

**SUBSTITUTE FOR
HOUSE BILL NO. 4998**

A bill to amend 2008 PA 554, entitled
"Regional convention facility authority act,"
by amending sections 5, 7, 11, and 19 (MCL 141.1355, 141.1357,
141.1361, and 141.1369).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. As used in this act:

2 (a) "Authority" means a regional convention facility authority
3 created under section 7.

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

5 (c) "Convention facility" means all or any part of, or any
6 combination of, a convention hall, auditorium, arena, meeting
7 rooms, exhibition area, and related adjacent public areas that are
8 generally available to the public for lease on a short-term basis

1 for holding conventions, meetings, exhibits, and similar events,
2 together with real or personal property, and easements above, on,
3 or under the surface of real or personal property, used or intended
4 to be used for holding conventions, meetings, exhibits, and similar
5 events, together with appurtenant property, including covered
6 walkways, parking lots, or structures, necessary and convenient for
7 use in connection with the convention facility. Convention facility
8 includes an adjacent arena with a seating capacity not exceeding
9 ~~10,000~~ **13,000**. Convention facility does not include an adjacent
10 arena with a seating capacity exceeding ~~10,000~~ **13,000**.

11 (d) "Develop" means to plan, acquire, construct, improve,
12 enlarge, maintain, renew, renovate, repair, replace, lease, equip,
13 furnish, market, promote, manage, or operate.

14 (e) "Fiscal year" means an annual period that begins on ~~July~~
15 **OCTOBER** 1 and ends on ~~June~~ **SEPTEMBER** 30 or the fiscal year for an
16 authority established by the board of the authority.

17 (f) "Legislative body" means the elected body of a local
18 government possessing the legislative power of the local
19 government.

20 (g) "Local chief executive officer" means the mayor or city
21 manager of a city or the county executive of a county or, if a
22 county does not have a county executive, the chairperson of the
23 county board of commissioners.

24 (h) "Local government" means a county or city. For purposes of
25 sections 17(1)(t) and 19 other than section 19(1)(f), local
26 government includes a building authority or downtown development
27 authority created by a county or city under 1975 PA 197, MCL

1 125.1651 to 125.1681.

2 (i) "Qualified city" means a city with a population of more
3 than 700,000 according to the most recent decennial census that
4 contains a qualified convention facility.

5 (j) "Qualified county" means a county that contains a
6 qualified city.

7 (k) "Qualified convention facility" means a publicly owned
8 convention facility with not less than 600,000 square feet of
9 usable exhibition area and that is located in a qualified city.

10 (l) "Qualified metropolitan area" means a geographic area of
11 this state that includes a qualified city, a qualified county, and
12 the 2 counties bordering the qualified county with the largest
13 populations according to the most recent decennial census.

14 (m) "Transfer date" means the **EARLIER OF THE FOLLOWING:**

15 (i) **THE** date 90 days after the creation of an authority under
16 section 7 on which the right, title, interest, ownership, and
17 control of a qualified convention facility are conveyed and
18 transferred from a qualified city to an authority, **ONLY** if the
19 transfer is not disapproved as provided under section 19(1).

20 (ii) **THE EFFECTIVE DATE OF A LEASE AGREEMENT PROVIDING FOR THE**
21 **LEASE OF A QUALIFIED CONVENTION FACILITY TO AN AUTHORITY CREATED**
22 **UNDER SECTION 7 AS PROVIDED UNDER SECTION 19(1).**

23 Sec. 7. (1) For an area of this state that is a qualified
24 metropolitan area on the effective date of this act, an authority
25 is created for the qualified metropolitan area on the effective
26 date of this act. For an area of this state that becomes a
27 qualified metropolitan area after the effective date of this act,

House Bill No. 4998 (H-1) as amended June 18, 2009

1 an authority is created for the qualified metropolitan area on the
2 date the area became a qualified metropolitan area. An authority
3 created under this section shall be a municipal public body
4 corporate and politic and a metropolitan authority authorized by
5 section 27 of article VII of the state constitution of 1963 and
6 shall possess the powers, duties, and jurisdictions vested in the
7 authority under this act and other laws. The authority shall not be
8 an authority or agency of this state. The name of an authority
9 created under this section shall include the name of the qualified
10 city located within the qualified metropolitan area and the phrase
11 "regional convention facility authority".

12 (2) Before the transfer date, an authority may organize and
13 exercise all powers, duties, and jurisdictions granted under this
14 act, except the powers, duties, and jurisdictions related to the
15 management ~~[, AND]~~ operation ~~[, and development]~~ of a qualified convention
16 facility. On the transfer date, an authority is vested with the
17 additional powers, duties, and jurisdictions under this act related
18 to the management, operation, and development of a qualified
19 convention facility.

20 (3) It is the intent of the legislature that the transfer **OR**
21 **LEASE** of a qualified convention facility from a qualified city to
22 an authority under this act and any payment required under section
23 19(9) represents at least a fair exchange of value for value for
24 the qualified city considering, without limitation, all of the
25 following:

26 (a) The net value of the qualified convention facility prior
27 to the transfer date after deducting deferred maintenance

1 obligations, operational deficits, repair or expansion needs, and
2 other liabilities related to the qualified convention facility that
3 are obligations of the qualified city.

4 (b) The benefits to the qualified city resulting from the
5 transfer **OR LEASE** of the qualified convention facility to the
6 authority, including, but not limited to, assumption or payment of
7 debt obligations of the qualified city by the authority, reductions
8 in costs, liabilities or other obligations of the qualified city,
9 additional revenues or other money not otherwise available for the
10 qualified convention facility, and the positive economic impact to
11 the qualified city likely to be generated by the operation of the
12 qualified convention facility by the authority or any expansion or
13 improvement of the qualified convention facility by the authority,
14 especially economic impact resulting in the creation or retention
15 of jobs and capital investment.

16 (c) Any bond proceeds, debt service payments, or other money
17 payable directly or indirectly to the qualified city after the
18 transfer date under this act, the state convention facility
19 development act, 1985 PA 106, MCL 207.621 to 207.640, or the health
20 and safety fund act, 1987 PA 264, MCL 141.471 to 141.479.

21 (4) The property of an authority created under this act is
22 public property devoted to an essential public and governmental
23 purpose. Income of the authority is for a public and governmental
24 purpose.

25 (5) Except as otherwise provided in this subsection, the
26 property of the authority created under this act and its income,
27 activities, and operations are exempt from all taxes and special

1 assessments of this state or a political subdivision of this state.
2 Property of an authority and its income, activities, and operations
3 that are leased to private persons are not exempt from any tax or
4 special assessment of this state or a political subdivision of this
5 state. Property of an authority is exempt from any ad valorem
6 property taxes levied under the general property tax act, 1893 PA
7 206, MCL 211.1 to 211.155, or other law of this state authorizing
8 the taxation of real or personal property. An authority is an
9 entity of government for purposes of section 4a(1)(a) of the
10 general sales tax act, 1933 PA 167, MCL 205.54a, and section 4h of
11 the use tax act, 1937 PA 94, MCL 205.94h.

12 (6) The validity of the creation of an authority shall be
13 conclusively presumed unless questioned in an original action filed
14 in the court of appeals within 60 days after the creation of the
15 authority under this section. The court of appeals has original
16 jurisdiction to hear an action under this subsection. The court
17 shall hear the action in an expedited manner.

18 (7) THE VALIDITY OF THE TRANSFER OR LEASE OF A QUALIFIED
19 CONVENTION FACILITY TO AN AUTHORITY UNDER THIS ACT SHALL BE
20 CONCLUSIVELY PRESUMED UNLESS QUESTIONED IN AN ORIGINAL ACTION FILED
21 IN THE COURT OF APPEALS WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF
22 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, OR FOR A
23 METROPOLITAN AREA THAT BECOMES A QUALIFIED METROPOLITAN AREA AFTER
24 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
25 SUBSECTION, 75 DAYS AFTER THE DATE ON WHICH THE METROPOLITAN AREA
26 BECOMES A QUALIFIED METROPOLITAN AREA. THE COURT OF APPEALS HAS
27 ORIGINAL JURISDICTION TO HEAR AN ACTION UNDER THIS SUBSECTION. THE

1 **COURT SHALL HEAR THE ACTION IN AN EXPEDITED MANNER.**

2 Sec. 11. (1) Within not more than 30 days following
3 appointment of the members of a board, the board shall hold its
4 first meeting at a date and time determined by the individual
5 appointed under section 9(1)(a). The board members shall elect from
6 among the board members an individual to serve as chairperson of
7 the board and may elect other officers as the board considers
8 necessary. All officers shall be elected annually by the board. All
9 actions of the board under this act shall require the unanimous
10 consent of all serving members of the board, excluding any members
11 prohibited from voting on an action due to a conflict of interest
12 under section 15.

13 (2) The business of the board shall be conducted at a public
14 meeting of the board held in compliance with the open meetings act,
15 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date,
16 and place of the meeting shall be given in the manner required by
17 the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board
18 shall adopt bylaws consistent with the open meetings act, 1976 PA
19 267, MCL 15.261 to 15.275, governing its procedures and the holding
20 of meetings. After organization, a board shall adopt a schedule of
21 regular meetings and adopt a regular meeting date, place, and time.
22 A special meeting of the board may be called by the chairperson of
23 the board or as provided in bylaws adopted by the board. Notice of
24 a special meeting shall be given in the manner required by the open
25 meetings act, 1976 PA 267, MCL 15.261 to 15.275.

26 (3) A board shall keep a written or printed record of each
27 meeting, which record and any other document or record prepared,

1 owned, used, in the possession of, or retained by the authority in
2 the performance of an official function shall be made available to
3 the public in compliance with the freedom of information act, 1976
4 PA 442, MCL 15.231 to 15.246.

5 (4) A board shall provide for a system of accounts for the
6 authority to conform to a uniform system required by law and for
7 the auditing of the accounts of an authority. The board shall
8 obtain an annual audit of the authority by an independent certified
9 public accountant and report on the audit and auditing procedures
10 in the manner provided by sections 6 to 13 of the uniform budgeting
11 and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit
12 also shall be in accordance with generally accepted government
13 auditing standards and shall satisfy federal regulations relating
14 to federal grant compliance audit requirements.

15 (5) Before the beginning of each fiscal year, a board shall
16 cause to be prepared a budget for the authority containing an
17 itemized statement of the estimated current operational expenses
18 and the expenses for capital outlay including funds for the
19 operation and development of convention facilities under the
20 jurisdiction of the board, including the amount necessary to pay
21 the principal and interest of any outstanding bonds or other
22 obligations of the authority maturing during the next fiscal year
23 or that have previously matured and are unpaid, and an estimate of
24 the estimated revenue of the authority from all sources for the
25 next fiscal year. The board shall adopt a budget as for the fiscal
26 year in accordance with the uniform budget and accounting act, 1968
27 PA 2, MCL 141.421 to 141.440a.

1 (6) A board shall provide for the purchase of, the contracting
2 for, and the providing of supplies, materials, services, insurance,
3 utilities, third-party financing, equipment, printing, and all
4 other items as needed by the authority to efficiently and
5 effectively meet the needs of the authority using competitive
6 procurement methods to secure the best value for the authority. The
7 board shall make all discretionary decisions concerning the
8 solicitation, award, amendment, cancellation, and appeal of
9 authority contracts. A board shall provide for the acquisition of
10 professional services, including, but not limited to, architectural
11 services, engineering services, surveying services, accounting
12 services, services related to the issuance of bonds, and legal
13 services, in accordance with a competitive, qualifications-based
14 selection process and procedure for the type of professional
15 service required by the authority. An authority is not required to
16 use competitive bidding when acquiring proprietary services,
17 equipment, or information available from a single source, such as a
18 software license agreement. An authority may enter into a
19 cooperative purchasing agreement with the federal government, this
20 state, or other public entities for the purchase of goods or
21 services necessary for the authority. An authority may enter into
22 lease purchases or installment purchases for periods not exceeding
23 the anticipated useful life of the items purchased unless otherwise
24 prohibited by law. In all purchases made by the authority, all
25 other things being equal, preference shall be given first to
26 products manufactured or services offered by firms based in the
27 authority's qualified metropolitan area, including, but not limited

1 to, ~~each~~**THE** qualified city and ~~qualified~~**EACH** county in the
2 qualified metropolitan area, and next to firms based in this state,
3 if consistent with ~~federal~~**APPLICABLE** law. **THE AUTHORITY SHALL**
4 **ACTIVELY SOLICIT RECOMMENDATIONS OF QUALIFIED POTENTIAL BIDDERS FOR**
5 **AUTHORITY CONTRACTS FROM THE CHIEF PROCUREMENT OFFICER OF THE**
6 **QUALIFIED CITY AND EACH COUNTY IN THE QUALIFIED METROPOLITAN AREA.**

7 Except as otherwise provided in this section, the authority shall
8 utilize competitive solicitation for all purchases authorized under
9 this act unless 1 or more of the following apply:

10 (a) Procurement of goods or services is necessary for the
11 imminent protection of public health or safety or to mitigate an
12 imminent threat to public health or safety, as determined by the
13 authority or its chief executive officer.

14 (b) Procurement of goods or services is for emergency repair
15 or construction caused by unforeseen circumstances when the repair
16 or construction is necessary to protect life or property.

17 (c) Procurement of goods or services is in response to a
18 declared state of emergency or state of disaster under the
19 emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

20 (d) Procurement of goods or services is in response to a
21 declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33.

22 (e) Procurement of goods or services is in response to a
23 declared state of energy emergency under 1982 PA 191, MCL 10.81 to
24 10.89.

25 (f) Procurement of goods or services is under a cooperative
26 purchasing agreement with the federal government, this state, or
27 more public entities for the purchase of goods and services

1 necessary at fair and reasonable prices using a competitive
2 procurement method for authority operations.

3 (g) The value of the procurement is less than \$5,000.00, and
4 the board has established policies or procedures to ensure that
5 goods or services with a value of less than \$5,000.00 are purchased
6 by the board at fair and reasonable prices. Procurement of goods or
7 services with a value of less than \$5,000.00 may be negotiated with
8 or without using competitive bidding as authorized in a procurement
9 policy adopted by the board.

10 (7) A board may not enter into any cost plus construction
11 contract unless all of the following apply:

12 (a) The contract cost is less than \$50,000.00.

13 (b) The contract is for emergency repair or construction
14 caused by unforeseen circumstances.

15 (c) The repair or construction is necessary to protect life or
16 property.

17 (d) The contract complies with requirements of applicable
18 state or federal law.

19 (8) The board shall adopt a procurement policy consistent with
20 the requirements of this act and federal and state laws relating to
21 procurement. **THE PROCUREMENT POLICY SHALL INCLUDE A REQUIREMENT FOR**
22 **THE AUTHORITY TO USE ITS BEST EFFORTS WITHIN THE COMPETITIVE**
23 **SOLICITATION REQUIREMENTS OF THIS SECTION TO ACHIEVE FAIRNESS IN**
24 **THE NUMBER AND VALUE OF CONTRACTS FOR GOODS OR SERVICES ENTERED**
25 **INTO BY THE AUTHORITY WITH FIRMS BASED IN THE QUALIFIED CITY AND**
26 **EACH COUNTY WITHIN THE QUALIFIED METROPOLITAN AREA, CONSISTENT WITH**
27 **APPLICABLE LAW.** The board shall adopt a policy to govern the

1 control, supervision, management, and oversight of each contract to
2 which the authority is a party. The board shall adopt procedures to
3 monitor the performance of each contract including, but not limited
4 to, a contract that exists on transfer date, to assure execution of
5 the contract within the budget and time periods provided under the
6 contract. The monitoring shall include oversight as to whether the
7 contract is being performed in compliance with the terms of the
8 contract, this act, and federal and state law procurement law. The
9 chief executive officer or other authorized employee of an
10 authority shall not sign or execute a contract until the contract
11 is approved by the board. A board for an authority shall establish
12 policies to ensure that the authority does not enter into a
13 procurement or employment contract with a person who has been
14 convicted of a criminal offense incident to the application for or
15 performance of a contract or subcontract with a governmental entity
16 in this state. A board for an authority shall establish policies to
17 ensure that the authority does not enter into a procurement or
18 employment contract with a person who has been convicted of a
19 criminal offense, or held liable in a civil proceeding, that
20 negatively reflects on the person's business integrity, based on a
21 finding of embezzlement, theft, forgery, bribery, falsification or
22 destruction of records, receiving stolen property, or violation of
23 state or federal antitrust statutes, or similar laws. **THE AUTHORITY**
24 **SHALL PREPARE AN ANNUAL REPORT TO THE BOARD, THE QUALIFIED CITY,**
25 **AND EACH COUNTY WITHIN THE QUALIFIED METROPOLITAN AREA DETAILING**
26 **ALL CONTRACTS ENTERED INTO BY THE AUTHORITY DURING THE IMMEDIATELY**
27 **PRECEDING FISCAL YEAR.** As used in this subsection, if a person is a

1 business entity, person includes affiliates, subsidiaries,
2 officers, directors, managerial employees, and any person who,
3 directly or indirectly, holds a pecuniary interest in that business
4 entity of 20% or more.

5 (9) A board may employ personnel as the board considers
6 necessary to assist the board in performing the power, duties, and
7 jurisdictions of the authority, including, but not limited to,
8 employment of a chief executive officer as authorized under section

9 **13. THE BOARD SHALL ADOPT AN EMPLOYMENT POLICY THAT INCLUDES A**
10 **REQUIREMENT FOR THE AUTHORITY TO USE BEST EFFORTS TO ACHIEVE**
11 **FAIRNESS IN THE HIRING OF EMPLOYEES FROM AMONG RESIDENTS OF THE**
12 **QUALIFIED CITY AND EACH COUNTY WITHIN THE QUALIFIED METROPOLITAN**
13 **AREA, CONSISTENT WITH APPLICABLE LAW.**

14 (10) A board shall establish policies to assure that the board
15 and the authority shall not do either of the following:

16 (a) Fail or refuse to hire, recruit, or promote; demote;
17 discharge; or otherwise discriminate against a person with respect
18 to employment, compensation, or a term, condition, or privilege of
19 employment, or a contract with the authority because of religion,
20 race, color, national origin, age, sex, sexual orientation, height,
21 weight, marital status, partisan considerations, or a disability or
22 genetic information that is unrelated to the person's ability to
23 perform the duties of a particular job, position, or contract.

24 (b) Limit, segregate, or classify an employee, a contractor,
25 or applicant for employment or a contract in a way that deprives or
26 tends to deprive the employee, contractor, or applicant of an
27 employment opportunity or otherwise adversely affects the status of

1 an employee, contractor, or applicant because of religion, race,
2 color, national origin, age, sex, sexual orientation, height,
3 weight, marital status, partisan considerations, or a disability or
4 genetic information that is unrelated to the person's ability to
5 perform the duties of a particular job or position.

6 (11) NOT LESS THAN 60 DAYS AFTER THE TRANSFER DATE, AN
7 AUTHORITY SHALL ESTABLISH A CITIZENS ADVISORY COUNCIL TO PROVIDE
8 PUBLIC INPUT AND ADVISE THE BOARD ON THE IMPACT OF REDEVELOPMENT
9 AND MANAGEMENT OF A QUALIFIED CONVENTION FACILITY UPON THE
10 QUALIFIED CITY AND EACH COUNTY WITHIN THE QUALIFIED METROPOLITAN
11 AREA. THE ADVISORY COUNCIL SHALL CONSIST OF 8 MEMBERS, INCLUDING 1
12 RESIDENT OF THE QUALIFIED CITY APPOINTED BY THE LOCAL CHIEF
13 EXECUTIVE OFFICER OF THE QUALIFIED CITY, 1 RESIDENT OF THE
14 QUALIFIED CITY APPOINTED BY THE LEGISLATIVE BODY OF THE QUALIFIED
15 CITY, 1 COUNTY RESIDENT APPOINTED AS A COUNCIL MEMBER BY EACH LOCAL
16 CHIEF EXECUTIVE OFFICER FOR EACH COUNTY WITHIN THE QUALIFIED
17 METROPOLITAN AREA, AND 1 COUNTY RESIDENT APPOINTED AS A COUNCIL
18 MEMBER BY THE LEGISLATIVE BODY FOR EACH COUNTY WITHIN THE QUALIFIED
19 METROPOLITAN AREA. MEMBERS OF THE ADVISORY COUNCIL SHALL BE
20 APPOINTED FOR TERMS OF 4 YEARS. A VACANCY ON THE ADVISORY COUNCIL
21 ARISING OTHER THAN BY EXPIRATION OF A TERM SHALL BE FILLED FOR THE
22 REMAINDER OF A TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.
23 THE BUSINESS OF THE ADVISORY COUNCIL SHALL BE CONDUCTED AT A PUBLIC
24 MEETING HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267,
25 MCL 15.261 TO 15.275. PUBLIC NOTICE OF THE TIME, DATE, AND PLACE OF
26 THE MEETING SHALL BE GIVEN IN THE MANNER REQUIRED BY THE OPEN
27 MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275. THE ADVISORY

1 COUNCIL SHALL ADOPT BYLAWS CONSISTENT WITH THE OPEN MEETINGS ACT,
2 1976 PA 267, MCL 15.261 TO 15.275, GOVERNING ITS PROCEDURES AND THE
3 HOLDING OF MEETINGS. AFTER ORGANIZATION, THE ADVISORY COUNCIL SHALL
4 ADOPT A SCHEDULE OF REGULAR MEETINGS AND ADOPT A REGULAR MEETING
5 DATE, PLACE, AND TIME. THE ADVISORY COUNCIL SHALL KEEP A WRITTEN OR
6 PRINTED RECORD OF EACH MEETING, WHICH RECORD AND ANY OTHER DOCUMENT
7 OR RECORD PREPARED, OWNED, USED, IN THE POSSESSION OF, OR RETAINED
8 BY THE ADVISORY COUNCIL IN THE PERFORMANCE OF AN OFFICIAL FUNCTION
9 SHALL BE MADE AVAILABLE TO THE PUBLIC IN COMPLIANCE WITH THE
10 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. AN
11 ADVISORY COUNCIL SHALL ORGANIZE AND MAKE ITS OWN POLICIES AND
12 PROCEDURES AND SHALL ADOPT BYLAWS NOT INCONSISTENT WITH THIS ACT
13 GOVERNING ITS OPERATIONS. THE ADVISORY COUNCIL MAY REQUEST AND
14 SHALL RECEIVE FROM THE AUTHORITY INFORMATION AND TECHNICAL
15 ASSISTANCE RELATING TO THE DEVELOPMENT AND MANAGEMENT OF THE
16 QUALIFIED CONVENTION FACILITY. FAILURE OF THE ADVISORY COUNCIL TO
17 ORGANIZE, MEET, OR PERFORM STATUTORY FUNCTIONS SHALL NOT PREVENT
18 THE BOARD OR THE AUTHORITY FROM PERFORMING AUTHORIZED ACTIVITIES.

19 Sec. 19. (1) Within 45 days of ~~the effective date of this act~~
20 JANUARY 20, 2009 or the date on which a metropolitan area becomes a
21 qualified metropolitan area and prior to a transfer date, the
22 legislative body of the qualified city in which a qualified
23 convention facility is located may disapprove the transfer of the
24 qualified convention facility to the authority by adopting a
25 resolution disapproving the transfer. If the transfer is not
26 disapproved, the qualified convention facility is transferred to
27 the authority on the ninetieth day after ~~the effective date of this~~

1 ~~act~~ JANUARY 20, 2009 or the date on which a convention facility
2 becomes a qualified convention facility. IF THE TRANSFER IS
3 DISAPPROVED, WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY
4 ACT THAT ADDED SUBSECTION (14) OR 75 DAYS AFTER A LATER DATE ON
5 WHICH A METROPOLITAN AREA BECOMES A QUALIFIED METROPOLITAN AREA,
6 THE QUALIFIED CITY IN WHICH A QUALIFIED CONVENTION FACILITY IS
7 LOCATED MAY DISAPPROVE LEASING THE QUALIFIED CONVENTION FACILITY TO
8 THE AUTHORITY BY ADOPTING A RESOLUTION DISAPPROVING A LEASE OF THE
9 QUALIFIED CONVENTION FACILITY TO THE AUTHORITY. THE RESOLUTION
10 SHALL BE ADOPTED AND EFFECTIVE AS PROVIDED BY LAW, INCLUDING ANY
11 CHARTER OF THE QUALIFIED CITY. IF A RESOLUTION DISAPPROVING THE
12 LEASE IS ADOPTED AND EFFECTIVE, AN AUTHORITY CREATED FOR THE
13 QUALIFIED METROPOLITAN AREA IN WHICH THE QUALIFIED CONVENTION
14 FACILITY IS LOCATED IS DISSOLVED. IF THE LEASE IS NOT DISAPPROVED
15 WITHIN THE PERIOD PROVIDED, THE LOCAL CHIEF EXECUTIVE OFFICER OF
16 THE QUALIFIED CITY AND THE AUTHORITY SHALL ENTER INTO A LEASE
17 AGREEMENT CONSISTENT WITH THE REQUIREMENTS OF THIS ACT PROVIDING
18 FOR THE LEASE OF THE QUALIFIED CONVENTION FACILITY TO THE AUTHORITY
19 FOR A PERIOD OF NOT LESS THAN 30 YEARS. THE LEASE SHALL REQUIRE THE
20 AUTHORITY TO RENOVATE, REHABILITATE, AND EXPAND THE QUALIFIED
21 CONVENTION FACILITY. THE LEASE SHALL BE EFFECTIVE 253 DAYS AFTER
22 JANUARY 20, 2009 OR THE DATE ON WHICH A METROPOLITAN AREA BECOMES A
23 QUALIFIED METROPOLITAN AREA. All of the following shall occur on a
24 transfer date:

25 (a) All right, title, and interest of a local government in
26 and to a qualified convention facility located in a qualified
27 metropolitan area shall by operation of this act be conveyed and

1 transferred from the local government to the authority for the
2 qualified metropolitan area, and the authority shall receive,
3 succeed to, and assume the exclusive right, responsibility, and
4 authority to own, occupy, operate, control, develop, and use the
5 qualified convention facility from and after the transfer date,
6 including, but not limited to, all real property, buildings,
7 improvements, structures, easements, rights of access, and all
8 other privileges and appurtenances pertaining to the qualified
9 convention facility, subject only to those restrictions imposed by
10 this act. **IF A QUALIFIED CONVENTION FACILITY IS LEASED TO AN**
11 **AUTHORITY UNDER THIS SUBSECTION, THIS SUBDIVISION SHALL APPLY WHILE**
12 **THE LEASE AGREEMENT IS EFFECTIVE.**

13 (b) All right, title, and interest in and to the fixtures,
14 equipment, materials, furnishings, and other personal property of a
15 local government owned or controlled **BY THE LOCAL GOVERNMENT** and
16 used for purposes of the qualified convention facility by the local
17 government shall by operation of this act be conveyed and
18 transferred from the local government to the authority for the
19 qualified metropolitan area, and the authority shall receive,
20 succeed to, and assume the exclusive right, responsibility, and
21 authority to possess and control the property from and after the
22 transfer date. **IF A QUALIFIED CONVENTION FACILITY IS LEASED TO AN**
23 **AUTHORITY UNDER THIS SUBSECTION, THIS SUBDIVISION SHALL APPLY WHILE**
24 **THE LEASE AGREEMENT IS EFFECTIVE.**

25 (c) All licenses, permits, approvals, or awards of a local
26 government related to the ownership, occupancy, operation, control,
27 development, or use of a qualified convention facility by the local

1 government shall by operation of this act be conveyed and
2 transferred from the local government to the authority for the
3 qualified metropolitan area and be assumed by the authority. **IF A**
4 **QUALIFIED CONVENTION FACILITY IS LEASED TO AN AUTHORITY UNDER THIS**
5 **SUBSECTION, THIS SUBDIVISION SHALL APPLY WHILE THE LEASE AGREEMENT**
6 **IS EFFECTIVE.**

7 (d) All grant agreements, grant preapplications, grant
8 applications, rights to receive the balance of any funds payable
9 under the agreements or applications, the right to receive any
10 amounts payable from and after the transfer date, and the benefits
11 of contracts or agreements of a local government related to the
12 ownership, occupancy, operation, control, development, or use of a
13 qualified convention facility by the local government shall by
14 operation of this act be conveyed and transferred from the local
15 government to the authority for the qualified metropolitan area and
16 be assumed by the authority. **IF A QUALIFIED CONVENTION FACILITY IS**
17 **LEASED TO AN AUTHORITY UNDER THIS SUBSECTION, THIS SUBDIVISION**
18 **SHALL APPLY WHILE THE LEASE AGREEMENT IS EFFECTIVE.**

19 (e) All of the duties, liabilities, responsibilities, and
20 obligations of a local government related to the ownership,
21 occupancy, operation, control, development, or use of a qualified
22 convention facility by the local government shall by operation of
23 this act be conveyed and transferred from the local government to
24 the authority for the qualified metropolitan area and assumed by
25 the authority, except for any liabilities, responsibilities, or
26 obligations that are contested in good faith by ~~, or, as of the~~
27 ~~transfer date, unknown to, the authority. or as otherwise provided~~

1 ~~in this act.~~ **IF A QUALIFIED CONVENTION FACILITY IS LEASED TO AN**
2 **AUTHORITY UNDER THIS SUBSECTION, THIS SUBDIVISION SHALL APPLY WHILE**
3 **THE LEASE AGREEMENT IS EFFECTIVE.**

4 (f) An authority for a qualified metropolitan area shall
5 assume all of the outstanding securities of the local government
6 that are special limited obligations payable from and secured by a
7 lien on distributions received under the state convention facility
8 development act, 1985 PA 106, MCL 207.621 to 207.640, and were
9 originally issued to finance the acquisition or construction of,
10 development of, or improvements to the qualified convention
11 facility conveyed and transferred to the authority for the
12 qualified metropolitan area under this section, and the authority
13 may refund or defease the securities. If the authority refunds the
14 outstanding securities assumed under this subsection, that
15 refunding shall be considered, as a matter of law, to be necessary
16 to eliminate requirements of covenants applicable to the existing
17 outstanding securities.

18 (2) An authority shall assume, accept, or become liable for
19 lawful agreements, obligations, promises, covenants, commitments,
20 and other requirements of a local government relating to operating
21 a qualified convention facility conveyed and transferred under this
22 section, except as provided in subsection (4). An authority shall
23 perform all of the duties and obligations and shall be entitled to
24 all of the rights of a local government and under any agreements
25 expressly assumed and accepted by the authority related to the
26 transfer of a qualified convention facility from the local
27 government to the authority under this section. **IF A QUALIFIED**

1 CONVENTION FACILITY IS LEASED TO AN AUTHORITY UNDER SUBSECTION (1),
2 THIS SUBSECTION SHALL APPLY WHILE THE LEASE AGREEMENT IS EFFECTIVE.

3 (3) The local chief executive officer of a local government
4 from which the rights, responsibility, and authority to own,
5 occupy, operate, control, develop, and use a qualified convention
6 facility are conveyed and transferred **OR LEASED** from the local
7 government to an authority for a qualified metropolitan area under
8 this section shall execute the instruments of conveyance,
9 assignment, and transfer **OR LEASE** or other documents as may, in the
10 authority's and the officer's reasonable judgment, ~~as~~**BE** necessary
11 or appropriate to recognize, facilitate, or accomplish the transfer
12 **OR LEASE** of the qualified convention facility from the local
13 government to the authority under this section.

14 (4) An authority for a qualified metropolitan area shall not
15 assume any unfunded obligations of a local government transferring
16 **OR LEASING** a qualified convention facility under this section to
17 provide pensions or retiree health insurance. Upon request by the
18 authority, the local government shall provide the authority with a
19 statement of the amount of the unfunded obligations, determined by
20 a professional actuary acceptable to the authority.

21 (5) All lawful actions, commitments, and proceedings of a
22 local government made, given, or undertaken before the transfer
23 date and assumed by an authority under this section are ratified,
24 confirmed, and validated upon assumption. All actions, commitments,
25 or proceedings of the local government relating to a qualified
26 convention facility in the process of being undertaken by, but not
27 yet a commitment or obligation of, the local government regarding

1 the qualified convention facility may, from and after the date of
2 assumption by the authority under this section, be undertaken and
3 completed by the authority in the manner and at the times provided
4 in this act or other applicable law and in any lawful agreements
5 made by the local government before the date of assumption by the
6 authority under this section.

7 (6) The exclusive right and authorization to own, occupy,
8 operate, control, develop, and use a qualified convention facility
9 transferred **OR LEASED** under this section shall include, but not be
10 limited to:

11 (a) Ownership and operational jurisdiction over all real
12 property of the qualified convention facility, subject to any liens
13 of record and legal restrictions and limitations on the use of the
14 property.

15 (b) The local government's right, title, and interest in, and
16 all of the local government's responsibilities arising under,
17 operating leases and concessions relating to a qualified convention
18 facility.

19 (7) The transfers described under this section shall include,
20 but need not be limited to, all of the following:

21 (a) All contracts with licensees, franchisees, tenants,
22 concessionaires, and leaseholders.

23 (b) All operating financial obligations secured by revenues
24 and fees generated from the operations of the qualified convention
25 facility.

26 (c) All cash balances and investments relating to or resulting
27 from operations of the qualified convention facility, all funds

1 held under an ordinance, resolution, or indenture related to or
2 securing obligations of the local government assumed by the
3 authority, and all of the accounts receivable or choses in action
4 arising from operations of the qualified convention facility. Fund
5 transfers under this subdivision are limited to funds received
6 after the transfer date and funds necessary to pay obligations
7 related to the operation of the qualified convention facility
8 accrued before the transfer date and not paid by the local
9 government.

10 (d) All office equipment, including, but not limited to,
11 computers, records and files, software, and software licenses
12 required for financial management, personnel management, accounting
13 and inventory systems, and general administration.

14 (8) The transfer **OR LEASE** of the real and personal property
15 and operational jurisdiction over a qualified convention facility
16 to an authority may not in any way impair any contracts with
17 licensees, franchisees, vendors, tenants, bondholders, or other
18 parties in privity with the local government that owned a qualified
19 convention facility transferred **OR LEASED** to an authority under
20 this section, if the contracts were not entered into or modified in
21 violation of this act.

22 (9) From and after the transfer date, a local government from
23 which a qualified convention facility has been transferred **OR**
24 **LEASED** shall be relieved from all further costs, responsibility,
25 and liability arising from, or associated with, control, operation,
26 development, and maintenance of the qualified convention facility.
27 The local government shall continue to be responsible for all costs

House Bill No. 4998 (H-1) as amended June 18, 2009

associated with local municipal services, including ~~[, but not~~

~~limited to,~~] police, fire, and emergency medical services, without

any additional compensation from the authority. ~~The~~ **AN** authority

CREATED PRIOR TO THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT

ADDED SUBSECTION (14) shall provide for the payment of compensation

~~not exceeding~~ **OF** \$20,000,000.00 to the qualified city **AS**

COMPENSATION for any revenue otherwise payable to the qualified

city from parking facilities operated by the qualified city at the

qualified convention facility and for other costs incurred by the

qualified city associated with the transfer **OR LEASE** of the

qualified convention facility to the authority under this section.

IF THE TRANSFER OR LEASE OF PARKING FACILITIES TO THE AUTHORITY

WOULD IMPAIR COVENANTS OF BONDS ISSUED BY THE LOCAL GOVERNMENT THAT

OWNS THE QUALIFIED CONVENTION FACILITY TO FINANCE THE PARKING

FACILITIES, THE AUTHORITY AND THE LOCAL GOVERNMENT MAY ENTER INTO

AN AGREEMENT PROVIDING FOR THE LOCAL GOVERNMENT TO RETAIN TITLE TO [AND CONTROL OF]

THE PARKING FACILITIES AND REVENUE GENERATED BY THE PARKING

FACILITIES UNTIL THE COMPENSATION OF \$20,000,000.00 IS PAID BY THE

AUTHORITY TO THE LOCAL GOVERNMENT TO AVOID A DEFAULT OF BOND

COVENANTS BY THE LOCAL GOVERNMENT. IF A QUALIFIED CONVENTION

FACILITY IS LEASED TO AN AUTHORITY UNDER SUBSECTION (1), THIS

SUBSECTION SHALL APPLY WHILE THE LEASE AGREEMENT IS EFFECTIVE.

(10) A local government that owns a qualified convention

facility subject to transfer **OR LEASE** under this section or that

owned a qualified convention facility transferred to an authority

under this section shall comply with all of the following, before

and after the transfer **DATE:**

1 (a) Refrain from any action to sell, transfer, or otherwise
2 dispose of a qualified convention facility other than to the
3 authority or incur new or expanded obligations related to qualified
4 convention facility, without the consent of the authority.

5 (b) Refrain from any approval of or material modification to
6 any collective bargaining agreement applicable to local government
7 employees employed at or assigned to the qualified convention
8 facility or to terms of employment for employees at or assigned to
9 the qualified convention facility. Any approval or modification
10 subject to this subsection shall be null and void.

11 (c) Refrain from any action that ~~, in the authority's~~
12 ~~judgment,~~ would impair the authority's exercise of the powers
13 granted to the authority under this act or that would impair the
14 efficient operation and management of the qualified convention
15 facility by the authority.

16 (d) Take all actions reasonably necessary to cure any defects
17 in title to the qualified convention facility and related property
18 transferred **OR LEASED** under this section, including, but not
19 limited to, providing documents, records, and proceedings in
20 respect of title.

21 (e) At the request of an authority, grant any license,
22 easement, or right-of-way in connection with the qualified
23 convention facility to the extent the authority has not been
24 empowered to take these actions.

25 (f) Upon creation ~~, OF~~ an authority for the qualified
26 metropolitan area in which the local government is located and
27 before the transfer date, ~~may~~ **THE LOCAL GOVERNMENT SHALL** conduct

1 operations, maintenance, and repair of the convention facility in
2 the ordinary and usual course of business.

3 (11) Any contract, agreement, lease, sale, disposition,
4 transfer, or other conveyance, easement, license, right,
5 obligation, debt, or liability assumed, approved, entered into,
6 amended, or modified in violation of this section shall be voidable
7 as a matter of law to the extent that the authority would otherwise
8 assume, become party to or transferee of, or otherwise be obligated
9 under the contract, agreement, lease, sale, disposition, transfer,
10 conveyance, easement, license, right, obligation, debt, or
11 liability.

12 (12) Unless otherwise provided in this act, the local chief
13 executive officer of a local government that owns a qualified
14 convention facility subject to transfer **OR LEASE** under this section
15 is authorized and shall take all reasonable steps to cancel or
16 terminate any agreement to which the local government is a party
17 that relates to the qualified convention facility and meets all the
18 following criteria:

19 (a) The agreement relates to the qualified convention facility
20 and the authority has not expressly assumed or accepted the
21 agreement under subsection (2).

22 (b) The agreement provides for cancellation or termination.

23 (c) In the absence of cancellation or termination, the
24 authority would become a party to the agreement by succession,
25 assignment, operation of law, or any other involuntary means.

26 (13) If real property transferred from a qualified city to an
27 authority under this section is no longer used by the authority for

House Bill No. 4998 (H-1) as amended June 18, 2009

1 the purpose of maintaining or operating a convention facility as
2 determined by a vote of the board **OR A LEASE AGREEMENT PROVIDING**
3 **FOR THE LEASE OF THE QUALIFIED CONVENTION FACILITY IS NO LONGER**
4 **EFFECTIVE**, all right, title, and interest of the authority in the
5 real property shall revert from the authority to the qualified city
6 ~~with the consent of the qualified city~~ and upon payment by the
7 qualified city to the authority of an amount equal to the
8 compensation paid to the qualified city under section 19(9).

9 (14) AFTER THE CREATION OF AN AUTHORITY FOR A QUALIFIED
10 METROPOLITAN AREA AND BEFORE THE TRANSFER DATE, THE LOCAL CHIEF
11 EXECUTIVE OFFICER OF **[THE QUALIFIED CITY]** THAT OWNS OR OPERATES A
12 QUALIFIED CONVENTION FACILITY []
13 AND THE AUTHORITY MAY ENTER INTO AN AGREEMENT AUTHORIZING THE **[QUALIFIED**
14 **CITY**] TO MAKE CAPITAL IMPROVEMENTS TO THE QUALIFIED CONVENTION
15 FACILITY, INCLUDING, BUT NOT LIMITED TO, ELECTRICAL SYSTEM
16 IMPROVEMENTS, WITH COSTS OF THE MANAGEMENT, DESIGN, AND
17 CONSTRUCTION OF CAPITAL IMPROVEMENTS INCURRED BY THE **[QUALIFIED**
18 **CITY**] TO BE REIMBURSED BY THE AUTHORITY WITH THE PROCEEDS OF
19 BONDS ISSUED BY THE AUTHORITY AS PROVIDED IN THE AGREEMENT. ANY
20 REIMBURSEMENT FOR CAPITAL IMPROVEMENTS AGREED TO BY THE LOCAL CHIEF
21 EXECUTIVE OFFICER AND THE AUTHORITY UNDER THIS SUBSECTION SHALL BE
22 IN ADDITION TO ANY COMPENSATION PAID TO THE QUALIFIED CITY UNDER
23 SUBSECTION (9).