COMMUNITY SWIMMING POOL AUTHORITY

Act 425 of 1994

AN ACT to provide for the creation of community swimming pool authorities; to provide powers and duties of the authorities; to provide for the levy of a tax by the authorities; and to provide for the collection and distribution of the tax.

History: 1994, Act 425, Imd. Eff. Jan. 6, 1995

The People of the State of Michigan enact:

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123.1061 Definitions.

Sec. 1.

As used in this act:

(a) "Articles" means the articles of incorporation of an authority.

(b) "Authority" means a community swimming pool authority created under section 3.

(c) "Board" means the board of directors of the authority.

(d) "Community swimming pool" means an artificial body of water owned or operated by an authority or a district that is used collectively by a number of individuals primarily for the purpose of swimming, wading, recreation, or instruction and includes related equipment, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool such as equipment, dressing, locker, shower, and toilet rooms.

(e) "District" means a school district that serves a municipality whose population is not less than 15,000 and whose territory is located in not less than 2 counties, each of which has at least 15% of the municipality's population.

(f) "Municipality" means a city, village, or township.

(g) "Participating municipality" means a municipality that has adopted a resolution providing for the establishment of and the municipality's participation in an authority.

(h) "Superintendent" means the superintendent of the board of education of a district.

History: 1994, Act 425, Imd. Eff. Jan. 6, 1995

123.1063 Community swimming pool authority; joint establishment by two or more municipalities; territory subject to taxation; public corporate body; powers as autonomous entity.

Sec. 3.

(1) Two or more municipalities may jointly establish a community swimming pool authority if the following requirements are met:

(a) There is a single district in which all or part of the territory of each municipality is located.

(b) The legislative body of each municipality adopts a resolution providing for the establishment of and participation in the authority pursuant to this act.

(2) The resolution required under subsection (1) shall provide that only that portion of the municipality's territory located within the district is subject to the levy and collection of the tax authorized in section 13.

(3) A community swimming pool authority established pursuant to this act is a public corporate body and is an authority under section 6 of article IX of the state constitution of 1963.

(4) An authority shall exercise its powers as an autonomous entity.

History: 1994, Act 425, Imd. Eff. Jan. 6, 1995

123.1065 Board of directors; appointment; terms; ex officio member; eligibility; vacancy; quorum; compensation and reimbursement for expenses; public meetings; availability of writings; election of officers; meetings.

Sec. 5.

(1) An authority shall be governed by a board of directors appointed by the participating municipalities.

(2) The legislative body of the participating municipality with the greatest population in the district shall appoint 4 members to the board. The legislative body of each of the other participating municipalities shall appoint 1 member to the board. Appointed members of the board shall serve a term of 4 years, except that, of the 4 board members initially appointed by the participating municipality with the greatest population in the district, 1 shall serve a term of 1 year, 1 shall serve a term of 2 years, and 1 shall serve a term of 3 years.

(3) The superintendent of the district or his or her designated representative shall serve on the board as an ex officio member without the right to vote.

(4) A member of the legislative body of a participating municipality or the board of education of the district is not eligible to become a member of the board.

(5) A vacancy shall occur on the board as provided in section 3 of chapter 15 of the Revised Statutes of 1846, being section 201.3 of the Michigan Compiled Laws. A vacancy on the board shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(6) A majority of the members of the board constitutes a quorum for the purpose of conducting business and exercising the powers of an authority. Official action may be taken by an authority upon the vote of a majority of the board members present, unless the bylaws of the authority require a larger number.

(7) Members of the board shall not receive compensation for services as members of the board but shall be reimbursed by the authority for necessary expenses, including travel expenses previously authorized by the board, incurred in the discharge of their duties.

(8) The business that an authority may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(9) A writing prepared, owned, or used by an authority in the performance of an official function shall be made available in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(10) At its first meeting, a board shall elect a chairperson, a secretary, a treasurer, and any other officers it considers necessary. A board shall meet at least quarterly.

History: 1994, Act 425, Imd. Eff. Jan. 6, 1995

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123.1067 Articles of incorporation and bylaws.

Sec. 7.

(1) A board shall draft articles of incorporation and bylaws for the administration of the authority.

(2) An authority's articles shall state the following:

(a) The name of the authority.

(b) The name of each participating municipality.

(c) The name of the district.

(d) The purposes for which the authority is formed.

(e) The powers, duties, and limitations of the authority and its board.

(f) Any other matters that the board considers advisable.

(3) The articles of an authority shall be adopted and may be amended by an affirmative vote of a majority of the members serving on the board.

(4) Before the articles or amendments to the articles are adopted, the articles or amendments to the articles shall be published at least once in a newspaper generally circulated within the participating municipalities.

(5) The adoption of articles or amendments to the articles by the board shall be evidenced by an endorsement on the articles or amendments by the secretary of the board in a form substantially as follows:

"These articles of incorporation (or amendments to the articles of incorporation) were adopted by an affirmative vote of a majority of the members serving on the board of the _____ community swimming pool authority at a meeting duly held on the _____ day of _____, A.D., _____.".

(6) Upon adoption of the articles or amendments to the articles by the board, a printed copy of the articles or the amended articles shall be filed with the secretary of the district, the clerk of each participating municipality, and the secretary of state.

(7) An authority is established when its articles of incorporation are adopted by the board and are filed with the secretary of state.

(8) The geographical boundaries of an authority are coterminous with the geographical boundaries of the district within each participating municipality and become fixed when the authority is established. After an authority is established, its geographical boundaries shall not automatically change as a result of a change in a district's geographical boundaries. After an authority is established, its geographical boundaries may only be altered by a majority vote of the board.

History: 1994, Act 425, Imd. Eff. Jan. 6, 1995

123.1069 Authority; general powers.

Sec. 9.

(1) An authority has all the powers necessary to own or operate a community swimming pool, including, but not limited to, the following:

(a) Acquire and hold, by purchase, lease with or without option to purchase, grant, gift, devise, land contract, installment purchase contract, bequest, or other legal means, real and personal property inside or outside the boundaries of the district. The property may include franchises, easements, or rights of way on, under, or above any property. The authority may pay for the property from, or pledge for the payment of the property, revenue of the authority.

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(b) Apply for and accept grants or contributions from individuals, the federal government or any of its agencies, this state, a municipality, or other public or private agencies to be used for any of the purposes of this act.

(c) Retain full-time or part-time employees.

(d) Provide for the maintenance of all of the real and personal property of the authority.

(e) Assess and collect fees for its services and expenses.

(f) Levy the tax described in section 13 and distribute the proceeds of the tax.

(g) Enter into contracts incidental to or necessary for the operation of a community swimming pool.

(h) Subject to the limitations in section 11, borrow money and issue notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the tax authorized in section 13.

(i) Subject to the limitations in section 11, issue negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the authority are not a debt of the district or this state. A participating municipality may by majority vote pledge its full faith and credit to support the authority's revenue bonds.

(j) Subject to the limitations in section 11, issue general obligation unlimited tax bonds and authorize and levy taxes necessary to pay the principal of and interest on the bonds.

(k) Subject to the limitations in section 11, issue general obligation limited tax bonds by resolution of the board, without submitting the question to the electors of the participating municipalities. The board shall not authorize or levy a tax to pay the principal of or interest on the general obligation limited tax bonds that exceeds the tax levy authorized by a vote of the qualified electors of the district as provided in section 13.

(2) Money for an authority shall be paid to the board and deposited in a fund known as the community swimming pool fund. The board shall exclusively control the expenditure of money deposited in the community swimming pool fund.

History: 1994, Act 425, Imd. Eff. Jan. 6, 1995 ;-- Am. 2002, Act 232, Imd. Eff. Apr. 29, 2002

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123.1071 Borrowing money or issuing notes or bonds.

Sec. 11.

(1) An authority shall not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the authority, exceeds 5% of the state equalized valuation of the taxable property within the geographical boundaries of the authority.

(2) An authority shall not issue general obligation unlimited tax bonds unless all of the following conditions are met:

(a) The board adopts a resolution submitting the question of issuing general obligation unlimited tax bonds to the electors of the participating municipalities residing within the geographical boundaries of the authority.

(b) The question of issuing general obligation unlimited tax bonds is certified by the board and the election is conducted in the manner provided in section 13 for an election for a tax.

(c) A majority of the qualified electors voting on the question approve the issuing of the general obligation unlimited tax bonds.

(3) The question of issuing general obligation unlimited tax bonds under subsection (2) shall be submitted by ballot in substantially the following term:

"Shall the community swimming pool authority, formed by the municipalities of _____, borrow the sum of not to exceed _____ dollars ($_____) and issue its general obligation unlimited tax bonds for all or a portion of that amount for the purpose of _____?

Yes [ ] No [ ]".

(4) Refunding bonds or the refunding part of a bond issue is not within the 5% limitation of subsection (1), but is authorized in addition to the 5% limitation.

History: 1994, Act 425, Imd. Eff. Jan. 6, 1995 ;-- Am. 2002, Act 232, Imd. Eff. Apr. 29, 2002

123.1073 Taxation for purposes of owning or operating community swimming pool.

Sec. 13.

(1) An authority formed under this act may levy a tax on all of the taxable property in a participating municipality located within the district for the purposes of owning or operating a community swimming pool.

(2) The tax authorized in this section shall not exceed 1 mill of the state equalized valuation on each dollar of assessed valuation of taxable property within the limits of each participating municipality.

(3) The tax authorized under this section shall not be levied except upon the approval of a majority of the qualified and registered electors of the participating municipalities who reside in the district voting on the tax at an annual or special school election. The election may be called by resolution of the board. The secretary of the board shall file a copy of the resolution of the board calling the election with the clerk of any participating municipality not later than 4 p.m. on the twelfth Tuesday before the date of the election. The resolution calling the election shall contain a statement of the proposition to be submitted to the electors. All appropriate clerks and all appropriate officials shall take all necessary steps to properly submit the proposition to the electors of the participating municipalities who reside in the district at the election specified in the resolution of the authority. The election shall be conducted and canvassed in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The results of the election shall be certified to the board promptly after the date of the election. No more than 2 elections may be held in a calendar year for approval of the tax authorized under this section. The authority shall pay its share of the costs of the election.

(4) The taxes authorized by this section may be levied at a rate and for a period, not more than 5 years, as determined by the authority in the resolution calling the election and as set forth in the proposition submitted to the electors.

History: 1994, Act 425, Imd. Eff. Jan. 6, 1995 ;-- Am. 2013, Act 255, Eff. Apr. 26, 2014

123.1075 Collection and distribution of tax.

Sec. 15.

The tax under section 13 shall be collected and distributed by the local tax collecting units under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, at the same time and in the same manner as taxes levied by the district for school operating purposes.

History: 1994, Act 425, Imd. Eff. Jan. 6, 1995

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123.1077 Withdrawal of municipality from authority.

Sec. 17.

(1) A participating municipality in which the tax authorized by section 13 is in effect may withdraw from an authority if all of the following requirements are satisfied:

(a) Not less than 2 months before the next regularly scheduled election of the municipality, the legislative body of the municipality adopts a resolution to withdraw from the authority on a date specified in the resolution. The date specified shall be not less than 6 months after the next regularly scheduled election of the municipality.

(b) Notice of an election on the resolution is published in a newspaper of general circulation in the municipality not less than 10 days before the next regularly scheduled election of the municipality following adoption of the resolution.

(c) The resolution is approved by a majority of the electors of the municipality that reside within the district voting on the resolution at the next regularly scheduled election of the municipality following adoption of the resolution.

(d) After approval of the resolution by the electors, the clerk of the municipality files with the secretary of state a copy of the official canvass statement and a certified copy of the resolution and files with the board a copy of the official canvass statement and a number of certified copies of the resolution sufficient for distribution to the legislative body of each of the participating municipalities.

(e) Payment or the provision for payment to the authority or its creditors of all obligations of the municipality seeking to withdraw is made.

(2) A tax authorized by section 13 before the adoption of the resolution to withdraw shall be levied in the municipality for its original purpose but only for the period of time originally authorized and only so long as the board continues in existence. In addition, a municipality that withdraws from an authority shall continue to receive community swimming pool services so long as the tax authorized to be levied by section 13 before the withdrawal of the municipality continues to be levied in the municipality and the community swimming pool remains in operation.

(3) A participating municipality in which no tax authorized by section 13 is in effect may withdraw from an authority if all of the following requirements are satisfied:

(a) The legislative body of the municipality adopts a resolution to withdraw from the authority on a date specified in the resolution. The withdrawal date shall follow the date of the resolution by not less than 1 year.

(b) The clerk of the municipality files with the secretary of state a certified copy of the resolution and files with the board a number of certified copies of the resolution sufficient for distribution to the legislative bodies of each of the participating municipalities.

(c) Payment or the provision for payment to the authority or its creditors of all obligations of the municipality seeking to withdraw is made.

(4) After the withdrawal of a municipality, the articles of incorporation shall be amended to reflect the withdrawal.

History: 1994, Act 425, Imd. Eff. Jan. 6, 1995

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