

SUBSTITUTE FOR
HOUSE BILL NO. 4694

A bill to amend 2000 PA 321, entitled
"Recreational authorities act,"
by amending sections 5, 7, 9, 11, and 21 (MCL 123.1135, 123.1137,
123.1139, 123.1141, and 123.1151), sections 5 and 21 as amended by
2003 PA 135 and section 11 as amended by 2016 PA 173, and by adding
section 10.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) ~~Two~~**One** or more municipalities or districts may
2 establish a recreational authority. A recreational authority is an
3 authority under section 6 of article IX of the state constitution
4 of 1963. **A recreational authority under this act constitutes a**
5 **governmental subdivision or unit of this state and a public body**
6 **corporate and politic. A recreational authority under this act is a**

1 **local unit of government or public authority under section 1901 of**
 2 **the natural resources and environmental protection act, 1994 PA**
 3 **451, MCL 324.1901.**

4 (2) To initiate the establishment of an authority, articles of
 5 incorporation ~~shall~~**must** be prepared. The articles of incorporation
 6 ~~shall~~**must** include all of the following:

7 (a) The name of the authority.

8 (b) The names of the participating **municipality or**
 9 municipalities.

10 (c) A description of the territory of the authority.

11 (d) The size of the board of the authority, which ~~shall~~**must**
 12 be comprised of an odd number of members; the qualifications,
 13 method of selection, and terms of office of board members; and the
 14 filling of vacancies in the office of board member. If board
 15 members are elected in at-large elections by the qualified and
 16 registered electors of the participating **municipality or**
 17 municipalities, voting collectively, the election of board members
 18 ~~shall~~**must** be conducted ~~pursuant to~~**under** the same procedures that
 19 govern an election for a tax under sections 13 to 17.

20 (e) The purposes for which the authority is established. ~~7~~
 21 ~~which shall be~~ **Permissible purposes include** the acquisition,
 22 construction, operation, maintenance, or improvement of 1 or more
 23 of the following:

24 (i) A public swimming pool.

25 (ii) A public recreation center.

26 (iii) A public auditorium.

27 (iv) A public conference center.

28 (v) A public park.

29 (vi) A public museum.

1 (vii) A public historic farm.

2 **(viii) A public forest and natural resources area.**

3 (f) The procedure and requirements for a municipality or
 4 district to become a participating municipality in, and for a
 5 participating municipality to withdraw from, an existing authority
 6 or to join in the original formation of an authority. For a
 7 municipality or district to become a participating municipality in
 8 an existing authority or to join in the original formation of an
 9 authority, a majority of the electors of the municipality or
 10 district proposed to be included in the territory of the authority
 11 and voting on the question shall approve a tax that the authority
 12 has been authorized to levy by a vote of the electors of the
 13 authority under section 11. A municipality or district shall not
 14 withdraw from an authority during the period for which the
 15 authority has been authorized to levy a tax by the electors of the
 16 authority.

17 (g) Any other matters considered advisable.

18 **(h) If the authority's purpose includes the acquisition,**
 19 **construction, operation, maintenance, or improvement of a public**
 20 **forest and natural resources area, the process by which the**
 21 **authority designates property the authority owns as a public forest**
 22 **and natural resources area.**

23 (3) The articles ~~shall~~**must** be adopted ~~and may be amended by~~
 24 an affirmative vote of a majority of the members serving on the
 25 legislative body of each participating municipality. If a
 26 participating municipality is a district, the articles ~~shall~~**must**
 27 be adopted ~~and may be amended by~~ an affirmative vote of a majority
 28 of the members serving on the legislative body of the entire
 29 municipality. **The amendment of the articles is subject to the**

1 **voting requirements specified by the articles. If the articles do**
2 **not specify a voting requirement to amend the articles, the voting**
3 **requirement to amend the articles is the same as the voting**
4 **requirement to adopt the articles.** Unless the articles provide
5 otherwise, the requirements of this subsection do not apply to an
6 amendment to the articles to allow a municipality or district to
7 become a participating municipality in, or to allow a participating
8 municipality to withdraw from, an existing authority.

9 (4) Before the articles or amendments to the articles are
10 adopted, the articles or amendments to the articles ~~shall~~**must** be
11 published not less than once in a newspaper generally circulated
12 within the participating **municipality or** municipalities. The
13 adoption of articles or amendments to the articles by a
14 municipality or district ~~shall~~**must** be evidenced by an endorsement
15 on the articles or amendments by the clerk of the municipality.

16 (5) ~~Upon~~**After** adoption of the articles or amendments to the
17 articles by each ~~of the participating municipalities,~~**municipality,**
18 a printed copy of the articles or the amended articles ~~shall~~**must**
19 be filed with the secretary of state by the clerk of the last
20 participating municipality to adopt the articles or amendments.

21 (6) The authority's articles of incorporation, or amendments
22 to the articles, take effect ~~upon~~**on** filing with the secretary of
23 state.

24 (7) **Subject to this section, the articles of incorporation may**
25 **include, but are not limited to, any of the following:**

26 (a) **Restrictions on the authority's activities, including, but**
27 **not limited to, the sale of the authority's assets or property.**

28 (b) **If the authority's purpose includes the acquisition,**
29 **construction, operation, maintenance, or improvement of a public**

1 forest and natural resources area, a provision to allow or require
2 the authority to make payments in lieu of taxes to 1 or more other
3 governmental subdivisions or units of this state in which the
4 public forest and natural resources area is located, including a
5 participating municipality. The authority shall distribute the
6 payments to the various taxing units based on the portion of the
7 public forest and natural resources area each taxing unit is in and
8 each taxing unit's millage rate, excluding millage levied under
9 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

10 (c) If the authority has more than 1 participating
11 municipality, the allocation of the authority's property, assets,
12 and funds among the municipalities on the dissolution of the
13 authority.

14 (d) If the authority's purpose includes the acquisition,
15 construction, operation, maintenance, or improvement of a public
16 forest and natural resources area, 1 or more of the following:

17 (i) One or more restrictions or limitations on the use of a
18 public forest and natural resources area or portions of a public
19 forest and natural resources area. The use restrictions or
20 limitations may prohibit 1 or more of the uses permitted in a
21 public forest and natural resources area under section 3(j).

22 (ii) A process by which 1 or more restrictions or limitations
23 on the use of a public forest and natural resources area or
24 portions of a public forest and natural resources area are
25 established by the authority, and the amendment or removal of the
26 restrictions or limitations.

27 (e) If the board of the authority is elected, whether the
28 election of the board is partisan or nonpartisan.

29 Sec. 7. (1) A vacancy occurs on the board ~~on the happening of~~

1 **if** any of the events set forth in section 3 of 1846 RS 15, MCL
2 201.3, **occurs**. Appointed members of the board, if any, may be
3 removed by the appointing authority for good cause after a public
4 hearing. Vacancies ~~shall~~**must** be filled in the same manner as the
5 original appointment, **or as otherwise provided in the articles**, for
6 the unexpired term.

7 (2) A majority of the members of the board constitutes a
8 quorum for the purpose of conducting business and exercising the
9 powers of an authority. Official action may be taken by an
10 authority ~~upon~~**on** the vote of a majority of the board members
11 present, unless the authority adopts bylaws requiring a larger
12 number.

13 (3) A member of the board ~~shall not~~**may** receive compensation
14 for services as a member of the board ~~but~~**if approved in the**
15 **articles and** is entitled to reimbursement for reasonable expenses,
16 including expenses for travel previously authorized by the board,
17 incurred in the discharge of ~~his or her~~**the board member's** duties.

18 (4) The business that an authority ~~may perform~~**shall performs**
19 **must** be conducted at a public meeting of the authority held in
20 compliance with the open meetings act, 1976 PA 267, MCL 15.261 to
21 15.275. Public notice of the time, date, and place of the meeting
22 ~~shall~~**must** be given in the manner required by the open meetings
23 act, 1976 PA 267, MCL 15.261 to 15.275.

24 (5) A writing prepared, owned, or used by an authority in the
25 performance of an official function ~~shall~~**must** be made available in
26 compliance with the freedom of information act, 1976 PA 442, MCL
27 15.231 to 15.246.

28 (6) At its first meeting, a board shall elect a chairperson, a
29 secretary, a treasurer, and any other officers it considers

1 necessary. A board shall meet at least quarterly.

2 (7) A board may adopt bylaws to govern its procedures.

3 **(8) A board may establish 1 or more committees to provide**
4 **advice on specific issues relevant to the authority. The board may**
5 **determine the qualifications required to serve on a committee**
6 **created under this subsection. Members of a committee created by a**
7 **board under this subsection serve at the pleasure of the board.**
8 **Committees created under this subsection may create volunteer**
9 **subcommittees that do not serve at the pleasure of the board.**

10 Sec. 9. An authority may do 1 or more of the following, **as**
11 **permitted by the authority's articles:**

12 (a) Acquire and hold, by purchase, lease with or without
13 option to purchase, grant, gift, devise, land contract, installment
14 purchase contract, bequest, or other legal means, real and personal
15 property inside or outside the territory of the authority. The
16 property may include franchises, easements, or rights of way on,
17 under, or above any property. The authority may pay for the
18 property from, or pledge for the payment of the property, revenue
19 of the authority. **The authority may acquire land from this state,**
20 **including, but not limited to, land from any department,**
21 **subdivision, or unit of this state.**

22 (b) Apply for and accept grants or contributions from
23 individuals, the federal government or any of its agencies, this
24 state, a municipality, or other public or private agencies to be
25 used for any of the purposes of the authority.

26 (c) Hire full-time or part-time employees and retain
27 professional services.

28 (d) Provide for the maintenance of all of the real and
29 personal property of the authority.

1 (e) Assess and collect fees for **use of and access to property**
2 **that the authority owns or manages, and for** services provided by
3 and expenses incurred by the authority.

4 (f) Receive revenue as appropriated by the legislature of this
5 state or a participating municipality **or distribute funds of the**
6 **authority to any participating municipality.**

7 (g) Enter into contracts incidental to or necessary for the
8 accomplishment of the purposes of the authority.

9 (h) **Sell, lease, license, or develop real and personal**
10 **property held by the authority.**

11 (i) **Establish an endowment fund or other type of supporting**
12 **fund to support the purposes of the authority.**

13 (j) **Subject to applicable laws and contractual obligations of**
14 **the authority, make and enforce rules for the use of property the**
15 **authority owns, operates, or manages.**

16 (k) **Permit and manage sustainable natural resource commercial**
17 **activities including, but not limited to, both of the following:**

18 (i) **The development, management, and operation of sustainable**
19 **commercial forestry.**

20 (ii) **The sale of carbon or other environmental credits or tax**
21 **attributes.**

22 (l) **Manage, maintain, and improve real and personal property**
23 **inside or outside of the territory of the authority that is not**
24 **owned by the authority.**

25 (m) **Develop, construct, repair, and replace improvements to**
26 **property, including buildings.**

27 (n) **Sue or be sued in any court of this state.**

28 **Sec. 10. (1) Except as otherwise provided in this section, if**
29 **an authority dissolves, all property, funds, and assets of the**

1 authority are vested in the participating municipality or
2 municipalities. Except as otherwise provided in the articles of an
3 authority, if an authority dissolves, the debts or liabilities of
4 an authority do not become the debts or liabilities of the
5 participating municipality or municipalities unless the
6 participating municipality or municipalities have agreed to assume
7 those debts or liabilities.

8 (2) If the property owned by an authority was designated by
9 the authority as a public forest and natural resources area, on
10 dissolution of the authority, the designated use of the property
11 must be continued. If the designated use of the property is not
12 continued by the participating municipality or municipalities, the
13 property must revert to this state. The reversionary interest under
14 this subsection is in addition to, and does not alter or supersede,
15 any other reversionary interest the state may hold in the property.

16 (3) If property owned by an authority was designated by the
17 authority as a public forest and natural resources area, the
18 participating municipality or municipalities may elect to waive
19 their right, in full or in part, to the property. If the
20 participating municipality or municipalities waive their right, in
21 full or in part, to the property, the property or portion of the
22 property reverts to this state.

23 (4) If an authority was in existence before the effective date
24 of the amendatory act that added this subsection and the
25 authority's articles address the disposition of the authority's
26 property, funds, and assets on dissolution, the articles control
27 the disposition of the property, funds, and assets on dissolution.

28 (5) Nothing in this act alters or supersedes any third-party
29 rights, including rights of the state or federal government, in or

1 **attached to the property owned by an authority.**

2 Sec. 11. (1) An authority may levy a tax of not more than 1
3 mill for a period of not more than 20 years on all of the taxable
4 property within the territory of the authority for the purposes of
5 acquiring, constructing, operating, maintaining, and improving a
6 public swimming pool, public recreation center, public auditorium
7 or conference center, ~~or public park, or public forest and natural~~
8 **resources area.** The authority may levy the tax only ~~upon~~**on** the
9 approval of a majority of the electors in each of the participating
10 municipalities of the authority voting on the tax on November 6,
11 2001 or, thereafter, at a statewide general or primary election.
12 The proposal for a tax ~~shall~~**must** be submitted to a vote of the
13 electors of the authority by resolution of the board.

14 (2) A ballot proposal for a tax ~~shall~~**must** state the amount
15 and duration of the millage and the purposes for which the millage
16 may be used. A proposal for a tax ~~shall~~**must** not be placed on the
17 ballot unless the proposal is adopted by a resolution of the board
18 and certified by the board not later than 60 days before the
19 election to the county clerk of each county in which all or part of
20 the territory of the authority is located for inclusion on the
21 ballot. The proposal ~~shall~~**must** be certified for inclusion on the
22 ballot at the next eligible election, as specified by the board's
23 resolution.

24 (3) If a majority of the electors in each of the participating
25 municipalities of the authority voting on the question of a tax
26 approve the proposal as provided under subsection (1), the tax levy
27 is authorized. Not more than 2 elections may be held in a calendar
28 year on a proposal for a tax authorized under this act.

29 (4) The proceeds of a tax levied under this section ~~shall~~**must**

1 only be used by the authority for those purposes described in this
2 section and ~~shall~~**must** not be used by the authority for either of
3 the following:

4 (a) Except as otherwise provided in subsection (5), any
5 general fund purposes by any participating municipality.

6 (b) Any school operating purposes, as that term is defined in
7 section 20 of the state school aid act of 1979, 1979 PA 94, MCL
8 388.1620, by any participating municipality that is a school
9 district.

10 (5) The proceeds of a tax levied under this section may be
11 used for general fund purposes by a participating municipality if
12 the proceeds used are directly related to managing the operation of
13 the business of the authority pursuant to a contract between the
14 authority and that participating municipality.

15 Sec. 21. (1) An authority may borrow money and issue bonds or
16 notes to finance the acquisition, construction, and improvement of
17 a public swimming pool, a public recreation center, a public
18 auditorium, a public conference center, ~~or~~a public park, **or a**
19 **public forest and natural resources area**, including the acquisition
20 of sites and the acquisition and installation of furnishings and
21 equipment for these purposes.

22 (2) An authority shall not borrow money or issue bonds or
23 notes for a sum that, together with the total outstanding bonded
24 indebtedness of the authority, exceeds 2 mills of the taxable value
25 of the taxable property within the district as determined under
26 section 27a of the general property tax act, 1893 PA 206, MCL
27 211.27a.

28 (3) Bonds or notes issued by an authority are a debt of the
29 authority and not of the participating municipalities.

(4) A tax levied to pay a bond or note obligation by a recreational authority under this act ~~shall~~**must** not exceed 5 years without the approval of a majority of the electors in each of the participating municipalities of the authority.

(5) All bonds or notes issued by a recreational authority under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 103rd Legislature are enacted into law:

(a) Senate Bill No. ____ (request no. S01810'25 a) or House Bill No. 4798 (request no. H01810'25 a).

(b) Senate Bill No. ____ (request no. S01811'25) or House Bill No. 4695 (request no. H01811'25).