

SENATE BILL No. 1130

March 30, 2004, Introduced by Senators BROWN, JELINEK, BARCIA, McMANUS and GILBERT and referred to the Committee on Agriculture, Forestry and Tourism.

A bill to amend 1978 PA 361, entitled "Michigan exposition and fairgrounds act," by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14a, and 15a (MCL 285.161, 285.162, 285.163, 285.164, 285.165, 285.166, 285.167, 285.168, 285.169, 285.170, 285.171, 285.172, 285.173, 285.174a, and 285.175a), sections 2, 5, 6, 7, 8, 9, and 11 as amended and sections 14a and 15a as added by 2000 PA 39.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to provide for the control and management of certain state exposition centers and fairgrounds; to create a state exposition center and fairgrounds ~~council~~ **authority within the department of management and budget**; to prescribe ~~its~~ **the authority's** powers and duties; to provide for the appointment of

1 a state exposition center and fairgrounds manager and to
 2 prescribe the manager's powers and duties; to designate the
 3 method of financing state exposition centers and fairgrounds; **to**
 4 **create certain funds;** and to repeal ~~certain~~ acts and parts of
 5 acts.

6 Sec. 1. This act shall be known and may be cited as the
 7 "Michigan exposition and fairgrounds **authority** act".

8 Sec. 2. As used in this act:

9 (a) ~~"Council"~~ **"Authority"** means the state exposition and
 10 fairgrounds ~~council~~ **authority** created in section 9.

11 (b) "Department" means the department of ~~agriculture~~
 12 **management and budget**.

13 (c) "Director" means the director of the department.

14 (d) "Fund" means the state exposition and fairgrounds fund
 15 created in section 14a.

16 (e) "Manager" means the manager of the ~~state exposition and~~
 17 ~~fairgrounds~~ **authority**.

18 Sec. 3. (1) This act ~~shall~~ **does** not apply to the Upper
 19 Peninsula state fair conducted under ~~Act No. 89 of the Public~~
 20 ~~Acts of 1927, as amended, being sections 285.141 to 285.142 of~~
 21 ~~the Michigan Compiled Laws 1927 PA 89, MCL 285.141 to 285.145.~~

22 (2) This act ~~shall~~ **does** not apply to a fair conducted by a
 23 county of this state, or to a fair conducted under the official
 24 authorization of the county board of commissioners or other duly
 25 constituted county regional authority.

26 (3) This act shall not apply to uses of fairgrounds
 27 permitted under ~~Act No. 80 of the Public Acts of 1941, being~~

1 ~~section 285.151 of the Michigan Compiled Laws 1941 PA 80, MCL~~
2 ~~285.151.~~

3 Sec. 4. ~~A state exposition and fairgrounds office is~~
4 ~~created in the office of the director.~~ The governor shall
5 appoint a manager **of the authority** upon the advice and consent of
6 the senate, who ~~shall be~~ **is** exempt from the classified state
7 civil service. The manager shall administer the business
8 operation of the state fair as provided in this act. The manager
9 shall receive compensation **as a separate line-item appropriation**
10 determined annually by the legislature.

11 Sec. 5. The control of all land and other property held or
12 acquired by the state or its people for the purpose of holding
13 and conducting agricultural and industrial fairs and exhibitions
14 is vested in the ~~department~~ **authority**.

15 Sec. 6. The ~~department~~ **authority** shall do all of the
16 following:

17 (a) Conduct an annual state fair and other exhibits or events
18 for the purpose of promoting all phases of the economy of this
19 state. This fair and the exhibits or events shall encourage and
20 demonstrate agricultural, industrial, commercial, and
21 recreational pursuits.

22 (b) Lease the state exposition and fairgrounds, a portion of
23 the state exposition and fairgrounds, or a building on the state
24 exposition and fairgrounds for purposes considered by the
25 ~~department~~ **authority** to be consistent with the staging of the
26 state fair and other exhibits or events. The ~~department~~
27 **authority** may determine and impose rental charges and other fees

1 for the use or lease of the buildings and grounds or a portion of
2 the buildings and grounds. The ~~department~~ **authority** may lease
3 properties to private and public organizations for a period not
4 to exceed 30 years for consideration established by the
5 ~~department~~ **authority**. The ~~department~~ **authority** may grant
6 leases for all or a portion of the state exposition and
7 fairgrounds to private and public organizations, conditional upon
8 construction and improvements according to plans approved by the
9 ~~department~~ **authority** to be financed by the lessees, for terms
10 not to exceed 30 years. The ~~department~~ **authority** may grant an
11 extension of the lease term for not more than an additional 20
12 years. The use of the state exposition and fairgrounds, a
13 portion of the state exposition and fairgrounds, or a building on
14 the state exposition and fairgrounds shall not interfere with the
15 preparation for or holding of the state fair and other exhibits
16 or events. Land, a building, or other property that is leased
17 under this subdivision to a for-profit business shall be leased
18 at fair market value. All leases and contracts entered into
19 under this act remain valid until the expiration of the term of
20 the lease or contract.

21 (c) Enter into contracts to conduct the annual state fair,
22 exhibits, or other events, at the state exposition and
23 fairgrounds that enhance agricultural, industrial, commercial,
24 recreational, educational, or cultural pursuits or government
25 services to citizens.

26 Sec. 7. (1) The ~~department~~ **authority** annually shall
27 present a report to the governor, the legislature, and the

1 ~~council~~ **department** describing the receipts or expenditures
2 through appropriation, gift, grant, or conveyance that have a
3 material bearing on the operation of the state fair or the state
4 exposition and fairgrounds.

5 (2) An annual audit of the books and records of the ~~state~~
6 ~~exposition and fairgrounds~~ **authority** shall be made by the
7 auditor general.

8 (3) The ~~department shall~~ **authority may** promulgate rules
9 governing the conduct of the annual state fair and state
10 exposition and fairgrounds and the development and administration
11 of the state exposition and fairgrounds as a commercial,
12 agricultural, recreational, and multipurpose facility, pursuant
13 to the administrative procedures act of 1969, 1969 PA 306, MCL
14 24.201 to 24.328. **Any rules in effect on the effective date of**
15 **the amendatory act that added this sentence shall remain in**
16 **effect until rescinded.**

17 Sec. 8. The manager shall do all of the following:

18 (a) Be directly responsible to the ~~director~~ **authority**.

19 (b) Be the chief administrative officer for the management
20 and operation of the state exposition and fairgrounds, and may
21 enter into contracts and leases as authorized by rule promulgated
22 under this act.

23 (c) Have as a primary work station the site of the state
24 exposition and fairgrounds.

25 (d) Through the ~~department~~ **authority**, hire all necessary
26 personnel associated with the management and operation of the
27 state exposition and fairgrounds.

1 (e) Be responsible for the financial operation of the state
2 exposition and fairgrounds.

3 (f) Develop ideas and programs that enhance the operation and
4 functioning of the state exposition and fairgrounds.

5 (g) Be responsible for the preparation of the annual budget
6 for the state exposition and fairgrounds for presentation to the
7 department.

8 Sec. 9. (1) A state exposition and fairgrounds ~~council~~
9 **authority** is established within the department **as a type I**
10 **agency**. The ~~council~~ **authority** shall consist of the following
11 members:

12 (a) The director or a designated representative.

13 (b) The director of the department of natural resources, **the**
14 **director of the department of agriculture**, or ~~a~~ **their**
15 designated representative.

16 (c) Nine members, not more than 5 of whom shall be members
17 of the same political party, appointed by the governor by and
18 with the consent of the senate. The term of office of each
19 member in this subdivision shall be 3 years except that, of the
20 members first appointed, 2 shall serve for 1 year, 3 shall serve
21 for 2 years, and 4 shall serve for 3 years. In case of vacancy,
22 an appointment to fill the vacancy shall be made in the same
23 manner as the original appointment for the unexpired term. Three
24 members shall be engaged in the agriculture industry, 1 member
25 shall represent labor, 2 members shall represent business, 1
26 member shall be from the travel industry, and 2 members shall be
27 from the general public. **The members serving on the former**

1 council on the effective date of the amendatory act that added
2 this sentence shall serve the remainder of their terms as members
3 of the authority.

4 (2) ~~Council~~ **Authority** members shall be paid a per diem
5 compensation and receive reimbursement of expenses.

6 (3) The ~~council~~ **authority** shall select a chairperson and
7 other officers from its membership.

8 (4) The director and the ~~director~~ **directors** of the
9 ~~department~~ **departments** of natural resources and agriculture
10 shall not serve as officers of the ~~council~~ **authority**.

11 (5) The ~~council~~ **authority** shall be provided staff
12 assistance by the department to carry out its functions and shall
13 meet not less than 4 times per year.

14 Sec. 10. (1) The business which the ~~council~~ **authority** may
15 perform shall be conducted at a public meeting of the ~~council~~
16 **authority** held in compliance with ~~Act No. 267 of the Public~~
17 ~~Acts of 1976, being sections 15.261 to 15.275 of the Michigan~~
18 ~~Compiled Laws~~ **the open meetings act, 1976 PA 267, MCL 15.261 to**
19 **15.275.** Public notice of the time, date, and place of the
20 meeting shall be given in the manner required by ~~Act No. 267 of~~
21 ~~the Public Acts of 1976~~ **the open meetings act, 1976 PA 267, MCL**
22 **15.261 to 15.275.**

23 (2) A writing prepared, owned, used, in the possession of,
24 or retained by the ~~council~~ **authority** or department in the
25 performance of an official function shall be made available to
26 the public in compliance with ~~Act No. 442 of the Public Acts of~~
27 ~~1976, being sections 15.231 to 15.246 of the Michigan Compiled~~

1 ~~Laws~~ **the freedom of information act, 1976 PA 442, MCL 15.231 to**
2 **15.246.**

3 Sec. 11. The ~~council~~ **authority** shall do all of the
4 following:

5 (a) Advise the director, the legislature, and the governor on
6 the operating budget, capital improvements, programs, exhibits,
7 and other matters relevant to the state exposition and
8 fairgrounds.

9 (b) Advise the ~~director~~ **governor** relative to the selection
10 of a manager. ~~before selection.~~

11 (c) Advise the director with regard to utilization of the
12 state exposition and fairgrounds, including its use as the site
13 for the annual state fair, and on any other matter which the
14 ~~council~~ **authority** may regard as appropriate.

15 (d) Promote, encourage, and assist ~~the director and~~ the
16 manager in conducting exhibits or other events at the state
17 exposition and fairgrounds that enhance agricultural, industrial,
18 commercial, recreational, educational, or cultural pursuits or
19 government service to citizens.

20 ~~(e) Perform other functions the director or the manager~~
21 ~~requests.~~

22 Sec. 12. (1) In staging the annual state fair, the
23 ~~department~~ **authority** may enter into licensing agreements with
24 concessionaires permitting games of skill which shall be
25 conducted in accordance with the following criteria:

26 (a) Winning the game of skill does not require great skill
27 on the part of the participant.

1 (b) The game does not constitute a fraud upon the
2 participants.

3 (c) The game is not similar to games of chance in which
4 winning depends primarily upon fortuitous or accidental
5 circumstances beyond the control of the participant including
6 games such as roulette, beano, cards, dice, or wheels of fortune
7 ~~nor is~~ **and** the game ~~one which includes~~ **does not include** a
8 mechanical or physical device ~~which~~ **that** directly or indirectly
9 impedes, impairs, or thwarts the skill of the player.

10 (d) If the game is a group or contest participation game,
11 each participant shall be in attendance at the time the game is
12 played and shall actively participate throughout the entire game
13 by personally designating his or her target, goal, or desired
14 objective. A winner shall be determined by the skill of 1 or
15 more of the participants in the group or contest game, and each
16 participant shall be randomly selected. ~~—, and a~~ **The**
17 distribution of prizes shall be made in the presence of each
18 participant at the time the game is played.

19 (e) The prize has nominal value and is not redeemable or
20 convertible into cash, directly or indirectly.

21 (2) The department may promulgate rules pursuant to ~~Act~~
22 ~~No. 306 of the Public Acts of 1969, as amended~~ **the**
23 **administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to**
24 **24.328**, consistent with the criteria established in subsection
25 (1) to regulate the conduct of games of skill during the annual
26 state fair and to protect the public from unauthorized or
27 dishonest practices in conducting those games.

1 (3) The department may, after ~~a~~ **an administrative** hearing
2 held pursuant to ~~Act No. 306 of the Public Acts of 1969, as~~
3 ~~amended~~ **the administrative procedures act of 1969, 1969 PA 306,**
4 **MCL 24.201 to 24.328,** revoke the licensing agreement of a
5 concessionaire if the department determines that the public is
6 being defrauded, or that this act or a rule promulgated pursuant
7 to this act is being violated.

8 (4) The department may promulgate rules pursuant to ~~Act~~
9 ~~No. 306 of the Public Acts of 1969, as amended~~ **the**
10 **administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to**
11 **24.328,** to permit the operation of a bingo or a millionaire party
12 permitted and licensed under ~~Act No. 382 of the Public Acts of~~
13 ~~1972, as amended, being sections 432.101 to 432.120 of the~~
14 ~~Michigan Compiled Laws~~ **the Traxler-McCauley-Law-Bowman bingo**
15 **act, 1972 PA 382, MCL 432.101 to 432.120.** The ~~department~~
16 **authority** may lease facilities as a location within or at which
17 an organization qualified and licensed under ~~Act No. 382 of the~~
18 ~~Public Acts of 1972, as amended,~~ **that act** may conduct bingo or a
19 millionaire party.

20 Sec. 13. (1) Sections 301 to ~~315 of Act No. 328 of the~~
21 ~~Public Acts of 1931, as amended, being sections 750.301 to~~
22 ~~750.315 of the Michigan Compiled Laws, shall~~ **315a of the**
23 **Michigan penal code, 1931 PA 328, MCL 750.301 to 750.315a, do not**
24 apply to a person who conducts or participates in a game of skill
25 pursuant to section 12 or the rules promulgated under that
26 section.

27 (2) The department may lease its facilities as a location

1 within or at which an organization qualified and licensed under
 2 ~~Act No. 382 of the Public Acts of 1972, as amended, being~~
 3 ~~sections 432.101 to 432.120 of the Michigan Compiled Laws~~ **the**
 4 **Traxler-McCauley-Law-Bowman bingo act, 1972 PA 382, MCL 432.101**
 5 **to 432.120, may conduct bingo.**

6 Sec. 14a. (1) The state exposition and fairgrounds fund is
 7 created within the state treasury. **The fund shall be**
 8 **administered by the authority.**

9 (2) The state treasurer shall direct the investment of the
 10 fund. The state treasurer shall credit to the fund interest and
 11 earnings from fund investments. The state treasurer may receive
 12 money or other assets from any source for deposit into the fund.

13 ~~All of the following shall be deposited in the fund:~~

14 ~~—— (a) Money appropriated from the general fund for the purpose~~
 15 ~~of holding a state fair that is unencumbered and unspent at the~~
 16 ~~close of the fiscal year. (b) Money generated from the~~
 17 operation of activities authorized by this act **shall be deposited**
 18 **into the fund.**

19 (3) Money in the fund at the close of the fiscal year shall
 20 remain in the fund and shall not lapse to the general fund.

21 (4) The ~~department~~ **authority** shall submit an annual report
 22 to the legislature and the ~~council~~ **department** showing the
 23 amount of money received under this act and how that money was
 24 spent.

25 (5) ~~Upon appropriation,~~ **The** money in the fund shall be
 26 expended **pursuant to appropriation of the legislature** by the
 27 ~~director, with the advice of the council,~~ **authority** to provide

1 for an annual state fair, the maintenance of the state exposition
2 and fairgrounds, and for any purpose authorized in section 6.

3 Sec. 15a. The ~~department~~ **authority** may demolish or permit
4 the demolition of any building or structure on the state
5 exposition and fairgrounds that is determined by the ~~director~~
6 **authority** to be unsuitable for uses consistent with the holding
7 of the state fair.