

## RECREATIONAL AUTHORITIES ACT

### Act 321 of 2000

AN ACT to provide for the establishment of recreational authorities; to provide powers and duties of an authority; to authorize the assessment of a fee, the levy of a property tax, and the issuance of bonds and notes by an authority; and to provide for the powers and duties of certain government officials.

**History:** 2000, Act 321, Eff. Dec. 1, 2000.

*The People of the State of Michigan enact:*

#### **123.1131 Short title.**

Sec. 1. This act shall be known and may be cited as the "recreational authorities act".

**History:** 2000, Act 321, Eff. Dec. 1, 2000.

#### **123.1133 Definitions.**

Sec. 3. As used in this act:

- (a) "Articles" means the articles of incorporation of an authority.
- (b) "Authority" means a recreational authority established under section 5.
- (c) "Board" means the board of directors of the authority.
- (d) "District" means a portion of a municipality having boundaries coterminous with those of a precinct used for general elections.
- (e) "Electors of the authority" means the qualified and registered electors of the participating municipalities who reside within the territory of the authority.
- (f) "Largest county" means, of those counties in which a participating municipality is located, the county having the greatest population.
- (g) "Municipality" means a city, county, village, township, or school district.
- (h) "Park" means an area of land or water, or both, dedicated to 1 or more of the following uses:
  - (i) Recreational purposes, including, but not limited to, landscaped tracts; picnic grounds; playgrounds; athletic fields; camps; campgrounds; zoological and botanical gardens; living historical farms; boating, hunting, fishing, and birding areas; swimming areas; and foot, bicycle, and bridle paths.
  - (ii) Open or scenic space.
  - (iii) Environmental, conservation, nature, or wildlife areas.
- (i) "Participating municipality" means a municipality or district that is named in articles of incorporation or proposed articles of incorporation as joining in the original establishment of an authority, or a municipality or district that joins an existing authority and is added to the articles of incorporation, and that has not withdrawn from the authority.
- (j) "Public historic farm" means a parcel of public land and its buildings that are accessible to the public, and provides, but is not limited to, agricultural and historical programs, farming activities and animal husbandry, community recreation activities and events, programs held in common areas, meeting rooms, and community gardens, and access to surrounding parkland.
- (k) "Swimming pool" includes equipment, structures, areas, and enclosures intended for the use of individuals using or operating a swimming pool, such as equipment, dressing, locker, shower, and toilet rooms.
- (l) "Territory of the authority" means the combined territory of the participating municipalities that is served by an authority.

**History:** 2000, Act 321, Eff. Dec. 1, 2000;—Am. 2003, Act 135, Imd. Eff. Aug. 1, 2003;—Am. 2016, Act 174, Eff. Sept. 12, 2016.

#### **123.1135 Recreational authority; establishment; articles of incorporation; adoption; applicability of subsection (3); publication; filing copy with secretary of state; effect.**

Sec. 5. (1) Two or more municipalities or districts may establish a recreational authority. A recreational authority is an authority under section 6 of article IX of the state constitution of 1963.

(2) To initiate the establishment of an authority, articles of incorporation shall be prepared. The articles of incorporation shall include all of the following:

- (a) The name of the authority.
- (b) The names of the participating municipalities.
- (c) A description of the territory of the authority.
- (d) The size of the board of the authority, which shall be comprised of an odd number of members; the qualifications, method of selection, and terms of office of board members; and the filling of vacancies in the

office of board member. If board members are elected in at-large elections by the qualified and registered electors of the participating municipalities, voting collectively, the election of board members shall be conducted pursuant to the same procedures that govern an election for a tax under sections 13 to 17.

(e) The purposes for which the authority is established, which shall be the acquisition, construction, operation, maintenance, or improvement of 1 or more of the following:

- (i) A public swimming pool.
- (ii) A public recreation center.
- (iii) A public auditorium.
- (iv) A public conference center.
- (v) A public park.
- (vi) A public museum.
- (vii) A public historic farm.

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

(g) Any other matters considered advisable.

(3) The articles shall be adopted and may be amended by an affirmative vote of a majority of the members serving on the legislative body of each participating municipality. If a participating municipality is a district, the articles shall be adopted and may be amended by an affirmative vote of a majority of the members serving on the legislative body of the entire municipality. Unless the articles provide otherwise, the requirements of this subsection do not apply to an amendment to the articles to allow a municipality or district to become a participating municipality in, or to allow a participating municipality to withdraw from, an existing authority.

(4) Before the articles or amendments to the articles are adopted, the articles or amendments to the articles shall be published not less than once in a newspaper generally circulated within the participating municipalities. The adoption of articles or amendments to the articles by a municipality or district shall be evidenced by an endorsement on the articles or amendments by the clerk of the municipality.

(5) Upon adoption of the articles or amendments to the articles by each of the participating municipalities, a printed copy of the articles or the amended articles shall be filed with the secretary of state by the clerk of the last participating municipality to adopt the articles or amendments.

(6) The authority's articles of incorporation, or amendments to the articles, take effect upon filing with the secretary of state.

**History:** 2000, Act 321, Imd. Eff. Dec. 1, 2000;—Am. 2003, Act 135, Imd. Eff. Aug. 1, 2003.

### **123.1137 Board of directors; vacancy; quorum; voting; reimbursement for expenses; conduct of public meeting; availability of writing; election of officers; adoption of bylaws.**

Sec. 7. (1) A vacancy occurs on the board on the happening of any of the events set forth in section 3 of 1846 RS 15, MCL 201.3. Appointed members of the board, if any, may be removed by the appointing authority for good cause after a public hearing. Vacancies shall be filled in the same manner as the original appointment for the unexpired term.

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

(3) A member of the board shall not receive compensation for services as a member of the board but is entitled to reimbursement for reasonable expenses, including expenses for travel previously authorized by the board, incurred in the discharge of his or her duties.

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

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

(6) At its first meeting, a board shall elect a chairperson, a secretary, a treasurer, and any other officers it considers necessary. A board shall meet at least quarterly.

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

**History:** 2000, Act 321, Eff. Dec. 1, 2000.

### **123.1139 Powers of authority.**

Sec. 9. An authority may do 1 or more of the following:

(a) Acquire and hold, by purchase, lease with or without option to purchase, grant, gift, devise, land contract, installment purchase contract, bequest, or other legal means, real and personal property inside or outside the territory of the authority. The property may include franchises, easements, or rights of way on, under, or above any property. The authority may pay for the property from, or pledge for the payment of the property, revenue of the authority.

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

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

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

(e) Assess and collect fees for services provided by and expenses incurred by the authority.

(f) Receive revenue as appropriated by the legislature of this state or a participating municipality.

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

**History:** 2000, Act 321, Eff. Dec. 1, 2000.

### **123.1141 Public swimming pool, public recreation center, public auditorium, or conference center, or public park; tax levy; ballot proposal; vote; authorization; number of elections; proceeds; use.**

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

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

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

(4) The proceeds of a tax levied under this section shall only be used by the authority for those purposes described in this section and shall not be used by the authority for either of the following:

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

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

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

**History:** 2000, Act 321, Eff. Dec. 1, 2000;—Am. 2003, Act 135, Imd. Eff. Aug. 1, 2003;—Am. 2016, Act 173, Eff. Sept. 12, 2016.

### **123.1142 Preferences or benefits to be offered to residents.**

Sec. 12. If a majority of electors in each of the participating municipalities of the authority voting on the question of a tax as provided in section 11 approve the tax, the authority shall consider offering preferences or benefits for the residents of the participating municipalities that include, but are not limited to, any of the following:

(a) Discounted admission fees.

(b) Discounted membership fees.

(c) Discounts for school children.

(d) Access to educational programs.

**History:** Add. 2016, Act 173, Eff. Sept. 12, 2016.

**123.1143 Tax election; ballots provided by county election commission; conduct; list of qualified electors.**

Sec. 13. (1) The county election commission of each county in which all or part of a participating municipality is located shall provide ballots for an election for a tax under section 11 for each participating municipality or part of a participating municipality located within the county.

(2) An election for a tax shall be conducted by the city and township clerks and election officials of the municipalities located within the territory of the authority.

(3) If an election on a proposal for a tax is to be held in conjunction with a general election or state primary election and if a participating village is located within a nonparticipating township, the township clerk and election officials shall conduct the election. Not later than 45 days preceding the election, the village clerk shall provide to the township clerk a list containing the name, address, and birth date of each qualified and registered elector of the village residing in the territory of the authority. Not later than 15 days before the election, the village clerk shall provide to the township clerk information updating the list as of the close of registration. A person appearing on the list as updated is eligible to vote in the election by special ballot.

**History:** 2000, Act 321, Eff. Dec. 1, 2000.

**123.1145 Notices of close of registration and election; publication; certification of election results.**

Sec. 15. (1) If an election for a tax under section 11 is to be held in conjunction with a general election or a state primary election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the largest county shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(2) The results of an election for a tax shall be canvassed by the board of county canvassers of each county in which a participating municipality is located. The board of county canvassers of a county in which a participating municipality is located and that is not the largest county shall certify the results of the election to the board of county canvassers of the largest county. The board of county canvassers of the largest county shall make the final canvass of an election for a tax based on the returns of the election inspectors of the participating municipalities in that county and the certified results of the board of county canvassers of every other county in which a participating municipality is located. The board of county canvassers of the largest county shall certify the results of the election to the board of the authority.

**History:** 2000, Act 321, Eff. Dec. 1, 2000.

**123.1147 Tax election; costs; reimbursement; basis.**

Sec. 17. (1) A county clerk shall charge the authority and the authority shall reimburse the county for the actual costs the county incurs in an election for a tax under section 11 that occurs on November 6, 2001.

(2) If a participating municipality conducts an election for a tax, the clerk of that participating municipality shall charge the authority and the authority shall reimburse the participating municipality for the actual costs the participating municipality incurs in conducting the election if the election is not held in conjunction with a regularly scheduled election in that municipality.

(3) In addition to costs reimbursed under subsection (1) or (2), a county or municipality shall charge the authority and the authority shall reimburse the county or municipality for actual costs that the county or municipality incurs and that are exclusively attributable to an election for a tax authorized under this act.

(4) The actual costs that a county or municipality incurs shall 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.

**History:** 2000, Act 321, Eff. Dec. 1, 2000.

**123.1149 Collection and distribution of tax.**

Sec. 19. The tax shall be collected with county taxes and distributed by the local tax collecting unit under the provisions of the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

**History:** 2000, Act 321, Eff. Dec. 1, 2000.

**123.1151 Borrowing money or issuing bonds or notes.**

Sec. 21. (1) An authority may borrow money and issue bonds or notes to finance the acquisition, construction, and improvement of a public swimming pool, a public recreation center, a public auditorium, a

public conference center, or a public park, including the acquisition of sites and the acquisition and installation of furnishings and equipment for these purposes.

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

(3) Bonds or notes issued by an authority are a debt of the 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 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.

**History:** 2000, Act 321, Eff. Dec. 1, 2000;—Am. 2002, Act 233, Imd. Eff. Apr. 29, 2002;—Am. 2003, Act 135, Imd. Eff. Aug. 1, 2003.

### **123.1153 Issuance of general obligation unlimited tax bonds; submission of proposal for vote; ballot language; conduct of election; authorization and levy of tax.**

Sec. 23. (1) An authority may issue general obligation unlimited tax bonds upon approval of a majority of the electors in each of the participating municipalities of the authority voting on the question of issuing the bonds. The proposal to issue general obligation unlimited tax bonds shall be submitted to a vote of the electors of the authority by resolution of the board.

(2) The language of the ballot proposal shall be in substantially the following form:

"Shall [name of authority], formed by [names of participating municipalities], borrow the sum of not to exceed \_\_\_\_\_ dollars (\$ \_\_\_\_\_) and issue its general obligation unlimited tax bonds for all or a portion of that amount for the purpose of \_\_\_\_\_?"

This is expected to result in an increase of \_\_\_\_\_ in the tax levied on property valued at \_\_\_\_\_ for a period of \_\_\_\_\_ years.

Yes [ ] No [ ]".

(3) The election shall be conducted in the manner provided in sections 11 to 17 for an election for a tax. Not more than 2 elections on the question of issuing general obligation unlimited tax bonds may be held in a calendar year.

(4) If an authority issues general obligation unlimited tax bonds under this section, the board, by resolution, shall authorize and levy the taxes necessary to pay the principal of and interest on the bonds.

**History:** 2000, Act 321, Eff. Dec. 1, 2000;—Am. 2003, Act 135, Imd. Eff. Aug. 1, 2003.

### **123.1155 Refunding outstanding debt obligations.**

Sec. 25. (1) An authority may borrow money and issue its negotiable bonds and notes for the purpose of refunding outstanding debt obligations of the district by resolution of the board, without submitting the question to the electors of the authority.

(2) Refunding bonds or the refunding part of a bond issue shall be considered to be within the 2-mill limitation of section 21(2).

(3) An authority may borrow money and issue bonds or notes for refunding all or part of existing bonded or note indebtedness only if the net present value of the principal and interest to be paid on the refunding bonds or notes, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the bonds or notes being refunded, as calculated using a method approved by the department of treasury.

**History:** 2000, Act 321, Eff. Dec. 1, 2000.

### **123.1157 Audit; timing; preparation of budgets and appropriations acts; powers, duties, and immunities; filing financial plan to correct deficit condition; investment or deposit of funds.**

Sec. 27. (1) A board shall obtain an audit of the authority as required in this section, and report on the audit and auditing procedures, in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit must also be in accordance with generally accepted government auditing standards as promulgated by the United States Government Accountability Office and must satisfy federal regulations relating to federal grant compliance audit requirements.

(2) If an authority levies and collects a tax, or if an authority does not levy or collect a tax and has

\$100,000.00 or more in yearly expenditures, the board shall obtain an annual audit of the authority.

(3) If an authority does not levy or collect a tax and has less than \$100,000.00 in yearly expenditures, the board shall obtain an audit of its financial records, accounts, and procedures not less frequently than biennially. However, if any audit under this subsection discloses a material deviation from generally accepted accounting practices or from applicable rules and regulations of a state department or agency or discloses any fiscal irregularity, defalcation, misfeasance, nonfeasance, or malfeasance, the department of treasury may require an audit to be conducted in the next year.

(4) An authority shall prepare budgets and appropriations acts in the manner provided by sections 14 to 19 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.434 to 141.439.

(5) The state treasurer, the attorney general, a prosecuting attorney, bank, certified public accountant, certified public accounting firm, or other person has 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, 1968 PA 2, MCL 141.426 to 141.440.

(6) If an authority ends a fiscal year in a deficit condition, the authority shall file a financial plan to correct the deficit condition in the same manner as provided in section 21(2) of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

(7) The board may authorize funds of the authority to be invested or deposited in any investment or depository authorized under section 1 of 1943 PA 20, MCL 129.91.

**History:** 2000, Act 321, Eff. Dec. 1, 2000;—Am. 2019, Act 128, Imd. Eff. Nov. 21, 2019.