

SENATE BILL No. 21

January 30, 2001, Introduced by Senator STEIL and referred to the Committee on Education.

A bill to create certain authorities; to authorize the creation of certain funds; to authorize expenditures from certain funds; to finance the purchase of land and buildings; to allow for the leasing of facilities; and to prescribe the powers and duties of certain state and local officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "public school facility authority act".

3 Sec. 3. As used in this act:

4 (a) "Authority" means a public school facility authority
5 created under section 4.

6 (b) "Board" means the board of directors of an authority.

7 (c) "Develop", unless the context clearly indicates a
8 different meaning, means to defray all or a part of the cost of
9 purchasing, erecting, completing, remodeling, or equipping or

1 reequipping, school buildings, including library buildings,
2 structures, athletic fields, playgrounds, or other facilities, or
3 parts of or additions to those facilities; furnishing or refur-
4 nishing new or remodeled school buildings; acquiring, preparing,
5 developing, or improving sites, or parts of or additions to
6 sites, for school buildings, including library buildings, struc-
7 tures, athletic fields, playgrounds, or other facilities.

8 (d) "District" means a public school district located in
9 whole or in part in a qualified city. A district does not
10 include a public school academy.

11 (e) "Fund" means the public school facility authority fund
12 created for each authority as provided in section 10.

13 (f) "Public school facility" or "public school facilities"
14 means all or any part of, or any combination of, school build-
15 ings, including library buildings, structures, athletic fields,
16 playgrounds, or other facilities, or parts of or additions to
17 those facilities that is used or is intended to be used by a dis-
18 trict for instructional purposes and the ownership of which has
19 been transferred to an authority or to a private entity that has
20 entered into a contract to lease it to an authority.

21 (g) "Qualified city" means a city with a population of more
22 than 170,000 that is the most populous city in a qualified
23 county.

24 (h) "Qualified county" means a county with a population of
25 more than 500,000 that contains a qualified city and that is not
26 a charter county or a county with an optional unified form of
27 government.

1 Sec. 4. A district may by resolution of the local school
2 board establish a public school facility authority under this
3 act. On the date on which all the certified copies of the reso-
4 lutions establishing the authority are filed with the secretary
5 of state, the authority is created.

6 Sec. 5. (1) The powers, duties, and functions of an author-
7 ity are vested in and shall be exercised by the board. The board
8 shall consist of 5 members as follows:

9 (a) Two members who are residents of the qualified city
10 appointed by the local school board of the district, 1 of whom is
11 a member of the local school board.

12 (b) One member who is a resident of the qualified city
13 appointed by the mayor of the qualified city with approval by the
14 legislative body of the qualified city.

15 (c) Two members who are residents of the qualified county
16 appointed by the 3 members described in subdivisions (a) and (b)
17 at the first meeting of the board as the first item of business.
18 These 2 members shall be selected from a list of 5 candidates
19 submitted by the board of directors of the chamber of commerce
20 located in the qualified city. At least 1 of those appointed
21 shall have experience in facilities management or construction.
22 Every 2 years after the first appointment under this subdivision,
23 1 member shall be appointed at the first meeting of the board
24 following the expiration of the member's term as the first item
25 of business.

26 (2) Except as otherwise provided in this subsection, members
27 of the board shall be appointed for a term of 4 years. One

1 member initially appointed under subsection (1)(a) and (c) shall
2 be appointed for a term of 2 years. Subsequent members appointed
3 under subsection (1)(a) and (c) shall be appointed for a term of
4 4 years.

5 (3) Upon appointment to a board under subsection (1) and
6 upon taking and the filing of the constitutional oath of office,
7 a member of the board shall enter office and exercise the duties
8 of the office to which he or she is appointed.

9 (4) A member shall resign from a board if he or she no
10 longer meets the requirements of his or her appointment under
11 subsection (1).

12 (5) A vacancy on a board of a member serving for a fixed
13 term shall be filled in the same manner as the original appoint-
14 ment for the balance of the unexpired term. A member of a board
15 holds office until a successor is appointed and qualified.

16 (6) Notwithstanding a charter provision of a qualified city
17 to the contrary, a member of the legislative body or other city
18 official of the qualified city is eligible to serve as a member
19 of a board established under this act.

20 Sec. 6. (1) Members of a board and officers and employees
21 of the authority are subject to 1968 PA 317, MCL 15.321 to
22 15.330. A member of the board or an officer, employee, or agent
23 of the authority shall discharge the duties of his or her posi-
24 tion in a nonpartisan manner, in good faith, and with the degree
25 of diligence, care, and skill that an ordinarily prudent person
26 would exercise under similar circumstances in a like position.
27 In discharging his or her duties, a member of the board or an

1 officer, employee, or agent of the authority, when acting in good
2 faith, may rely upon any of the following:

3 (a) The opinion of counsel for the authority.

4 (b) The report of an independent appraiser selected by the
5 board.

6 (c) Financial statements of the authority represented to the
7 member of the board, officer, employee, or agent to be correct by
8 the officer of the authority having charge of its books of
9 account or stated in a written report by the state auditor gen-
10 eral or a certified public accountant, or a firm of certified
11 accountants, to reflect the financial condition of the
12 authority.

13 (2) A board shall organize and make its own policies and
14 procedures and shall adopt bylaws governing its operations. A
15 majority of the members of a board constitute a quorum for trans-
16 action of business, notwithstanding the existence of 1 or more
17 vacancies on the board. Except as otherwise provided in this
18 act, actions taken by the board shall be by a majority vote of
19 the members present in person at a meeting of the board or, if
20 authorized by the bylaws, by the use of amplified telephonic or
21 video conferencing equipment. The authority shall meet at the
22 call of the chairperson and as may be provided in the bylaws.

23 (3) Members of a board shall serve without compensation for
24 their membership on the board.

25 (4) The district shall provide administrative staff to the
26 authority. The district may receive reimbursement for reasonable
27 and necessary administrative expenses.

1 Sec. 7. (1) A board shall conduct all business at public
2 meetings held in compliance with the open meetings act, 1976
3 PA 267, MCL 15.261 to 15.275. Public notice of the time, date,
4 and place of each meeting shall be given in the manner required
5 by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

6 (2) A record or a portion of a record, material, or other
7 data received, prepared, used, or retained by the authority that
8 relates to financial or proprietary information that is identi-
9 fied in writing by the person submitting the information and
10 acknowledged by the board as confidential is not subject to the
11 disclosure requirements of the freedom of information act, 1976
12 PA 442, MCL 15.231 to 15.246. The board may meet in closed ses-
13 sion pursuant to the open meetings act, 1976 PA 267, MCL 15.261
14 to 15.275, to make a determination of whether it acknowledges as
15 confidential any financial or proprietary information submitted
16 and considered by the person submitting the information as
17 confidential. For the purpose of this subsection, "financial or
18 proprietary information" means information that has not been pub-
19 licly disseminated or that is unavailable from other sources, the
20 release of which might cause the person submitting the informa-
21 tion competitive harm.

22 Sec. 8. (1) An authority may do all things necessary or
23 convenient to carry out the purposes, objectives, and provisions
24 of this act and the purposes, objectives, and powers delegated to
25 the authority or the board by other laws or executive orders,
26 including, without limitation, all of the following:

1 (a) Adopt bylaws for the regulation of its affairs and alter
2 the bylaws at its pleasure.

3 (b) Sue and be sued in its own name.

4 (c) Enter into contracts and other instruments necessary,
5 incidental, or convenient to the performance of its duties and
6 the exercise of its powers and designate the person or persons
7 who have authority to execute those contracts and investments on
8 behalf of the authority.

9 (d) Solicit, receive, and accept from any source gifts,
10 grants, loans, or contributions of money, property, or other
11 things of value, and other aid or payment, or participate in any
12 other way in a federal, state, or local government program.

13 (e) Receive public school facilities from the district for a
14 nominal fee.

15 (f) Lease public school facilities to a district for a nomi-
16 nal fee.

17 (g) Procure insurance against loss in connection with the
18 property, assets, or activities of the authority.

19 (h) Invest money of the authority under 1943 PA 20,
20 MCL 129.91 to 129.96, and deposit money of the authority under
21 1932 (1st Ex Sess) PA 40, MCL 129.11 to 129.16.

22 (i) Engage, on a contract basis, the services of private
23 consultants, managers, legal counsel, and auditors for rendering
24 professional or technical assistance and advice payable out of
25 any money of the authority.

26 (j) Indemnify and procure insurance indemnifying members of
27 the board from personal loss or accountability for liability

1 asserted by a person with regard to obligations of the authority,
2 or from any personal liability or accountability by reason of the
3 obligations or by reason of any other action taken or the failure
4 to act by the authority.

5 (k) Hold, clear, remediate, improve, maintain, manage, con-
6 trol, sell, exchange, mortgage, and hold mortgages on and other
7 security interests in, lease, as lessor or lessee, and obtain or
8 grant easements and licenses on property that the authority
9 acquires. A sale, exchange, lease, or other disposition of
10 authority property shall be to a person or persons for a project
11 or projects involving a public school facility only, which
12 restriction shall be placed on that property in the form of a
13 recordable restrictive covenant that is effective for a period of
14 not more than 20 years except for property acquired by the
15 authority and later determined by the authority to be not neces-
16 sary for a public school facility that may be sold or otherwise
17 disposed of. Property being sold shall be first offered to the
18 district in which the property is located for the nominal fee for
19 which it was acquired if the property has been acquired from the
20 district. If property is sold, exchanged, or leased to a person
21 to develop a project or projects involving a public school facil-
22 ity, that person shall execute an agreement, in recordable form,
23 that gives the authority a right of first refusal to reacquire
24 that property for the same amount for which it was acquired from
25 the authority or an amount not to exceed the remaining value of
26 the lease on the property by the authority, whichever is less, if
27 that property is sold, exchanged, leased, or transferred.

1 Temporary or permanent interests, licenses, or other appropriate
2 interests in property acquired by the authority may be conveyed
3 or granted by the authority for utility, vehicular, or pedestrian
4 traffic facilities, or related purposes not inconsistent with
5 this act. The authority does not have the power to condemn
6 property.

7 (l) Develop a public school facility.

8 (m) Reimburse the district for reasonable and necessary
9 administrative expenses.

10 (n) Do all other acts and things necessary or convenient to
11 carrying out the purposes for which the authority was
12 established.

13 (2) An authority established under this act shall not levy a
14 tax.

15 (3) The development of a public school facility under this
16 act is subject to 1937 PA 306, MCL 388.851 to 388.855a, and not
17 to the Stille-DeRossett-Hale single state construction code act,
18 1972 PA 230, MCL 125.1501 to 125.1531.

19 Sec. 9. (1) An authority may hire legal and technical
20 experts on a temporary basis paid from the funds of the
21 authority.

22 (2) The accounts of an authority are subject to annual
23 audits by the state auditor general or a certified public accoun-
24 tant selected by the authority. Copies of the audits shall be
25 forwarded annually to the state treasurer as provided in the uni-
26 form budgeting and accounting act, 1968 PA 2, MCL 141.421 to

1 141.440a. Records shall be maintained according to generally
2 accepted accounting principles.

3 (3) The authority shall prepare and adopt an annual budget.

4 Sec. 10. A public school facility authority fund is created
5 for each authority. An authority shall deposit all money
6 received into the fund.

7 Sec. 11. (1) Property of an authority is public property
8 devoted to an essential public and governmental function and
9 purpose. Income of the authority is for a public purpose.

10 (2) The property of the authority and its income and opera-
11 tions are exempt from all taxes of this state or a political sub-
12 division of this state. Property of the authority that is leased
13 to private persons is exempt from any tax of this state or a
14 political subdivision of this state. Property of the authority
15 and property leased by the authority for use as a public school
16 facility is exempt from any ad valorem property taxes collected
17 under the general property tax act, 1893 PA 206, MCL 211.1
18 to 211.157.

19 Sec. 12. An authority that completes the purposes for which
20 it was organized shall be dissolved by resolution of the board.
21 The property and assets of the authority remaining after the sat-
22 isfaction of the obligations of the authority shall belong to the
23 district in which the property is located.

24 Enacting section 1. This act does not take effect unless
25 Senate Bill No. 20

26 of the 91st Legislature is enacted into law.