

# HOUSE BILL No. 4090

February 6, 1991, Introduced by Reps. Jacobetti, O'Neill, Richard A. Young, Hood, Mathieu and Emerson and referred to the Committee on Appropriations.

A bill to amend section 8 of Act No. 183 of the Public Acts of 1964, entitled as amended

"An act creating the state building authority with power to acquire, construct, furnish, equip, own, improve, enlarge, operate, mortgage, and maintain buildings, necessary parking structures or lots and facilities, and sites therefor, or furnishings or equipment for the use of the state or any of its agencies; to act as a developer or co-owner of buildings, necessary parking structures or lots, and facilities, and sites therefor as a condominium project for the use of the state or any of its agencies; to authorize the execution of leases pertaining to such properties, facilities, furnishings, or equipment by the building authority with the state or any of its agencies; to authorize the payment of true rentals by the state; to provide for the issuance of revenue obligations by the building authority to be paid from the true rentals to be paid by the state and other resources and security provided for and pledged by the building authority; to authorize the creation of funds; to authorize the conveyance of lands by the state or any of its agencies for the purposes herein authorized; to authorize the appointment of a trustee for bondholders and to permit remedies for the benefit of bondholders; and to provide for other matters in relation thereto,"

as amended by Act No. 119 of the Public Acts of 1987, being section 830.418 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Section 1. Section 8 of Act No. 183 of the Public Acts of  
2 1964, as amended by Act No. 119 of the Public Acts of 1987, being  
3 section 830.418 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5       Sec. 8. (1) The building authority, by resolution or reso-  
6 lutions of its board, may provide for the issuance of revenue  
7 obligations, which may include revenue bonds, revenue notes, or  
8 other evidences of revenue indebtedness, and refunding revenue  
9 bonds, notes, or other refunding evidences of indebtedness, the  
10 obligations for which shall not become a general obligation of  
11 the state or a charge against the state, but all revenue obliga-  
12 tions and the interest on the revenue obligations and the call  
13 premiums for the revenue obligations shall be payable solely from  
14 true rental, except to the extent paid from the proceeds of sale  
15 of revenue obligations and any additional security provided for  
16 and pledged, or from other funds as provided in this act, and  
17 each revenue obligation shall have such a statement printed on  
18 the face of the revenue obligation. If the resolution of the  
19 building authority provides for interest coupons to be attached  
20 to any revenue obligation, each interest coupon shall have a  
21 statement printed on the coupon that the coupon is not a general  
22 obligation of the state or the building authority but is payable  
23 solely from certain revenues as specified in the revenue  
24 obligation. Revenue obligations may be issued for the purpose of  
25 paying part or all of the costs of the facilities or for the  
26 purpose of refunding or advance refunding, in whole or in part,

1 outstanding revenue obligations issued pursuant to this act,  
2 whether the obligations to be refunded or advance refunded have  
3 matured or are redeemable or shall mature or become redeemable  
4 after being refunded. The cost of the facilities may include an  
5 allowance for legal, engineering, architectural, and consulting  
6 services; ~~—~~ interest on revenue obligations becoming due before  
7 the collection of the first true rental available for the payment  
8 of those revenue obligations; a reserve for the payment of prin-  
9 cipal, interest, and redemption premiums on the revenue obliga-  
10 tions of the authority; and other necessary incidental expenses  
11 including, but not limited to, placement fees and fees or charges  
12 for insurance, letters of credit, lines of credit, remarketing  
13 agreements, or commitments to purchase obligations issued pursu-  
14 ant to this act or any other fees or charges for any other secur-  
15 ity provided to assure timely payment of the obligations.

16 (2) The proceeds of a revenue obligation issue may be used  
17 to pay the cost of facilities that are subject to more than 1  
18 lease if both of the following are true:

19 (a) The resolution authorizing the revenue obligations pro-  
20 vides for the use of a specific allocable portion of the revenue  
21 obligation proceeds to pay the estimated cost of each of the  
22 facilities, together with the allocable portion of the reserves,  
23 discount, interest on the obligations becoming due before the  
24 first true rental available for payment of the obligations, and  
25 obligation issuance expense with respect to each facility.

26 (b) The true rental and other funds of the building  
27 authority and other security as provided in this act available

1 for the revenue obligations, including other funds as provided in  
2 this act, are sufficient to pay the allocable portion of the rev-  
3 enue obligation issue for which the true rental and other funds  
4 and security are pledged.

5 (3) Revenue obligations that refund outstanding obligations  
6 may include the payment of interest accrued, or to accrue, to the  
7 earliest or any subsequent date of redemption, purchase, or matu-  
8 rity of the revenue obligations to be refunded, redemption premi-  
9 um, if any, and any commission, service fee, and other expense  
10 necessary to be paid in connection with revenue obligations that  
11 refund outstanding obligations. Proceeds of refunding revenue  
12 obligations may also be used to pay part of the cost of issuance  
13 of the refunding revenue obligations, interest on the refunding  
14 revenue obligations, a reserve for the payment of principal,  
15 interest, and redemption premiums on the refunding revenue obli-  
16 gations, and other necessary incidental expenses including, but  
17 not limited to, placement fees and fees or charges for insurance,  
18 letters of credit, lines of credit, remarketing agreements, or  
19 commitments to purchase obligations issued pursuant to this act  
20 or any other fees or charges for any other security provided to  
21 assure timely payment of the obligations. The building authority  
22 may also provide for the withdrawal of ~~any funds~~ MONEY from any  
23 reserve created for the payment of principal, interest, and  
24 redemption premiums on the refunded obligations and for the  
25 deposit of ~~those funds~~ THAT MONEY in the reserve for the pay-  
26 ment of principal, interest, and redemption premiums on the  
27 refunding obligations or may provide for use of that reserve

1 money to pay principal, interest, and redemption premiums on the  
2 obligations to be refunded. Obligations issued to refund out-  
3 standing obligations may be issued in a principal amount greater  
4 than, the same as, or less than the principal amount of the obli-  
5 gations to be refunded, and subject to the maximum rate of inter-  
6 est provided in subsection (8), may bear interest rates that are  
7 higher than, the same as, or lower than the interest rates of the  
8 obligations to be refunded. If obligations are issued to refund  
9 outstanding obligations of the authority, a lease whose rental  
10 has been pledged for repayment of the obligations to be refunded  
11 shall not be terminated solely by reason of the payment or provi-  
12 sion for payment of the obligations to be refunded, and the lease  
13 and all of the rights and obligations under the lease shall  
14 remain in full force and effect in accordance with its terms.

15 (4) Except as otherwise provided in this section, income or  
16 profit derived from the investment of money in any of the funds  
17 or accounts of the building authority, including the proceeds of  
18 sale of the revenue obligations, may be used by the building  
19 authority only for the purpose of paying principal, interest, and  
20 redemption premiums on the revenue obligations of the building  
21 authority, or for any purpose for which the proceeds of the reve-  
22 nue obligations may be used under this act, as determined by the  
23 resolution of the board authorizing the issuance of revenue  
24 obligations.

25 (5) The board may authorize by resolution the person  
26 appointed by the building authority as its chief operating  
27 officer or chief staff person to issue and deliver obligations

1 for and on behalf of the building authority, if the authorization  
2 limits or prescribes the maximum interest rates, minimum price,  
3 maximum principal amount, and the latest maturity date of the  
4 obligations.

5       (6) To the extent provided by resolution of the board, prin-  
6 cipal of, and interest and redemption premiums on, revenue obli-  
7 gations issued for the purpose of paying all or part of the cost  
8 of the facilities shall be secured by and payable only from any  
9 or all of the following sources:

10       (a) The true rental derived from the facilities constructed  
11 or acquired with the proceeds of the revenue obligations.

12       (b) The proceeds of revenue obligations.

13       (c) The reserve, if any, established for the payment of  
14 principal of, or interest or redemption premiums on, the  
15 obligations.

16       (d) The proceeds of any insurance, letter of credit, or line  
17 of credit acquired as security for the revenue obligations.

18       (e) The proceeds of any obligations issued to refund the  
19 revenue obligations.

20       (f) The proceeds of the foreclosure or enforcement of any  
21 mortgage, security interest, or deed of trust on the facilities  
22 financed by the revenue obligations granted by the authority as  
23 security for the revenue obligations.

24       (g) Other funds of the authority not previously pledged for  
25 other obligations of the authority, including funds of the  
26 authority derived from rentals and other revenues, investment

1 income or profit, or funds or accounts relating to other  
2 facilities.

3 (h) Investment earnings and profits on any or all of the  
4 sources described in subdivisions (a) to (g).

5 (7) To the extent provided by resolution of the board, prin-  
6 cipal of, and interest and redemption premiums on, refunding rev-  
7 enue obligations shall be secured by and payable only from any or  
8 all of the following sources:

9 (a) The true rental derived from the facilities constructed  
10 or acquired with the proceeds of the obligations being refunded.

11 (b) The proceeds of the refunding obligations.

12 (c) The reserve, if any, established for the payment of the  
13 principal of, or interest and redemption premiums on, the refund-  
14 ing obligations or the obligations to be refunded.

15 (d) The proceeds of any insurance, letter of credit, or line  
16 of credit acquired as security for the revenue obligations.

17 (e) The proceeds of any obligations issued to refund the  
18 refunding obligations.

19 (f) The proceeds of the foreclosure or enforcement of any  
20 mortgage, security interest, or deed of trust on the facilities  
21 financed from the proceeds of the obligations being refunded,  
22 granted by the authority as security for the refunding  
23 obligations.

24 (g) Other funds of the authority not previously pledged for  
25 other obligations of the authority, including other funds of the  
26 authority derived from rentals and other revenues, investment

1 income or profit, or funds or accounts relating to other  
2 facilities.

3 (h) Investment earnings or profits on any of the sources  
4 described in subdivisions (a) to (g).

5 (8) Obligations issued under this act may be either serial  
6 obligations or term obligations, or any combination of serial or  
7 term obligations. The obligations shall mature not more than 40  
8 years from their date, and in any event not more than 1 year from  
9 the due date of the last true rental pledged for the payment of  
10 the obligations, and may bear interest at fixed or variable  
11 interest rates, or may be without stated interest, but the net  
12 interest rate or rates of interest, taking into account any dis-  
13 count on the sale of the obligations, shall not exceed 18% or a  
14 higher rate if permitted by the municipal finance act, Act  
15 No. 202 of the Public Acts of 1943, as amended, being sections  
16 131.1 to 139.3 of the Michigan Compiled Laws. The obligations  
17 may be sold at a discount. In the resolution or resolutions  
18 authorizing the issuance of the obligations, the board shall  
19 determine the principal amount of the obligations to be issued,  
20 the registration provisions, the date of issuance, the obligation  
21 numbers, the obligation denominations, the obligation designa-  
22 tions, the obligation maturities, the interest payment dates, the  
23 paying agent or paying agents or the method of selection of the  
24 agent or agents, the rights of prior redemption of the obliga-  
25 tions, the rights of the holders to require prepayment of the  
26 principal of or interest on the obligations, the maximum rate of  
27 interest, the method of execution of the obligations, and such



1 other provisions respecting the obligations, the rights of the  
2 holders of the obligations, the security for the obligations, and  
3 the procedures for disbursement of the obligation proceeds and  
4 for the investment of the proceeds of obligations and money for  
5 the payment of obligations. However, the determination of inter-  
6 est rates, maturities, principal amounts, denominations, dates of  
7 issuance, interest payment dates, redemption rights, and prepay-  
8 ment rights may, within limits set by the board, be made by the  
9 chief operating officer or chief staff person of the building  
10 authority, as provided in this act.

11 (9) The board in the resolution or resolutions authorizing  
12 the issuance of obligations may provide for the assignment of the  
13 true rental to be paid by the state under the lease or leases to  
14 1 of the paying agents for the obligations or to a trustee, as  
15 provided in this act, in which case the state shall pay the  
16 rental to the paying agent or trustee. For the purposes and  
17 within the limitations set forth in this act, the board may by  
18 resolution covenant to issue or cause to be issued, or use its  
19 best efforts to issue or cause to be issued, refunding revenue  
20 obligations to refund any obligations issued under this act.

21 (10) The board in the resolution, or resolutions, authoriz-  
22 ing the obligations may provide for the terms and conditions upon  
23 which the holders of the obligations — or any portion of the  
24 obligations or any trustee for the obligations, shall be entitled  
25 to the appointment of a receiver. The receiver may enter and  
26 take possession of the facility, may lease and maintain the  
27 facility, may prescribe rentals, and MAY collect, receive, and

1 apply income and revenues ~~thereafter~~ arising from the facility  
2 in the same manner and to the same extent that the authority is  
3 so authorized. The resolution or resolutions may provide for the  
4 appointment of a trustee for the holders of the obligations, may  
5 give to the trustee the appropriate rights, duties, remedies, and  
6 powers, with or without the execution of a deed of trust or mort-  
7 gage, necessary and appropriate to secure the obligations, and  
8 may provide that the principal of and interest on any obligations  
9 issued under this act shall be secured by a mortgage, security  
10 interest, or deed of trust covering the facility, which mortgage,  
11 security interest, or deed of trust may contain such covenants,  
12 agreements, and remedies as will properly safeguard the obliga-  
13 tions as may be provided for in the resolution or resolutions  
14 authorizing the obligations, including the right to sell the  
15 facility upon foreclosure sale, not inconsistent with this act.

16 (11) All obligations and the interest coupons, if any,  
17 attached to the obligations are declared to be fully negotiable  
18 and to have all of the qualities incident to negotiable instru-  
19 ments under the uniform commercial code, Act No. 174 of the  
20 Public Acts of 1962, as amended, being sections 440.1101 to  
21 440.11102 of the Michigan Compiled Laws, subject only to the pro-  
22 visions for registration of the obligations which may appear on  
23 the obligations. The obligations and interest on the obligations  
24 shall be exempt from all taxation by the state or any of its  
25 political subdivisions.

26 (12) Unless an exception from prior approval is available  
27 pursuant to subsection (17), the issuance of the obligations

1 ~~shall be~~ IS subject to approval of the department of treasury  
2 under THE MUNICIPAL FINANCE ACT, Act No. 202 of the Public Acts  
3 of 1943, as amended, but Act No. 202 of the Public Acts of 1943,  
4 as amended, except as otherwise provided in this act, ~~shall~~ IS  
5 not ~~be~~ applicable to the issuance of obligations. The depart-  
6 ment of treasury shall issue its order of approval when it has  
7 determined all of the following:

8 (a) That the revenues, properties, and other securities  
9 pledged for revenue obligations are sufficient.

10 (b) That, to the extent authorized by the building authori-  
11 ty, insurance, letters of credit, irrevocable commitments to pur-  
12 chase revenue obligations, or other transactions to provide sepa-  
13 rate security to assure timely payment of any revenue obligations  
14 of the building authority have been provided and, in fact, do  
15 provide resources, when taken with true rental and proceeds  
16 authorized by this act, for the prompt repayment of the revenue  
17 obligations.

18 (c) That the purpose for which the revenue obligations are  
19 issued and the manner in which the revenue obligations are pro-  
20 posed to be issued comply with this act.

21 (13) When prior approval is required, the department of  
22 treasury may approve the issuance from time to time of obliga-  
23 tions to refinance by refunding any obligations at the same time  
24 it approves the issuance of the obligations to be refunded. The  
25 department of treasury may require the building authority to file  
26 with the department of treasury periodic reports and information  
27 as the department of treasury considers necessary. The

1 department of treasury ~~shall have~~ HAS the enforcement and  
2 remedial powers with respect to the building authority and its  
3 obligations ~~as may be~~ provided by THE MUNICIPAL FINANCE ACT,  
4 Act No. 202 of the Public Acts of 1943, as amended, or other pro-  
5 visions of law.

6 (14) The obligations may be sold at private or at public  
7 sale. If sold at public sale, notice of the sale of the obliga-  
8 tions shall be published once at least 7 days before the date of  
9 sale in a publication approved by the department of treasury as a  
10 publication carrying as part of its regular services notices of  
11 sale of municipal bonds and in a newspaper of general circulation  
12 published in the state.

13 (15) The building authority may issue additional obligations  
14 of equal standing with respect to the pledge of the true rentals  
15 and any additional security provided pursuant to this section  
16 with previously issued obligations of the building authority  
17 issued to acquire or construct a facility or facilities, or to  
18 refund the obligations, for the purpose of completing ~~—~~ OR  
19 making additions, improvements, or replacements to the facility  
20 or facilities for which the previous obligations of the authority  
21 were issued or to refund all or part of any obligations previ-  
22 ously issued for any such facility, under the terms and condi-  
23 tions provided in the resolution authorizing the previous issue  
24 of obligations.

25 (16) The authority shall not have obligations outstanding at  
26 any 1 time for any of its corporate purposes in a principal  
27 amount totaling more than ~~\$1,350,000,000.00~~ \$2,050,000,000.00,

1 which limitations ~~shall~~ DO not include principal appreciation.  
2 as provided in subsection (19) or obligations or portions of  
3 obligations used to pay for any of the following:

4 (a) Amounts set aside for payment of interest becoming due  
5 before the collection of the first true rental available.

6 (b) Amounts set aside for a reserve for payment of princi-  
7 pal, interest, and redemption premiums.

8 (c) Costs of issuance of the obligations and the discount,  
9 if any, on sale.

10 (d) The sums expected to be set aside for the purposes pro-  
11 vided in subdivisions (a), (b), and (c) for any obligations  
12 authorized by the authority but not sold. The amount set aside  
13 or expected to be set aside for the purposes provided in subdivi-  
14 sions (a), (b), AND (c) ~~—~~ and ~~(d)~~ THIS SUBDIVISION shall be  
15 conclusively determined by a certificate setting forth the  
16 amounts executed by the executive director of the building  
17 authority. In addition, there shall be excluded from the limita-  
18 tion obligations issued to refund prior obligations.

19 (17) The requirement of subsection (12) for obtaining the  
20 prior approval of the department of treasury before issuing obli-  
21 gations under this section ~~shall be~~ IS subject to sections 10  
22 and 11 of chapter III of THE MUNICIPAL FINANCE ACT, Act No. 202  
23 of the Public Acts of 1943, being sections 133.10 and 133.11 of  
24 the Michigan Compiled Laws, and the department of treasury shall  
25 have the same authority as provided by section 11 of chapter III  
26 of Act No. 202 of the Public Acts of 1943 to issue an order  
27 providing or denying an exception from the prior approval

1 required by subsection (12) for obligations authorized by this  
2 act.

3       (18) The authority may apply and pledge, if not already  
4 pledged, all or any unpledged part of the ~~-(a)-~~ true rental and  
5 other revenues of a facility; ~~-(b)-~~ income and profit from the  
6 investment of money pertaining to a facility; ~~-(c)-~~ OR  
7 money in any fund or account of the authority pertaining to a  
8 facility, to the payment of the principal, interest, and redemp-  
9 tion premiums on revenue obligations of the authority other than  
10 those to which the true rental and other revenues, investment  
11 income ~~-(b)-~~ or profit, or funds or accounts pertain or to pay part  
12 or all of the cost of additional facilities to be acquired by the  
13 authority for the use of the state. The authority may establish  
14 a separate fund into which the rental and other revenues, invest-  
15 ment income or profit, or money of any such fund or account shall  
16 be deposited to be used to pay principal, interest, and redemp-  
17 tion premiums on outstanding obligations of the authority or to  
18 acquire facilities for the use of the state. The authority shall  
19 not acquire a facility unless the acquisition is approved by the  
20 state administrative board and by a concurrent resolution of the  
21 legislature approved by a majority of the members elected to and  
22 serving in each house. The authority may pledge any or all of  
23 the foregoing to the payment of revenue obligations of the  
24 authority other than those to which they pertain. If the true  
25 rental and other revenues, investment income or profit, or the  
26 money in funds or accounts to be applied as specified in this  
27 subsection pertain to a facility leased to the state and an

1 institution of higher education pursuant to a lease executed and  
2 delivered before January 1, 1983, no application or pledge  
3 thereof may be made unless approved by the institution of higher  
4 education.

5 (19) If the authority issues an obligation that appreciates  
6 in principal amount, the amount of principal appreciation each  
7 year on that obligation, after the date of original issuance,  
8 shall not be considered to be principal indebtedness for the pur-  
9 poses of the limitation in subsection (16) or any other  
10 limitation. The appreciation of principal after the date of  
11 original issue shall be considered interest and shall be within  
12 the interest rate limitations set forth in this act.

13 (20) Of the ~~\$1,350,000,000.00~~ \$2,050,000,000.00 authorized  
14 under subsection (16), priority OF NEW CONSTRUCTION PROJECTS NOT  
15 PREVIOUSLY AUTHORIZED IN AN APPROPRIATION ACT shall be determined  
16 ~~by the joint capital outlay committee~~ IN ACCORDANCE WITH  
17 SECTION 242 OF THE MANAGEMENT AND BUDGET ACT, ACT NO. 431 OF THE  
18 PUBLIC ACTS OF 1984, BEING SECTION 18.1242 OF THE MICHIGAN  
19 COMPILED LAWS.

20 (21) THE \$700,000,000.00 IN INCREASED BOND AUTHORITY AUTHO-  
21 RIZED BY THE AMENDATORY ACT THAT AMENDED SUBSECTION (16) AND  
22 ADDED THIS SUBSECTION SHALL BE ALLOCATED AS FOLLOWS:

23 (A) \$100,000,000.00 FOR PUBLIC COMMUNITY AND JUNIOR COLLEGES  
24 DESCRIBED IN SECTION 7 OF ARTICLE VIII OF THE STATE CONSTITUTION  
25 OF 1963 OR PART 25 OF THE SCHOOL CODE OF 1976, ACT NO. 451 OF THE  
26 PUBLIC ACTS OF 1976, BEING SECTIONS 380.1601 TO 380.1607 OF THE  
27 MICHIGAN COMPILED LAWS.

1        (B) \$500,000,000.00 FOR 4-YEAR INSTITUTIONS OF HIGHER  
2 EDUCATION DESCRIBED IN SECTIONS 4, 5, AND 6 OF ARTICLE VIII OF  
3 THE STATE CONSTITUTION OF 1963.

4        (C) \$100,000,000.00 FOR USE BY THE STATE AS AUTHORIZED UNDER  
5 THIS ACT AND NOT SPECIFIED IN SUBDIVISION (A) OR (B).