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RECREATION & CULTURE COUNCIL

Senate Bill 1136 with House committee amendments First Analysis (9-22-98)

Sponsor: Sen. Michael J. Bouchard
House Committee: Tax Policy
Senate Committee: Financial Services

THE APPARENT PROBLEM:

Supporters of the arts and other cultural and recreational institutions in southeastern Michigan have proposed legislation that could provide additional funding on a regional basis for cultural and recreational organizations and programs. The aim, say supporters, is to provide for stable permanent funding for the area's cultural gems, those critical high quality institutions that make essential contributions to the region's quality of life and are also important in economic development. The proposal, according to its sponsor, takes the form of a road map and a grant of authority to travel, but does not require any local governmental unit to undertake a journey. Whether to put the legislation to use would be a decision for local elected officials and, in the case of levying taxes, the region's voters.

THE CONTENT OF THE BILL:

The bill would amend the Metropolitan Council Act to permit the formation of a new kind of metropolitan council. This kind of council could be formed by two or more qualified counties in combination with one another and with more than one or more qualified cities for the sole purpose of developing or enhancing (and providing supplemental financing for) regional cultural institutions and local recreation and cultural facilities within the geographic boundaries of the participating counties other than facilities primarily designed or used for professional sports. The act provides for a council to levy a property tax up to one-half of one mill with voter approval.

(The existing act currently provides for the formation of a metropolitan council by a combination of two or more local units of government in a metropolitan statistical area with a population of less than one million. The provisions of the act relating to this kind of council appear substantially unchanged.)

Eligible counties and cities. A "qualified county" would be one with a population of at least 780,000 according to the most recent federal decennial census and that has a qualified city within its geographic boundaries or is contiguous to a county with a qualified city within its boundaries. A "qualified city" would be one that is located in a participating qualified county, owns two or more regional cultural institutions, and has a population of at least 700,000. [The bill is understood to apply to Wayne, Oakland, and Macomb counties and the city of Detroit.]

Eligible Institutions. A "regional cultural institution" would be a structure, fixture, or activity provided by a tax-exempt entity that has been in existence for at least 18 consecutive months before becoming eligible for funding. The term could include a zoological institute; a science center, whether or not affiliated with a private educational institution; a public broadcasting station, whether or not affiliated with an institution of higher education; a museum, whether or not affiliated with a private educational institution; a historical center; a performing arts center; a visual or performance art instruction center affiliated with an independent institution of higher education in the arts; an orchestra; a chorus; a chorale; or an opera theater. The term would not include a professional sports arena or stadium; a labor organization; a political organization; a library; a public, private, or charter school; or an exhibition, performance, or presentation that is obscene. The bill contains no definition of a local recreation or cultural facility other than to say facilities primarily designed or used for professional sports are ineligible.

Formation of a Council. The new form of metropolitan council could be formed if the governing body of each of the counties involved and each city involved adopted a resolution declaring an intent to participate in the formation of the authority and

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adopted articles of incorporation. The articles would have to state the name of the council; the names of the participating local units; the purposes for which the council was 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 council officers; the manner in which participating units are to take part in the governance of the council; and the general method of amending the articles. The articles would also have to contain the method of amending the articles to reflect a change in the distribution of funds among regional cultural institutions; this would require the adoption of a resolution by a vote of not less than two-thirds of the delegates on the council, including at least one delegate from each participating unit.

Council Board. Upon adoption of the resolutions, the participating counties and cities would establish a metropolitan council board. The chief executive officer of each unit would appoint three representatives, with the advice and consent of the unit's legislative body. However, if a participating county had a population greater than two million, a representative would be appointed by each of the three largest geographical conferences established in the county before January 1, 1999 under the Urban Cooperation Act of 1967.

Taxing power. The articles could authorize the council to levy, with voter approval, an ad valorem tax not to exceed one-half of one mill of taxable value on all the taxable real and personal property within the council area. The tax would be collected at the same time and in the same manner as the general property tax. The levy would require the approval of a majority of voters residing in the council area voting collectively. The board of commissioners of each participating county would be required to put the tax levy on a countywide ballot.

Distribution of Revenues. The articles of incorporation of the council would have to authorize each participating county to receive up to one-third of any net revenues collected within the county, to be used to fund cultural and recreational programs and facilities. However, a participating county with a population over two million would not receive any net revenues from a property tax levy. Instead, one-third of the net revenues collected in each city, village, or portion of a township not incorporated as a city or village would be retained by that unit and used to fund cultural and recreational activities and facilities.

Funding of Institutions. The articles would authorize the council to provide funding, supplemental to funding received from other sources, for regional cultural institutions located within the council area. However, money collected from a property tax could not be spent unless the specific expenditure was included in the council's annual budget, expressly authorized in the council's articles, or unless the expenditure was approved by a majority vote of the council's delegates. As mentioned earlier, an amendment to the articles changing the distribution of funds among regional cultural institutions would require the adoption of a resolution by a vote of not less than two-thirds of the delegates on the council, including at least one delegate from each participating unit.

Administrative Costs. The articles would have to specify the maximum amount or percentage of revenues that the council could authorize to be spent annually for administrative costs, but this could not be more than three percent of annual revenues.

MCL 124.653 et al.

HOUSE COMMITTEE ACTION:

The House Committee on Tax Policy adopted a series of amendments to the Senate-passed version of Senate Bill 1136 that 1) specify that the local recreational and cultural programs and facilities eligible for support do not include those that are primarily designed or used for professional sports; 2) limit the cities that can participate to a city with a population of at least 700,000; and 3) clarify that certain existing provisions in the act would not apply to the new kind of council. Among those provisions is one that currently allows a council's articles of incorporation to require each participating local unit to pay annually to the council an amount equal to two-tenths of one mill in property taxes.

BACKGROUND INFORMATION

House Bill 5796, which has already passed the House, would amend the same act to provide for the creation of a metropolitan arts council in certain metropolitan districts: a county with at least two state public universities or a county with a population of not more than 100,000 and a boundary contiguous to a county with two state public universities. The bill is understood to apply to Washtenaw and Lenawee counties. (See the HLAS analysis dated 6-2-98.)

FISCAL IMPLICATIONS:

As the Senate Fiscal Agency has noted, the bill provides the means for a voter-approved property tax within the geographical jurisdiction of a metropolitan council of up to 0.5 mills. (SFA floor analysis dated 6-10-98)

ARGUMENTS:**For:**

A representative of Detroit Renaissance made the following statement in support of the bill:

"Consistently high quality cultural institutions are essential to vital, growing communities. These organizations improve regional competitiveness, create a civic infrastructure, and contribute to educational quality. Our board members, and the highly qualified employees we want to attract and to keep, increasingly insist on being located in a region that offers cultural and recreational opportunities for themselves and their families. Cultural and recreational programs also serve to bring together our diverse communities, as we learn to appreciate our rich and different histories and the human aspirations and creativity that we share."

The bill, says supporters, "would allow the metropolitan Detroit region to supplement existing private and public sector support for public and nonprofit cultural and recreational facilities and programs [and] enable existing organizations to expand their outreach programs in the greater Detroit community."

Against:

When Proposal A lowered school property taxes and increased the sales tax, the concern was raised that over time new property taxes would be enacted to erode the tax reduction benefits. This bill could lead to new property taxes on a regional basis in southeastern Michigan. Further, it would allow the imposition of property taxes on property owners who themselves lack the economic means to buy tickets to the events and activities supported by their taxes or who have no interest in them. Patrons of the arts should support their favorite institutions and activities by buying tickets and making charitable contributions.

Response:

Cultural institutions and activities do not benefit only the few. Their contribution to the quality of life of a region is widespread and incalculable. In addition to intrinsic and educational values associated with the arts and other cultural endeavors, the existence of popular venues attracts tourist dollars and encourages businesses to locate in an area or stay there. Further, this proposal provides for some of the revenue to stay in the communities where it is raised for the benefit of local recreational and cultural activities. Moreover, for the legislation to be fully implemented requires the approval of local elected officials and the voting public.

Against:

Some local officials from affected units of government have objected to this legislation on the grounds that the same purpose could be better achieved through intergovernmental agreements, which are already permitted under statute. They also point out that the counties involved already support the arts and other cultural activities and are already able to levy taxes for this purpose. There are also complaints that the bill would allow representatives to be appointed by the chief executive officer of the participating units and not the legislative bodies.

Response:

The bill is permissive. It does not require the eligible units of government to do anything. And it does not prevent them from doing anything that is currently allowed. It simply provides an additional mechanism for certain selected local units of government to support important cultural and recreational activities if they see fit.

POSITIONS:

The Department of Treasury supports the bill. (9-16-98)

Detroit Renaissance supports the bill. (9-16-98)

Among those who have indicated support for the bill are representatives of the Detroit Institute of Arts; the Henry Ford Museum and Greenfield Village; the

Detroit Zoological Institute; the University of Michigan-Dearborn; the Detroit Historical Museums; Detroit Public Television; and the Cultural Coalition.
(9-16-98)

The General Government Committee of the Oakland County Board of Commissioners is opposed to the bill.
(9-16-98)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.