

Act No. 292
Public Acts of 1989
Approved by the Governor
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**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989**

Introduced by Senators Posthumus, Ehlers, Engler, Faust and Cherry

ENROLLED SENATE BILL No. 352

AN ACT to authorize local governmental units to create metropolitan councils; to prescribe the powers and duties of metropolitan councils; and to authorize metropolitan councils to levy a property tax.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "metropolitan council act".

Sec. 3. As used in this act:

(a) "Articles" means a council's articles of incorporation provided for in section 5.

(b) "Council" means a metropolitan council established pursuant to this act.

(c) "Council area" means the combined territory of the participating cities, villages, and townships.

(d) "Largest" means, if used in reference to a county, the county having the greatest population residing in participating cities, villages, and townships. "Largest", if used in reference to a participating local governmental unit, means the participating local governmental unit having the greatest population.

(e) "Local governmental unit" means a county, township, city, or village.

(f) "Metropolitan area" means a metropolitan statistical area, as defined as of the effective date of this act, by the United States department of commerce or a successor agency, with a population of less than 1,000,000 people.

(g) "Participating", if used in reference to a local governmental unit, means 1 of the following:

(i) After formation of a metropolitan council, a local governmental unit that has joined in the formation of the council or been added to the council pursuant to section 11 and that has not withdrawn pursuant to section 33.

(ii) Before formation of a metropolitan council, a local governmental unit named in the articles of incorporation as a participating local governmental unit.

Sec. 5. (1) A combination of 2 or more local governmental units in a metropolitan area may form a metropolitan council by adopting articles of incorporation pursuant to the requirements of sections 7 and 9.

(2) A council is a public corporate body with power to sue and be sued in any court of the state.

(3) A council is an authority under section 6 of article IX of the state constitution of 1963.

(4) A council possesses all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in this act shall not be construed as a limitation on the general powers of a council, consistent with its articles.

Sec. 7. (1) A council's articles shall state the name of the council; the names of the participating local governmental units; 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 council officers; the manner in which participating local governmental units shall take part in the governance of the council; the general method of amending the articles; the method of amending the articles to reflect the addition of a local governmental unit, which shall require the adoption of a resolution by a vote of not less than 2/3 of the delegates serving on the council; and any other matters that the participating local governmental units consider advisable.

(2) The articles may require each participating local governmental unit to annually pay to the council an amount not to exceed 0.2 mills multiplied by the state equalized valuation of all the taxable real and personal property within that local governmental unit.

(3) The articles may authorize the council to levy on all the taxable real and personal property within the council area an ad valorem tax of not to exceed 0.5 mills of the state equalized valuation on each dollar of assessed valuation of taxable property. The levy of a tax under this subsection is subject to the requirements of sections 25 and 27.

Sec. 9. (1) The articles of a council shall be adopted and may be amended by an affirmative vote of a majority of the members elected to and serving on the legislative body of each participating local governmental unit.

(2) Before the articles or amendments are adopted by any participating local governmental unit, the articles or amendments shall be published by the clerk of the largest participating local governmental unit at least once in a newspaper generally circulated within the participating cities, villages, and townships.

(3) The adoption of articles or amendments by the legislative body of a local governmental unit shall be evidenced by an endorsement on the articles or amendments by the clerk of the local governmental unit in a form substantially as follows:

These articles of incorporation (or amendments) were adopted by an affirmative vote of a majority of the members serving on the legislative body of _____, _____ at a meeting duly held on the ____ day of _____, A.D., ____.

(4) Upon adoption of the articles or amendments, a printed copy of the articles or the amended articles shall be filed by the clerk of the largest participating local governmental unit with the secretary of state, the clerk of each county in which is located all or part of a participating city, village, or township, and the clerk of each participating city, village, or township.

Sec. 11. (1) A local governmental unit may be added to the council after the council's incorporation upon satisfaction of all of the following requirements:

(a) A majority of the members elected to and serving on the legislative body of the local governmental unit vote to adopt a resolution stating that the local governmental unit desires to be added to the council and that it accepts the requirements of the articles as amended to reflect the addition of the local governmental unit.

(b) If there is a tax levied by the council pursuant to section 7 and the local governmental unit is a city, village, or township, the tax is authorized by a majority of the electors of that city, village, or township voting on the proposal.

(c) The articles are amended to reflect the addition of the local governmental unit.

(2) Upon addition of a local governmental unit to a council, a printed copy of the amended articles shall be filed as required by section 9 by the clerk of the local governmental unit added to the council.

Sec. 13. (1) Upon petition by not less than 5% of the registered electors residing in a nonparticipating local governmental unit requesting a referendum on the question of becoming a participating local governmental unit, the clerk of the local governmental unit, upon verifying the required number of signatures on the petitions, shall submit the question of whether the local governmental unit should become a participating local governmental unit to the vote of the electors of the local governmental unit at the next general election or special election called for that purpose, and conducted in accordance with the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws.

(2) The clerk of the municipality shall prepare the question for the ballot to be used at the election, subject to the election laws of the state, substantially as follows:

“Should the _____ of _____ become part of a metropolitan council?

Yes ()

No ()”

(3) If a majority of the electors voting on the question vote “yes”, the local governmental unit shall proceed to become a participating local governmental unit in the manner provided in section 11.

Sec. 15. (1) A council shall have a chairperson. The chairperson shall act as principal executive officer and shall preside at the meetings of the council. Meeting times and places shall be fixed by the council and special meetings may be called by a majority of the delegates on the council or by the chairperson. The chairperson shall have such powers and duties as provided in the articles.

(2) In addition to the chairperson, a council shall have other officers as may be provided in the articles. The chairperson and other officers shall be elected by the council and shall be council delegates. However, a secretary and treasurer need not be council delegates.

(3) If provided in the articles, a council may appoint an executive director to serve at the council’s pleasure as the principal administrator for the council. The director shall not be a delegate, shall be selected on the basis of training and experience, and shall have the powers and duties as provided in the council bylaws adopted pursuant to section 21.

(4) If specifically authorized by law, a council may make appointments to other governmental agencies.

Sec. 17. (1) A council may pay each council delegate a per diem compensation for each council meeting attended and for other designated services performed by the council delegate. A council may reimburse each council delegate for reasonable expenses incurred in attending council meetings and performing services designated by the council.

(2) The budget of a council prepared pursuant to section 21 shall provide as a separate account anticipated expenditures for per diem compensation and expense reimbursement for the chairperson and other council delegates. Compensation or reimbursement shall be paid to the chairperson and other council delegates only if budgeted.

Sec. 19. (1) The articles may authorize a council to propose standards, criteria, and suggested model ordinances to regulate the use and development of land and water within the council area.

(2) To the extent authorized in the articles, a council may plan, promote, finance, issue bonds for, acquire, improve, enlarge, extend, own, construct, replace, or contract for public improvements and services including, but not limited to, the following:

- (a) Water and sewer public improvements and services.
- (b) Solid waste collection, recycling, and disposal.
- (c) Parks, museums, zoos, wildlife sanctuaries, and recreational facilities.
- (d) Special use facilities.
- (e) Ground and air transportation and facilities, including airports.
- (f) Economic development and planning for the council area.
- (g) Higher education public improvements and services.

(3) A council shall not contract for the operation by another person of a public improvement or service acquired by the council pursuant to subsection (2).

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

(5) A council in cooperation with other agencies and departments of the state and the state universities may develop a center for data collection and storage to be used by the council and other governmental users and may furnish information on subjects such as population, land use, and governmental finances.

(6) A council may study the feasibility of programs relating but not limited to water supply, refuse disposal, surface water drainage, communication, transportation, and other subjects of concern to the participating local governmental units and may institute demonstration projects in connection with the studies.

Sec. 21. (1) A council may do 1 or more of the following:

- (a) Adopt bylaws for the administration of the council.

(b) 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 cities, villages, and townships. 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 shall not condemn public property.

(c) Apply for and accept grants, loans, or contributions from the federal government or any of its agencies, this state, or other public or private agencies to be used for any of the purposes of this act.

(d) Sell or lease property acquired for the purposes of this act but not needed for those purposes.

(e) Contract with a participating local governmental unit for the provision of a service listed in section 19(2) in the participating local governmental unit for a period not exceeding 30 years. The service may be established or funded in conjunction with a service of a local governmental unit, and the provision of a service of a local governmental unit may be delegated to a council. A charge specified in a contract is subject to increase by the council, if necessary to provide funds to meet its obligations. A council may also enter into a contract with a nonparticipating local governmental unit for a period not exceeding 30 years, except that a charge for a service under a contract with a nonparticipating local governmental unit may be greater than a charge to a participating local governmental unit, and is subject to change from time to time without notice. A council's powers under this subdivision are subject to section 19(3).

(f) Hire employees, attorneys, accountants, and consultants.

(2) A council shall do all of the following:

(a) Prepare budgets and appropriations acts in the manner required of local units under the uniform budgeting and accounting act, Act No. 2 of the Public Acts of 1968, being sections 141.421 to 141.440a of the Michigan Compiled Laws.

(b) If ending a fiscal year with a deficit, file a financial plan to correct the deficit in the same manner as provided in section 21 of Act No. 140 of the Public Acts of 1971, being section 141.921 of the Michigan Compiled Laws.

Sec. 23. (1) A public employee whose duties are transferred to a council shall be given a position of a comparable description with the council, and shall retain the seniority status and benefit rights of the public employment position held before the transfer. An employee of a council is a "public employee" as defined in section 2 of Act No. 336 of the Public Acts of 1947, being section 423.202 of the Michigan Compiled Laws.

(2) A council may bargain collectively and enter into agreements with labor organizations pursuant to Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.216 of the Michigan Compiled Laws. When powers or duties of a local governmental unit are transferred to a council, the council shall immediately assume and be bound by an existing labor agreement applicable to those powers or duties for the remainder of the term of the labor agreement. The members and beneficiaries of a pension or retirement system or other benefits established by a local governmental unit, the powers or duties of which are transferred to a council, shall have the same rights, privileges, benefits, obligations, and status with respect to the council. A representative of the employees or a group of employees in a local governmental unit who represents or is entitled to represent the employees or a group of employees of the local governmental unit, pursuant to Act No. 336 of the Public Acts of 1947, shall continue to represent the employee or group of employees after the employees are transferred to a council. This subsection does not limit the rights of employees, pursuant to applicable law, to assert that a bargaining representative protected by this subsection is no longer their representative.

(3) An employee who left the employ of a local governmental unit to enter the military service of the United States shall have the same employment rights as to a council as that employee would have had with the local governmental unit pursuant to Act No. 263 of the Public Acts of 1951, being sections 35.351 to 35.356 of the Michigan Compiled Laws.

(4) An employee of a council who performs a service in the jurisdiction of a local governmental unit that withdraws from the council pursuant to section 33 shall be protected in relation to the local governmental unit to the same extent as an employee of a participating local governmental unit is protected in relation to a council under this section.

Sec. 25. (1) A tax authorized to be levied by a council pursuant to section 7 shall be levied and collected at the same time and in the same manner as provided by the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws.

(2) A council shall not levy a tax except upon the approval of a majority of the qualified and registered electors residing in the council area and voting collectively on the question.

Sec. 27. (1) A proposal for a tax authorized to be levied by a council under section 7 shall not be placed on the ballot unless the proposal is adopted by a resolution of the council and certified by the council not later than 70

days before the election to the county clerk of each county in which all or part of a participating city, village, or township is located for inclusion on the ballot. The proposal shall state the amount and duration of the millage and shall be certified for inclusion on the ballot at the next general election, the state primary immediately preceding the general election, or a special election at a proposed date not within 45 days of a state primary or a general election, as specified by the council's resolution. A proposed special election date shall be approved by the county election scheduling committee of the largest county in the manner required by section 639 of the Michigan election law, Act No. 116 of the Public Acts of 1954, being section 168.639 of the Michigan Compiled Laws.

(2) The county election commission shall provide ballots for an election for a tax proposal for each participating city, village, or township or part of a participating city, village, or township located within the county.

(3) Except as otherwise provided in subsections (4) and (5), an election for a tax shall be conducted by the city and township clerks and election officials of the participating cities and townships.

(4) If an election on a proposal for a tax is to be held in conjunction with a general election or state primary election and if a participating village is located within a nonparticipating township, the township clerk and election officials shall conduct the election. On the forty-fifth day preceding the election, the village clerk or other official maintaining a file of qualified and registered electors of the village shall provide to the township clerk a list containing the name, address, and birth date of each qualified and registered elector of the village. By the fifteenth day preceding the election, the village clerk or other official providing the list shall provide to the township clerk information updating the list as of the close of registration. Persons appearing on the list as updated are eligible to vote in the election by special ballot.

(5) If a tax is to be voted on at a special election not held in conjunction with a general election or state primary election and if a participating village is located within a nonparticipating township, the village clerk and election officials shall conduct the election.

Sec. 29. (1) If an election for a tax is to be held in conjunction with a general election or a state primary election immediately preceding a general election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the largest county shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(2) The results of an election for a tax shall be canvassed by the board of county canvassers of each county in which all or part of a participating city, village, or township is located. If the county is not the largest county, the board of county canvassers shall certify the results of the election to the board of county canvassers of the largest county. The board of county canvassers of the largest county shall make the final canvass of an election for a tax based on the returns of the election inspectors of the participating cities, villages, and townships in that county and the certified results of the board of county canvassers of every other county in which a participating city, village, or township is located. The board of county canvassers of the largest county shall certify the results of the election to the council and issue certificates of election. If a majority of the votes cast on the question of a tax is in favor of the proposal, the tax levy is authorized. No more than 2 elections shall be held in a calendar year on the question of a tax.

Sec. 31. (1) A county clerk shall charge the council and the council shall reimburse the county for the actual costs the county incurs in an election for a tax proposal.

(2) If a participating township, city, or village conducts an election for a tax, the clerk of that local governmental unit shall charge the council and the council shall reimburse the local governmental unit for the actual costs the local governmental unit incurs in conducting the election if the election is not held in conjunction with a regularly scheduled election in that local governmental unit.

(3) In addition to costs reimbursed pursuant to subsections (1) and (2), a local governmental unit shall charge the council and the council shall reimburse the local governmental unit for actual costs that the local governmental unit incurs and that are attributable to an election for a tax proposal.

(4) The actual costs that a county, township, city, or village incurs shall be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

Sec. 33. (1) Except as otherwise provided in subsection (2), a participating local governmental unit may withdraw from membership in the council if all of the following conditions are met:

(a) Adoption of a resolution by a majority of the members elected to and serving on the legislative body of the local governmental unit requesting withdrawal from membership.

(b) Payment or the provision for payment is made regarding any obligations of the local governmental unit to the council or its creditors.

(2) If, upon withdrawal of a city, village, or township, the city, village, or township has unpaid obligations to the council, a tax levied by the council pursuant to section 7(3) before withdrawal of the city, village, or township shall continue to be levied in the city, village, or township, to the extent and in an amount needed to satisfy the unpaid obligations, until the obligations are paid or the tax expires, whichever happens first. A city, village, or township that withdraws from a council shall continue to receive services from the council until the city, village, or township is no longer required to pay a tax levied by the council.

(3) Withdrawal of a local governmental unit from a council shall 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.

Sec. 35. (1) The business that a council performs shall be conducted at a public meeting of the council held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) A writing prepared, owned, used, in the possession of, or retained by a council in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved.....

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Governor.