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**SFA**



**BILL ANALYSIS**

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Senate Bill 1276 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Shirley Johnson  
Committee: Local, Urban and State Affairs

Date Completed: 9-15-00

**RATIONALE**

When two or more local units of government want to undertake a joint project, such as building an auditorium or maintaining a public park, they may do so under the Urban Cooperation Act. This law permits municipalities to enter into interlocal agreements and share property tax revenue for a mutual purpose. Many local units, however, apparently consider the Act's procedures to be overly cumbersome. In addition, municipalities operating under the Act must rely on existing revenue sources. Since some local units would like to join together in operating recreational facilities that might require new funding, it has been suggested that an alternative to the Urban Cooperation Act be established.

**CONTENT**

**The bill would create the "Recreational Authorities Act" to allow municipalities to establish a recreational authority; provide for an authority's board membership and duties; allow an authority to levy a tax of up to one mill with voter approval; allow an authority to borrow money and issue bonds or notes; require voter approval for an authority to issue general obligation unlimited tax bonds; and require an authority's board to obtain an annual audit of the authority.** The bill would take effect on December 1, 2000.

Recreational Authority

The bill would allow two or more municipalities, or one municipality that was a "district", to establish a recreational authority. ("Municipality" would mean a city, county, village, township, or district. "District" would mean a school district that 1) served at least one municipality with a population of 15,000 or more, and 2) had territory located in at least two counties that each contained 10% or more of the district's population.)

The purposes of an authority would have to be the

acquisition, construction, operation, maintenance, and improvement of a public swimming pool, public recreation center, public auditorium, public conference center, and/or public park.

To initiate the establishment of an authority, articles of incorporation would have to be prepared. The articles would have to include the following:

- The name of the authority.
- The names of the participating municipalities.
- The purposes for which the authority was established.
- A description of the territory of the authority.
- The size of the authority's board (which would have to comprise an odd number of members); the board members' qualifications, method of selection, and terms of office; and the filling of vacancies in the office of board members.
- The procedure and requirements for a municipality to become a participating municipality in, and for a participating municipality to withdraw from, an existing authority.
- Any other matters considered advisable.

A recreational authority would be an authority under Article IX, Section 6 of the State Constitution of 1963 (which limits the level of taxes that may be imposed on property).

For a municipality to become a participating municipality in an existing authority, a majority of the electors of the municipality proposed to be included in the territory of the authority and voting on the question would have to approve a tax that the authority was authorized to levy by a vote of its electors. A municipality could not withdraw from an authority during the period for which it had been authorized to levy a tax.

The articles would have to be adopted and could be amended by an affirmative vote of a majority of the members serving on the legislative body of each participating municipality. Before the articles or

amendments were adopted, they would have to be published at least once in a newspaper generally circulated within the participating municipalities. The adoption of articles or amendments would have to be evidenced by an endorsement on them by the clerk of the municipality. Upon adoption, a printed copy of the articles or the amended articles would have to be filed with the Secretary of State by the clerk of the last participating municipality to adopt the articles or amendments.

If board members were elected in at-large elections by the qualified and registered electors of the participating municipalities, voting collectively, the election of board members would have to be conducted under the same procedures that would govern an election for a tax under the bill. A board member could not receive compensation for services as a member of the board but would be entitled to reimbursement for reasonable expenses, including expenses for travel previously authorized by the board, incurred in the discharge of his or her duties.

An authority board would be subject to the Freedom of Information Act and the Open Meetings Act.

At its first meeting, a board would have to elect a chairperson, a secretary, a treasurer, and any other officers it considered necessary. A board would have to meet at least quarterly and could adopt bylaws to govern its procedures.

An authority could do all of the following:

- Apply for and accept grants or contributions from individuals, the Federal government or any of its agencies, the State, a municipality, or other public or private agencies to be used for any of the purposes of the authority.
- Hire employees and retain professional services.
- Assess and collect fees for services provided by and expenses incurred by the authority.
- Receive revenue as appropriated by the State Legislature or a participating municipality.
- Enter into contracts incidental to or necessary for the accomplishment of its purposes.
- Acquire and hold real and personal property inside or outside the territory of the authority.

#### Tax

An authority could levy a tax of up to one mill for a period of up to 20 years on all of the taxable property within its territory for the purpose of acquiring, constructing, operating, maintaining, and improving a public swimming pool, public recreation center, public auditorium or conference center, or public park. The authority could levy the tax only upon the approval of a majority of the electors in each of the participating municipalities of the authority voting on the tax at a general or primary election.

A ballot proposal for a tax would have to state the amount and duration of the millage and the purposes for which it would be used. The proposal could not be placed on the ballot unless it was adopted by a resolution of the board and certified for inclusion on the ballot at least 60 days before the election to the county clerk of each county in which all or part of the territory of the authority was located. The proposal would have to be certified for inclusion on the ballot at the next general election or the State primary immediately preceding the general election, as specified by the board's resolution.

The bill specifies procedures and responsibilities for conducting an election for a tax.

If a majority of the electors in each of the participating municipalities of the authority voting on the question of a tax approved the proposal, the tax levy would be authorized. Not more than two elections could be held in a calendar year on a proposal for a tax authorized under the bill. The tax would have to be collected with county taxes and distributed by the local tax collecting unit under the General Property Tax Act.

#### Bonds and Notes

An authority could borrow money and issue bonds or notes to finance the acquisition, construction, and

improvement of a public swimming pool, a public recreation center, a public auditorium, a public conference center, or a public park, including the acquisition of sites and the acquisition and installation of furnishings and equipment for these purposes.

An authority could not borrow money or issue bonds or notes for a sum that, together with the authority's total outstanding bonded indebtedness, exceeded two mills of the taxable value of the property within the district as determined under the General Property Tax Act.

Bonds or notes issued by an authority would be a debt of the authority and not the participating municipalities. Unless an exception from prior approval was available under the Municipal Finance Act, bonds or notes issued by an authority would have to be approved by the Department of Treasury, and would be subject to that Act. Before approving a bond or note, the Department would have to determine that its amount was sufficient but not excessive, that any revenue or income pledged for the payment of the bond or note would be sufficient, and that the bond or note and the proceedings authorizing it complied with the bill and other applicable law.

Bonds or notes issued by a recreation authority could not, in whole or in part, appreciate in principal amount or be sold at a discount of more than 10%.

An authority could issue general obligation unlimited tax bonds upon approval of a majority of the electors in each of the participating municipalities of the authority voting on the question of issuing the bonds. The proposal to issue these bonds would have to be submitted to a vote of the authority's electors by resolution of the board. The language of the ballot proposal would have to be in substantially the form specified in the bill. The election would have to be conducted in the manner provided for an election for a tax. Not more than two elections on the question of issuing general obligation unlimited tax bonds could be held in a calendar year. If an authority issued general obligation unlimited tax bonds, the board, by resolution, would have to authorize and levy the taxes necessary to pay the principal of and interest on the bonds.

The authority also could borrow money and issue its negotiable bonds and notes for the purpose of refunding outstanding debt obligations of the district by resolution of the board, without submitting the question to the electors of the authority. Refunding bonds or the refunding part of a bond issue would have to be considered to be within the bill's two-mill limitation. If an authority borrowed money and issued bonds or notes for refunding all or part of the

existing bonded or note indebtedness, the net present value of the principal and interest to be paid on the refunding bonds or notes, excluding the cost of issuance, would have to be less than the net present value of the principal and interest to be paid on the bonds or notes being refunded.

### Authority Finances

The board of an authority would have to obtain an annual audit of the authority, and report on the audit and auditing procedures, in the manner provided under the Uniform Budgeting and Accounting Act. The audit also would have to be in accordance with generally accepted government auditing standards as promulgated by the U.S. General Accounting Office, and would have to satisfy regulations relating to Federal grant compliance audit requirements.

An authority would have to prepare budgets and appropriations acts in the manner provided under the Uniform Budgeting and Accounting act. The State Treasurer, the Attorney General, or a prosecuting attorney, bank, certified public accountant, certified public accounting firm, or other person would have the same powers, duties, and immunities with respect to the authority as provided for local units in that Act.

If an authority ended a fiscal year in a deficit condition, the authority would have to file a financial plan to correct the deficit condition as provided in State Revenue Sharing Act.

An authority board could authorize funds of the authority to be invested or deposited in any investment or depository authorized under Section 1 of Public Act 20 of 1943 (which provides for the investment of surplus funds of political subdivisions).

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The bill would create another avenue for local units to work together for the benefit of their communities. For example, a city and a township could share the operation of a ballpark, swimming pool, or conference center. In many cases, a single municipality might not have a large enough tax base to afford a project on its own. Under the bill, rather than competing for support, two or more municipalities could pool their resources and create

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a recreational facility. In addition, with voter approval, they could generate additional revenue to finance the facility. Although existing law already allows interlocal agreements, the bill proposes a simplified, orderly approach that would include taxing and borrowing authority. This proposal resembles legislation that amended the Metropolitan Councils Act in 1998 to permit qualified counties and cities to form regional councils for the purpose of developing cultural institutions.

Legislative Analyst: S. Lowe

### **FISCAL IMPACT**

The fiscal impact of this bill primarily would be on the local units of government that would choose to create a recreation authority; however, the fiscal impact cannot be estimated because there is no way to know how many cities, villages, townships, counties, or qualified school districts would actually create these recreation authorities. In addition, for those local governments that would choose to create a recreation authority, there is no way to know the size or scope of the parks and other facilities that would be created, or the type or amount of funds that would be needed to create and maintain these areas and facilities. A potential impact on State government would result only if new property taxes were levied to finance these authorities, which would increase the cost of the State's homestead property tax credit.

Fiscal Analyst: J. Wortley