

HOUSE BILL No. 4455

April 13, 1999, Introduced by Reps. Lockwood, Neumann, Vaughn, Bovin, Cherry, LaForge, Rison, Mans, Jamnick, Martinez, Schauer, Dennis, Minore, Hale, Baird, Toy, Jacobs, Schermesser, Birkholz, Bogardus, Clark, Hardman, Sheltroun, Reeves, Gielegthem, Hansen, Spade, Julian, Rivet, Garza, Kilpatrick, O'Neil and Thomas and referred to the Committee on Tax Policy.

A bill to provide for the establishment of cultural and 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.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 3. As used in this act:

4 (a) "Articles" means the articles of incorporation of an
5 authority.

6 (b) "Authority" means a cultural and recreational authority
7 established under section 5.

1 (c) "Board" means the board of directors of the authority.

2 (d) "Electors of the authority" means the qualified and reg-
3 istered electors of the participating municipalities who reside
4 within the territory of the authority.

5 (e) "Largest county" means, of those counties in which a
6 participating municipality is located, the county having the
7 greatest population.

8 (f) "Municipality" means a city, village, or township that
9 is located in a county with a population of less than 300,000 as
10 determined by the most recent federal decennial census.

11 (g) "Park" means an area of land or water, or both, dedi-
12 cated to 1 or more of the following uses:

13 (i) Recreational purposes, including but not limited to
14 landscaped tracts; picnic grounds; playgrounds; athletic fields;
15 camps; campgrounds; zoological and botanical gardens; boating,
16 fishing, and birding areas; swimming areas; and foot, bicycle,
17 and bridle paths.

18 (ii) Open or scenic space.

19 (iii) Environmental, conservation, nature, or wildlife
20 areas.

21 (h) "Participating", in reference to a municipality, means
22 that the municipality is named in articles of incorporation or
23 proposed articles of incorporation as joining in the original
24 establishment of an authority, or the municipality joins an
25 existing authority and is added to the articles of incorporation,
26 and that the municipality has not withdrawn from the authority.

1 (i) "Swimming pool" includes equipment, structures, areas,
2 and enclosures intended for the use of individuals using or
3 operating a swimming pool, such as equipment, dressing, locker,
4 shower, and toilet rooms.

5 (j) "Territory of the authority" means the combined terri-
6 tory of the participating municipalities that is served by an
7 authority.

8 Sec. 5. (1) Two or more municipalities may establish a cul-
9 tural and recreational authority. A cultural and recreational
10 authority is an authority under section 6 of article IX of the
11 state constitution of 1963.

12 (2) To initiate the establishment of an authority, articles
13 of incorporation shall be prepared. The articles of incorpora-
14 tion shall include all of the following:

15 (a) The name of the authority.

16 (b) The names of the participating municipalities.

17 (c) A description of the territory of the authority. The
18 articles may provide that only a portion of the territory of a
19 participating municipality is included in the territory of the
20 authority.

21 (d) The size of the board of the authority, which shall be
22 comprised of an odd number of members; the qualifications, method
23 of selection, and terms of office of board members; and the fill-
24 ing of vacancies in the office of board member. If board members
25 are elected in at large elections by the qualified and registered
26 electors of the participating municipalities, voting
27 collectively, the election of board members shall be conducted

1 pursuant to the same procedures that govern an election for a tax
2 under sections 13 to 17.

3 (e) The purposes for which the authority is established,
4 which shall be 1 or more of the following:

5 (i) The acquisition, construction, operation, maintenance,
6 or improvement of a public swimming pool.

7 (ii) The acquisition, construction, operation, maintenance,
8 or improvement of a public recreational facility.

9 (iii) The acquisition, construction, operation, maintenance,
10 or improvement of a public auditorium.

11 (iv) The acquisition, construction, operation, maintenance,
12 or improvement of a public conference center.

13 (v) The acquisition, construction, operation, maintenance,
14 or improvement of a public park.

15 (f) The procedure and requirements for a municipality to
16 become a participating municipality in, and for a participating
17 municipality to withdraw from, an existing authority. For a
18 municipality to become a participating municipality in an exist-
19 ing authority, a majority of the electors of the municipality
20 residing in territory of the municipality proposed to be included
21 in the territory of the authority and voting on the question
22 shall approve a tax that the authority has been authorized to
23 levy by a vote of the electors of the authority under section
24 11. A municipality shall not withdraw from an authority during
25 the period for which the authority has been authorized to levy a
26 tax by the electors of the authority.

1 (g) Any other matters considered advisable.

2 (3) The articles shall be adopted and may be amended by an
3 affirmative vote of a majority of the members serving on the leg-
4 islative body of each participating municipality. Unless the
5 articles provide otherwise, the requirements of this subsection
6 do not apply to an amendment to the articles to allow a munici-
7 pality to become a participating municipality in, or to allow a
8 participating municipality to withdraw from, an existing
9 authority.

10 (4) Before the articles or amendments to the articles are
11 adopted, the articles or amendments to the articles shall be pub-
12 lished not less than once in a newspaper generally circulated
13 within the participating municipalities. The adoption of arti-
14 cles or amendments to the articles by a municipality shall be
15 evidenced by an endorsement on the articles or amendments by the
16 clerk of the municipality.

17 (5) Upon adoption of the articles or amendments to the arti-
18 cles by each of the participating municipalities, a printed copy
19 of the articles or the amended articles shall be filed with the
20 secretary of state by the clerk of the last participating munici-
21 pality to adopt the articles or amendments.

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

24 Sec. 7. (1) A vacancy shall occur on the board on the hap-
25 pening of any of the events set forth in section 3 of 1846 RS 15,
26 MCL 201.3. Appointed members of the board, if any, may be
27 removed by the appointing authority for good cause after a public

1 hearing. Vacancies shall be filled in the same manner as the
2 original appointment for the unexpired term.

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

9 (3) A member of the board shall not receive compensation for
10 services as a member of the board but is entitled to reimburse-
11 ment for reasonable expenses, including expenses for travel pre-
12 viously authorized by the board, incurred in the discharge of his
13 or her duties.

14 (4) The business that an authority may perform shall be con-
15 ducted at a public meeting of the authority held in compliance
16 with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.
17 Public notice of the time, date, and place of the meeting shall
18 be given in the manner required by the open meetings act, 1976 PA
19 267, MCL 15.261 to 15.275.

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

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

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

2 Sec. 9. An authority has all the powers necessary to carry
3 out the purposes for which it is established, including, but not
4 limited to, the following:

5 (a) Acquire and hold, by purchase, lease with or without
6 option to purchase, grant, gift, devise, land contract, install-
7 ment purchase contract, bequest, or other legal means, real and
8 personal property inside or outside the territory of the
9 authority. The property may include franchises, easements, or
10 rights of way on, under, or above any property. The authority
11 may pay for the property from, or pledge for the payment of the
12 property, revenue of the authority. However, an authority may
13 acquire and hold real and personal property by condemnation only
14 with the approval of the governing body of the municipality in
15 which the property is located.

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

20 (c) Hire full-time or part-time employees and retain profes-
21 sional services.

22 (d) Provide for the maintenance of all of the real and per-
23 sonal property of the authority.

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

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

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

3 Sec. 11. (1) To the extent authorized by its articles, an
4 authority may levy a tax of not more than 3 mills for a period of
5 not more than 20 years on all of the taxable property within the
6 territory of the authority for the purposes of acquiring, operat-
7 ing, maintaining, or improving a public swimming pool, public
8 recreational facility, public auditorium or conference center, or
9 public park. The authority may levy the tax only upon the
10 approval of a majority of the electors of the authority voting
11 collectively on the tax at a general or special election. The
12 proposal for a tax shall be submitted to a vote of the electors
13 of the authority by resolution of the board.

14 (2) A ballot proposal for a tax shall state the amount and
15 duration of the millage and the general purposes for which the
16 millage may be used. A proposal for a tax shall not be placed on
17 the ballot unless the proposal is adopted by a resolution of the
18 board and certified by the board not later than 60 days before
19 the election to the county clerk of each county in which all or
20 part of the territory of the authority is located for inclusion
21 on the ballot. The proposal shall be certified for inclusion on
22 the ballot at the next general election, the state primary imme-
23 diately preceding the general election, or a special election not
24 occurring within 45 days of a state primary or a general elec-
25 tion, as specified by the board's resolution.

26 (3) If a special election is proposed, within 10 days after
27 receiving the proposal, the county clerk of the county described

1 in subsection (2) having the greatest population shall request
2 approval of a special election date from the county election
3 scheduling committee of that county. The proposal shall be sub-
4 mitted to the electors of the authority on the date approved by
5 that county election scheduling committee.

6 (4) If a majority of the electors of the authority voting
7 collectively on the question of a tax approve the proposal, the
8 tax levy is authorized. Not more than 2 elections may be held in
9 a calendar year on a proposal for a tax.

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

15 (2) Except as otherwise provided in subsection (4), an elec-
16 tion for a tax shall be conducted by the city and township clerks
17 and election officials of the municipalities located within the
18 territory of the authority.

19 (3) If an election on a proposal for a tax is to be held in
20 conjunction with a general election or state primary election and
21 if a participating village is located within a nonparticipating
22 township, the township clerk and election officials shall conduct
23 the election. On the forty-fifth day preceding the election, the
24 village clerk shall provide to the township clerk a list contain-
25 ing the name, address, and birth date of each qualified and reg-
26 istered elector of the village residing in the territory of the
27 authority. Not later than 15 days before the election, the

1 village clerk shall provide to the township clerk information
2 updating the list as of the close of registration. A person
3 appearing on the list as updated is eligible to vote in the elec-
4 tion by special ballot.

5 (4) If a tax is to be voted on at a special election not
6 held in conjunction with a general election or state primary
7 election and if a participating village is located within a non-
8 participating township, the village clerk and election officials
9 shall conduct the election.

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

18 (2) The results of an election for a tax shall be canvassed
19 by the board of county canvassers of each county in which a par-
20 ticipating municipality is located. The board of county canvass-
21 ers of a county in which a participating municipality is located
22 and that is not the largest county shall certify the results of
23 the election to the board of county canvassers of the largest
24 county. The board of county canvassers of the largest county
25 shall make the final canvass of an election for a tax based on
26 the returns of the election inspectors of the participating
27 municipalities in that county and the certified results of the

1 board of county canvassers of every other county in which a
2 participating municipality is located. The board of county can-
3 vassers of the largest county shall certify the results of the
4 election to the board of the authority.

5 Sec. 17. (1) A county clerk shall charge the authority and
6 the authority shall reimburse the county for the actual costs the
7 county incurs in an election for a tax under section 11.

8 (2) If a participating municipality conducts an election for
9 a tax, the clerk of that participating municipality shall charge
10 the authority and the authority shall reimburse the participating
11 municipality for the actual costs the participating municipality
12 incurs in conducting the election if 1 or both of the following
13 apply:

14 (a) The election is not held in conjunction with a regularly
15 scheduled election in that municipality.

16 (b) Only a portion of the territory of a participating
17 municipality is included in the territory of the authority.

18 (3) In addition to costs reimbursed under subsection (1) or
19 (2), a county or municipality shall charge the authority and the
20 authority shall reimburse the county or municipality for actual
21 costs that the county or municipality incurs and that are exclu-
22 sively attributable to an election for a tax.

23 (4) The actual costs that a county or municipality incurs
24 shall be based on the number of hours of work done in conducting
25 the election, the rates of compensation of the workers, and the
26 cost of materials supplied in the election.

1 Sec. 19. The tax shall be collected with county taxes and
2 distributed by the local tax collecting unit under the provisions
3 of the general property tax act, 1893 PA 206, MCL 211.1 to
4 211.157.

5 Sec. 21. (1) An authority may borrow money and issue bonds
6 or notes to finance the acquisition, construction, or improvement
7 of a public swimming pool, a public recreational facility, a
8 public auditorium, a public conference center, or a public park,
9 including the acquisition of sites and the acquisition and
10 installation of furnishings and equipment for these purposes.
11 The authority may pledge any admission fees and charges generated
12 by the public project financed under this section to the repay-
13 ment of the debt.

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

20 (3) Bonds or notes issued by an authority are a debt of the
21 authority and not of the participating municipalities.

22 (4) Bonds or notes issued under this act are subject to the
23 municipal finance act, 1943 PA 202, MCL 131.1 to 139.3.

24 Sec. 23. (1) An authority may issue general obligation
25 unlimited tax bonds upon approval of a majority of the electors
26 of the authority voting collectively on the question of issuing
27 the bonds. The proposal to issue general obligation unlimited

1 tax bonds shall be submitted to a vote of the electors of the
2 authority by resolution of the board.

3 (2) The language of the ballot proposal shall be in substan-
4 tially the following form:

5 "Shall [name of authority], formed by [names of
6 participating municipalities], borrow the sum of
7 not to exceed _____ dollars (\$_____) and
8 issue its general obligation unlimited tax
9 bonds for all or a portion of that amount for
10 the purpose of _____?
11 Yes [☐] No [☐]".

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

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

20 Sec. 25. (1) An authority may issue general obligation
21 limited tax bonds for the purposes provided in section 21 by res-
22 olution of the board, without submitting the question to the
23 electors of the authority.

24 (2) The board shall not authorize or levy a tax to pay the
25 principal of and interest on the general obligation limited tax

1 bonds that exceeds the tax levy authorized by a vote of the
2 qualified electors of the district as provided in section 11.

3 Sec. 27. (1) An authority may borrow money and issue its
4 negotiable bonds and notes for the purpose of refunding outstand-
5 ing debt obligations of the district by resolution of the board,
6 without submitting the question to the electors of the
7 authority.

8 (2) Refunding bonds or the refunding part of a bond issue
9 shall not be considered to be within the 2-mill limitation of
10 section 21(2), but shall be considered to be authorized in addi-
11 tion to the 2-mill limitation.

12 Sec. 29. (1) A board shall obtain an annual audit of the
13 authority, and report on the audit and auditing procedures, in
14 the manner provided by sections 6 to 13 of the uniform budgeting
15 and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit
16 shall also be in accordance with generally accepted government
17 auditing standards as promulgated by the United States general
18 accounting office and shall satisfy federal regulations relating
19 to federal grant compliance audit requirements.

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

23 (3) The state treasurer, the attorney general, a prosecuting
24 attorney, bank, certified public accountant, certified public
25 accounting firm, or other person shall have the same powers,
26 duties, and immunities with respect to the authority as provided

1 for local units in sections 6 to 20 of the uniform budgeting and
2 accounting act, 1968 PA 2, MCL 141.426 to 141.440.

3 (4) If an authority ends a fiscal year in a deficit condi-
4 tion, the authority shall file a financial plan to correct the
5 deficit condition in the same manner as provided in section 21(2)
6 of the state revenue sharing act of 1971, 1971 PA 140, MCL
7 141.921.

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