

Act No. 375
Public Acts of 1998
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators Bouchard, Peters, Berryman, V. Smith and A. Smith

ENROLLED SENATE BILL No. 1136

AN ACT to amend 1989 PA 292, entitled "An act to authorize local governmental units to create metropolitan councils; to prescribe the powers and duties of metropolitan councils; to authorize metropolitan councils to levy a property tax; and to prescribe penalties and provide remedies," (MCL 124.651 to 124.685) by adding sections 43, 45, 47, 49, 51, 59, 61, and 63.

The People of the State of Michigan enact:

Sec. 43. As used in sections 43 through 63:

- (a) "Articles" means a council's articles of incorporation provided for in section 45.
- (b) "Council" means a metropolitan region council established pursuant to this act.
- (c) "Council area" means the actual territory of the counties participating in the metropolitan region.
- (d) "Largest" means, if used in reference to a county, the county having the greatest population.
- (e) "Obscene" means material that meets the following criteria:
 - (i) When examined in its totality, the material appeals to a prurient interest.
 - (ii) The material depicts or describes, in a patently offensive way, sexual conduct specifically defined by state law.
 - (iii) When examined in its totality, the material lacks serious literary, artistic, political, or scientific value.
- (f) "Participating", if used in reference to a qualified county, means 1 of the following:
 - (i) After formation of a metropolitan region council, a qualified county that has joined in the formation of the council or been added to the council pursuant to section 51 and that has not withdrawn pursuant to section 63.
 - (ii) Before formation of a metropolitan region council, a qualified county named in the articles of incorporation as a participating qualified county.
- (g) "Qualified city" means a city that meets all of the following conditions:
 - (i) The city is located in a participating qualified county.
 - (ii) The city owns 2 or more regional cultural institutions.
 - (iii) The city has a population of not less than 700,000 persons according to the most recent federal decennial census.
- (h) "Qualified county" means a county that meets the following requirements:
 - (i) The county has a population of not less than 780,000 according to the most recent federal decennial census.
 - (ii) The county has a qualified city within its geographic boundaries, or is contiguous to a county with a qualified city.

(i) "Regional cultural institution" means 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 under this chapter. "Regional cultural institution" may include a zoological institute; a science center, whether or not it is affiliated with a private educational institution; a public broadcast station as defined by section 397 of subpart E of part IV of title III of the communications act of 1934, 47 U.S.C. 397, whether or not the public broadcast station is affiliated with an institution of higher education; a museum, whether or not it is 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. "Regional cultural institution" does 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.

(j) "Tax exempt entity" means any of the following:

(i) An organization exempt from taxation under section 501(c) of the internal revenue code of 1986.

(ii) An entity or division owned by an organization described in subparagraph (i).

(iii) An entity owned by a township, city, village, community college, state university, or any other public body that is not a public school, charter school, or public school academy.

Sec. 45. (1) Two or more qualified counties in combination with one another and with 1 or more qualified cities may form a metropolitan region council by adopting articles of incorporation in accordance with sections 47 and 49, if the county commission of each qualified county seeking to participate, and the city council of each qualified city seeking to participate, does the following:

(a) Adopts a resolution declaring an intent to participate in the formation of that authority.

(b) Adopts articles of incorporation in accordance with sections 47 and 49.

(2) Upon adoption of the resolutions described in subsection (1)(a), the participating qualified counties and qualified cities of a metropolitan region council shall establish a metropolitan region council board. The chief executive officer of each participating qualified county and qualified city shall appoint 3 representatives to the board, with the advice and consent of the legislative body of the county or city. However, if a participating qualified county has a population greater than 2,000,000 persons, a representative shall be appointed by each of the 3 largest geographical conferences established in the county before January 1, 1999 under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

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

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

(5) A metropolitan region 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. 47. (1) A metropolitan region council's articles shall state the name of the council; the names of the participating counties and cities; 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 counties and cities shall take part in the governance of the council; the general method of amending the articles; any matter that the participating counties and cities consider advisable; and both of the following, which shall require the adoption of a resolution by a vote of not less than 2/3 of the delegates serving on the council, including at least 1 delegate from each participating qualified county and qualified city:

(a) The method of amending the articles to reflect the addition of a qualified county or qualified city.

(b) The method of amending the articles to reflect a change in the distribution of funds among regional cultural institutions.

(2) Subject to subsection (3) and the requirements of sections 25 and 27, the articles may authorize the metropolitan region council to act in accordance with section 7(3).

(3) The articles of a metropolitan region council shall specify that, as a condition of proceeding under subsection (2), the county commission of each qualified county participating in the council shall place on a countywide ballot the proposal described in section 27(1) at the regularly scheduled county primary or general election that follows the determination to proceed under section 27(3).

(4) The articles of a metropolitan region council shall specify the maximum amount or percentage of revenues received under this act that the council may authorize to be expended annually for administrative costs incurred under this act. The articles shall also specify that not more than 3% of annual revenues received under this act may be expended annually for those administrative costs. Additionally, the articles shall authorize the council to provide funding, supplemental to funding received from other sources, for regional cultural institutions located within the council area that the council serves. However, a council shall not expend money collected under this section unless the

specific expenditure is included in the council's annual budget, expressly authorized in the council's articles, or unless the expenditure is approved by an affirmative vote of a majority of the council's delegates.

Sec. 49. (1) Except as provided in subsection (2), the articles of a metropolitan region council shall authorize each participating qualified county to receive up to 1/3 of any net revenues collected within that participating qualified county under section 47. The amount of up to 1/3 of net revenues received shall be expended to fund those cultural and recreational programs and facilities that are not primarily designed or used for professional sports.

(2) A participating qualified county with a population of more than 2,000,000 persons according to the most recent federal decennial census shall not receive any net revenues collected within that county under section 47(2). Instead, 1/3 of the net revenues collected in each city, village, or portion of a township that is not incorporated as a city or village shall be retained by that city, village, or portion of a township, and those net revenues shall be expended by the affected cities, villages, and portions of townships to fund only cultural and recreational programs and facilities that are not primarily designed or used for professional sports.

(3) Before the articles or amendments are adopted by any participating city, the articles or amendments shall be published by the clerk of the participating city at least once in a newspaper generally circulated within the participating city. Before the articles or amendments are adopted by participating qualified counties, the articles or amendments shall be published by the clerk of each participating qualified county at least once in a newspaper generally circulated within that county.

(4) The adoption of articles or amendments by the legislative body of a participating county or city shall be evidenced by an endorsement on the articles or amendments by the clerk of the participating county or city 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., ____.

(5) Upon adoption of the articles or amendments by a metropolitan region council, the clerk of each participating county shall file in that county and with the secretary of state a printed copy of the adopted or amended articles.

Sec. 51. (1) A qualified county or qualified city may be added to the metropolitan region 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 qualified county or qualified city vote to adopt a resolution stating that the qualified county or qualified city desires to be added to the metropolitan region council and that it accepts the requirements of the articles as amended to reflect the addition of the qualified county or qualified city.

(b) If a qualified city is proposing to be added to a metropolitan region council that is exercising its authority under section 47(2), that exercise of authority is authorized by a majority of the electors of the city voting on the proposal at the regularly scheduled county primary or general election that follows adoption of the resolution described in subdivision (a). If a qualified county is proposing to be added to a metropolitan region council that is exercising its authority under section 47(2), that exercise of authority is authorized by a majority of the electors of the qualified county voting on the proposal at the regularly scheduled county primary or general election that follows adoption of the resolution described in subdivision (a).

(c) The articles are amended to reflect the addition of the qualified county or qualified city.

(2) Upon addition of a qualified county or qualified city to a metropolitan region council, a printed copy of the amended articles shall be filed as required by section 9 by the clerk of the qualified county or qualified city added to the council.

Sec. 59. A metropolitan region council may be established solely to develop or enhance regional cultural institutions and local recreation and cultural facilities, other than facilities that are primarily designed or used for professional sports, within the geographic boundaries of qualified counties participating in the council.

Sec. 61. (1) A metropolitan region 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 qualified counties and qualified cities. The property may include franchises, easements, or rights-of-way on, under, or above any property. The metropolitan region 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) Hire employees, attorneys, accountants, and consultants.

(2) A metropolitan region 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, 1968 PA 2, MCL 141.421 to 141.440a.

(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 the state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

Sec. 63. (1) Except as otherwise provided in subsection (2), a participating qualified county or qualified city may withdraw from membership in the metropolitan region 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 qualified county or qualified city requesting withdrawal from membership.

(b) Payment or the provision for payment is made regarding any obligations of the qualified county or qualified city to the metropolitan region council or its creditors.

(2) If, upon withdrawal, a qualified county or qualified city has unpaid obligations to the metropolitan region council that arose under section 47(2) before withdrawal of the qualified county or qualified city, the obligations shall continue to be imposed in the qualified county or qualified city, to the extent and in an amount needed to satisfy the unpaid obligations, until the obligations are paid or expire, whichever happens first. A qualified county or qualified city that withdraws from a metropolitan region council shall continue to receive services from the council until that qualified county or qualified city is no longer required to satisfy an obligation imposed by the council under section 47(2).

(3) Withdrawal of a qualified county or qualified city from a metropolitan region 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.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5796 of the 89th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Mary B. Howell

Clerk of the House of Representatives.

Approved _____

Governor.