

Senate Bill 1136 (as enrolled)
 House Bill 5796 (as enrolled)
 Sponsor: Senator Michael J. Bouchard (S.B. 1136)
 Representative Kirk A. Profit (H.B. 5796)
 Senate Committee: Financial Services
 House Committee: Tax Policy

PUBLIC ACT 375 of 1998
PUBLIC ACT 373 of 1998

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CONTENT

Senate Bill 1136 amended the Metropolitan Council Act to allow two or more “qualified counties” in combination with one another and with one or more “qualified cities” to form a metropolitan region council solely to develop or enhance regional cultural institutions and local recreation and cultural facilities that are not primarily designed or used for professional sports, within qualified counties that participate in a council. A metropolitan region council may levy a property tax of up to 0.5 mill, with voter approval, and must spend net revenues on cultural and recreational programs and facilities.

House Bill 5796 also amended the Metropolitan Council Act to allow the creation of a metropolitan arts council by a metropolitan district (a county meeting certain criteria) in order to develop or enhance cultural institutions and facilities within the geographic boundaries of the council. A metropolitan arts council may levy a property tax of up to 0.5 mill, with voter approval; authorize a local arts council to administer the Act; and provide funding for cultural facilities and programs. The bill also amended provisions in the Act concerning a metropolitan council (which the bill refers to as a “metropolitan area council”), by increasing the size of a metropolitan area, providing that a metropolitan area council may not authorize a tax levy unless each council delegate is a local elected official, and providing that a local unit of government may not participate in a council for at least one year following a vote disapproving the unit’s participation. The bill also renamed the Act the “Metropolitan Councils Act”.

Senate Bill 1136 was tie-barred to House Bill 5796. The following is a description of the bills.

Senate Bill 1136

Metropolitan Region Council

Under the bill, two or more qualified counties in combination with one another and with one or more qualified cities may form a metropolitan region council if the county commission of each county seeking to participate and the city council of each qualified city seeking to participate adopts a resolution declaring an intent to participate in the formation of the council and adopts articles of incorporation pursuant to the bill.

The bill defines “qualified county” as a county with a population of at least 780,000 according to the most recent Federal decennial census and that has a qualified city within its geographic boundaries or is contiguous to a county with a qualified city. “Qualified city” means a city that is located in a participating qualified county, owns two or more regional cultural institutions, and has a population of at least 700,000 according to the most recent Federal decennial census. “Regional cultural institution” means a structure, fixture, or activity provided by a tax-exempt entity that has been in existence for at least 18 consecutive months before becoming eligible for funding under the bill and may include a zoo; science center, regardless of whether it is affiliated with a private educational institution; a public broadcast station, regardless of whether it is affiliated with an institution of higher education; a museum, regardless of whether it is affiliated with a private educational institution; a historical center; a performing arts center; a visual or performance art instruction center affiliated with

an independent institution of higher education in the arts; an orchestra; a chorus; chorale; or an opera theater. It does not include a professional sports arena or stadium; a labor organization; a political organization; a library; a public, private, or charter school; or an exhibition, performance, or presentation that is obscene (as defined in the bill).

Upon adoption of the resolutions, the participating qualified counties and qualified cities of a metropolitan region council must establish a metropolitan region council board. The chief executive officer of each participating county and qualified city must appoint three representatives to the board, with the advice and consent of the county's or city's legislative body. If a participating qualified county has a population of more than 2 million people, however, a representative may be appointed by each of the three largest geographical conferences established in the county before January 1, 1999, under the Urban Cooperation Act.

Articles of Incorporation

A metropolitan region council's articles of incorporation must state all of the following:

- The council's name and the names of the participating counties and cities.
- The purposes for which the council is formed.
- The powers, duties, and limitations of the council and its officers.
- The qualifications, method of selection, and terms of office of delegates sitting on the council and of the council officers.
- The manner in which participating counties and cities must take part in the council's governance.
- The general method of amending the articles of incorporation.
- The method of amending the articles to reflect the addition of a qualified county or qualified city.
- The method of amending the articles to reflect a change in the distribution of funds among regional cultural institutions, which requires the adoption of a resolution by at least a two-thirds vote of the delegates serving on the council, including at least one delegate from each participating qualified county and qualified city.
- Any other matters that the participating counties and cities consider advisable.

A metropolitan region council's articles of incorporation may authorize the metropolitan

region council to exercise the taxing powers of a metropolitan council under the Act. (The Act specifies that the articles of incorporation of a metropolitan council may authorize it to levy on all the taxable real and personal property with the council area an ad valorem tax of up to one-half of a mill.) The articles of a metropolitan region council, however, must specify that, as a condition of proceeding with the levying of taxes, the county commission of each qualified county participating in the council must place the .5 mill proposal on a countywide ballot at the regularly scheduled county primary or general election that follows the determination to proceed with the levying of taxes.

A metropolitan region council's articles of incorporation must specify the maximum amount or percentage of revenues received under the Act that the council may authorize to be spent annually for administrative costs incurred. The articles also must specify that not more than 3% of annual revenue may be spent annually for those administrative costs. Additionally, the articles must authorize the council to provide funding, supplemental to funding received from other sources, for regional cultural institutions located within the metropolitan region that the council serves. A metropolitan region council may not spend money collected under a tax levy authorized by the Act, unless the specific expenditure is included in the council's annual budget, expressly authorized in the council's articles, or approved by an affirmative vote of a majority of the council's delegates.

The articles must authorize each participating qualified county within the metropolitan region to receive up to one-third of any net revenues collected from the tax levies within that county. This amount must be spent to fund cultural and recreational programs and facilities that are not primarily designed or used for professional sports. A participating qualified county with a population of over 2 million, however, may not receive any net revenues collected within that county; instead, one-third of the net revenues collected in each city, village, or portion of a township that is not incorporated as a city or village must be retained by that city, village, or township portion, and must be spent by the affected municipalities to fund cultural and recreational programs and facilities that are not primarily designed or used for professional sports.

Before the articles or amendments are adopted by any participating city, they must be published by the clerk of the participating city at least once in a newspaper generally circulated within the city; and

before the adoption of articles or amendments by participating qualified counties, the articles or amendments must be published by the clerk of each participating qualified county at least once in a newspaper generally circulated within that county. Upon adoption of the articles or amendments, the clerk of each participating county must file a printed copy of them with in that county and the Secretary of State.

Expansion

A qualified county or qualified city may be added to a metropolitan region council after its incorporation, upon satisfaction of all of the following:

- A majority of the members elected to and serving on the qualified county or qualified city vote to adopt a resolution stating that the county or city desires to be added to the council and that it accepts the requirements of the articles as amended to reflect the addition of the qualified county or qualified city.
- If a qualified city or qualified county is proposing to be added to a council that is exercising its millage levying authority under the bill, that exercise of authority is authorized by a majority of the city's or county's electors voting on the proposal.
- The articles are amended to reflect the addition of the qualified county or qualified city.

Upon addition of a qualified county or qualified city to a metropolitan region council, a printed copy of the amended articles must be filed with the Secretary of State and each participating county by the clerk of the qualified county or qualified city added to the council.

Withdrawal

A participating qualified county or qualified city may withdraw from membership in the metropolitan region council if both of the following conditions are met:

- A majority of the members elected to and serving on the legislative body of the qualified county or qualified city adopts a resolution requesting withdrawal.
- Payment or the provision for payment is made regarding any obligations of the qualified county or qualified city to the council or its creditors.

If, upon withdrawal, a qualified county or qualified

city has unpaid obligations to the council that arose under an authorized millage levy before withdrawal, the obligations must continue to be imposed in the county or city, to the extent and in an amount needed to satisfy the unpaid obligations, until the obligations are paid or expire, whichever happens first. A qualified county or qualified city that withdraws from a council must continue to receive services from the council until that county or city is no longer required to satisfy an obligation imposed by the council under a millage levy.

Withdrawal of a qualified county or qualified city from a metropolitan region council must be evidenced by an amendment to the articles executed by the secretary or, if the council has no secretary, by the chairperson of the council, and filed and published in the same manner as the original articles.

Operation of Council

A metropolitan region council may do the following:

- Adopt bylaws for the council's administration.
- Apply for and accept grants, loans, or contributions from the Federal government or any of its agencies, the State, or other public or private agencies to be used for any of the Act's purposes.
- Sell or lease property acquired for the Act's purposes but not needed for those purposes.
- Hire employees, attorneys, accountants, and consultants.

In addition, a metropolitan region council may acquire and hold by purchase, lease, grant, gift, devise, land contract, installment purchase contract, bequest, condemnation, or other legal means, real and personal property within or without the participating qualified counties and qualified cities. The property may include franchises, easements, or rights-of-way on, under, or above any property. The council may pay for the property from, or pledge for the payment of the property, revenue of the council. A council must not condemn public property.

A metropolitan region council must prepare budgets and appropriation acts in the manner required of local units under the Uniform Budgeting and Accounting Act; and if ending a fiscal year with a deficit, must prepare a financial plan to correct the deficit as provided in the State Revenue Sharing Act.

House Bill 5796

Metropolitan Arts Council

Under the bill, “metropolitan district” means either a county with at least two State public universities, or a county with a maximum population of 100,000 individuals and a boundary contiguous to a county with at least two State public universities. A metropolitan district may form a metropolitan arts council if the district’s county commission does the following:

- Adopts a resolution declaring an intent to participate in the formation of that council.
- Adopts articles of incorporation in compliance with the bill.

A metropolitan arts council may be established solely to develop or enhance cultural institutions and facilities within the council’s geographic boundaries.

Upon adoption of a resolution, the district must establish a metropolitan arts council board. The board may consist of up to 12 members, and each member must be from a different county commission district.

Articles of Incorporation

A metropolitan arts council’s articles of incorporation must state the name of the council; the purposes for which it is formed; the powers, duties, and limitations of the council and its officers; the qualifications, method of selection, and terms of office of delegates sitting on the council and of council officers; and the general method of amending the articles.

The articles may authorize the council to levy on all taxable real and personal property within the council area an ad valorem tax of up to 0.5 mill of the taxable value of the taxable property. The council may not levy a tax except upon the approval of a majority of the electors residing in the council area, and a proposal for the tax may not be placed on the ballot unless the proposal is adopted by a resolution of the council.

The articles of a metropolitan arts council must be adopted and may be amended by an affirmative vote of a majority of the county commissioners. Before the articles are adopted or amended, the county clerk must publish the articles or amendments at least once in a newspaper generally circulated within the county. Upon adoption, the clerk must file a printed copy of the articles or amendments with the Secretary of State.

A council also may adopt bylaws for its administration.

If specifically authorized by law, a council for a metropolitan region may make appointments to other governmental agencies.

A metropolitan arts council may establish divisions, bureaus, and committees, including advisory committees. Members of advisory committees must serve without compensation but may be reimbursed for their reasonable expenses as determined by the council.

A council’s articles must specify the maximum amount or percentage of revenues received under the Act that the council may authorize to be spent annually for administrative costs. The articles may authorize a local arts council within the metropolitan council area to administer the Act or portions of it. The articles must authorize the council to provide funding, supplemental to funding received from other sources, for cultural facilities and programs located within the metropolitan district the council serves. A metropolitan arts council may not spend money collected under a tax levy unless the specific expenditure is included in the council’s annual budget, expressly authorized in its articles, or approved by an affirmative vote of a majority of the council’s delegates.

(The bill defines “facilities and programs” as structures, fixtures, and activities provided by a tax-exempt entity that has been in existence for at least 18 consecutive months before becoming eligible for funding under the bill. Facilities and programs may include a public broadcast station, whether or not it is affiliated with an institution of higher education; a museum or historical center; a performing arts center; an orchestra; a chorus; a chorale; an opera theater; and a ballet, dance, or theater company. Facilities and programs do not include professional sports arenas or stadiums, labor organizations, political organizations, libraries, or public, private, or charter schools. “Tax-exempt entity” means an organization exempt from taxation under Section 501(c) of the Internal Revenue Code; an entity or division owned by such an organization; or an entity owned by a township, city, village, community college, State university, or any other public body that is not a public school, charter school, or public school academy.)

Council Members

A metropolitan arts council must have a chairperson, who must act as principal executive

officer and preside at council meetings. The chairperson must have the powers and duties provided in the articles. A council also must have other officers as provided in the articles. The chairperson and other officers must be elected by the council and be council delegates, although a secretary and treasurer do not have to be delegates.

If provided in the articles, a metropolitan arts council may appoint an executive director to serve at its pleasure as the principal administrator for the council. The director may not be a delegate, must be selected on the basis of training and experience, and must have the powers and duties as provided in the council bylaws.

Metropolitan arts council members must serve without compensation. Upon approval of a majority of delegates, council members may be reimbursed for actual and necessary expenses incurred in the performance of the council's official duties. A council must prepare an annual budget that provides as a separate account anticipated expenditures for per diem compensation and expense reimbursement for the chairperson and other delegates. Compensation or reimbursement may be paid only if budgeted.

Metropolitan Area Council

The Act permits a combination of two or more local governmental units in a metropolitan area to form a metropolitan council. To the extent authorized in its articles, a metropolitan council may plan, finance, issue bonds for, acquire, improve, construct, or contract for public improvements and services. Previously, "metropolitan area" meant a metropolitan statistical area, as defined on the Act's effective date, by the U.S. Department of Commerce or a successor agency, with a population of less than 1 million people. The bill refers to a metropolitan statistical area with a population of less than 1.5 million people.

Previously, a council's articles could authorize the council to levy on all taxable real and personal property within the council area an ad valorem tax of up to 0.5 mill of the State equalized valuation on each dollar of assessed valuation of taxable property. The bill allows a tax of up to 0.5 mill of the "taxable value" of the taxable property.

The bill specifies that a council's articles may not authorize a tax levy unless each delegate serving on the council holds an elected office in the local governmental unit that he or she represents on the

council.

Under the Act, a local governmental unit may be added to a council after its incorporation if a majority of the members of the local unit legislative body adopt a resolution stating that the local unit desires to be added to the council, if the council levies a tax and the local unit is a city, village, or township, the tax must be authorized by a majority of the electors of that local unit. The Act also provides that, upon petition by at least 5% of the registered electors residing in a nonparticipating local governmental unit, the question of becoming a participating local governmental unit must be submitted to the electors of the local unit. If a majority of those voting vote "yes", the local unit must proceed to become a participating local unit. The bill adds that, if a majority of the electors voting on the question vote "no", the local governmental unit may not become a participating unit in a metropolitan statistical area council for at least one year after the date of the vote.

MCL 124.693-124.713 (S.B. 1136)
MCL 124.651 et al. (H.B. 5796)

Legislative Analyst: N. Nagata

FISCAL IMPACT

Senate Bill 1136

Local units, such as the "qualified counties" or "qualified cities", that establish a metropolitan council may levy up to 0.5 mill if authorized by the majority of the votes cast in the metropolitan area. Qualified counties in the metropolitan region and outside of Wayne County may receive up to one-third of any net revenues collected within that local unit to spend on cultural and recreational programs and facilities. Local units within Wayne County, except for Wayne County, and in the metropolitan region may receive up to one-third of any net revenues collected within that local unit to spend on the cultural and recreational programs and facilities.

Additionally, the bill specifies that annual administrative costs are limited to 3% of annual revenues. Other expenses may be paid only if budgeted.

House Bill 5796

The bill will have no fiscal impact on the State. In local units forming a metropolitan arts council, property taxes will increase by up to 0.5 mill, if

approved by the voters.

Fiscal Analyst: R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.