly basis, a rolling five-year operational plan and construction plan, including a master plan for the use of buildings and grounds.

Under the Act, the Council is charged with advising the MDA Director, the Legislature, and the Governor on the operating budget, capital improvements, programs, exhibits, and other matters relevant to the State Fair. Under the bill, the board would have to report to the DMB Director, the Legislature, and the Governor on these matters.

Currently, the Council must advise the MDA Director on the selection of a Fair manager. Under the bill, the board would have to recommend two or more candidates to the Governor.

The Council also must advise the MDA Director about the use of the State fairgrounds. The bill would require the board to approve the use of the fairgrounds.

#### Manager

The Act requires the Governor to appoint a manager of the State Exposition and Fairgrounds, who is directly responsible to the MDA. Under the bill, the Governor would have to appoint a manager of the Authority, who would serve at the pleasure of the Governor and would be directly responsible to the Authority. The person serving as manager on September 30, 2004, would continue to serve as the manager at the pleasure of the Governor.

Currently, the manager receives compensation determined annually by the Legislature. Under the bill, his or her compensation would be determined by the Authority, subject to appropriation by the Legislature.

The Act requires the manager to administer the business operations of the State Fair; under the bill, he or she also would have to administer the business operations of the Authority. As currently provided, the manager would be the chief administrative officer for the management and operation of

the State Exposition and Fairgrounds; would be responsible for the financial operation of the State Fair; would have to develop ideas and programs to enhance Fair operations; and would be responsible for preparing the annual Fair budget.

The bill also would require the manager to develop and present to the Authority board for its approval each of the following:

- A financial plan submitted annually.
- A five-year operations plan submitted every five years.
- A facility and utility renovation plan.
- A long-range master plan for authority facilities and the State Exposition and Fairgrounds.

The renovation plan and the master plan would have to be updated as determined by the manager or as requested by the board.

#### Fund

The Act created the State Exposition and Fairgrounds Fund in the State Treasury. Upon appropriation, money in the Fund is spent by the MDA Director, with the advice of the Council, to provide for an annual State Fair and to maintain the State Exposition and Fairgrounds. The Fund consists of money generated from the operation of activities under the Act and money appropriated from the General Fund. Under the bill, the Authority would administer the Fund and use the money for the same purposes. The bill would delete reference to money appropriated from the General Fund.

Under the Act, the MDA must submit an annual report to the Legislature and the Council showing the amount of money received under the Act and how the money was spent. Under the bill, the Authority would have to submit the report to the Legislature and the DMB.

#### Bonds & Notes

The Authority board could authorize and issue its bonds and notes payable solely from the revenue or funds available to the Authority. Bonds and notes of the Authority would not be a debt or liability of the State, create or constitute any indebtedness, liability, or obligations of the State, or

constitute a pledge of the faith and credit of the State.

From time to time, the Authority could issue bonds or notes in principal amounts the board considered necessary to provide funds for any purpose consistent with the Act, including purposes described in the bill. The bonds or notes would not be a general obligation of the Authority but would be payable solely from the revenue and/or funds pledged to the payment of the principal of and interest on the bonds or notes, as provided in the resolution authorizing them.

The Authority could authorize and approve an insurance contract, an agreement for a line of credit, a letter of credit, a commitment to purchase notes or bonds, an agreement to remarket bonds or notes, and any other transaction to provide security to assure timely payment of a bond or note.

A resolution authorizing bonds or notes could provide for various pledges, reserves, limitations, procedures, trustee responsibilities, and other matters that affected the security of the bonds or notes.

Within limitations contained in the issuance or authorization resolution of the Authority board, the board could authorize a board member, the manager, or an Authority officer to take various actions, such as approving interest rates, refunding notes or bonds, and directing the investment of funds of the Authority. Neither the board members nor any person executing bonds or notes under the bill, or executing any agreement on behalf of the Authority, would be personally liable on the bonds or notes by reason of their issuance.

Notwithstanding any restriction contained in any other law, the State and a public officer, local unit of government, or State or local agency, a financial institution, an insurance company or association, and a fiduciary, could legally invest funds belonging to them or within their control in bonds or notes issued under the Act, and Authority bonds or notes would be authorized security for public deposits.

#### Tax Exemption

The bill states that property of the Authority would be public property devoted to an

essential public and governmental function and purpose, and income of the Authority would be considered to be for a public purpose. The Authority's property, income, and operation would be exempt from all taxes and special assessments of the State or a political subdivision of the State. Bonds or notes issued by the Authority, and the interest and income on them, also would be exempt from State and local taxation.

#### Audit

Currently, the Auditor General annually must audit the books and records of the State Fair. The bill, instead, states that the Authority would be subject to annual post audits of its financial transactions and accounts and to performance post audits by the Auditor General.

#### Demolition

Under the Act, the MDA may demolish or permit the demolition of any building or structure on the State Exposition and Fairgrounds that the MDA Director determines to be unsuitable for uses consistent with the Fair. Under the bill, the Authority could order the demolition of a building if it determined the structure to be unsuitable for Fair use.

MCL 285.161 et al.

Legislative Analyst: Suzanne Lowe

#### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

The State Exposition and Fairgrounds (State Fair) receives appropriations in the annual MDA budget to cover its operations. These appropriations are supported from revenue generated at the State Fair from events held throughout the year. Nearly all of the revenue generated by the State Fair accrues during the annual Michigan State Fair held in late August. The State Fair is accounted for in the General Fund, which means that if it does not generate sufficient revenue to cover all of its expenses, the General Fund is responsible for the shortfall. The table below shows revenue received by the State Fair, annual expenses, and General Fund assistance provided to the State Fair for the past seven fiscal years (FYs), FY 1996-97 through FY 2002-03.

During four of the past seven fiscal years, the State Fair required General Fund appropriations to cover its expenses. In FY 2002-03, the State Fair lost \$746,700. This shortfall was made up by a transfer from various accounts within the MDA budget (\$255,200) and a transfer from various accounts within the DMB budget (\$491,800). In FY 1999-2000, the shortfall was made up by a one-time transfer of \$1,250,000 from the Bovine Tuberculosis Program within in the MDA budget.

<b>Michigan State Fair Financial History</b> <b>Fiscal Year Ending September 30</b> <b>(thousands)</b>							
	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>
Revenue	\$6,078.7	\$6,684.3	\$6,614.8	\$6,789.5	\$5,350.0	\$4,953.1	\$5,047.3
Expenses	(6,880.3)	(7,322.1)	(6,604.0)	(7,932.2)	(5,265.3)	(4,868.4)	(5,794.0)
Income (Loss)	(801.6)	(637.8)	10.8	(1,142.7)	84.7	84.7	(746.7)
GF/GP Transfer	885.0	707.0		1,250.0			747.0
Income (Loss) After Transfer	83.4	69.2	10.8	107.3	84.7	84.7	0.3

The proposed bonding authority would have no fiscal impact on the State. Under the bill, any indebtedness of the Authority would not represent a liability of the State. Any indebtedness would be paid for by revenue generated by the Authority and deposited in the State Exposition and Fairgrounds Fund. The first priority for use of the Fund would be to make required debt service payments on any outstanding bonds or notes. After payment of debt service, money in the Fund could be used for other purposes consistent with the Act and pursuant to appropriation.

Fiscal Analyst: Craig Thiel

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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.