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Senate Bill 1578 (as introduced 11-4-10)

(as enacted)

Sponsor: Senator Buzz Thomas

Committee: Commerce and Tourism

Date Completed: 11-8-10

## **CONTENT**

**The bill would create the "Art Institute Authorities Act" to do the following:**

- Allow a county to form an art institute authority.**
- Require a county board of commissioners to adopt articles of incorporation in order to establish an authority.**
- Allow the authority, with approval of the county electors, to levy a tax of up to 0.2 mill for up to 20 years on all taxable property in the county that would be used exclusively for the benefit of the art institute for which an art institute service provider rendered services.**
- Require the authority to contract for art institute services with an art institute services provider before a vote for a tax levy occurred**
- Require the contract to require the art institute services provider to offer preferences or benefits for residents of the county.**
- Prohibit the authority from obtaining an interest in real property or participating in the governance of an art institute.**
- Require the authority to reimburse the county and a municipality for their election costs, if a tax were approved.**

"Art institute" would mean an encyclopedic art museum whose primary art collection and facility, at the date an authority is established, are owned by a municipality located in Michigan. "Art institute services" would mean the operation or support of an art institute. "Art institute services provider" would mean a nonprofit entity qualified under Section 501(c)(3) of the Internal Revenue Code that, as its primary purpose, provides art institute services to an art institute.

### **Formation of Authority; Board**

Any county could form an art institute authority, which would be an authority under Article IX, Section 6 of the State Constitution. An art institute authority would be a public corporate body with the power to sue and be sued and would possess all the powers necessary for carrying out the purposes of its formation. (Article IX, Section 6 limits the total amount of general ad valorem taxes imposed upon real and tangible personal property. The limitations do not apply to taxes imposed by a city, village, charter county, charter township, charter authority, or other authority, whose tax limitations are provided by charter or by general law.)

To initiate the establishment of an authority, articles of incorporation would have to be prepared by a majority of the members of the county board of commissioners of the county establishing the authority. The articles of incorporation would have to include all of the following:

- The name of the authority.
- The purpose of the authority.
- The method of dissolution of the authority.
- Any other matters considered advisable.

The articles also would have to include the size of the board of the authority, which would have to be composed of an odd number of members and could not exceed 15 members; the qualifications and terms of office of board members; the manner of appointing the board members; and the filling of vacancies in the office of board member.

The articles would have to be adopted and could be amended by an affirmative vote of a majority of the members of the county board of commissioners. Before the articles or amendments were adopted, they would have to be published at least once in a newspaper generally circulated within the county. The adoption of articles or amendments would have to be evidenced by an endorsement on them by the clerk of the county.

Upon adoption of the articles or amendments, the county clerk would have to file a printed copy of the articles or the amended articles with the Secretary of State. The authority's articles of incorporation, or amendments to the articles, would take effect upon the filing.

A vacancy would occur on the board of an authority if any of the events set forth in Section 3 of Chapter 15 of the Revised Statutes of 1846 happened (e.g., the incumbent died, resigned, was removed from office, or was convicted of an "infamous crime"). The county board of commissioners could remove board members for good cause after a public hearing. Vacancies would have to be filled in the manner provided for in the authority's articles of incorporation.

A majority of the members of the board would constitute a quorum for the purpose of conducting business and exercising the powers of an authority. Official action could be taken by an authority upon the vote of a majority of the board members present, unless the authority adopted bylaws requiring a larger number.

A board member could not receive compensation for services as a member of the board but would be entitled to reimbursement for reasonable expenses incurred in the discharge of his or her duties.

The board would be subject to the Open Meetings Act and the Freedom of Information Act.

At its first meeting, the board would have to elect a chairperson, a secretary, a treasurer, and any other officers it considered necessary. The board could adopt bylaws to govern its procedures.

#### Authority Functions & Finances

An art institute authority could do one or more of the following:

- Provide funding to an art institute services provider to support the provision of art institute services.
- Levy a tax (as provided below).
- Enter into contracts incidental or necessary for the accomplishment of the proposed Act.

Before a vote for a tax levy under the proposed Act or, if an initial art institute services provider were replaced, before any funds were transferred to a replacement provider, the art institute services provider would have to enter into a contract with the authority requiring the provider to use the funds received from the authority exclusively to support the provision of art institute services to an art institute.

If a majority of electors in the county voting on the question of a tax approved the tax levy, the contract for art institute services would have to require the art institute services provider to offer or to exercise its best efforts to cause the art institute to offer preferences or benefits for the residents of the county, which could include any of the following:

- Discounted admission fees.
- Discounted membership fees.
- Discounts for schoolchildren.
- Access to educational programs.

An authority board would have to obtain an annual audit of the authority, and report on the audit and auditing procedures, in the manner provided by the Uniform Budgeting and Accounting Act. The audit would have to be in accordance with generally accepted government auditing standards as promulgated by the United States General Accounting Office, and would have to satisfy Federal regulations relating to Federal grant compliance audit requirements. An authority also would have to prepare budgets and appropriations acts in the manner provided by the Uniform Budgeting and Accounting Act.

If an authority ended a fiscal year in a deficit condition, the authority would have to file a financial plan to correct the deficit condition in the same manner as provided in Section 21(2) of the Revenue Sharing Act. (Under that section, if a local unit of government ends its fiscal year in a deficit condition, the local unit must formulate and file a financial plan within 90 days after the beginning of the fiscal year to correct this condition. The local unit must file the financial plan with the Department of Treasury for evaluation and certification that the plan ensures that the deficit condition is corrected. Upon certification by the Department, the local unit must institute the plan.)

The State Treasurer, the Attorney General, a prosecuting attorney, bank, certified public accountant, certified public accounting firm, or other person would have the same powers, duties, and immunities with respect to the authority as provided for local units in Sections 6 to 20 of the Uniform Budgeting and Accounting Act. (Those sections pertain to audits, budgets, appropriations, expenditures, and violations.)

An authority board could authorize funds of the authority to be invested or deposited on a temporary basis in any investment or depository authorized under Section 1 of Public Act 20 of 1943 (which pertains to the investment of surplus funds of political subdivisions and limits investments to certain instruments and depositories).

### Taxes

An art institute authority could levy a tax of up to 0.2 mill for a period of not more than 20 years on all of the taxable property within the county for the purpose of providing revenue to an art institute services provider that would be used exclusively for the benefit of the art institute with respect to which the provider rendered services. The authority could levy the tax if a majority of the electors in the county voting on the tax at a statewide general or primary election approved the tax. The proposal for a tax would have to be submitted to a vote of the electors of the authority by resolution of the board.

A ballot proposal for a tax would have comply with the requirements of Section 24f of the General Property Tax Act (which governs ballot proposals to authorize a bond issue, impose a new millage, or increase or renew an existing millage). A proposal for a tax could not be placed on the ballot unless the proposal were adopted by a resolution of the board and certified by the board within 60 days before the election to the county clerk for inclusion on the ballot. The proposal would have to be certified for inclusion on the ballot at the next eligible election, as specified by the board's resolution.

Not more than two elections could be held in a calendar year on a proposal for an authority tax. The county election commission would have to provide ballots for an election. An election would have to be conducted by the city and township clerks and election officials of the municipalities located within the county.

If an election for a tax were to be held in conjunction with a general election or a State primary election, the notices of close of registration and election would have to be published as provided for by the State election laws. Otherwise, the clerk of the county would have to publish these notices. The notices would have to include the ballot language of the proposal.

The results of the election would have to be canvassed by the board of county canvassers of the county, which would have to make the final canvass based on the returns of the election inspectors of the municipalities in that county. The board of county canvassers would have to certify the results of the election to the board of the authority.

If a majority of the electors in the county voting on the question approved the proposal, the tax levy would be authorized. The tax would have to be levied and collected at the same time and in the same manner as provided by the General Property Tax Act. Within 10 business days of receiving the funds from the local property tax collecting unit, the authority would have to transfer the funds, less the amount necessary to pay obligations incurred by the authority under the proposed Act, to an art institute service provider.

The clerk of the county would have to charge the authority and the authority would have to reimburse the county for the actual costs it incurred in the election for the tax, if it were approved.

If a municipality conducted the election and a majority of the electors in the county voting on the question approved the tax, the clerk of that municipality would have to charge the authority and the authority would have to reimburse the municipality for the actual costs it incurred in conducting the election if the election were not held in conjunction with a regularly scheduled election in that municipality.

In addition to costs reimbursed as described above, the county or a municipality would have to charge the authority and the authority would have to reimburse the county or municipality for actual costs that it incurred and that were exclusively attributable to an election for a tax authorized under the proposed Act. The actual costs that a county or municipality incurred would have to be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bill would have no fiscal impact on State government. The bill would increase revenue by an unknown amount depending upon the taxable value in a county creating an art institute authority, which would be a special district government. The bill would have no direct impact on the finances of general purpose local governments.

Fiscal Analyst: Eric Scorsone

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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.