

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 1276 (as enrolled)  
Sponsor: Senator Shirley Johnson  
Senate Committee: Local, Urban and State Affairs  
House Committee: Local Government and Urban Policy

**PUBLIC ACT 321 of 2000**

Date Completed: 1-17-01

**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 was suggested that an alternative to the Urban Cooperation Act be established.

following:

- The name of the authority.
- The names of the participating municipalities.
- The purposes for which the authority is established.
- A description of the territory of the authority.
- The size of the authority's board (which must 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.

**CONTENT**

**The bill created 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 took effect on December 1, 2000.

The bill specifies that a recreational authority is 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).

Recreational Authority

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 must approve a tax that the authority is authorized to levy by a vote of its electors. A municipality may not withdraw from an authority during the period for which it has been authorized to levy a tax.

The bill allows two or more municipalities to establish a recreational authority. ("Municipality" means a city, county, village, or township.)

The purposes of an authority must be the acquisition, construction, operation, maintenance, or improvement of a public swimming pool, public recreation center, public auditorium, public conference center, and/or public park.

The articles must be adopted and may 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 are adopted, they must be published at least once in a newspaper generally circulated within the participating municipalities. The adoption of articles or amendments must be evidenced by an endorsement on them by the clerk of the municipality. Upon adoption, a printed copy of the

To initiate the establishment of an authority, articles of incorporation must be prepared, and include the

articles or the amended articles must be filed with the Secretary of State by the clerk of the last participating municipality to adopt the articles or amendments.

If board members are elected in at-large elections by the qualified and registered electors of the participating municipalities, voting collectively, the election of board members must be conducted under the same procedures that govern an election for a tax under the bill. A board member may not receive compensation for services as a member of the board but is 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 is subject to the Freedom of Information Act and the Open Meetings Act.

An authority may 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

The bill permits an authority to 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 may 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 on November 6, 2001, or at a Statewide general or primary election.

A ballot proposal for a tax must state the amount and duration of the millage and the purposes for which it may be used. The proposal may not be placed on the ballot unless it is 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 is located. The proposal must be certified for inclusion on the ballot at the next eligible election,

as specified by the board's resolution.

The bill specifies procedures and responsibilities for conducting an election for a tax. A county clerk must charge the county, and the authority must reimburse the county for the actual costs the county incurs in an election for a tax that occurs on November 6, 2001.

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

## Bonds and Notes

The bill allows an authority to 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 may not borrow money or issue bonds or notes for a sum that, together with the authority's total outstanding bonded indebtedness, exceeds two mills of the taxable value of the property within the district as determined under the General Property Tax Act.

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

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

An authority may 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 must be submitted to a vote of the authority's electors by resolution of the board. The language of the ballot proposal must be in substantially the form specified in the bill. The election must 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 may be held in a calendar year. If an authority issues general obligation unlimited tax bonds, the board, by resolution, must authorize and levy the taxes necessary to pay the principal of and interest on the bonds.

The authority also may 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 must be considered to be within the bill's two-mill limitation. If an authority borrows money and issues 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, must 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 bill requires the board of an authority 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 must be in accordance with generally accepted government auditing standards as promulgated by the U.S. General Accounting Office, and satisfy regulations relating to Federal grant compliance audit requirements.

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

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

An authority board may 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).

MCL 123.1131-123.1157

## 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 creates another avenue for local units to work together for the benefit of their communities. For example, a city and a township may 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 may pool their resources and create a recreational facility. In addition, with voter approval, they may generate additional revenue to finance the facility. Although Michigan law already allowed interlocal agreements, the bill establishes a simplified, orderly approach that includes taxing and borrowing authority. This measure 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 will be on the local units of government that 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 actually will create these recreation authorities. In addition, for those local governments that choose to create a recreation authority, there is no way to know the size or scope of the parks and other facilities that will be created, or the type or amount of funds that will be needed to create and maintain these areas and facilities. A potential impact on State government will result only if new property taxes are levied to finance these authorities, which will increase the cost of the State's homestead property tax credit.

Fiscal Analyst: J. Wortley

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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.