REGIONAL CONVENTION FACILITY AUTHORITY ACT
Act 554 of 2008

AN ACT to create and provide for the incorporation of certain regional convention facility authorities; to provide for the membership of the authorities; to provide for the powers and duties of the authorities; to provide for the conveyance of ownership of and operational jurisdiction over certain convention facilities to authorities and to provide for the transfer of certain real and personal property utilized as convention facilities to authorities; to provide for the assumption of certain contracts, bonds, notes, and other evidences of indebtedness and liabilities related to convention facilities by authorities; to authorize the creation of certain funds; to authorize expenditures from certain funds; to finance the acquisition of land and the development of certain convention facilities and of public improvements or related facilities; to provide for the issuance of bonds and notes; to authorize certain investments; to provide for the transfer of public employees to the employment of authorities; to provide for the allocation of liabilities related to employee benefits; to protect certain rights of local government employees; and to impose certain powers and duties upon state and local departments, agencies, and officers.

History: 2008, Act 554, Eff. Jan. 20, 2009.

The People of the State of Michigan enact:

141.1351 Short title.

Sec. 1. This act shall be known and may be cited as the "regional convention facility authority act".

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1353 Legislative findings.

Sec. 3. The legislature finds and declares all of the following:

(a) That there exists in this state a continuing need to strengthen and revitalize the economy of this state and of local units of government in this state and that it is in best interests of this state and local units of government in this state to promote tourism and convention business in order to assist in the prevention of unemployment and the alleviation of the conditions of unemployment, to preserve existing jobs, to facilitate economic development, and to create new jobs to meet employment demands.

(b) That it is necessary for the promotion of general welfare and a valid public purpose to assist and encourage the acquisition, construction, improvement, enlargement, renewal, replacement, repairing, financing, furnishing, and equipping of regional convention facilities and the real property on which they are located, to refinance these activities, and to enter into contracts and procure services necessary and appropriate for the development and ongoing management and operation of regional convention facilities in an efficient and effective manner.

(c) That a regional convention facility authority created under this act and the powers conferred by this act constitute a necessary program and serve a necessary public purpose.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1355 Definitions.

Sec. 5. As used in this act:

(a) "Authority" means a regional convention facility authority created under section 7.

(b) "Board" means the board of directors of an authority.

(c) "Convention facility" means all or any part of, or any combination of, a convention hall, auditorium, arena, meeting rooms, exhibition area, and related adjacent public areas that are generally available to the public for lease on a short-term basis for holding conventions, meetings, exhibits, and similar events, together with real or personal property, and easements above, on, or under the surface of real or personal property, used or intended to be used for holding conventions, meetings, exhibits, and similar events, together with appurtenant property, including covered walkways, parking lots, or structures, necessary and convenient for use in connection with the convention facility. Convention facility includes an attached arena with a seating capacity not exceeding 13,000. Convention facility does not include any arena with a seating capacity exceeding 13,000.

(d) "Develop" means to plan, acquire, construct, improve, enlarge, maintain, renew, renovate, repair, replace, lease, equip, furnish, market, promote, manage, or operate.

(e) "Fiscal year" means an annual period that begins on October 1 and ends on September 30 or the fiscal year for an authority established by the board of the authority.

(f) "Legislative body" means the elected body of a local government possessing the legislative power of

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the local government.

(g) "Local chief executive officer" means the mayor or city manager of a city or the county executive of a county or, if a county does not have a county executive, the chairperson of the county board of commissioners.

(h) "Local government" means a county or city. For purposes of sections 17(1)(t) and 19 other than section 19(1)(f), local government includes a building authority or downtown development authority created by a county or city under 1975 PA 197, MCL 125.1651 to 125.1681.

(i) "Qualified city" means a city with a population of more than 700,000 according to the most recent decennial census that contains a qualified convention facility.

(j) "Qualified county" means a county that contains a qualified city.

(k) "Qualified convention facility" means a publicly owned convention facility with not less than 600,000 square feet of usable exhibition area and that is located in a qualified city.

(*l*) "Qualified metropolitan area" means a geographic area of this state that includes a qualified city, a qualified county, and the 2 counties bordering the qualified county with the largest populations according to the most recent decennial census.

(m) "Transfer date" means the earlier of the following:

(*i*) The date 90 days after the creation of an authority under section 7 on which the right, title, interest, ownership, and control of a qualified convention facility are conveyed and transferred from a qualified city to an authority, only if the transfer is not disapproved as provided under section 19(1).

(*ii*) The effective date of a lease agreement providing for the lease of a qualified convention facility to an authority created under section 7 as provided under section 19(1). In the event that the qualified convention facility is transferred to the authority by way of a lease, references in this act to transfer of title or conveyance of title shall be interpreted to mean the effectuation of the transfer or conveyance by way of a lease and not in fee.

History: 2008, Act 554, Eff. Jan. 20, 2009;—Am. 2009, Act 63, Imd. Eff. July 2, 2009.

CAUTION! This document is from an archive and may contain outdated information.

141.1357 Qualified metropolitan area; creation of authority; authority as municipal public body corporate and politic; powers, duties, and jurisdictions; name; transfer of qualified convention facility from qualified city to authority; exemption from taxes and special assessments; presumption of validity.

Sec. 7. (1) For an area of this state that is a qualified metropolitan area on the effective date of this act, an authority is created for the qualified metropolitan area on the effective date of this act. For an area of this state that becomes a qualified metropolitan area after the effective date of this act, an authority is created for the qualified metropolitan area on the date the area became a qualified metropolitan area. An authority created under this section shall be a municipal public body corporate and politic and a metropolitan authority authorized by section 27 of article VII of the state constitution of 1963 and shall possess the powers, duties, and jurisdictions vested in the authority under this act and other laws. The authority shall not be an authority or agency of this state. The name of an authority created under this section shall include the name of the qualified city located within the qualified metropolitan area and the phrase "regional convention facility authority".

(2) Before the transfer date, an authority may organize and exercise all powers, duties, and jurisdictions granted under this act, except the powers, duties, and jurisdictions related to the management and operation of a qualified convention facility. On the transfer date, an authority is vested with the additional powers, duties, and jurisdictions under this act related to the management, operation, and development of a qualified convention facility.

(3) It is the intent of the legislature that the transfer or lease of a qualified convention facility from a qualified city to an authority under this act and any payment required under section 19(9) represents at least a fair exchange of value for value for the qualified city considering, without limitation, all of the following:

(a) The net value of the qualified convention facility prior to the transfer date after deducting deferred maintenance obligations, operational deficits, repair or expansion needs, and other liabilities related to the qualified convention facility that are obligations of the qualified city.

(b) The benefits to the qualified city resulting from the transfer or lease of the qualified convention facility to the authority, including, but not limited to, assumption or payment of debt obligations of the qualified city by the authority, reductions in costs, liabilities or other obligations of the qualified city, additional revenues or other money not otherwise available for the qualified convention facility, and the positive economic impact to the qualified city likely to be generated by the operation of the qualified convention facility by the authority or any expansion or improvement of the qualified convention facility by the authority, especially economic

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

impact resulting in the creation or retention of jobs and capital investment.

(c) Any bond proceeds, debt service payments, or other money payable directly or indirectly to the qualified city after the transfer date under this act, the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, or the health and safety fund act, 1987 PA 264, MCL 141.471 to 141.479.

(4) The property of an authority created under this act is public property devoted to an essential public and governmental purpose. Income of the authority is for a public and governmental purpose.

(5) Except as otherwise provided in this subsection, the property of the authority created under this act and its income, activities, and operations are exempt from all taxes and special assessments of this state or a political subdivision of this state. Property of an authority and its income, activities, and operations that are leased to private persons are not exempt from any tax or special assessment of this state or a political subdivision of this state. Property of an authority is exempt from any ad valorem property taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or other law of this state authorizing the taxation of real or personal property. An authority is an entity of government for purposes of section 4a(1)(a) of the general sales tax act, 1933 PA 167, MCL 205.54a, and section 4(1)(h) of the use tax act, 1937 PA 94, MCL 205.94.

(6) The validity of the creation of an authority shall be conclusively presumed unless questioned in an original action filed in the court of appeals within 60 days after the creation of the authority under this section. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner.

(7) The validity of the transfer or lease of a qualified convention facility to an authority under this act shall be conclusively presumed unless questioned in an original action filed in the court of appeals within 30 days after the effective date of the amendatory act that added this subsection, or for a metropolitan area that becomes a qualified metropolitan area after the effective date of the amendatory act that added this subsection, 75 days after the date on which the metropolitan area becomes a qualified metropolitan area. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner.

History: 2008, Act 554, Eff. Jan. 20, 2009;—Am. 2009, Act 63, Imd. Eff. July 2, 2009.

CAUTION! This document is from an archive and may contain outdated information.

141.1359 Board of directors; membership; qualifications; "local government" defined; terms; vacancy; filing of appointment; oath; compensation; individuals prohibited from appointment.

Sec. 9. (1) An authority created under this act shall be directed and governed by a board of directors consisting of 5 members. The members of an authority board shall include all of the following:

(a) One individual appointed by the governor of this state with the advice and consent of the senate.

(b) One individual appointed by the local chief executive officer of the qualified city.

(c) One individual appointed by the local chief executive officer of the qualified county.

(d) One individual appointed by the local chief executive officer of the county bordering the qualified county with the highest population according to the most recent decennial census bordering the qualified county.

(e) One individual appointed by the local chief executive officer of the county bordering the qualified county with the second highest population according to the most recent decennial census.

(2) Board members appointed under this section shall possess business, financial, or professional experience relevant to the operation of a corporation or a convention facility. No board member shall be an employee or officer of any local government or of this state. For purposes of this subsection, "local government" includes any county, township, city, village, or intergovernmental entity in this state.

(3) Except as otherwise provided in this subsection, board members shall be appointed for a term of 6 years. Initial appointments under subsection (1) shall be made within 30 days of the creation of the authority. Of the board members initially appointed under subsection (1), the members appointed under subsection (1)(a) and (c) shall be appointed for a term expiring on the second August 31 following the creation of the authority, the members appointed under subsection (1)(b) and (d) shall be appointed for a term expiring on the third August 31 following the creation of the authority, the member appointed under subsection (1)(e) shall be appointed for a term expiring on the fourth August 31 following the creation of the authority. If a vacancy occurs on the board other than by expiration of a term, the vacancy shall be filled in the same manner as the original appointment for the remainder of the term. Board members may continue to serve until a successor is appointed and qualified.

(4) Each officer appointing a board member under this section shall file the appointment with the secretary of state and the county clerk of each county in the qualified metropolitan area. Notwithstanding any law or local charter provision to the contrary, appointments by an officer are not subject to approval or rejection by a

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

legislative body.

(5) Upon appointment to a board under this section, and upon taking and filing of the oath of office required by section 1 of article XI of the state constitution of 1963, a board member shall enter office and exercise the duties of the office of board member.

(6) Board members shall serve without compensation but may be reimbursed for actual and necessary expenses incurred while attending board meetings or performing other authorized official business of the authority.

(7) An individual who is not of good moral character or who has been indicted or charged with, convicted of, pled guilty or no contest to, or forfeited bail concerning a felony under the laws of this state, any other state, or the United States shall not be appointed or remain as a member of the board.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1361 Board; meeting; election of chairperson and officers; actions requiring unanimous consent; business conducted at public meeting; availability of records and documents to public; system of accounts; annual audit; budget; contracts; use of competitive procurement methods; exceptions; purchases; preferences; procedures to monitor performance of contracts; procurement policy; employment of personnel; certain actions prohibited; citizens advisory council.

Sec. 11. (1) Within not more than 30 days following appointment of the members of a board, the board shall hold its first meeting at a date and time determined by the individual appointed under section 9(1)(a). The board members shall elect from among the board members an individual to serve as chairperson of the board and may elect other officers as the board considers necessary. All officers shall be elected annually by the board. All actions of the board under this act shall require the unanimous consent of all serving members of the board, excluding any members prohibited from voting on an action due to a conflict of interest under section 15.

(2) The business of the board shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board shall adopt bylaws consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings. After organization, a board shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. A special meeting of the board may be called by the chairperson of the board or as provided in bylaws adopted by the board. Notice of a special meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A board shall keep a written or printed record of each meeting, which record and any other document or record prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) A board shall provide for a system of accounts for the authority to conform to a uniform system required by law and for the auditing of the accounts of an authority. The board shall obtain an annual audit of the authority by an independent certified public accountant and report on the audit and auditing procedures in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit also shall be in accordance with generally accepted government auditing standards and shall satisfy federal regulations relating to federal grant compliance audit requirements.

(5) Before the beginning of each fiscal year, a board shall cause to be prepared a budget for the authority containing an itemized statement of the estimated current operational expenses and the expenses for capital outlay including funds for the operation and development of convention facilities under the jurisdiction of the board, including the amount necessary to pay the principal and interest of any outstanding bonds or other obligations of the authority maturing during the next fiscal year or that have previously matured and are unpaid, and an estimate of the estimated revenue of the authority from all sources for the next fiscal year. The board shall adopt a budget as for the fiscal year in accordance with the uniform budget and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(6) A board shall provide for the purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items as needed by the authority to efficiently and effectively meet the needs of the authority using competitive procurement methods to secure the best value for the authority. The board shall make all discretionary decisions concerning the solicitation, award, amendment, cancellation, and appeal of authority contracts. A board shall provide for the

CAUTION! This document is from an Archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

acquisition of professional services, including, but not limited to, architectural services, engineering services, surveying services, accounting services, services related to the issuance of bonds, and legal services, in accordance with a competitive, qualifications-based selection process and procedure for the type of professional service required by the authority. An authority is not required to use competitive bidding when acquiring proprietary services, equipment, or information available from a single source, such as a software license agreement. An authority may enter into a cooperative purchasing agreement with the federal government, this state, or other public entities for the purchase of goods or services necessary for the authority. An authority may enter into lease purchases or installment purchases for periods not exceeding the anticipated useful life of the items purchased unless otherwise prohibited by law. In all purchases made by the authority, all other things being equal, preference shall be given first to products manufactured or services offered by firms based in the authority's qualified metropolitan area, including, but not limited to, the qualified city and each county in the qualified metropolitan area, and next to firms based in this state, if consistent with applicable law. The authority shall actively solicit lists of potential bidders for authority contracts from each qualified city and each county in the qualified metropolitan area. Except as otherwise provided in this section, the authority shall utilize competitive solicitation for all purchases authorized under this act unless 1 or more of the following apply:

(a) Procurement of goods or services is necessary for the imminent protection of public health or safety or to mitigate an imminent threat to public health or safety, as determined by the authority or its chief executive officer.

(b) Procurement of goods or services is for emergency repair or construction caused by unforeseen circumstances when the repair or construction is necessary to protect life or property.

(c) Procurement of goods or services is in response to a declared state of emergency or state of disaster under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

(d) Procurement of goods or services is in response to a declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33.

(e) Procurement of goods or services is in response to a declared state of energy emergency under 1982 PA 191, MCL 10.81 to 10.89.

(f) Procurement of goods or services is under a cooperative purchasing agreement with the federal government, this state, or more public entities for the purchase of goods and services necessary at fair and reasonable prices using a competitive procurement method for authority operations.

(g) The value of the procurement is less than $5,000.00, and the board has established policies or procedures to ensure that goods or services with a value of less than $5,000.00 are purchased by the board at fair and reasonable prices. Procurement of goods or services with a value of less than $5,000.00 may be negotiated with or without using competitive bidding as authorized in a procurement policy adopted by the board.

(7) A board may not enter into any cost plus construction contract unless all of the following apply:

(a) The contract cost is less than $50,000.00.

(b) The contract is for emergency repair or construction caused by unforeseen circumstances.

(c) The repair or construction is necessary to protect life or property.

(d) The contract complies with requirements of applicable state or federal law.

(8) The board shall adopt a procurement policy consistent with the requirements of this act and federal and state laws relating to procurement. The procurement policy shall include a requirement for the authority to use its best efforts within the competitive solicitation requirements of this section to achieve fairness in the number and value of contracts for goods or services entered into by the authority with firms based in the qualified city and each county within the qualified metropolitan area, consistent with applicable law. The board shall adopt a policy to govern the control, supervision, management, and oversight of each contract to which the authority is a party. The board shall adopt procedures to monitor the performance of each contract including, but not limited to, a contract that exists on the transfer date, to assure execution of the contract within the budget and time periods provided under the contract. The monitoring shall include oversight as to whether the contract is being performed in compliance with the terms of the contract, this act, and federal and state law procurement law. The chief executive officer or other authorized employee of an authority shall not sign or execute a contract until the contract is approved by the board. A board for an authority shall establish policies to ensure that the authority does not enter into a procurement or employment contract with a person who has been convicted of a criminal offense incident to the application for or performance of a contract or subcontract with a governmental entity in this state. A board for an authority shall establish policies to ensure that the authority does not enter into a procurement or employment contract with a person who has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the person's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

records, receiving stolen property, or violation of state or federal antitrust statutes, or similar laws. The authority shall prepare an annual report to the board, the qualified city, and each county within the qualified metropolitan area detailing all contracts entered into by the authority during the immediately preceding fiscal year. As used in this subsection, if a person is a business entity, person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more. Nothing in this subsection shall be construed as creating a quota or set-aside for any qualified city or any county in the qualified metropolitan area.

(9) A board may employ personnel as the board considers necessary to assist the board in performing the power, duties, and jurisdictions of the authority, including, but not limited to, employment of a chief executive officer as authorized under section 13. The board shall adopt an employment policy that includes a requirement for the authority to use best efforts to achieve fairness in the hiring of employees from among residents of the qualified city and each county within the qualified metropolitan area, consistent with applicable law. Nothing in this subsection shall be construed as creating a quota or set-aside for any qualified city or any county in the qualified metropolitan area.

(10) A board shall establish policies to assure that the board and the authority shall not do either of the following:

(a) Fail or refuse to hire, recruit, or promote; demote; discharge; or otherwise discriminate against a person with respect to employment, compensation, or a term, condition, or privilege of employment, or a contract with the authority because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job, position, or contract.

(b) Limit, segregate, or classify an employee, a contractor, or applicant for employment or a contract in a way that deprives or tends to deprive the employee, contractor, or applicant of an employment opportunity or otherwise adversely affects the status of an employee, contractor, or applicant because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position.

(11) Not less than 60 days after the transfer date, an authority shall establish a citizens advisory council to provide public input and advise the board on the impact of redevelopment and management of a qualified convention facility upon the qualified city and each county within the qualified metropolitan area. The advisory council shall consist of 8 members, including 1 resident of the qualified city appointed by the local chief executive officer of the qualified city, 1 resident of the qualified city appointed by the legislative body of the qualified city, 1 county resident appointed as a council member by each local chief executive officer for each county within the qualified metropolitan area, and 1 county resident appointed as a council member by the legislative body for each county within the qualified metropolitan area. An elected state or local official is not eligible to serve as a member of the citizens advisory council. Members of the advisory council shall be appointed for terms of 4 years. A vacancy on the advisory council arising other than by expiration of a term shall be filled for the remainder of a term in the same manner as the original appointment. The business of the advisory council shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The advisory council shall adopt bylaws consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings. After organization, the advisory council shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. The advisory council shall keep a written or printed record of each meeting, which record and any other document or record prepared, owned, used, in the possession of, or retained by the advisory council in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. An advisory council shall organize and make its own policies and procedures and shall adopt bylaws not inconsistent with this act governing its operations. The advisory council may request and shall receive from the authority information and technical assistance relating to the development and management of the qualified convention facility. Failure of the advisory council to organize, meet, or perform statutory functions shall not prevent the board or the authority from performing authorized activities. A member of the citizens advisory council shall not be compensated for being a member nor shall a member be reimbursed for any expenses incurred as a member of the citizens advisory council.

History: 2008, Act 554, Eff. Jan. 20, 2009;—Am. 2009, Act 63, Imd. Eff. July 2, 2009.

141.1363 Chief executive officer; appointment; compensation; duties; responsibilities; service; powers; bond; certain conduct prohibited.

CAUTION! This section may be from an obsolete and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 13. (1) A board may appoint and fix the compensation of a chief executive officer for the authority. If the board appoints a chief executive officer, the board shall prescribe the duties and responsibilities of the chief executive officer in addition to any duties and responsibilities imposed upon the chief executive officer under this act. A chief executive officer of an authority shall serve at the pleasure of the board.

(2) A chief executive officer shall supervise, and be responsible for, the day-to-day operation of the authority, including the control, supervision, management, and oversight of convention facilities, the issuance of bonds and notes approved by the board, the negotiation and establishment of compensation and other terms and conditions of employment for any employees of the authority, the negotiation, supervision, and enforcement of contracts entered into by the authority and approved by the board, and the supervision of contractors of the authority in their performance of their duties. A board may delegate to the chief executive officer of an authority the power and responsibility to execute and deliver, and sign for, contracts, leases, obligations, and other instruments as have been approved by the board.

(3) A chief executive officer of an authority shall have all powers as are incident to the performance of his or her duties that are prescribed by this act or by the board. All actions of the chief executive officer of an authority shall be in conformance with the policies of the board and in compliance with applicable law.

(4) A board shall require the chief executive officer of an authority and any treasurer or chief financial officer of the authority to post a suitable bond of not less than $50,000.00 issued by a responsible bonding entity, with the cost of the premium of the bond paid by the authority.

(5) All actions of the chief executive officer of an authority shall be in conformance with policies adopted by the board and in compliance with applicable law.

(6) The board of an authority shall not authorize the chief executive officer of the authority to do any of the following:

(a) Appoint a successor to the chief executive officer.

(b) Approve of a contract or a contract amendment.

(c) Appoint or hire legal counsel for the board.

(d) Prescribe ethical standards for the board or authority employees.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1365 Board member or officer, appointee, or employee of authority; discharge of duties; nonpartisan; reliance on certain opinions, reports, or statements; adoption of bylaws; personal liability; insurance; conflicts of interest; ethics manual; removal of board member from office; filing financial disclosure statement; rules; interest in or employment by entity after termination of board membership or employment.

Sec. 15. (1) A board member or an officer, employee, or agent of an authority shall discharge the duties of his or her position in a nonpartisan manner, in good faith, and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a board member or an officer, employee, or agent of an authority, when acting in good faith, may rely upon any of the following:

(a) The opinion of counsel for the authority.

(b) The report of an independent appraiser selected by the board.

(c) Financial statements of the authority represented to the member of the board, officer, employee, or agent to be correct by the officer of the authority having charge of its books of account or stated in a written report by the state auditor general or a certified public accountant, or a firm of certified accountants, to reflect the financial condition of the authority.

(2) A board shall organize and make its own policies and procedures and shall adopt bylaws not inconsistent with this act governing its operations. The board shall meet at the call of the chairperson and as may be provided in the bylaws.

(3) A member of a board or an officer, appointee, or employee of an authority shall not be subject to personal liability when acting in good faith within the scope of his or her authority or on account of liability of the authority, and the board may indemnify a member of the board or an officer, appointee, or employee of the authority against liability arising out of the discharge of his or her official duties. An authority may indemnify and procure insurance indemnifying members of the board and other officers and employees of the authority from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the authority. The authority also may purchase and maintain insurance on behalf of any person against any liability asserted against the person and incurred by the person in any capacity or arising out of the status of the person as a member of the board or an officer or employee of the authority, whether or not the authority would have the

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

power to indemnify the person against that liability under this section. An authority, pursuant to bylaw, contract, agreement, or resolution of its board, may obligate itself in advance to indemnify persons.

(4) Board members and officers and employees of an authority are public servants subject to 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. A board shall establish policies and procedures requiring periodic disclosure of relationships which may give rise to conflicts of interest. The board shall require that a board member or chief executive officer of the authority with a direct interest in any matter before the authority disclose the board member's or officer's interest and any reasons reasonably known to the board member or officer why the transaction may not be in the best interest of the public or the authority before the board takes any action with respect to the matter. The disclosure shall become part of the record of an authority's proceedings.

(5) An authority shall establish an ethics manual governing the conducting of authority business and the conduct of authority officers and employees. An authority shall establish policies that are no less stringent than those provided for public officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the authority to preclude the opportunity for and the occurrence of transactions by the authority that would create a conflict of interest involving board members and officers or employees of the authority. At a minimum, the policies shall include compliance by each board member and officer or employees who regularly exercises significant discretion over the award and management of authority procurements with policies governing all of the following:

(a) Immediate disclosure of the existence and nature of any financial interest that could reasonably be expected to create a conflict of interest.

(b) Withdrawal by an employee, officer, or board member from participation in or discussion or evaluation of any recommendation or decision involving an authority procurement that would reasonably be expected to create a conflict of interest for that employee or member.

(c) Annual public financial disclosure of significant financial interests as provided under this act.

(6) The appointing authority of a board member may remove the board member from office for gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

(7) Each member of the board of an authority, the chief executive officer, and each key employee as determined by the board shall file with the secretary of state a financial disclosure statement listing assets and liabilities, property and business interests, and sources of income of the member, chief executive officer, and each key employee and any of their spouses in a form determined by the secretary of state. The financial disclosure statement shall be under oath and shall be filed at the time of appointment or employment and annually thereafter. The secretary of state may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the implementation of this subsection.

(8) A member of the board of an authority or employee of an authority shall not hold any direct or indirect interest in, be employed by, or enter into a contract for services with any entity doing business with the authority for a period of 2 years after the date his or her membership on the board terminates or his or her employment with the authority terminates.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1367 Authority; powers and duties; levy of tax.

Sec. 17. (1) Except as otherwise provided in this act, an authority may do all things necessary or convenient to implement the purposes, objectives, and provisions of this act and the purposes, objectives, and jurisdictions vested in the authority or the board by this act or other law, including, but not limited to, all of the following:

(a) Adopt and use a corporate seal.

(b) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(c) Sue and be sued in its own name and plead and be impleaded.

(d) Borrow money and issue bonds and notes according to the provisions of this act.

(e) Make and enter into contracts, agreements, or instruments necessary, incidental, or convenient to the performance of its duties and execution of its powers, duties, and jurisdictions under this act with any federal, state, local, or intergovernmental governmental agency or with any other person or entity, public or private, upon terms and conditions acceptable to the authority.

(f) Engage in collective negotiation or collective bargaining and enter into agreements with a bargaining representative as provided by 1947 PA 336, MCL 423.201 to 423.217.

(g) Solicit, receive, and accept gifts, grants, labor, loans, contributions of money, property, or other things of value, and other aid or payment from any federal, state, local, or intergovernmental government agency or from any other person or entity, public or private, upon terms and conditions acceptable to the authority, or participate in any other way in a federal, state, local, or intergovernmental government program.

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(h) Make application for and receive loans, grants, guarantees, or other financial assistance in aid of a convention facility from any state, federal, local, or intergovernmental government or agency or from any other source, public or private, including, but not limited to, financial assistance for purposes of developing, planning, constructing, improving, and operating a convention facility.

(i) Procure insurance or become a self-funded insurer against loss in connection with the property, assets, or activities of the authority.

(j) Indemnify and procure insurance indemnifying board members from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the authority.

(k) Invest money of the authority, at the discretion of the board, in instruments, obligations, securities, or property determined proper by the board and name and use depositories for authority money. Investments shall be made consistent with an investment policy adopted by the board that complies with this act and 1943 PA 20, MCL 129.91 to 129.96.

(*l*) Contract for goods and services as necessary and as provided under this act. An authority may contract with a management firm, either corporate or otherwise, to operate a qualified convention facility, under the supervision of the authority.

(m) Employ legal and technical experts, other officers, agents, employees, or other personnel, permanent or temporary, as considered necessary by the board as provided under this act.

(n) Contract for the services of persons or entities for rendering professional or technical assistance, including, but not limited to, consultants, managers, legal counsel, engineers, accountants, and auditors, as provided under this act.

(o) Establish and maintain an office.

(p) Acquire by gift, devise, transfer, exchange, purchase, lease, or otherwise on terms and conditions and in a manner the authority considers proper property or rights or interests in property. Property or rights or interests in property acquired by an authority may be by purchase contract, lease purchase, agreement, installment sales contract, land contract, or otherwise. The acquisition of any property by an authority for a convention facility in furtherance of the purposes of the authority is for a public use, and the exercise of any other powers granted to the authority is declared to be public, governmental, and municipal functions, purposes, and uses exercised for a public purpose and matters of public necessity.

(q) Hold, clear, remediate, improve, maintain, manage, protect, control, sell, exchange, lease, or grant easements and licenses on property or rights or interests in property that the authority acquires, holds, or controls.

(r) Except as provided in section 19(13), convey, sell, transfer, exchange, lease, or otherwise dispose of property or rights or interest in property, excluding the sale or transfer of a qualified convention facility, to any person or entity on terms and conditions, and in a manner and for consideration the authority considers proper, fair, and valuable.

(s) Develop a convention facility.

(t) Assume and perform the obligations and covenants of a local government related to a qualified convention facility.

(u) Enter into contracts or other arrangements with persons or entities, for granting the privilege of naming or placing advertising on or in all or any portion of a convention facility.

(v) Receive financial or other assistance from a person licensed under section 6 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.206.

(w) Establish and fix a schedule of rents, admission fees, or other charges for occupancy, use of, or admission to any convention facility operated by the authority and provide for the collection and enforcement of those rents, admission fees, or other charges.

(x) Adopt reasonable rules and regulations for the orderly, safe, efficient, and sanitary operation and use of a convention facility owned by the authority or under its operational jurisdiction.

(y) Do all other acts and things necessary or convenient to exercise the powers, duties, and jurisdictions of the authority under this act or other laws that related to the purposes, powers, duties, and jurisdictions of the authority.

(2) Notwithstanding any other provision of law to the contrary, an authority shall not have the power to impose or levy a tax.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1369 Transfer of qualified convention facility to authority; resolution disapproving transfer; leasing of qualified convention facility to authority; lease requirements; actions

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

to occur on transfer date; duties and obligations of authority; certain contracts, agreements, conveyances, rights, obligations, or liabilities as voidable; cancellation or termination of agreement to which local government is party; reversion; agreement to make capital improvements.

Sec. 19. (1) Within 45 days of January 20, 2009 or the date on which a metropolitan area becomes a qualified metropolitan area and prior to a transfer date, the legislative body of the qualified city in which a qualified convention facility is located may disapprove the transfer of the qualified convention facility to the authority by adopting a resolution disapproving the transfer. If the transfer is not disapproved, the qualified convention facility is transferred to the authority on the ninetieth day after January 20, 2009 or the date on which a convention facility becomes a qualified convention facility. If the transfer is disapproved, not later than August 1, 2009 or 75 days after a later date on which a metropolitan area becomes a qualified metropolitan area, the qualified city in which a qualified convention facility is located may disapprove leasing the qualified convention facility to the authority by adopting a resolution disapproving a lease of the qualified convention facility to the authority. The resolution shall be adopted and effective as provided by law, including any charter of the qualified city. If a resolution disapproving the lease is adopted and effective, an authority created for the qualified metropolitan area in which the qualified convention facility is located is dissolved. If the lease is not disapproved within the period provided, the qualified convention facility will be considered leased to the authority and the local chief executive officer of the qualified city and the authority shall enter into a lease agreement, provisions of which are prescribed in this act, and shall provide for the lease of the qualified convention facility to the authority for a term of not less than 30 years or the time period necessary to repay the outstanding obligations issued by the authority under sections 25 and 27, whichever is earlier. The lease shall require the authority to renovate, rehabilitate, and expand the qualified convention facility. The lease shall be effective 238 days after January 20, 2009 or the date on which a metropolitan area becomes a qualified metropolitan area. All of the following shall occur on a transfer date:

(a) All right, title, and interest of a local government in and to a qualified convention facility located in a qualified metropolitan area shall by operation of this act be conveyed and transferred or leased from the local government to the authority for the qualified metropolitan area, and the authority shall receive, succeed to, and assume the exclusive right, responsibility, and authority to own or lease, occupy, operate, control, develop, and use the qualified convention facility from and after the transfer date, including, but not limited to, all real property, buildings, improvements, structures, easements, rights of access, and all other privileges and appurtenances pertaining to the qualified convention facility, subject only to those restrictions imposed by this act. If a qualified convention facility is leased to an authority under this subsection, this subdivision shall apply while the lease agreement is effective.

(b) All right, title, and interest in and to the fixtures, equipment, materials, furnishings, and other personal property of a local government owned or controlled by the local government and used for purposes of the qualified convention facility by the local government shall by operation of this act be conveyed and transferred or leased from the local government to the authority for the qualified metropolitan area, and the authority shall receive, succeed to, and assume the exclusive right, responsibility, and authority to possess and control the property from and after the transfer date. If a qualified convention facility is leased to an authority under this subsection, this subdivision shall apply while the lease agreement is effective.

(c) All licenses, permits, approvals, or awards of a local government related to the possession, occupancy, operation, control, development, or use of a qualified convention facility by the local government shall by operation of this act be conveyed and transferred from the local government to the authority for the qualified metropolitan area and be assumed by the authority. If a qualified convention facility is leased to an authority under this subsection, this subdivision shall apply while the lease agreement is effective.

(d) All grant agreements, grant preapplications, grant applications, rights to receive the balance of any funds payable under the agreements or applications, the right to receive any amounts payable from and after the transfer date, and the benefits of contracts or agreements of a local government related to the possession, occupancy, operation, control, development, or use of a qualified convention facility by the local government shall by operation of this act be conveyed and transferred from the local government to the authority for the qualified metropolitan area and be assumed by the authority. If a qualified convention facility is leased to an authority under this subsection, this subdivision shall apply while the lease agreement is effective.

(e) All of the duties, liabilities, responsibilities, and obligations of a local government related to the possession, occupancy, operation, control, development, or use of a qualified convention facility by the local government shall by operation of this act be conveyed and transferred from the local government to the authority for the qualified metropolitan area and assumed by the authority, except for any liabilities, responsibilities, or obligations that are contested in good faith by the authority. If a qualified convention

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

facility is leased to an authority under this subsection, this subdivision shall apply while the lease agreement is effective.

(f) An authority for a qualified metropolitan area shall assume all of the outstanding securities of the local government that are special limited obligations payable from and secured by a lien on distributions received under the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, and were originally issued to finance the acquisition or construction of, development of, or improvements to the qualified convention facility conveyed and transferred to the authority for the qualified metropolitan area under this section, and the authority may refund or defease the securities. If the authority refunds the outstanding securities assumed under this subsection, that refunding shall be considered, as a matter of law, to be necessary to eliminate requirements of covenants applicable to the existing outstanding securities.

(2) An authority shall assume, accept, or become liable for lawful agreements, obligations, promises, covenants, commitments, and other requirements of a local government relating to operating a qualified convention facility conveyed and transferred under this section, except as provided in subsection (4). An authority shall perform all of the duties and obligations and shall be entitled to all of the rights of a local government and under any agreements expressly assumed and accepted by the authority related to the transfer of a qualified convention facility from the local government to the authority under this section. If a qualified convention facility is leased to an authority under subsection (1), this subsection shall apply while the lease agreement is effective.

(3) The local chief executive officer of a local government from which the rights, responsibility, and authority to own, occupy, operate, control, develop, and use a qualified convention facility are conveyed and transferred or leased from the local government to an authority for a qualified metropolitan area under this section shall execute the instruments of conveyance, assignment, and transfer or lease or other documents as may, in the authority's and the officer's reasonable judgment, be necessary or appropriate to recognize, facilitate, or accomplish the transfer or lease of the qualified convention facility from the local government to the authority under this section.

(4) An authority for a qualified metropolitan area shall not assume any unfunded obligations of a local government transferring or leasing a qualified convention facility under this section to provide pensions or retiree health insurance. Upon request by the authority, the local government shall provide the authority with a statement of the amount of the unfunded obligations, determined by a professional actuary acceptable to the authority.

(5) All lawful actions, commitments, and proceedings of a local government made, given, or undertaken before the transfer date and assumed by an authority under this section are ratified, confirmed, and validated upon assumption. All actions, commitments, or proceedings of the local government relating to a qualified convention facility in the process of being undertaken by, but not yet a commitment or obligation of, the local government regarding the qualified convention facility may, from and after the date of assumption by the authority under this section, be undertaken and completed by the authority in the manner and at the times provided in this act or other applicable law and in any lawful agreements made by the local government before the date of assumption by the authority under this section.

(6) The exclusive right and authorization to possess, occupy, operate, control, develop, and use a qualified convention facility transferred or leased under this section shall include, but not be limited to:

(a) Possession and operational jurisdiction over all real property of the qualified convention facility, subject to any liens of record and legal restrictions and limitations on the use of the property.

(b) The local government's right, title, and interest in, and all of the local government's responsibilities arising under, operating leases and concessions relating to a qualified convention facility.

(7) The transfers described under this section shall include, but need not be limited to, all of the following:

(a) All contracts with licensees, franchisees, tenants, concessionaires, and leaseholders.

(b) All operating financial obligations secured by revenues and fees generated from the operations of the qualified convention facility.

(c) All cash balances and investments relating to or resulting from operations of the qualified convention facility, all funds held under an ordinance, resolution, or indenture related to or securing obligations of the local government assumed by the authority, and all of the accounts receivable or choses in action arising from operations of the qualified convention facility. Fund transfers under this subdivision are limited to funds received after the transfer date and funds necessary to pay obligations related to the operation of the qualified convention facility accrued before the transfer date and not paid by the local government.

(d) All office equipment, including, but not limited to, computers, records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, and general administration.

(8) The transfer or lease of the real and personal property and operational jurisdiction over a qualified

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

convention facility to an authority may not in any way impair any contracts with licensees, franchisees, vendors, tenants, bondholders, or other parties in privity with the local government that owned a qualified convention facility transferred or leased to an authority under this section, if the contracts were not entered into or modified in violation of this act.

(9) From and after the transfer date, a local government from which a qualified convention facility has been transferred or leased shall be relieved from all further costs, responsibility, and liability arising from, or associated with, control, operation, development, and maintenance of the qualified convention facility. The local government shall continue to be responsible for all costs associated with local municipal services, including police, fire, and emergency medical services, without any additional compensation from the authority. An authority created prior to the effective date of the amendatory act that added subsection (14) shall provide for the payment of compensation of $20,000,000.00 to the qualified city as compensation for any revenue otherwise payable to the qualified city from parking facilities operated by the qualified city at the qualified convention facility and for other costs incurred by the qualified city associated with the transfer or lease of the qualified convention facility to the authority under this section. If the transfer or lease of parking facilities to the authority would impair covenants of bonds issued by the local government that owns the qualified convention facility to finance the parking facilities, the authority and the local government may enter into an agreement providing for the local government to retain title to and control of the parking facilities and revenue generated by the parking facilities until the compensation of $20,000,000.00 is paid by the authority to the local government to avoid a default of bond covenants by the local government. If a qualified convention facility is leased to an authority under subsection (1), this subsection shall apply while the lease agreement is effective.

(10) A local government that owns a qualified convention facility subject to transfer or lease under this section or that owned a qualified convention facility transferred to an authority under this section shall comply with all of the following, before and after the transfer date:

(a) Refrain from any action to sell, transfer, or otherwise dispose of a qualified convention facility other than to the authority or incur new or expanded obligations related to a qualified convention facility, without the consent of the authority.

(b) Refrain from any approval of or material modification to any collective bargaining agreement applicable to local government employees employed at or assigned to the qualified convention facility or to terms of employment for employees at or assigned to the qualified convention facility. Any approval or modification subject to this subsection shall be null and void.

(c) Refrain from any action that would impair the authority's exercise of the powers granted to the authority under this act or that would impair the efficient operation and management of the qualified convention facility by the authority.

(d) Take all actions reasonably necessary to cure any defects in title to the qualified convention facility and related property transferred or leased under this section, including, but not limited to, providing documents, records, and proceedings in respect of title.

(e) At the request of an authority, grant any license, easement, or right-of-way in connection with the qualified convention facility to the extent the authority has not been empowered to take these actions.

(f) Upon creation of an authority for the qualified metropolitan area in which the local government is located and before the transfer date, the local government shall conduct operations, maintenance, and repair of the convention facility in the ordinary and usual course of business.

(11) Any contract, agreement, lease, sale, disposition, transfer, or other conveyance, easement, license, right, obligation, debt, or liability assumed, approved, entered into, amended, or modified in violation of this section shall be voidable as a matter of law to the extent that the authority would otherwise assume, become party to or transferee of, or otherwise be obligated under the contract, agreement, lease, sale, disposition, transfer, conveyance, easement, license, right, obligation, debt, or liability.

(12) Unless otherwise provided in this act, the local chief executive officer of a local government that owns a qualified convention facility subject to transfer or lease under this section is authorized and shall take all reasonable steps to cancel or terminate any agreement to which the local government is a party that relates to the qualified convention facility and meets all the following criteria:

(a) The agreement relates to the qualified convention facility and the authority has not expressly assumed or accepted the agreement under subsection (2).

(b) The agreement provides for cancellation or termination.

(c) In the absence of cancellation or termination, the authority would become a party to the agreement by succession, assignment, operation of law, or any other involuntary means.

(13) If real property transferred from a qualified city to an authority under this section is no longer used by the authority for the purpose of maintaining or operating a convention facility as determined by a vote of the

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

board or a lease agreement providing for the lease of the qualified convention facility is no longer effective, all right, title, and interest of the authority in the real property shall revert from the authority to the qualified city and upon payment by the qualified city to the authority of an amount equal to the compensation paid to the qualified city under subsection (9).

(14) After the creation of an authority for a qualified metropolitan area and before the transfer date, the local chief executive officer of the qualified city that owns or operates a qualified convention facility and the authority may enter into an agreement authorizing the qualified city to make capital improvements to the qualified convention facility, including, but not limited to, electrical system improvements, with costs of the management, design, and construction of capital improvements incurred by the qualified city in an amount not to exceed $3,000,000.00 to be reimbursed by the authority with the proceeds of bonds issued by the authority as provided in the agreement. Any reimbursement for capital improvements agreed to by the local chief executive officer and the authority under this subsection shall be in addition to any compensation paid to the qualified city under subsection (9).

History: 2008, Act 554, Eff. Jan. 20, 2009;—Am. 2009, Act 63, Imd. Eff. July 2, 2009.

141.1371 Transfer of employees to authority; reassignment of employees within local government; representation; rights and benefits; effect of transfer on pension benefits or credits.

Sec. 21. (1) The authority, as of the transfer date, immediately shall assume and be bound by any existing collective bargaining agreements applicable to employees of the local government whose employment is transferred to the authority either as a result of the authority's express assumption of the employees or by application of section 19 for the remainder of the term of the collective bargaining agreement. Local government employees whose employment is not transferred to the authority shall be reassigned within the local government, pursuant to the terms of any applicable collective bargaining agreements. A representative of the employees or a group of employees in the local government who represents or is entitled to represent the employees or a group of employees of the local government pursuant to 1947 PA 336, MCL 423.201 to 423.217, shall continue to represent the employee or group of employees after the employees transfer to the authority. This subsection does not limit the rights of employees, pursuant to applicable law, to assert that a bargaining representative protected by this subsection is no longer their representative. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the authority.

(2) Transferred employees shall not by reason of the transfer have their accrued local government pension benefits or credits diminished. If a transferring employee is not vested in his or her local government pension rights at the time of transfer, his or her posttransfer service with the authority shall be credited toward vesting in any local government retirement system in which the transferring employee participated prior to the transfer, but posttransfer service with the authority shall not be credited for any other purpose under the local government's retirement system, except as provided in subsection (4).

(3) A transferred local government employee described in this section or a person hired by the authority as a new employee after the transfer date may remain or become a participant in the local government retirement system until the authority has established its own retirement system or pension plan. During the period the employee remains or is a participant in the local government system, the employee's posttransfer service with the authority and his or her posttransfer compensation from the authority shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan.

(4) If the local government maintains a retirement system that provides for continuing participation and benefit accrual by local government employees who transfer their employment to another entity in conjunction with transfer of a local government function to that entity, then the transferred employee may elect to remain a participant in the local government retirement system in lieu of participation in any retirement system or pension plan of the authority. If the transferred employee elects to remain a participant in the local government system, the employee's posttransfer service with the authority and his or her posttransfer compensation from the authority shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan. Any election to remain in a local government system or plan shall be made within 60 days following the date the authority has established its own retirement system or pension plan and shall be irrevocable. Employees eligible to make the election described in this subsection shall be those employees who immediately before their transfer date were participating in the local government system and who agree to make any employee contributions required for continuing participation in the local government system and also agree to meet all requirements and be subject to all conditions that, from time to time, apply to employees of the local

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

government who participate in the local government system.

(5) For each employee meeting the requirements of subsection (4) who elects to remain a participant in the local government retirement system, the authority shall, on a timely basis, contribute, as applicable, to the trustees of that retirement system an amount determined by the local government system's actuary to be sufficient to fund the liability for all of that employee's retirement and other postemployment benefits under the system on a current basis, as those liabilities are accrued from and after the transfer date.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1373 Revenue sources; establishment of regional convention facility operating trust fund; expenditures; limitation; financial obligation.

Sec. 23. (1) Except as provided in subsection (3), an authority may raise revenues to fund all of its activities, operations, and investments consistent with its purposes. The sources of revenue available to the authority may include, but are not limited to, any of the following:

(a) Rents, admission fees, or other charges for use of a convention facility which the authority may fix, regulate, and collect.

(b) Federal, state, or local government grants, loans, appropriations, payments, or contributions.

(c) The proceeds from the sale, exchange, mortgage, lease, or other disposition of property that the authority has acquired.

(d) Grants, loans, appropriations, payments, proceeds from repayments of loans made by the authority, or contributions from public or private sources.

(e) Distributions from the convention facility development fund of the state pursuant to the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640.

(f) Investment earnings on the revenues described in subdivisions (a) to (e).

(2) The revenues raised by an authority may be pledged, in whole or in part, for the repayment of bonded indebtedness and other expenditures issued or incurred by the authority.

(3) Notwithstanding any other provision of law to the contrary, an authority shall not have the power to impose or levy a tax.

(4) The board by resolution may establish a regional convention facility operating trust fund for the purpose of accumulating funds to pay for the cost of operating and maintaining a qualified convention facility. Money for operating and maintaining a qualified convention facility, at the authority's discretion, may be provided from this fund or any other money of the authority. The resolution establishing the fund shall include all of the following:

(a) The designation of a person or persons who shall act as the fund's investment fiduciary.

(b) A restriction of withdrawals from the fund solely for the payment of reasonable operating and maintenance expenses of a convention facility and the payment of the expenses of administration of the fund.

(5) An investment fiduciary shall invest the assets of the fund in accordance with an investment policy adopted by the board that complies with section 13 of the public employee retirement system investment act, 1965 PA 314, MCL 38.1133. However, the investment fiduciary shall discharge his or her duties solely in the interest of the authority. The authority may invest the fund's assets in the investment instruments and subject to the investment limitations governing the investment of assets of public employee retirement systems under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140m.

(6) An authority shall not expend more than $279,000,000.00 to develop an expanded or renovated convention facility under this act. Contracts for the development of an expanded or renovated convention facility shall be fixed price contracts and shall not exceed $279,000,000.00 in total.

(7) A financial obligation of an authority is a financial obligation of the authority only and not a financial obligation of this state, a qualified city, a qualified county, or a county bordering a qualified county. A financial obligation of the authority shall not be transferred to this state, a qualified city, a qualified county, or a county bordering a qualified county.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1375 Bonds or municipal securities; issuance; interest rate exchange or swap, hedge, or similar agreements; creation of reserve fund; pledge; filing; issuance and delivery of notes; maturity; use of proceeds; exemptions.

Sec. 25. (1) For the purpose of acquiring, purchasing, constructing, improving, enlarging, furnishing, equipping, reequipping, developing, refinancing, or repairing a convention facility transferred under section 19 or subsequently acquired by an authority, the authority may issue self-liquidating bonds of the authority in accordance with and exercise all of the powers conferred upon public corporations by the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the authority are a debt of the

CAUTION! This document is an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

authority and not a debt of any qualified county, county, qualified city, city, or this state.

(2) The authority may borrow money and issue municipal securities in accordance with and exercise all of the powers conferred upon municipalities by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The authority may issue a bond or municipal security that bears no interest and appreciates as to principal amount. The bonds or municipal securities authorized by this subsection shall be exempt from section 305(2) and (3) of the revised municipal finance act, 2001 PA 34, MCL 141.2305.

(4) All bonds, notes, or other evidences of indebtedness issued by an authority under this act, and the interest on the bonds or other evidences of indebtedness, are free and exempt from all taxation within this state, except for transfer and franchise taxes.

(5) The issuance of bonds, notes, or other evidences of indebtedness by an authority shall require approval of the board.

(6) For the purpose of more effectively managing its debt service, an authority may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of bonds, notes, or other evidences of indebtedness or in connection with its then outstanding bonds, notes, or other evidences of indebtedness.

(7) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, the authority may create a reserve fund for the payment thereof.

(8) An agreement entered into pursuant to this section shall comply with all of the following:

(a) The agreement is not a debt of the authority entering into the agreement for any statutory or charter debt limitation purpose.

(b) The agreement is payable from general funds of the authority or, subject to any existing contracts, from any available money or revenue sources, including revenues specified by the agreement, securing the bonds, notes, or evidences of indebtedness in connection with which the agreement is entered into.

(9) An authority upon approval by resolution of the authority board may issue notes in anticipation of the proceeds of a proposed authority bond issuance. The authority may pledge for the payment of the principal, interest, or redemption premiums on the notes security from 1 or more of the sources to secure the bonds and the proceeds of the bonds to be issued to refund the notes. The pledge shall be valid and binding from the time made. The security pledged and received by an authority is immediately subject to the lien of the pledge without physical delivery of the security or further action. The lien is valid and binding against a person with a claim of any kind against the authority whether or not the person has notice of the pledge. Neither the resolution, trust indenture, nor any other instrument creating a pledge must be filed or recorded to establish and perfect a lien or security interest in the property pledged. In the resolution, the authority shall declare the necessity of the notes, the purpose of the notes, the principal amount of the notes to be issued, and an estimated principal payment schedule for and an estimated or maximum average annual interest rate on the notes. The issuance and delivery of the notes shall be conclusive as to the existence of the facts entitling the notes to be issued in the principal amount of the notes and shall not be subject to attack. The notes shall mature not more than the earlier of 3 years from the date of issuance or 90 days after the expected date of issuance of the bonds in anticipation of which the notes are issued and may bear no interest or interest at a fixed or variable rate or rates of interest per annum. The proceeds of notes issued under this subsection shall be used only for the purpose to which the proceeds of the bonds may be applied, the costs of issuance of the notes, and the payment of principal and interest on the notes. Notes issued under this section are exempt from the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1377 Evidences of indebtedness or liability as contract; assumption and performance of obligations.

Sec. 27. (1) Notwithstanding any other provisions of this act or any other law, the provisions of all ordinances, resolutions, and other proceedings of the local government in respect to any outstanding bonds, notes, or any and all evidences of indebtedness or liability assumed by an authority pursuant to this act, if any, shall constitute a contract between the authority and the holders of the bonds, notes, or evidences of indebtedness or liability and are enforceable against the authority or any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction in accordance with law.

(2) Bonds, notes, or any and all evidences of indebtedness or liability that are assumed by an authority under this act shall be payable from and secured by the sources of revenue that were pledged to those bonds, notes, or evidences of indebtedness or liability under the ordinance, resolution, or other proceedings of the local government and shall not constitute a full faith and credit obligation of the authority or of this state.

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) Nothing in this act or in any other law shall be held to relieve the local government from which a convention facility has been transferred from any bonded or other debt or liability lawfully contracted by the local government, to which the full faith and credit of the local government has been pledged and that remains outstanding as of the transfer date, notwithstanding that the proceeds of the debt or liability have been used by the local government in support of the convention facility.

(4) Upon the transfer of a convention facility to an authority, trustees, paying agents, and registrars for any obligation of the local government that has been expressly assumed by the authority under section 19 shall perform all of their duties and obligations and provide all notices related to the obligations as if the authority were the issuer of the obligations. The trustees, paying agents, and registrars shall care for and consider all revenues and funds pledged to secure obligations of the local government that have been assumed by the authority under section 19 as revenues and funds of the authority. The authority shall indemnify and hold harmless these trustees, paying agents, and registrars from liability incurred in compliance with this subsection.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1379 Applicability of restrictions standards or prerequisites of local government; additional powers; construction of act.

Sec. 29. (1) Unless permitted by this act or approved by an authority, any restrictions standards or prerequisites of a local government otherwise applicable to an authority and enacted after the effective date of this act shall not apply to an authority. This subsection is intended to prohibit special local legislation or ordinances applicable exclusively or primarily to an authority and not to exempt an authority from laws generally applicable to other persons or entities.

(2) The powers conferred in this act upon any authority or local government shall be in addition to any other powers the authority or local government possesses by charter or statute. The provisions of this act apply notwithstanding any resolution, ordinance, or charter provision to the contrary.

(3) This act shall be construed liberally to effectuate the legislative intent and the purpose of this act as complete and independent authorization for the performance of each and every act and thing authorized in the act, and all powers granted in this act shall be broadly interpreted to effectuate the intent and purposes of this act and not as to limitation of powers.

History: 2008, Act 554, Eff. Jan. 20, 2009.

CAUTION: This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov