

HOUSE BILL NO. 6388

November 12, 2020, Introduced by Reps. Coleman and Steven Johnson and referred to the Committee on Government Operations.

A bill to amend 1948 (1st Ex Sess) PA 31, entitled

"An act to provide for the incorporation of authorities to acquire, furnish, equip, own, improve, enlarge, operate, and maintain buildings, automobile parking lots or structures, transit-oriented developments, transit-oriented facilities, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of any county, city, village, or township, or for the use of any combination of 2 or more counties, cities, villages, or townships, or for the use of any school district and any city, village, or township wholly or partially within the district's boundaries, or for the use of any

school district and any combination of 2 or more cities, villages, or townships wholly or partially within the district's boundaries, or for the use of any intermediate school district and any constituent school district or any city, village, or township, wholly or partially within the intermediate school district's boundaries; to provide for compensation of authority commissioners; to permit transfers of property to authorities; to authorize the execution of contracts, leases, and subleases pertaining to authority property and the use of authority property; to authorize incorporating units to impose taxes without limitation as to rate or amount and to pledge their full faith and credit for the payment of contract of lease obligations in anticipation of which bonds are issued by an authority; to provide for the issuance of bonds by such authorities; to validate action taken and bonds issued; to provide other powers, rights, and duties of authorities and incorporating units, including those for the disposal of authority property; and to prescribe penalties and provide remedies,"

by amending sections 5, 6, 8b, and 10 (MCL 123.955, 123.956, 123.958b, and 123.960), sections 5 and 6 as amended by 1995 PA 147 and section 8b as amended by 2013 PA 256.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 5. (1) The articles of incorporation ~~shall~~**must** set forth
- 2 all of the following:
- 3 (a) The name of the authority.
- 4 (b) The name or names of the unit or units incorporating the
- 5 authority.
- 6 (c) The purpose for which the authority is incorporated.
- 7 (d) The number, terms, and manner of selection of the officers
- 8 of the authority including its governing body, ~~which~~**that** shall be
- 9 known as the ~~"commission"~~**commission**.
- 10 (e) The powers and duties of the authority and of its
- 11 officers.
- 12 (f) The date upon which the authority ~~shall become~~**becomes**
- 13 effective.

(g) The officer required to publish **or post** the articles of incorporation. ~~and the name of the newspaper in which the articles of incorporation shall be published.~~

(h) The county with whose clerk the articles of incorporation ~~shall~~ **must** be filed, ~~which shall~~ **that must** be a county that is an incorporating unit or in which an incorporating unit is located.

(i) Any other matters considered expedient.

(2) A member of the governing body of an incorporating unit of an authority is not eligible for membership or appointment to the authority.

Sec. 6. (1) ~~The~~ **Before January 1, 2022, the** officer designated in the articles of incorporation shall cause a copy of the articles of incorporation or a summary of the articles to be published once in a newspaper ~~designated in the articles of incorporation and~~ circulating within the incorporating units accompanied by a statement that the right exists to question the incorporation in court as provided in this section. **Beginning January 1, 2022, the officer designated in the articles of incorporation shall post public notice as set forth in the local government public notice act of the articles of incorporation or a summary of the articles of incorporation, accompanied by a statement that the right exists to question the incorporation in court as provided in this section.** The officer shall file with the county clerk of the county designated under section 5(1)(h) and the secretary of state a certified copy of the articles of incorporation with a certificate of the date and ~~newspaper of publication.~~ **method of providing notice.** The officer shall file with the recording officer of the authority, when selected, the original articles of incorporation with a certificate of the date and ~~newspaper of publication.~~ **method**

1 of providing notice.

2 (2) The authority ~~shall become~~**becomes** effective at the time
3 provided in the articles of incorporation.

4 (3) The validity of the incorporation ~~shall be~~**is** conclusively
5 presumed unless questioned in a court of competent jurisdiction
6 within 60 days after the filing of the certified copies with the
7 secretary of state and the county clerk.

8 Sec. 8b. (1) The governing body of an incorporating unit may,
9 by a majority vote of its members, authorize the execution of a
10 full faith and credit general obligation contract of lease with an
11 authority.

12 (2) The governing body may adopt a resolution submitting the
13 contract to a vote of the electors. If the governing body adopts
14 the resolution submitting the contract to a vote of the electors,
15 the contract ~~shall~~**does** not take effect unless approved by a
16 majority of the electors of the incorporating unit voting on the
17 question. The contract ~~shall~~**must** be submitted at the next general
18 or primary election to be held not earlier than the twelfth Tuesday
19 after the date of the resolution or at a special election to be
20 held not earlier than the twelfth Tuesday after the date of the
21 resolution as determined by the clerk of the incorporating unit
22 subject to the Michigan election law, 1954 PA 116, MCL 168.1 to
23 168.992. The clerk shall also determine the ballot language of the
24 question.

25 (3) ~~If~~**Before January 1, 2022, if** the governing body does not
26 adopt a resolution submitting the contract to a vote of the
27 electors, the contract ~~shall become~~**becomes** effective 60 days after
28 a notice of intention of entering into the contract has been
29 published in a newspaper of general circulation in the

1 incorporating unit or units unless a sufficient petition for
 2 referendum requesting an election on the contract is filed with the
 3 clerk of the incorporating unit within 45 days after the notice is
 4 published. **Beginning January 1, 2022, if the governing body does**
 5 **not adopt a resolution submitting the contract to a vote of the**
 6 **electors, the contract becomes effective 60 days after a notice of**
 7 **intention of entering into the contract is posted as set forth in**
 8 **the local government public notice act unless a sufficient petition**
 9 **for referendum requesting an election on the contract is filed with**
 10 **the clerk of the incorporating unit within 45 days after the notice**
 11 **is posted.** A referendum petition ~~shall~~**must** be signed by not less
 12 than 10% or 15,000 of the registered electors of the incorporating
 13 unit, whichever is less. If a sufficient petition is filed, the
 14 contract ~~shall~~**does** not take effect unless approved by a majority
 15 of the electors of the incorporating unit voting on the question.
 16 The clerk of the incorporating unit shall determine the date of the
 17 election and the ballot language as provided under subsection (2).
 18 ~~The~~**Before January 1, 2022, the** notice of intention of entering
 19 into contract ~~shall~~**must** be directed to the electors and taxpayers
 20 of the incorporating unit, ~~shall~~**must** be published in a newspaper
 21 ~~which~~**that** is determined by the governing body of the incorporating
 22 unit to be the newspaper reaching the largest number of persons to
 23 whom the notice is directed, and ~~shall~~**must** state the maximum
 24 amount of bonds authorized to be issued, the purpose ~~thereof,~~**of**
 25 **the bonds,** source of payment and right of referendum ~~thereon,~~**on**
 26 **the bonds,** and ~~such~~**any** other information ~~as~~ the governing body of
 27 the incorporating unit ~~may consider~~**considers** necessary to
 28 adequately inform the taxpayers and electors of the incorporating
 29 unit of the nature of the contractual obligation. **Beginning January**

1 1, 2022, the notice of intention of entering into contract must be
 2 directed to the electors and taxpayers of the incorporating unit
 3 and the notice of intention of entering into contract stating the
 4 maximum amount of bonds authorized to be issued, the purpose of the
 5 bonds, source of payment and right of referendum on the bonds, and
 6 any other information as the governing body of the incorporating
 7 unit considers necessary to adequately inform the taxpayers and
 8 electors of the incorporating unit of the nature of the contractual
 9 obligation must be posted as set forth in the local government
 10 public notice act. Signatures on the petition ~~shall~~**must** be
 11 verified by the circulator under oath as the actual signatures of
 12 the persons whose names are signed on the petition and the clerk or
 13 other recording officer of the incorporating unit shall have the
 14 same power to reject signatures and petitions as city clerks under
 15 section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The
 16 number of registered electors in any incorporating unit ~~shall~~**must**
 17 be determined by its registration records, or, if it does not take
 18 registrations, by the appropriate city and township registration
 19 records. A notice of intention and publication **or posting** is not
 20 required if the contract of lease states that it is not a full
 21 faith and credit obligation of the incorporating unit or units.

22 (4) An election under this section ~~shall~~**must** not be included
 23 in any statutory or charter limitation on the number of special
 24 elections to be called within a particular period of time.

25 Sec. 10. Amendments may be made to articles of incorporation
 26 if adopted by the legislative body of each incorporating unit. ÷
 27 ~~Provided, That no such~~**An** amendment ~~shall~~**must not** impair the
 28 obligation of any bond or other contract. Any city or village ~~which~~
 29 **that** is the county seat of a county incorporating an authority

1 under ~~the provisions of~~ this act, may become an incorporating unit
2 of the authority by amendment to the articles of incorporation
3 adopted by the legislative body of ~~such~~ **the** city or village and by
4 the legislative body of the county. ~~Any such~~ **The** city or village
5 ~~shall~~ **is** thereafter ~~be deemed to be~~ **considered** an incorporating
6 unit. Each amendment ~~shall~~ **must** be adopted, executed, and published
7 **or posted**, and certified printed copies filed, in the same manner
8 as ~~above~~ specified for the original articles of incorporation, ~~in~~
9 ~~so far as~~ applicable.

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No. _____ or House Bill No. 6440 (request no.
12 02449'19) of the 100th Legislature is enacted into law.