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Senate Bill 898 (Substitute S-1 as passed by the Senate)**Sponsor: Senator Mitch Irwin****Committee: Finance**

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Date Completed: 6-8-88**RATIONALE**

The Federal Water Quality Act of 1987 allows states to establish a revolving loan fund that can be used to funnel Federal financial assistance to local units of government that wish to construct water pollution control projects. If Michigan participates fully in the program, the State will receive approximately \$365 million in Federal assistance over the next six years. In order for the State to participate, however, it must establish the revolving loan fund according to certain requirements and conditions stipulated by the Federal government. For example, the revolving loan fund must be established for perpetuity and the State must provide a 20% match for the Federal funds. It has been determined that the Shared Credit Rating Act, which established the Michigan Municipal Bond Authority, is an appropriate mechanism by which the State can establish the revolving fund but that certain amendments are necessary to comply fully with the Federal regulations. The Act, for instance, prohibits the Authority from accepting State appropriations, sets an \$800 million cap on outstanding bonds, and specifies a sunset date for the issuance of new bonds. Amending the Act to allow the Authority to accept State appropriations would enable it to meet the 20% matching requirement, and exempting bonds issued under the water pollution revolving fund from the cap and the sunset date would enable the State to set up the fund for perpetuity.

CONTENT**The bill would amend the Shared Credit Rating Act to:**

- **Require the Michigan Municipal Bond Authority to establish a State Water Pollution Control Revolving Fund that complied with Federal law.**
- **Allow the Authority to provide assistance to local units of government from the Fund for projects.**

Under the Act, the Michigan Municipal Bond Authority can issue notes and bonds and loan money to local units to finance public improvements and for other municipal purposes. The bill would require the Authority to establish a Revolving Fund that complied with the objectives and requirements of the Federal Water Pollution Control Act. The Authority could fund the Revolving Fund through Federal grants, revenues of the Authority, or any other means permitted under the Federal Act. The Authority could provide financial assistance to a governmental unit with the proceeds of the Fund. If such assistance were in the form of a loan, the governmental unit would have to agree "to make repayments to the Authority or through the purchase of refinancing of municipal obligations in fully marketable form" as defined in the bill. Loan agreements would have to contain appropriate provisions relating to maturity or length of the loan, repayment terms, and State or local funding requirements, and any other provisions

necessary to comply with the Federal Act. Projects eligible for assistance from the Fund would have to be determined pursuant to the State Clean Water Assistance Act proposed in Senate Bill 800. "Project" is defined in the bill as a sewage treatment works project or nonpoint source project as provided in the proposed Act. The maximum amount of any municipal obligation purchased with proceeds of the Fund, and the maximum interest rate on a loan or municipal obligations, would be determined pursuant to the proposed Act.

The bill would require that the State Treasurer or a trustee hold in a separate trust account for each municipality any principal and interest payments the municipalities make on their loan obligations with the Authority. The payments would be subject to a statutory lien in favor of the Authority that would be "paramount and superior" to all other liens for the sole purpose of paying the principal of, and interest on, the obligation. The payments would be exempt from being levied upon, taken, sequestered, or applied toward the payment of debts or liabilities of the governmental unit other than for payment of the obligation with the Authority. The lien would be valid and binding on all parties with claims against the governmental unit irrespective of whether the parties had notice. Neither the funds assigned or pledged for payment on an obligation nor any other instrument by which an assignment, lien or pledge was created would have to be filed or recorded.

The Act specifies that if the Authority defaults on payment of any bonds or notes issued under the Act, the holders of 25% or more in aggregate principal amount of the notes or bonds can appoint a trustee and authorize him or her to take certain actions regarding the notes or bonds. The bill would increase the minimum percentage ownership to 51% of the aggregate principal amount of the notes or bonds.

The Act specifies that the Authority may require a governmental unit to pledge, and the unit may pledge, for payment of the municipal obligation purchased by the Authority state tax revenues received by the governmental unit. The bill specifies that any money received by the governmental unit could be pledged for repayment of the obligation.

The bill would also amend the definition of "notes" to apply to obligations maturing no later than 36 months after the date of issuance. The Act does not specify a date of maturity.

The Shared Credit Rating Act contains a list of powers that the Authority's board is allowed to exercise. The bill would further allow the board to provide assistance to any municipality for a revolving Fund project, to perform all functions necessary or incidental to providing that assistance, and to enter into agreements with the Federal government to implement the Fund.

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The bill specifies that the Authority could issue its bonds and notes for the purpose of funding a State matching requirement for a "capitalization grant" or to reimburse an advance for a matching requirement. "Capitalization grant" is defined in the bill to mean a Federal grant to the State by the U.S. Environmental Protection Agency for the purpose of establishing a State Water Pollution Control Revolving Fund.

The bill provides that the Authority could authorize a member of its board or the executive director of the Authority to direct the investment of any and all funds of the Authority and create and manage investments on behalf of governmental units and the State Water Pollution Control Revolving Fund.

The Act prohibits the Authority from having at any time outstanding bonds exceeding \$800 million in aggregate principal, and from issuing new bonds or notes for loans to local units after October 1, 1990. The bill would make an exception in both these instances for bonds or notes issued pursuant to the proposed Fund.

The bill would take effect September 1, 1988.

The bill is tie-barred to Senate Bill 800, which would provide for the administration of the State Water Pollution Control Revolving Fund and establish criteria and an application process for receiving assistance from the Fund.

MCL 141.1053 et al.

FISCAL IMPACT

Senate Bill 898 would expand the eligible scope of projects that may be funded through the Shared Credit Rating Act. The Act provides that administrative expenses concerning the issuance of bonds and notes are passed on to users of the Act. Therefore, expansion of the Act simply would give local governments an additional method of reducing bonding costs. Senate Bill 898 would have no fiscal impact on State government.

ARGUMENTS

Supporting Argument

The bill would provide the necessary mechanism for the State to establish a Water Pollution Control Revolving Fund in accordance with Federal regulations and offer financial assistance to local units of government that wished to participate in water pollution control projects.

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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.