

Act No. 147
Public Acts of 1995
Approved by the Governor
July 9, 1995
Filed with the Secretary of State
July 11, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Senator Van Regenmorter

ENROLLED SENATE BILL No. 491

AN ACT to amend the title and sections 2, 2a, 5, 5a, 6, and 8b of Act No. 31 of the Public Acts of the First Extra Session of 1948, entitled as amended "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, 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 or benefit of any county or for the use or benefit of any county and any city or village therein, or for the use or benefit of any city, village, or township 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 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 thereof; 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; and to provide other powers, rights, and duties of authorities and incorporating units, including those for the disposal of authority property," being sections 123.952, 123.952a, 123.955, 123.955a, 123.956, and 123.958b of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. The title and sections 2, 2a, 5, 5a, 6, and 8b of Act No. 31 of the Public Acts of the First Extra Session of 1948, being sections 123.952, 123.952a, 123.955, 123.955a, 123.956, and 123.958b of the Michigan Compiled Laws, are amended to read as follows:

TITLE

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, 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; and to provide other powers, rights, and duties of authorities and incorporating units, including those for the disposal of authority property.

Sec. 2. Any combination of 2 or more counties, cities, townships, or villages may incorporate 1 or more joint authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for use for any legitimate public purpose of the incorporating units.

Sec. 2a. A school district and a city, village, or township wholly or partially within the district's boundaries, or a school district and any combination of 2 or more cities, villages, and townships wholly or partially within the district's boundaries, may incorporate 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining buildings, automobile parking lots or structures, 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 the local units.

Sec. 5. (1) The articles of incorporation shall set forth all of the following:

- (a) The name of the authority.
 - (b) The name or names of the unit or units incorporating the authority.
 - (c) The purpose for which the authority is incorporated.
 - (d) The number, terms, and manner of selection of the officers of the authority including its governing body, which shall be known as the "commission".
 - (e) The powers and duties of the authority and of its officers.
 - (f) The date upon which the authority shall become effective.
 - (g) The officer required to publish 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 be filed, which shall 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. 5a. (1) A joint building authority under section 2 incorporated by a county and a city, township, or village shall be directed and governed by a commission of 3 members, 1 to be elected by the county board of commissioners of the county, 1 to be elected by the legislative body of the city, township, or village, and 1 to be elected by the joint action of the county board of commissioners of the county and the legislative body of the city, township, or village. If the legislative bodies are unable to agree upon a choice for the third member within 60 days after the election of the first member, then the third member shall be appointed by the governor.

(2) A joint building authority under section 2 not described by subsection (1) shall be directed and governed by a commission consisting of 1 member elected by the legislative body of each incorporating unit and such other members as may be provided by the articles of incorporation.

(3) The commissioners of a joint building authority under section 2 shall serve for 4-year terms.

(4) The commission shall designate 1 member as chairperson and 1 as secretary, and shall adopt bylaws and rules of procedure. A member of the commission of a joint building authority shall not be an elected official of the county, city, township, or village.

(5) The business that the commission of any building authority performs shall be conducted at a public meeting of the board of commissioners held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

Sec. 6. (1) 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. 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. 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.

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

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

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

(2) The governing body may adopt a resolution submitting the contract to a vote of the electors. If the governing body adopts the resolution submitting the contract to a vote of the electors, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The contract shall be submitted at the next general or primary election to be held not less than 70 days after the date of the resolution or at a special election to be held not less than 70 days after the date of the resolution as determined by the clerk of the incorporating unit subject to the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws. The clerk shall also determine the ballot language of the question.

(3) If the governing body does not adopt a resolution submitting the contract to a vote of the electors, the contract shall become effective 60 days after a notice of intention of entering into the contract has been published in a newspaper of general circulation in the incorporating unit or units unless a sufficient petition for referendum requesting an election on the contract is filed with the clerk of the incorporating unit within 45 days after the notice is published. A referendum petition shall be signed by not less than 10% or 15,000 of the registered electors of the incorporating unit, whichever is less. If a sufficient petition is filed, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The clerk of the incorporating unit shall determine the date of the election and the ballot language as provided under subsection (2). The notice of intention of entering into contract shall be directed to the electors and taxpayers of the incorporating unit, shall be published in a newspaper which is determined by the governing body thereof to be the newspaper reaching the largest number of persons to whom the notice is directed, and shall state the maximum amount of bonds authorized to be issued, the purpose thereof, source of payment and right of referendum thereon, and such other information as the governing body of the incorporating unit may consider necessary to adequately inform the taxpayers and electors of the incorporating unit of the nature of the contractual obligation. Signatures on the petition shall be verified by the circulator under oath as the actual signatures of the persons whose names are signed thereto and the clerk or other recording officer of the incorporating unit shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule cities act, Act No. 279 of the Public Acts of 1909, being section 117.25 of the Michigan Compiled Laws. The number of registered electors in any incorporating unit shall be determined by its registration records, or, if it does not take registrations, by the appropriate city and township registration records. A notice of intention and publication is not required if the contract of lease states that it is not a full faith and credit obligation of the incorporating unit or units.

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

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.