



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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Senate Bill 491 (as enrolled)  
Sponsor: Senator William Van Regenmorter  
Senate Committee: Local, Urban and State Affairs  
House Committee: Tax Policy

**PUBLIC ACT 147 of 1995**

Date Completed: 8-14-95

**RATIONALE**

The City of Holland, Holland Charter Township, and Park Township are planning the development of an "Area Center", which will house a performing arts center, an ice arena, and a multipurpose area. The estimated cost is \$30 million, which these local governments plan to pay for through bonding authority granted to local governments under Public Act 31 of 1948.

The Act permits local governments to incorporate local building authorities to acquire, maintain, and operate buildings, parking facilities, and recreational facilities, and allows them to impose taxes and issue bonds to pay the costs. Under the Act, counties, cities, villages, or townships may incorporate independently, or jointly with a county. The Act, however, did not provide for joint building authorities between local governments when a county was not involved. Since neither the Holland project nor all future development projects proposed by local governments will involve a county, some people believe that local governments should be able to incorporate authorities, regardless of a county's involvement.

**CONTENT**

**The bill amended Public Act 31 of 1948 to permit two or more counties, cities, townships, and/or villages to incorporate one or more joint authorities. The governing body of an incorporating unit may submit a lease contract with an authority to the vote of the people. If the contract is submitted to the voters, it can not take effect unless approved by a majority vote of the electors in the incorporating unit. The bill also provides for the filing of an authority's articles of incorporation and the election of an authority's governing commission.**

**Articles of Incorporation**

Previously, the Act permitted any county and any city, township, or village in the county to incorporate one or more authorities to acquire, equip, improve, operate, and maintain buildings, parking lots or structures, recreational facilities, and stadiums to be used for a public purpose. The bill instead permits any combination of two or more counties, cities, townships, and villages to incorporate one or more joint authorities. In addition, under the Act, a school district and a city, village, or township located entirely or partially within the district's boundaries may incorporate one or more authorities to acquire, equip, improve, operate, and maintain parking lots or structures for use by the school district and the local governments. The bill also permits a school district and any combination of two or more local units located entirely or partially in the district to incorporate one or more joint authorities. In addition, under the bill, a school district and a local government may incorporate an authority to acquire, operate, etc., recreational facilities and stadiums.

The Act requires the articles of incorporation to set forth the following information about the authority: its name, the name(s) of the unit(s) incorporating the authority, its purpose, the membership and selection of the authority's officers, including its "commission" (governing body), the officers' powers and duties, the authority's effective date, and the name of the newspaper in which the articles must be published. Under the bill, the articles also must include the officer required to publish the articles, and the county with whose clerk the articles have to be filed. That county must be a county that is an incorporating unit or in which an incorporating unit is located.

The bill deleted previous provisions on the duplication of the articles and the filing of these copies with the county clerk and the Secretary of State. Under the bill, the officer designated in the articles must file with the designated county clerk and the Secretary of State a certified copy of the articles with a certificate of the date and newspaper of publication. The officer must file with the recording officer of the authority, when selected, the original articles with a certificate of the date and newspaper of publication.

### Commission

The Act requires a joint building authority of a county, city, or village to be directed and governed by a three-member board of commissioners, one of whom is elected by the county board of commissioners, one by the local government's legislative body, and one by the county commissioners and the legislative body of the local government. Under the bill, these provisions apply to a joint authority incorporated by a county and a city, township, or village.

Under the bill, a joint building authority not described by these provisions must be directed and governed by a commission consisting of one member elected by the legislative body of each incorporating unit and other members as provided by the articles of incorporation. The commissioners of a joint building authority under these provisions must serve for four-year terms.

### Contract

Under the Act and the bill, the governing body of an incorporating unit, by a majority vote of its members, may authorize the execution of a lease contract with an authority. Previously, the contract could be authorized without a vote of the electors. The contract could not take effect until 45 days after a notice of intent to enter the contract had been published in a newspaper of general circulation in the incorporating unit(s) and a referendum petition requesting an election on the contract had not been filed with the clerk within the 45-day period.

Under the bill, the governing body may adopt a resolution submitting the contract to a vote of the electors. If the governing body adopts this resolution, the contract can not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The contract must be submitted at the next general or primary election to be held at least 70 days after

the resolution's date or at a special election to be at least 70 days after the resolution's date as determined by the clerk of the incorporating unit and subject to the Michigan Election Law. If the governing body does not adopt a resolution submitting the contract to the electors, the contract can take effect 60 days after notice has been published unless a referendum petition is filed within 45 days after the notice is published. The clerk of the incorporating unit must determine the election date and the ballot language.

MCL 123.952 et al.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The bill provides local governments with more flexibility to finance projects that will benefit an area-wide constituency. In the case of Holland, the city is contiguous to the townships and stretches between Ottawa and Allegan Counties, lying in the far corner of each county. Neither county apparently wanted to participate in the Area Center project. Other similar geographic arrangements may exist in the State, resulting in some local governments' wanting to incorporate a building authority but not needing a county's participation.

### **Supporting Argument**

Public Act 31 provides that the governing body of an incorporating unit of government, without a vote of the electorate, may issue bonds and pledge its full faith and credit for a lease contract with an authority. The contract was subject to a public vote only if a petition requesting a referendum on the contract was filed with the clerk or other recording officer of the local government. The Act did not provide for a governing body to submit the question to the voters before entering into a contract. The bill permits local governments to place before the voters the question of participating in the project before entering into a contract, while maintaining the option for a referendum. This provision also will give some local governments, such as townships, the flexibility they need to work within their millage limitations.

Legislative Analyst: L. Arasim

### **FISCAL IMPACT**

This bill will have no fiscal impact on State government. The fiscal impact on local units will depend on the projects undertaken and the bonds issued to cover these costs.

Fiscal Analyst: R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.