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BILL



ANALYSIS

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Senate Bills 1630 and 1633 (as enacted)
House Bill 5691 (as enacted)
Sponsor: Senator Jason E. Allen (S.B. 1630)
Senator Buzz Thomas (S.B. 1633)
Representative Paul Condino (H.B. 5691)
Senate Committee: Commerce and Tourism
House Committee: Regulatory Reform

PUBLIC ACTS 554 & 586 of 2008
PUBLIC ACT 553 of 2008

Date Completed: 7-27-09

CONTENT

Senate Bill 1630 created the "Regional Convention Facility Authority Act", and Senate Bill 1633 and House Bill 5691 amended the Health and Safety Fund Act and the State Convention Facility Development Act, respectively, to do all of the following:

- **Create a regional convention facility authority in the Detroit metropolitan area.**
- **Provide for the transfer of Cobo Hall from the City of Detroit to the regional authority.**
- **Allow the Detroit City Council to disapprove of the transfer within 45 days of the effective date of Senate Bill 1630.**
- **Provide for the distribution of certain amounts from the Health and Safety Fund to the Convention Facility Development Fund through fiscal year (FY) 2038-2039.**
- **Allow certain distributions from the Convention Facility Development Fund for purposes authorized under the Regional Convention Facility Authority Act.**
- **Appropriate \$9.0 million to a regional authority created under the Regional Convention Facility Authority Act.**
- **Allow a regional authority to issue bonds, obligations, or other evidences of indebtedness of up to**

\$299.0 million to finance project costs.

- **Revise the definition of "convention hotel" for purposes of an accommodations tax imposed in certain counties.**

The Senate bills took effect on January 20, 2009, and the House bill took effect on March 31, 2009.

The bills were tie-barred to each other and to Senate Bills 880 and 881. (Those bills amended the Use Tax Act and the General Sales Tax Act, respectively. Among other things, the bills exempted the sale of personal property used in the construction or renovation of a qualified convention facility from the sales tax, and exempted from the use tax personal property acquired by a person in the business of repairing or improving real estate that is to be made part of a qualified convention facility.)

(As explained in **BACKGROUND**, below, the transfer of Cobo Hall was disapproved and did not take place.)

Senate Bill 1630

The bill created a regional convention facility authority in the Detroit metropolitan area and provided for the transfer of a qualified convention facility (Cobo Hall in Detroit) to the regional authority. The bill requires the authority to be governed by a five-member

board consisting of one individual appointed by each of the following: the Governor, the Mayor of Detroit, the Wayne County Executive, the Oakland County Executive, and the chairperson of the Macomb County Board of Commissioners.

The bill allowed the legislative body of a qualified city in which a qualified convention facility is located (Detroit) to disapprove the transfer of the facility to the authority by adopting a resolution disapproving the transfer, within 45 days of the bill's effective date.

After the "transfer date", a local government from which a qualified convention facility has been transferred is relieved of all further costs, responsibility, and liability arising from, or associated with, control, operation, development, and maintenance of the qualified convention facility. The local government continues to be responsible for all costs associated with local municipal services including police, fire, and emergency medical services, without any additional compensation from the regional authority. The authority must provide for the payment of up to \$20.0 million to the qualified city for any revenue otherwise payable to the city from parking facilities operated by the city at the convention facility and for other costs incurred by the city associated with the transfer of the qualified convention facility to the regional authority.

The bill defined "transfer date" as the date 90 days after the creation of an authority under the Regional Convention Facility Authority Act on which the right, title, interest, ownership, and control of a qualified convention facility are conveyed and transferred from a qualified city to an authority, if the transfer is not disapproved by the qualified city's legislative body.

The bill also does the following:

- Prescribes the powers and duties of the authority board, including the power to issue bonds, borrow money, and issue municipal securities.
- Prohibits the authority from spending more than \$279.0 million to develop an expanded or renovated convention facility.
- Exempts property and income of the authority from State and local taxation.

Senate Bill 1633

The Health and Safety Fund Act requires the State Treasurer to distribute certain amounts from the Health and Safety Fund for specific purposes. The bill amended that Act to require that, in fiscal year (FY) 2008-09 through FY 2014-15, \$16.0 million be transferred to and deposited in the Convention Facility Development Fund created under the State Convention Facility Development Act for distribution and use only in the manner and for the purposes stated in that Act. In FY 2015-16 through FY 2038-39, the bill requires \$15.0 million to be transferred to and deposited in the Convention Facility Development Fund for distribution and use in the manner and for the purposes stated in that Act

House Bill 5691

Tax & Fund

The State Convention Facility Development Act imposes an excise tax on any person engaged in the business of providing accommodations to transient guests in a "convention hotel". As amended by the bill, "convention hotel" means a facility used in the business of providing accommodations that has more than 80 rooms for providing accommodations to transient guests and that is located within a county that has a population of at least 700,000 according to the most recent decennial census and has one or both of the following:

- A convention facility with at least 350,000 square feet of total exhibit space.
- 2,000 or more rooms to provide accommodations for transient guests.

Previously, the term referred to a county having a population of at least 750,000, rather than 700,000.

Under the bill, the tax may not be levied after the earlier of December 31, 2039, or 30 days after all bonds, notes, or other obligations issued by a metropolitan authority formed under the Regional Convention Facility Authority Act are retired. Previously, the tax could not be levied after December 31, 2015.

Collections from the tax imposed under the Act must be deposited in the State Treasury,

to the credit of the Convention Facility Development Fund. Collections from an additional tax imposed under Section 1207 of the Michigan Liquor Control Code also must be deposited to the credit of that Fund. (Section 1207 imposes a 4% tax on the retail selling price of spirits and requires the proceeds of the tax to be credited to the Convention Facility Development Fund.) The bill also requires amounts appropriated under it in FY 2008-09 (described below), and designated under the Health and Safety Fund Act (as amended by Senate Bill 1633) to be deposited to the credit of the Convention Facility Development Fund.

Money in the Convention Facility Development Fund must be distributed for certain State purposes and to local governmental units for use only for specified purposes. The bill also allows distributions from the Fund for any purpose authorized under the Regional Convention Facility Authority Act, in the case of a local governmental unit that is a metropolitan authority. (The bill defined "local governmental unit" as a county, township, city, village, or a metropolitan authority formed under the Regional Convention Facility Authority Act.)

Appropriation

The bill appropriated \$9.0 million for FY 2008-09 from the 21st Century Jobs Trust Fund to an authority created under the Regional Convention Facility Authority Act, for purposes of developing a qualified convention facility.

Fund Distribution

The State Convention Facility Development Fund Act specifies how money is to be distributed from the Fund. Under the bill, before FY 2015-16, collections from the tax levied for accommodations under the Act and collections from the tax imposed under Section 1207 of the Michigan Liquor Control Code may not be paid to a qualified local governmental unit for the repayment of bonds, obligations, or other evidences of indebtedness incurred after 2007.

Money remaining in the Convention Facility Development Fund that is not used for bonds, obligations, or other evidences of indebtedness must be distributed in an order of priority specified in the Act. The bill gives

first priority to distributions to a metropolitan authority created under the Regional Convention Facility Authority Act for the operational deficit costs of a qualified convention facility operated by the authority, as shown in Table 1.

Table 1

| Fiscal Year | Distribution Amount |
|-------------------------|---------------------|
| FY 2008-09 | \$9.4 million |
| FY 2009-10 & 2010-11 | \$11.0 million |
| FY 2011-12 & 2012-13 | \$9.0 million |
| FY 2013-14 & 2014-15 | \$8.0 million |
| FY 2015-16 | \$7.0 million |
| FY 2016-17 | \$6.0 million |
| FY 2017-18 - FY 2022-23 | \$5.0 million |

In addition, the Act provides for distributions to all counties, based on the amount of tax collected under Section 1207 of the Michigan Liquor Control Code. The bill retained the existing distribution through FY 2014-15. For FY 2015-16 and subsequent fiscal years, the bill limits the annual increase in distributions to the amount distributed in the previous fiscal year multiplied by 1.01.

Also, beginning in FY 2015-16, and each subsequent fiscal year, if the revenue in the Convention Facility Development Fund exceeds the amounts required to be distributed, the excess must be distributed to a metropolitan authority to be used for the retirement of outstanding bonds, obligations, or other evidences of indebtedness incurred for which distributions from the Fund are pledged and for the payment of any unfunded operational deficit costs incurred during the prior fiscal year by a metropolitan authority created under the Regional Convention Facility Authority Act for the operation of a qualified convention facility.

The definition of "qualified local governmental unit" in the State Convention Facility Development Fund Act refers to a city, village, township, county, or authority that is located in, or (under the bill) includes within its territory or jurisdiction, a county in which convention hotels are located and that is the owner or lessee of a convention facility with 350,000 square feet or more of total exhibit space.

The bill defines "local governmental unit" as a county, township, city, or village, or a

metropolitan authority formed under the Regional Convention Facility Authority Act.

Bonding Limits

The State Convention Facility Development Fund Act provides for a local governmental unit to assign or pledge all or a portion of the distribution of taxes that the local governmental unit is eligible to receive for the payment of bonds, obligations, or other evidences of indebtedness. A local unit may not issue bonds, obligations, or other evidences of indebtedness in an amount greater than \$180.0 million. Under the bill, however, a local unit that becomes a qualified local governmental unit after December 1, 2008, may not issue bonds, obligations, or other indebtedness in order to finance a total cost for all projects undertaken that exceeds \$299.0 million. The cost of a project, in addition to construction and acquisition costs, may include an allowance for legal, engineering, architectural, and consulting services.

Under the bill, the following may not be considered costs of a project and may be financed with the proceeds of bonds, obligations, or other evidences of indebtedness:

- Interest on revenue obligations issued to finance the project becoming due before the collection of the first revenue available for the payment of those revenue obligations.
- A reserve for the payment of principal, interest, and redemption premiums on the qualified local governmental unit's revenue obligations, and other necessary incidental expenses.
- Fees or charges associated with an agreement to manage payment, revenue, or interest rate exposure.
- Any other fees or charges for any other security provided to assure timely payment of the obligations.
- Refunding bonds.

MCL 141.1351-141.1379 (S.B. 1630)
141.475 (S.B. 1633)
207.623 et al. (H.B. 5691)

BACKGROUND

On February 24, 2009, the Detroit City Council passed a resolution to disapprove the transfer of Cobo Hall from the city to the

regional authority created in the Regional Convention Facility Authority Act. On March 4, 2009, the Mayor of Detroit vetoed the resolution. The City Council did not override the mayor's veto, but challenged it in circuit court because the Act gave exclusive power to disapprove the transfer to the Council.

The circuit court ruled that the mayoral veto was null and void under the plain language of the Act. The mayor appealed that decision to the Michigan Court of Appeals, which affirmed the lower court's ruling.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Since the Detroit City Council rejected the transfer of Cobo Hall to the regional convention facility authority that otherwise would have occurred under these bills, the fiscal impact of the bills did not go into effect. The financial provisions contained in the bills that would have gone into effect had the Detroit City Council not rejected the transfer of Cobo Hall to the new authority include the following:

- Existing Cobo Hall debt service payments totaling \$97.0 million and scheduled to be paid off in FY 2014-15, would not have been changed in any way.
- The distribution of the liquor tax revenue to all counties through the Convention Facility Development Fund (CFDF) would have continued as under current law through FY 2014-15; however, beginning in FY 2015-16, the annual increase in these total payments would have been capped at 1.0%.
- Any excess liquor tax revenue in the CFDF, resulting from the 1.0% capped annual increase, would have been available for distribution to the regional convention facility authority to help cover debt service payments.
- A one-time \$9.0 million transfer from the 21st Century Jobs Trust Fund to the regional convention facility authority would have occurred in FY 2008-09.
- The Health and Safety Fund would have transferred \$16.0 million annually to the regional convention facility authority from FY 2008-09 through FY 2014-15; and then from FY 2015-16 through FY 2038-39, the transfer would have declined to \$15.0 million annually.

In total, it is estimated that these bills would have made available \$1.2 billion to the regional convention facility authority to pay debt service on the bonds that would have been issued to finance the renovation and improvements to Cobo Hall and to cover operating deficits that Cobo Hall is expected to incur over the next 15 years.

Fiscal Analyst: Jay Wortley

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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.