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ATHLETIC AND SPORTS AUTHORITIES

House Bill 5749

Sponsor: Rep. Cameron Brown

**Committee: Local Government and Urban
Policy**

Complete to 6-27-00

A SUMMARY OF HOUSE BILL 5749 AS INTRODUCED 5-9-00

House Bill 5749 would create the Athletic and Sports Authorities Act, to allow local government officials to establish an athletic and sports authority, and also to assess fees, levy property taxes, and issue bonds and notes to finance the authority.

Articles of incorporation. Under the bill, two or more municipalities could establish an athletic and sports authority. An authority established under the bill would be considered to be an “authority” for purposes of section 6 of article IX of the state constitution, which provides for a 15-mill limitation on ad valorem property taxes and provides exceptions to that limit for certain purposes, including an exception for taxes imposed by governmental entities, including authorities, having separate tax limitations. [The bill defines “municipality” to mean a city, village, or township that is located in a county with a population of less than 300,000 as determined by the most recent decennial census.] To form an authority, articles of incorporation would be required, and those articles would include the authority’s name, the names of the participating municipalities, a description of the territory of the authority (which could include portions of municipalities), the size of the board (although the bill specifies an odd number of members), the length of the board members’ terms, and the manner in which the members would be selected, or elected. If elected, the election would be conducted under the same procedures that would govern an election for a tax to fund the authority.

In addition, the articles of incorporation would be required to include the purposes for which the authority was to be established, which would be one or more of the following: a) the acquisition, construction, operation, maintenance, or improvement of an athletic or sports facility; or, b) athletic or sports programming. Further, the articles of incorporation would be required to specify the procedures for a municipality both to become a participating member, and to withdraw. However, a municipality could not withdraw during the period for which the authority had been authorized to levy a tax in a local election. The articles would be adopted and could be amended by a majority of the members serving on the legislative body of each participating municipality. Before the articles were adopted or amended, the bill would require they be published at least once in a newspaper that has general circulation within the participating municipalities. Upon their adoption, a printed copy of the articles (or the amended articles) would be filed with the secretary of state by the clerk of the last participating municipality to adopt them, and they would take effect upon filing.

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Board of directors. Under the bill, a majority of the members of the board would constitute a quorum; however, official action could be taken by a majority vote of the members present unless the bylaw required a larger number. A member of the board could not receive compensation, but could be reimbursed for reasonable expense, including travel. The board would be required to meet at least quarterly, and to conduct its business at a public meeting held in compliance with the Open Meetings Act. Documents used by an authority to perform official functions would be available to the public in compliance with the Freedom of Information Act. At its first meeting, the board would elect a chairperson, a secretary, a treasurer, and any other officer it considered necessary.

Powers of the board. An authority could acquire, hold, and maintain real and personal property inside or outside the authority's territory by various means that are customary for government agencies, and that are specified in the bill. However, an authority could acquire property by condemnation only with the approval of the governing body of the municipality in which the property was located. The authority also could apply for and accept grants or contributions from individuals, the federal government, the state, a municipality, or other public or private agencies. It could hire full-time or part-time employees, and retain professional services. Further, it could assess and collect fees for services, receive revenue as appropriated by the legislature or by a participating municipality, and it could enter into contracts that are necessary to accomplish its purposes.

Tax levy. The bill specifies that an authority could, with voter approval, levy a tax of not more than three mills for a period of not more than 20 years on all of the taxable property within its territory, for the purposes of acquiring, operating, maintaining, or improving an athletic or sports facility. The proposal for a tax would be submitted to a vote by a resolution of the board. The ballot proposal for the tax would state the amount and duration of the millage, and the purposes for which it could be used. A proposal for a tax could not be placed on the ballot unless that proposal had been adopted by a resolution of the board at least 60 days before the election. The proposal would then be certified for inclusion on the ballot at the next general election, at the next state primary immediately preceding the general election, or at a special election not occurring within 45 days of a state primary or general election.

Under the bill, if a special election were proposed, then within 10 days after receiving the proposal, the county clerk in the county having the greatest population would request approval of a special election date from the county election scheduling committee. The proposal would then be submitted to the electors of the authority on the date approved by that committee. [The bill defines "largest county" to mean, of those counties in which a participating municipality is located, the county have the greatest population.]

House Bill 5749 specifies that not more than two elections could be held in a calendar year on a proposal for a tax.

Board and millage election. Under the bill, the county election commission of each county in which all or part of a participating municipality was located would provide ballots for an election for a tax. The election for a tax would be conducted by the city and township clerks, and the election officials of the municipalities located within the territory of the authority.

If an election were to be held in conjunction with a general election or state primary, and if a participating village was located within a nonparticipating township, the township clerk and election officials would conduct the election. On the 45th day preceding the election, the village clerk would be required to provide to the township clerk a list containing the name, address, and birth date of each qualified and registered elector of the village who resided in the territory of the authority. Not later than 15 days before the election, the village clerk would be required to provide the township clerk with information updating the list. A person appearing on the list as updated would be eligible to vote in the election by special ballot.

If a tax were to be voted on at a special election and not held in conjunction with a general election or state primary, and if a participating village was located within a nonparticipating township, the village clerk and election officials would conduct the election.

Notices and canvass of election. If an election for a tax were held in conjunction with a general election or a state primary election, registration and election notices would be published as provided for by the state election laws. Otherwise, the county clerk of the largest county would publish the notices, and the notice to close registration would include the ballot language of the proposal.

The results of an election would be canvassed by the board of county canvassers of each county in which a participating municipality was located. The board of county canvassers in any county which was not the largest county would certify the election results to the board of county canvassers in the largest county. The board of canvassers of the largest county would then make the final canvass of the election, and certify the results to the board of the authority.

Costs of election. Under the bill, the county clerk would charge the authority, and the authority would then reimburse the county, for the actual costs the county incurred in an election for a tax under the bill.

If a participating municipality conducted the election for the tax, the clerk of that municipality would charge the authority, and the authority would reimburse the municipality if one or both of the following applied: a) the election had not been held in conjunction with a regularly scheduled election in that municipality; or, b) only a portion of the territory of a participating municipality had been included in the territory of the authority.

In addition to reimbursed costs, a county or municipality would also be required to charge the authority for actual costs incurred that were exclusively attributable to the election for the tax. The actual costs incurred would be based on the number of hours of work done in conducting the election, the rates of compensation for the workers, and the cost of materials supplied in the election.

Tax collection. House Bill 5749 specifies that the tax would be collected with county taxes, and distributed by the local tax collecting unit under the provisions of the General Property Tax Act.

Borrowing, bonding, and fees. Under the bill, an authority could borrow money and issue bonds or notes to finance the acquisition, construction, or improvement of an athletic or sports facility, including the acquisition of a site and the acquisition and installation of furnishings and equipment. The authority could pledge any admission fees and charges generated by the public project in order to repay the debt. However, an authority could not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the authority, exceeded two mills of the taxable value of the taxable property within the district. The bill specifies that bonds or notes issued by an authority would be a debt of the authority and not of the participating municipalities. However, the bonds or notes issued under the act would be subject to the Municipal Finance Act.

Bonding powers. The bill specifies that an authority could issue general obligation unlimited tax bonds upon approval of a majority of the electors of the authority voting collectively on the question. The bill also includes the language that would be acceptable for the wording that would appear on the ballot, and specifies that not more than two elections could occur in a calendar year to present voters with a question to issue general obligation unlimited tax bonds. If an authority issued general obligation unlimited tax bonds under this section, the board, by resolution, would authorize and levy the taxes necessary to pay the principal of, and interest on, the bonds.

An authority also could issue general obligation limited tax bonds, without submitting the question to the voters. Then, the board could not authorize or levy a tax to pay the principal of, and interest on, the general obligation limited tax bonds that exceeded the tax levy authorized by the voters.

Under the bill, an authority could borrow money and issue its negotiable bonds and notes for the purpose of refunding outstanding debt obligations, by adopting a resolution of the board and without submitting the question to the voters. Further, refunding bonds, or the refunding part of a bond issue, would not be considered to be within an authority's two-mill limit, but in addition to it.

Annual audit and budget. House Bill 5749 would require the board of an authority to obtain an annual audit, and to prepare budget and appropriation acts in the manner provided by the Uniform Budget and Accounting Act. In addition, the bill specifies that the state treasurer, the attorney general, a prosecuting attorney, bank, certified public accountant, and certified public accounting firm, would have the same powers, duties, and immunities with respect to the authority as those provided for local units under the act. Further, if an authority ended a fiscal year in a deficit condition, it would be required to file a financial plan, as provided under the State Revenue Sharing Act. Finally, the bill specifies that an authority could invest or deposit funds in the manner authorized under Public Act 20 of 1943, the law that governs the investment of surplus funds of political subdivisions.

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.