



HOUSE BILL No. 5394

November 9, 1995, Introduced by Reps. Hertel, Brackenridge, Bullard, Profit, Bankes, Law, DeMars, Wallace, Hood, Munsell and Hammerstrom and referred to the Committee on Tax Policy.

A bill to provide for the establishment and maintenance of cultural districts; to prescribe their powers and duties; to authorize the imposition and collection of certain taxes; and to provide for the allocation of funds to certain cultural organizations.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "cultural district establishment act".

3 Sec. 2. As used in this act:

4 (a) "Art" means all fine, literary, and performing arts,
5 including but not limited to literature, painting, sculpture,
6 music, theater, poetry, dance, opera, graphic art, media arts,
7 and pottery, fabric, jewelry, and other craftwork.

8 (b) "Articles" means the articles of incorporation of a
9 district adopted under section 4.

1 (c) "Board" means a cultural district governing board.

2 (d) "Chief executive officer" means the elected county execu-
3 tive of a county or the chairperson of the board of county com-
4 missioners of a county that does not have an elected county execu-
5 tive, or the mayor of a city.

6 (e) "Combination of counties" means 2 or more contiguous
7 counties.

8 (f) "Cultural history" means significant events or trends
9 including but not limited to the history of specific peoples or
10 communities; the contribution of specific political, labor, edu-
11 cation, or other leaders; the history of the development of the
12 United States or the Great Lakes region and subregions found in
13 this region, including the contributions of particular peoples or
14 communities; the history of transportation and communication; of
15 education, urbanization, or political parties; of lumber, agri-
16 culture, mining, automotive, and other industries; and of the
17 fine, literary, and applied arts and crafts and technology.

18 (g) "Cultural organization" means a public or private non-
19 profit entity that has been in operation for at least 3 years and
20 which has as its primary purpose the production, presentation,
21 education, exhibition, advancement, or preservation of art,
22 science, humanities, or cultural history, including but not
23 limited to a zoo, a public library, a special program of art,
24 culture, or science developed especially for a school district,
25 and a public broadcast station as defined by section 397 of
26 subpart E of part IV of title III of the communications act of

1 1934, 47 U.S.C. 397, whether or not the public broadcast station
2 is affiliated with an institution of higher education.

3 (h) "District" means a cultural district established pursu-
4 ant to this act.

5 (i) "Entertainment service" means a service provided to the
6 public for consideration in the form of an admission fee or
7 rental charge by a person engaged in the business of operating a
8 cable television company, videotape rental store, theater, theat-
9 rical production, motion picture theater, ski facility, bowling
10 facility, golf course, health club, tennis club, racquetball
11 club, athletic club or other physical fitness facility, member-
12 ship sports and recreation facility, racing and track operation,
13 or amusement park, or the service of sponsoring or promoting
14 scheduled professional sporting events or musical concerts or
15 other amusement or recreation, but does not include a sale of
16 goods at retail.

17 (j) "Sale at retail" means that term as defined in section 1
18 of the general sales tax act, Act No. 167 of the Public Acts of
19 1933, being section 205.51 of the Michigan Compiled Laws.

20 (k) "Science" means anthropology, astronomy, botany, chemis-
21 try, physics, geology, zoology, natural history, or other natu-
22 ral, physical, or applied science.

23 Sec. 3. (1) A district established under this act is a body
24 corporate with power to sue and be sued in its own name.

25 (2) A district established under this act constitutes an
26 authority under section 6 of article IX of the state constitution
27 of 1963.

1 Sec. 4. (1) A single county or a combination of counties
2 may establish a cultural district by adopting articles of incor-
3 poration as provided in this section.

4 (2) Articles shall be adopted in any of the following
5 manners:

6 (a) By a majority vote of the board of county commissioners
7 if the district is established by a single county that does not
8 contain a city that had a population of 500,000 or more according
9 to the most recent decennial census.

10 (b) By a majority vote of the board of county commissioners
11 and by a majority vote of the city council of a city that had a
12 population of 500,000 or more according to the most recent decen-
13 nial census if the district is established by a single county
14 that contains a city that had a population of 500,000 or more
15 according to the most recent decennial census.

16 (c) By a majority vote of the board of county commissioners
17 of each participating county if the district is established by a
18 combination of counties none of which contains a city that had a
19 population of 500,000 or more according to the most recent decen-
20 nial census.

21 (d) By a majority vote of the board of county commissioners
22 of each participating county and by a majority vote of the city
23 council of a city that had a population of 500,000 or more
24 according to the most recent decennial census, if the district is
25 established by a combination of counties, 1 of which contains a
26 city that had a population of 500,000 or more according to the
27 most recent decennial census.

1 (3) Articles shall be published at least once by the
2 following before they are adopted:

3 (a) The county clerk, in a newspaper of general circulation
4 within the county, if the district is established by a single
5 county.

6 (b) The county clerk of each participating county, in a
7 newspaper of general circulation within each county, if the dis-
8 trict is established by a combination of counties.

9 (4) Within 30 days after articles are adopted, the adoption
10 of the articles shall be endorsed by the county clerk if the dis-
11 trict is established by a single county or by the county clerk of
12 each county if the district is established by a combination of
13 counties in substantially the following form:

14 These articles of incorporation were adopted by
15 a majority vote of the board of county commis-
16 sioners of _____ County (or by the
17 city council of the City of _____) at
18 a meeting duly held on the _____ day of
19 _____, _____.

20 _____
21 _____

22 (5) Within 45 days after articles are adopted, a printed
23 copy of the articles shall be filed with the secretary of state
24 by the county clerk if the district is established by a single
25 county, or by the county clerk of the most populous county if the
26 district is established by a combination of counties.

1 Sec. 5. (1) A county may be added to an existing district
2 upon satisfaction of all of the following:

3 (a) The board of county commissioners by majority vote
4 adopts a resolution stating that the county desires to be added
5 to the district.

6 (b) The district amends its articles to reflect the addition
7 of the county.

8 (c) The board of county commissioners by majority vote
9 adopts a second resolution stating that it accepts the require-
10 ments of the articles as amended to reflect the addition of the
11 county.

12 (d) A majority of the qualified and registered electors of
13 the county voting on the issue of a tax described in section 9
14 authorizes that tax.

15 (2) Upon the addition of a county to a district, a printed
16 copy of the amended articles shall be filed with the secretary of
17 state as required by section 4(5).

18 Sec. 6. (1) The articles of a district shall contain all of
19 the following:

20 (a) The name of the district.

21 (b) The name of the county if the district is a county that
22 does not have a city with a population of 500,000 or more accord-
23 ing to the most recent decennial census.

24 (c) The name of the county and the name of any city within
25 that county having a population of 500,000 or more according to
26 the most recent decennial census, if the district is a county
27 that contains such a city.

1 (d) The names of each county in a district that contains a
2 combination of counties which do not have a city with a popula-
3 tion of 500,000 or more according to the most recent decennial
4 census.

5 (e) The name of each county in a district that contains a
6 combination of counties and the name of any city having a popula-
7 tion of 500,000 or more within any of those counties according to
8 the most recent decennial census if the combination of counties
9 contains such a city, establishing the district.

10 (f) The purposes for which the district is formed.

11 (g) The general method of amending the articles.

12 (h) The method of amending the articles to reflect the sub-
13 sequent addition to the district of a county or the subsequent
14 termination of participation in the district by a county.

15 (i) A requirement that the district shall employ annually an
16 independent certified public accountant for the purpose of con-
17 ducting an annual certified audit of the district within 90 days
18 of the completion of the fiscal year.

19 (j) A requirement that each audit report described in subdi-
20 vision (i) shall be mailed promptly to all recipients of district
21 funds and the chief executive officer of each of the participat-
22 ing counties and of the most populous city of the district.

23 (2) In addition to the requirements of subsection (1), if a
24 district contains a city with a population of 500,000 or more
25 according to the most recent decennial census, the articles shall
26 limit administrative expenses of the district to not more than 1%
27 of tax revenues in any 1 year.

1 Sec. 7. (1) A district shall be governed by a board of
2 directors consisting of not more than 12 members. Of the direc-
3 tors first appointed pursuant to this section, a number approxi-
4 mating $1/4$ of the board members shall be appointed to a 1-year
5 term, a number approximating $1/4$ of the board members shall be
6 appointed to a 2-year term, a number approximating $1/4$ of the
7 board members shall be appointed to a 3-year term, and a number
8 approximately $1/4$ of the board members shall be appointed to a
9 4-year term. Upon the expiration of the initial terms, directors
10 shall be appointed annually to 4-year terms. A director shall
11 hold office until his or her successor is appointed.

12 (2) If the district is established by a single county and
13 the number of members of the board of directors is even, the
14 chief executive officer of that county shall appoint $1/2$ of the
15 directors and the chief executive officer of the most populous
16 city shall appoint $1/2$ of the directors. If the number of mem-
17 bers of the board of directors is not even, the articles shall
18 specify whether the chief executive officer of the county or
19 chief executive officer of the city shall appoint the number of
20 directors that exceeds $1/2$ the total number of board members. If
21 the district is established by a combination of counties and the
22 number of members of the board of directors is even, the chief
23 executive officer of each participating county and the chief
24 executive officer of the most populous city in the district shall
25 appoint an equal number of directors. If the number of members
26 is not even, the articles shall specify the number of members
27 that each appointing authority shall appoint.

1 (3) A person is not eligible for appointment as a director
2 unless he or she is a qualified and registered elector of the
3 county or municipality from which he or she is appointed.

4 (4) A director shall serve without compensation, but may be
5 reimbursed for actual and necessary expenses under section 8(d).

6 (5) A person employed by a cultural institution that
7 receives funds under this act is not eligible to serve as a
8 director.

9 (6) A director may be removed with or without cause and with
10 or without notice by the chief executive officer of the unit of
11 government that appointed him or her.

12 Sec. 8. If authorized by articles of incorporation, a board
13 may do 1 or more of the following:

14 (a) Subject to section 6(2), allocate funds of the district
15 to cultural organizations located within the district.

16 (b) Appoint and remove officers from among its members.

17 (c) Hire employees, consultants, attorneys, and other
18 professionals.

19 (d) Reimburse a director for actual and necessary expenses
20 incurred in the performance of official duties in accordance with
21 standard regulations of the department of management and budget.

22 (e) Enter into contracts on behalf of the district.

23 (f) Adopt bylaws and procedures, not inconsistent with this
24 act or the articles of the district, governing the board and the
25 district.

1 (g) Condition funding of a cultural organization under this
2 act upon the organization's submission to the district of 1 or
3 both of the following:

4 (i) A financial audit conducted by a certified public
5 accountant.

6 (ii) A promise or agreement that the organization will pro-
7 vide some complementary services and/or programs such as free
8 admission days, free exhibitions, free performances, or other
9 free events to the residents of the taxing district.

10 (h) Impose taxes under section 9.

11 (i) Except as otherwise prohibited under section 6(2), amend
12 the articles of the district.

13 (j) Perform any other act necessary and proper to implement
14 the purposes of the cultural district, if that act is not incon-
15 sistent with this act or the articles of the district.

16 Sec. 9. (1) A district may impose 1 or both of the follow-
17 ing taxes, subject to approval of the voters in each participat-
18 ing county and in any participating city having a population of
19 500,000 or more according to the most recent decennial census:

20 (a) A tax upon all real and tangible personal property
21 within the district that is not exempt by law from ad valorem
22 taxation or that is not subject to taxation under Act No. 282 of
23 the Public Acts of 1905, being sections 207.1 to 207.21 of the
24 Michigan Compiled Laws, at a rate that does not exceed 1.5
25 mills. The tax shall be collected by each local tax collecting
26 unit within the district and be distributed at the same time and
27 in the same manner as taxes imposed under the general property

1 tax act, Act No. 206 of the Public Acts of 1893, being sections
2 211.1 to 211.157 of the Michigan Compiled Laws.

3 (b) A tax upon the privilege of operating a business that
4 provides an entertainment service within the district, at a rate
5 that does not exceed 3% of the revenues generated by the admis-
6 sion fees and rental charges of the entertainment business.

7 (2) A district may impose a tax approved by voters under
8 subsection (1) upon each county and city in which voters provided
9 that approval. A county or city that does not approve a tax
10 under subsection (1) terminates its membership in the district
11 upon its voters' rejection of the proposed tax.

12 (3) A district by majority vote of its board may enter an
13 agreement with the state treasurer that provides that taxes
14 imposed under section 1(b) will be administered and collected on
15 behalf of the district by the revenue division of the department
16 of treasury in the same manner as state taxes are administered
17 and collected under Act No. 122 of the Public Acts of 1941, being
18 sections 205.1 to 205.31 of the Michigan Compiled Laws. The
19 department of treasury shall remit to a district that imposed a
20 tax under this act taxes, interest, and penalties collected by
21 the revenue division of the department of treasury under this
22 subsection not more than 15 days after those taxes, interest, and
23 penalties are due. Remittance to the district after the due date
24 of a tax collected on or before the due date shall include inter-
25 est earned on the gross collections after the due date and before
26 transmittal to the district, calculated on the basis of the rate

1 of interest accrued for this period on the state treasurer's
2 common cash account.

3 Sec. 10. A tax imposed under this act shall be in addition
4 to any other taxes, charges, or fees authorized by law.

5 Sec. 11. (1) All meetings of the board at which business is
6 to be conducted shall be public meetings held in compliance with
7 the open meetings act, Act No. 267 of the Public Acts of 1976,
8 being sections 15.261 to 15.275 of the Michigan Compiled Laws.

9 (2) A writing prepared, owned, used, in the possession of,
10 or retained by a district in the performance of an official func-
11 tion shall be made available to the public in compliance with the
12 freedom of information act, Act No. 442 of the Public Acts of
13 1976, being sections 15.231 to 15.246 of the Michigan Compiled
14 Laws, and the records media act, Act No. 116 of the Public Acts
15 of 1992, being sections 24.401 to 24.403 of the Michigan Compiled
16 Laws.