

Act No. 63  
Public Acts of 2009  
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**STATE OF MICHIGAN  
95TH LEGISLATURE  
REGULAR SESSION OF 2009**

**Introduced by Reps. Jackson, Durhal, Johnson, Nathan, Tlaib, Womack, Kennedy, Constan, Stanley, Smith, Lemmons, Coulouris, Gregory and Leland**

# **ENROLLED HOUSE BILL No. 4998**

AN ACT to amend 2008 PA 554, entitled “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,” by amending sections 5, 7, 11, and 19 (MCL 141.1355, 141.1357, 141.1361, and 141.1369).

*The People of the State of Michigan enact:*

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 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.

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 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.

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 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 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.

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 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 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.

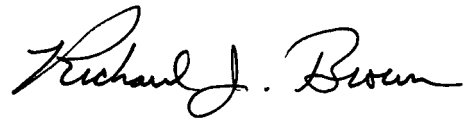
(13) If real property transferred from a qualified city to an authority under this section is no longer used by the authority for the purpose of maintaining or operating a convention facility as determined by a vote of the board or a lease agreement providing for the lease of the qualified convention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

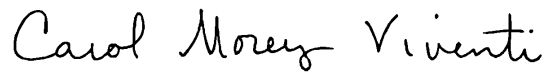
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

- (a) Senate Bill No. 586.
- (b) Senate Bill No. 587.
- (c) Senate Bill No. 588.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor



**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 586 was filed with the Secretary of State July 2, 2009, and became 2009 PA 60, Imd. Eff. July 2, 2009.

Senate Bill No. 587 was filed with the Secretary of State July 2, 2009, and became 2009 PA 61, Imd. Eff. July 2, 2009.

Senate Bill No. 588 was filed with the Secretary of State July 2, 2009, and became 2009 PA 62, Imd. Eff. July 2, 2009.