

SENATE BILL No. 1366

November 8, 2012, Introduced by Senators BIEDA and WARREN and referred to the Committee on Finance.

A bill to create a metropolitan authority; to prescribe the powers, duties, and jurisdictions of the metropolitan authority; and to prescribe the powers and duties of certain state officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan metropolitan areas metropolitan authority act".

3 Sec. 3. (1) The legislature finds and declares all of the
4 following:

5 (a) That the efficient and effective operation of local units
6 of government is necessary for the interests of the people of this
7 state to assure the provision of necessary governmental services
8 essential to public health, safety, and welfare in metropolitan
9 areas.

10 (b) That there exists in this state a continuing need to

1 strengthen and revitalize the economy of this state and to organize
2 the activities of local government in metropolitan areas in a
3 manner that reduces governmental barriers to economic growth,
4 facilitates economic development, preserves communities and
5 strengthens neighborhoods, prevents or reduces unemployment, and
6 creates new employment opportunities.

7 (c) That under section 27 of article VII of the state
8 constitution of 1963, the legislature may establish in metropolitan
9 areas additional forms of government or authorities with power,
10 duties, and jurisdictions as the legislature shall provide.

11 (d) That it is necessary and appropriate for the promotion of
12 the health, safety, and welfare of the people of this state to
13 enable the formation of metropolitan governments designed to
14 perform multipurpose functions.

15 (e) That the formation of a metropolitan government under this
16 act and the powers conferred by this act constitute a necessary
17 program and serve a necessary public purpose.

18 (2) The purpose of this act is to do all of the following:

19 (a) Provide broad and flexible authorization for the
20 establishment of new forms of government for metropolitan areas
21 throughout this state.

22 (b) Facilitate the provision of vital local governmental
23 services in metropolitan areas throughout this state, including,
24 but not limited to, police and fire protection services.

25 (c) Encourage the introduction of new forms of metropolitan
26 government.

27 (d) Improve the opportunities for more effective and efficient

1 provision of governmental services.

2 (e) Establish an authority to perform multipurpose functions.

3 (f) Promote the public health, safety, welfare, convenience,
4 and prosperity of this state and its metropolitan areas.

5 Sec. 5. As used in this act:

6 (a) "Authority" means the metropolitan areas metropolitan
7 authority established under section 7.

8 (b) "Council" means the metropolitan areas council established
9 under section 9.

10 (c) "Department" means the department of treasury.

11 (d) "Fiscal year" means either an annual period that begins on
12 October 1 and ends on September 30 or the fiscal year for the
13 authority established by the council.

14 (e) "Municipality" means a county, city, village, township,
15 local authority, or other local tax collecting unit of this state.
16 Municipality does not include the authority.

17 Sec. 7. (1) The metropolitan areas metropolitan authority is
18 established as a metropolitan government under section 27 of
19 article VII of the state constitution of 1963. The authority is a
20 public body corporate and a special authority. The authority is not
21 an agency or instrumentality of state government.

22 (2) The property of the authority is public property devoted
23 to an essential public and governmental purpose. Any income of the
24 authority is for a public and governmental purpose.

25 (3) Property of the authority and its income, activities, and
26 operations are exempt from all taxes and special assessments of
27 this state or a political subdivision of this state. Property of

1 the authority is exempt from any ad valorem property taxes levied
2 under the general property tax act, 1893 PA 206, MCL 211.1 to
3 211.155, or other law of this state authorizing the taxation of
4 real or personal property.

5 (4) The validity of the creation of the authority is presumed
6 unless questioned in an original action filed in the court of
7 appeals not later than 60 days after the creation of the authority
8 under this section. The court of appeals has original jurisdiction
9 to hear an action under this subsection. The court shall hear the
10 action in an expedited manner.

11 Sec. 9. (1) The metropolitan areas council is established
12 within the authority. The powers, duties, functions, and
13 responsibilities of the authority are vested in a metropolitan
14 areas council. The council shall consist of 5 residents of this
15 state appointed by the governor. Not less than 3 members of the
16 council shall be residents of separate metropolitan areas within
17 this state. An officer or employee of this state may not serve as a
18 member of the council.

19 (2) Of the members of the council initially appointed by the
20 governor, 1 member shall be appointed for an initial term of 5
21 years, 1 member shall be appointed for an initial term of 4 years,
22 1 member shall be appointed for an initial term of 3 years, 1
23 member shall be appointed for an initial term of 2 years, and 1
24 member shall be appointed for an initial term of 1 year. After the
25 initial appointments, a member of the council shall be appointed
26 for a term of 6 years. If a vacancy on the council occurs other
27 than by expiration of a term, the vacancy shall be filled in the

1 same manner as the original appointment for the balance of the
2 unexpired term. A member of the council may continue to serve until
3 a successor is appointed and qualified. The governor shall
4 designate a member of the council to serve as its chairperson at
5 the pleasure of the governor.

6 (3) An individual appointed as a member of the council shall
7 take the oath of office as provided under section 1 of article XI
8 of the state constitution of 1963.

9 (4) A member of the council shall serve without compensation
10 but may be reimbursed by the authority for necessary travel and
11 expenses to the extent not prohibited by law and consistent with a
12 reimbursement policy adopted by the council.

13 (5) A member of the council shall discharge the duties of his
14 or her position in a nonpartisan manner, in good faith, and with
15 the degree of diligence, care, and skill that an ordinarily prudent
16 person would exercise under similar circumstances in a like
17 position. In discharging his or her duties, a member of the
18 council, when acting in good faith, may rely upon any of the
19 following:

20 (a) The opinion of legal counsel for the authority.

21 (b) The report of an independent appraiser selected by the
22 council.

23 (c) Financial statements of the authority represented to the
24 member of the council to be correct by the officer of the authority
25 having charge of its books of account or stated in a written report
26 by an auditor or a certified public accountant, or a firm of
27 certified accountants, to reflect the financial condition of the

1 authority.

2 (6) Within not more than 30 days following appointment of the
3 initial members of the council, the council shall hold its first
4 meeting at a date and time determined by the chairperson of the
5 council. The council shall elect from among the members of the
6 council an individual to serve as vice-chairperson of the council
7 and secretary of the council and may elect other officers as the
8 council considers necessary. All officers under this subsection
9 shall be elected annually by the council.

10 (7) The council shall conduct its business at a public meeting
11 held in compliance with the open meetings act, 1976 PA 267, MCL
12 15.261 to 15.275. Public notice of the time, date, and place of the
13 meeting shall be given in the manner required by the open meetings
14 act, 1976 PA 267, MCL 15.261 to 15.275. The council shall adopt
15 bylaws consistent with the open meetings act, 1976 PA 267, MCL
16 15.261 to 15.275, governing its procedures and the holding of
17 meetings. After organization, the council shall adopt a schedule of
18 regular meetings and adopt a regular meeting date, place, and time.
19 A special meeting of the council may be called by the chairperson
20 of the council or as provided in bylaws adopted by the council.
21 Notice of a special meeting shall be given in the manner required
22 by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

23 (8) The council shall keep a written or printed record of each
24 meeting, which record and any other document or record prepared,
25 owned, used, in the possession of, or retained by the authority in
26 the performance of an official function shall be made available to
27 the public in compliance with the freedom of information act, 1976

1 PA 442, MCL 15.231 to 15.246.

2 (9) The council shall provide for a system of accounts for the
3 authority to conform to a uniform system required by law and for
4 the auditing of the accounts of the authority. The council shall
5 obtain an annual audit of the authority by an independent certified
6 public accountant and report on the audit and auditing procedures
7 in the manner provided by sections 6 to 13 of the uniform budgeting
8 and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit
9 also shall be in accordance with generally accepted government
10 auditing standards.

11 (10) Before the beginning of each fiscal year, the council
12 shall prepare a budget for the authority containing an itemized
13 statement of the estimated expenses and revenue of the authority
14 from all sources for the next fiscal year. Before final adoption of
15 the budget, the council shall hold a public hearing as required by
16 1963 (2nd Ex Sess) PA 43, MCL 141.411 to 141.415, and the open
17 meetings act, 1976 PA 267, MCL 15.261 to 15.275. The council shall
18 adopt a budget for the fiscal year in compliance with the uniform
19 budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

20 (11) The council shall adopt a procurement policy consistent
21 with the requirements of state law relating to procurement. The
22 procurement policy shall address all of the following:

23 (a) The purchase of, the contracting for, and the providing of
24 supplies, materials, services, insurance, utilities, third-party
25 financing, equipment, printing, and all other items as needed by
26 the authority to efficiently and effectively meet the needs of the
27 authority using competitive procurement methods to secure the best

1 value for the authority.

2 (b) That the council shall make all discretionary decisions
3 concerning the solicitation, award, amendment, cancellation, and
4 appeal of authority contracts.

5 (c) Control, supervision, management, and oversight of each
6 contract to which the authority is a party.

7 (d) Monitoring of contracts to assure the contract is being
8 performed in compliance with the terms of the contract and
9 applicable law.

10 (12) Members of the council are public servants subject to
11 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other
12 applicable law with respect to conflicts of interest. The council
13 shall establish policies and procedures requiring periodic
14 disclosure of relationships which may give rise to conflicts of
15 interest. The council shall require that a member of the council
16 with a direct interest in any matter before the authority disclose
17 the member's interest before the council takes any action with
18 respect to the matter. The council shall establish an ethics manual
19 for the authority governing authority business and the conduct of
20 authority officers and employees. The council shall establish
21 policies that are no less stringent than those provided for public
22 officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and
23 coordinate efforts for the authority to preclude the opportunity
24 for and the occurrence of transactions by the authority that would
25 create a conflict of interest involving officers or employees of
26 the authority. At a minimum, the policies shall include compliance
27 by each officer and employee of the authority who regularly

1 exercise significant discretion over the award and management of
2 authority procurements with policies governing all of the
3 following:

4 (a) Immediate disclosure of the existence and nature of any
5 financial interest that could reasonably be expected to create a
6 conflict of interest.

7 (b) Withdrawal by an officer or employee from participation in
8 or discussion or evaluation of any recommendation or decision
9 involving an authority procurement that would reasonably be
10 expected to create a conflict of interest for that officer or
11 employee.

12 (13) The governor may remove a member of the council from
13 office for gross neglect of duty, corrupt conduct in office, or any
14 other misfeasance or malfeasance in office.

15 Sec. 11. (1) Except as otherwise provided in this act, an
16 authority may do all things necessary or convenient to implement
17 the purposes, objectives, and provisions of this act and the
18 purposes, objectives, and jurisdictions vested in the authority by
19 this act or other law, including, but not limited to, all of the
20 following:

21 (a) Adopt and use a corporate seal.

22 (b) Adopt, amend, and repeal bylaws for the regulation of its
23 affairs and the conduct of its business.

24 (c) Sue and be sued in its own name and plead and be
25 impleaded.

26 (d) Make and enter into contracts, agreements, or instruments
27 necessary, incidental, or convenient to the performance of its

1 duties and execution of its powers, duties, and jurisdictions under
2 this act with any federal, state, local, or intergovernmental
3 governmental agency or with any other person or entity, public or
4 private, upon terms and conditions acceptable to the authority.

5 (e) Solicit, receive, and accept gifts from any public or
6 private source.

7 (f) Make application for and receive loans, grants,
8 guarantees, or other financial assistance from any state, federal,
9 local, or intergovernmental government or agency or from any other
10 source, public or private.

11 (g) Procure insurance or become a self-funded insurer against
12 loss in connection with the property, assets, or activities of the
13 authority.

14 (h) Indemnify and procure insurance indemnifying members of
15 the council from personal loss or accountability for actions within
16 their capacity as members of the council.

17 (i) Incur indebtedness in the manner authorized by law for the
18 carrying out of the powers, duties, functions, and responsibilities
19 of the authority.

20 (j) Invest money of the authority, at the discretion of the
21 council, in instruments, obligations, securities, or property
22 determined proper by the council and name and use depositories for
23 authority money. Investments shall be made consistent with an
24 investment policy adopted by the council that complies with this
25 act and 1943 PA 20, MCL 129.91 to 129.97a.

26 (k) Contract for goods and services.

27 (l) Employ legal and technical experts, other officers, agents,

1 employees, or other personnel, permanent or temporary, including,
2 but not limited to, an executive director of the authority.

3 (m) Contract for the services of persons or entities for
4 rendering professional or technical assistance, including, but not
5 limited to, consultants, managers, legal counsel, engineers,
6 accountants, and auditors.

7 (n) Establish and maintain an office.

8 (o) Acquire, hold, maintain, convey, sell, exchange, or lease
9 rights or interests in property.

10 (p) Collect data regarding intergovernmental cooperation and
11 shared governmental services activities.

12 (q) Study the feasibility of intergovernmental cooperation
13 activities.

14 (r) Promote joint endeavors, joint undertakings, cooperative
15 agreements, municipal partnerships, or other forms of
16 intergovernmental cooperation among public agencies in this state.

17 (s) Exercise the powers, duties, functions, and
18 responsibilities vested in the authority under the metropolitan
19 extension telecommunications rights-of-way oversight act, 2002 PA
20 48, MCL 484.3101 to 484.3120, and other laws of this state.

21 (t) Do all other acts and things necessary or convenient to
22 exercise the powers, duties, and jurisdictions of the authority
23 under this act or other laws that relate to the purposes, powers,
24 duties, and jurisdictions of the authority.

25 (2) The powers, duties, functions, and responsibilities of the
26 authority may be exercised throughout this state. The authority
27 possesses the jurisdiction to exercise its powers, duties,

1 functions, and responsibilities on a statewide basis.

2 Sec. 17. This act shall be construed liberally to effectuate
3 the legislative intent and the purposes of this act as complete and
4 independent authorization for the performance of each and every act
5 and thing authorized in the act, and all powers granted in this act
6 shall be broadly interpreted to effectuate the intent and purposes
7 of this act and not as to limitation of powers. Powers granted to
8 an authority shall include those fairly implied and not prohibited
9 by law.