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BILL ANALYSIS



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Senate Bill 653 (as introduced 9-22-21)
Sponsor: Senator Marshall Bullock
Committee: Economic and Small Business Development

Date Completed: 12-2-21

CONTENT

The bill would enact the History Museum Authorities Act to do the following:

- **Allow any county with a population over 1.0 million to form a history museum authority (authority).**
- **Require a majority of the members of the county board of commissioners of the county establishing the authority to prepare and adopt articles of incorporation to initiate the authority's establishment.**
- **Prescribe the powers and duties of an authority, which would include providing funding under a contract with one or more history museum services providers to support the provision of history museum services and levying a history museum tax as proposed by the Act, among other things.**
- **Allow an authority to levy a tax of up to 0.4 mill for a period of up to 20 years on all the taxable property within the county to provide revenue to one or more history museum services providers.**
- **Require, before the authority levied the tax described above, a majority of the electors in the county in which an authority proposed to levy the tax to approve it in a regular election.**
- **Require a county or municipality to charge an authority for, and require an authority to provide reimbursement for, actual costs that the county or municipality incurred that were exclusively attributable to an election for the tax if the tax were approved by electors.**
- **Require an authority to transfer the funds, less the amount necessary to fund the payment of obligations incurred by it, to the history museum services provider within 10 business days after receiving the funds from the local property tax collecting unit.**
- **Require the board of an authority to obtain an annual audit that met certain requirements from the authority.**

Definitions

Under the Act, "history museum" would mean a historical museum whose primary collection and facility, at the date an authority is established, are owned by a city with a population of over 500,000. "History museum services" would mean operating or supporting a history museum. "History museum services provider" would mean a nonprofit entity qualified under Section 501(c)(3) of the Internal Revenue Code that, as its primary purpose, provides history museum services to a history museum.

"Electors of the authority" would mean the qualified and registered electors of a county.

History Museum Authority Formation

The Act would allow any county with a population of over 1.0 million to form a history museum authority. A history museum authority would be an authority under Section 6 of Article IX of the Michigan Constitution, and it would be a public corporate body with the power to sue and be sued in any court of the State. (Section 6 of Article IX of the Michigan Constitution specifies that the limitations on millage rates established in that Section do not apply to taxes imposed for purposes such as the one proposed in the Act.)

An authority would possess all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in the Act could not be construed as a limitation on the general powers of an authority, consistent with its articles. The Act specifies that an authority could not obtain an interest in real property or participate in governance of a history museum.

To initiate the establishment of an authority, articles of incorporation would have to be prepared by a majority of the members of the county board of commissioners of the county establishing the authority. The articles of incorporation would have to include all the following:

- The name of the authority.
- The size of the board of the authority, which would have to be composed of an odd number of members and could not exceed 15 members.
- The qualifications and terms of office of board members, the manner of appointing the members of the board of the authority, and the filling of vacancies in the office of board member.
- The purpose of the authority.
- The method of dissolution of the authority.
- Any other matters considered advisable.

The articles would have to be adopted and could be amended by an affirmative vote of a majority of the members of the county board of commissioners of the county establishing the authority.

Under the Act, before the proposed articles or amendments to the articles were adopted, the proposed articles or amendments would have to be published at least once in a newspaper generally circulated within the county. The adoption of proposed articles or amendments by the county would have to be evidenced by an endorsement on the articles or amendments by the clerk of the county. After adoption of the articles or amendments to the articles by the county, a printed copy of the articles or the amended articles would have to be filed with the Secretary of State (SOS) by the clerk of the county. The authority's articles of incorporation, or amendments to the articles, would take effect upon filing with the SOS.

Authority Board

The Act specifies that a vacancy on an authority board would occur if any of the events described in Section 3 of the Revised Statutes of 1846 occurred. Members of the board could be removed by the county board of commissioners for good cause after a public hearing. Vacancies would have to be filled in the manner as provided for in the authority's articles of incorporation. (Section 3 of the Revised Statutes of 1846 specifies that every office is deemed vacant upon any of the following occurrences: 1) the death of the incumbent; 2) the resignation of the incumbent; 3) the incumbent's removal from office; 4) the incumbent's ceasing to be an inhabitant of the State, or, at the local level of that specific municipality; 5) the incumbent's conviction of certain crimes or a violation of the incumbent's oath of office;

6) the decision of a competent tribunal declaring the appointment void; 8) the incumbent's refusal or neglect to take the oath of office.)

At its first meeting, a board would have to elect a chairperson, a secretary, a treasurer, and any other officers it considered necessary. A board could adopt bylaws to govern its procedures. A member of the board could not receive compensation for services as a member of the board but would be entitled to reimbursement for reasonable expenses, including expenses for travel previously authorized by the board, incurred in the discharge of his or her duties.

A majority of the members of the board would constitute a quorum for the purpose of conducting business and exercising the powers of an authority. Official action could be taken by an authority upon the vote of a majority of the board members present, unless the authority adopted bylaws requiring a larger number.

Authority Powers & Duties

Under the Act, an authority could do one or more of the following:

- Subject to provisions below, provide funding under a contract with one or more history museum services providers to support the provision of history museum services.
- Levy a tax as provided below.
- Enter into contracts incidental or necessary for the accomplishment of the Act.
- Contract for or retain professional services.

If an authority contracted with more than one history museum services provider, the authority would have to obtain a memorandum of understanding between the history museum services providers and distribute the revenue received from the tax levy as provided under the memorandum of understanding.

Before a vote for a tax levy occurred as described below, or, if an initial history museum services provider were replaced, before any funds were transferred to a replacement history museum services provider, the history museum services provider would have to enter into a contract with an authority requiring the history museum services provider to use the funds received from the authority exclusively to support the provision of history museum services to a history museum.

If a majority of electors in the county voting on the question of a tax approve it, the contract would have to require the history museum services provider to offer or to exercise its best efforts to cause the history museum to offer preferences or benefits for the residents of the county.

An authority would have to prepare budgets and appropriations acts in the manner provided by Sections 14 to 19 of the Uniform Budgeting and Accounting Act. If an authority ended a fiscal year in a deficit condition, the authority would have to file a financial plan to correct the deficit condition in the same manner as provided in Section 21(2) of the Glenn Steil State Revenue Sharing Act. (Generally, Sections 14 to 19 of the Uniform Budgeting and Accounting Act govern the process for a public body to consider and spend appropriations. Section 21(2) of the Glen Steil State Revenue Sharing Act requires a local unit of government ending a fiscal year in a deficit to formulate and file with the Department of Treasury a financial plan within 90 days after the beginning the fiscal year.)

History Museum Tax Levy

The Act would allow an authority to levy a tax of up to 0.4 mill for up to 20 years on all the taxable property within the county to provide revenue to one or more history museum services providers that would be used exclusively for the benefit of one or more history museums with respect to which the history museum services providers rendered services. An authority could levy the tax only if a majority of the electors in the county voting on the tax at an election held on a regular election date approved the tax. The proposal for a tax would have to be submitted to a vote of the electors of an authority by resolution of the board.

A ballot proposal for a tax would have to comply with the requirements of Section 24f of the General Property Tax Act. A proposal for a tax could not be placed on the ballot unless the proposal was adopted by a resolution of the board and certified by the board within 60 days before the election to the county clerk of the county for inclusion on the ballot. The proposal would have to be certified for inclusion on the ballot at the next eligible election, as specified by the board's resolution. (Section 24f of the General Property Tax Act requires a taxing unit that is submitting a proposal to impose a new millage to disclose in full each local unit of government to which the revenue from that millage would be disbursed and to state the millage rate to be authorized and the estimated amount of revenue collected from the millage, among other information.)

The Act would require the county election commission of the county to provide ballots for an election for the tax and the election for the tax would have to be conducted by the city and township clerks and election officials of the municipalities located within the county. If an election for a tax were held in conjunction with a general election or a State primary election, the notices of close of registration and election would have to be published as provided for by the State election laws. Otherwise, the county clerk of the county would have to publish the notices of close of registration and election. The notice of close of registration would have to include the proposal's ballot language.

If a majority of the electors in the county voting on the question of a tax approved the proposal, the tax levy would be authorized. Not more than two elections could be held in a calendar year on a proposal for a tax authorized under the Act. A tax authorized to be levied by an authority under the Act would have to be levied and collected at the same time and in the same manner as provided by the General Property Tax Act.

The Act specifies that the results of an election for a tax would have to be canvassed by the county's board of county canvassers. The board of county canvassers of the county would have to make the final canvass of an election for a tax based on the returns of the election inspectors of the municipalities in that county. The board of county canvassers of the county would have to certify the results of the election to the board of an authority.

Within 10 business days after receiving the funds from the local property tax collecting unit, the authority would have to transfer the funds, less the amount necessary to fund the payment of obligations incurred by the authority in accordance with the Act, to the history museum services provider. If a majority of the electors in the county voting on the question of a tax approved it, the county clerk, or the municipal clerk if a municipality conducted the election, would have to charge the authority and the authority would have to reimburse the county, or the municipality if the election were not held in conjunction with a regularly scheduled election, for the actual costs incurred in the election for the tax.

If a majority of the electors in the county voting on the question of a tax approved the tax, in addition to costs reimbursed as described above, a county or municipality would have to charge the authority and the authority would have to reimburse the county or municipality

for actual costs that the county or municipality incurred that were exclusively attributable to an election for a history museum tax. The actual costs that a county or municipality incurred would have to 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.

Authority Oversight

Under the Act, a board would have to obtain an annual audit of an authority, and report on the audit and auditing procedures, in the manner provided by Sections 6 to 13 of the Uniform Budgeting and Accounting Act. The audit would have to be in accordance with generally accepted government auditing standards as promulgated by the United States General Accounting Office and would have to satisfy Federal regulations relating to Federal grant compliance audit requirements.

The State Treasurer, the Attorney General, a prosecuting attorney, a bank, a certified public accountant, a certified public accounting firm, or other person would have the same powers, duties, and immunities with respect to an authority as provided for local units in Sections 6 to 20 of the Uniform Budgeting And Accounting Act. (Generally, Section 6 to 20 of the Uniform Budgeting and Accounting Act govern procedure and contents of a local unit of government's audit reports and of a local unit of government's budgeting and appropriations process.)

The board could authorize funds of the authority to be invested or deposited on a temporary basis before being transferred under the Act in any investment or depository authorized under by law.

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on the State or any county that did not elect to establish a history museum authority. Only a county with a population of over 1.0 million would be allowed to establish an authority; as of the 2020 census, only Wayne and Oakland Counties would be eligible. The bill's provisions are permissive, so any fiscal impact would depend on whether a county chose to establish an authority, and whether voters in the county voted for the supporting millage. A county would incur some administrative costs if it held a vote for the millage, but if the millage passed, the county would be reimbursed by the authority for that cost. The authority would not be allowed to redirect any existing property tax revenue, so the potential fiscal impact would be limited to the historic museum authority millage.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.