

HOUSE BILL No. 4874

May 28, 1991, Introduced by Reps. Mathieu, Alley, Bartnik, Middaugh and Hillegonds and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 3, 7, and 13 of Act No. 227 of the Public Acts of 1985, entitled as amended

"Shared credit rating act,"

section 3 as amended by Act No. 316 of the Public Acts of 1988 and sections 7 and 13 as amended by Act No. 281 of the Public Acts of 1990, being sections 141.1053, 141.1057, and 141.1063 of the Michigan Compiled Laws; and to add section 16b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3, 7, and 13 of Act No. 227 of the
2 Public Acts of 1985, section 3 as amended by Act No. 316 of the
3 Public Acts of 1988 and sections 7 and 13 as amended by Act
4 No. 281 of the Public Acts of 1990, being sections 141.1053,
5 141.1057, and 141.1063 of the Michigan Compiled Laws, are amended
6 and section 16b is added to read as follows:

1 Sec. 3. As used in this act:

2 (a) "Authority" means the Michigan municipal bond authority
3 created in section 4.

4 (b) "Board" means the board of trustees of the authority
5 established in section 5.

6 (c) "Bonds" means bonds of the authority issued as provided
7 in this act with a maturity greater than 3 years.

8 (d) "Capitalization grant" means the federal grant made to
9 this state by the United States environmental protection agency
10 for the purpose of establishing a state water pollution control
11 revolving fund, as provided in title VI of the federal water pol-
12 lution control act, chapter 758, 101 Stat. 22, 33 U.S.C. 1381 to
13 1387.

14 (e) "Federal water pollution control act" means chapter 758,
15 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to ~~+1257~~ 1254, 1255
16 TO 1257, 1258 to 1263, 1265 to 1268, 1281, 1282 to 1293, 1294 to
17 1299, 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1345,
18 1361 to 1377, and 1381 to 1387.

19 (f) "Fully marketable form" means a municipal obligation
20 duly executed and accompanied by all of the following:

21 (i) An approving legal opinion of a bond counsel approved by
22 the authority and of nationally recognized standing in the field
23 of municipal law.

24 (ii) Closing documents in a form and substance satisfactory
25 to the authority. The municipal obligation so executed need not
26 be printed or lithographed nor be in more than 1 denomination.

1 (iii) Evidence that the pledge for payment of the municipal
2 obligation will be sufficient to pay the principal of and
3 interest on the municipal obligation when due.

4 (iv) An order of approval or an order of exception issued by
5 the department of treasury under the municipal finance act, Act
6 No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3
7 of the Michigan Compiled Laws, which orders shall also include a
8 certification that the condition of subparagraph (iii) has been
9 met.

10 (v) For purposes of a project funded under section 16a OR
11 ASSISTANCE PROVIDED UNDER SECTION 16B, an order of approval
12 issued by the director of the department of natural resources
13 under the state clean water assistance act, ACT NO. 317 OF THE
14 PUBLIC ACTS OF 1988, BEING SECTIONS 323.451 TO 323.470 OF THE
15 MICHIGAN COMPILED LAWS. The order shall state that the project
16 proposed by the governmental unit has been approved for assist-
17 ance by the director of the department of natural resources.

18 (g) "Governmental unit" means a county, city, township, vil-
19 lage, school district, intermediate school district, community
20 college, public university, authority, district, any other body
21 corporate and politic or other political subdivision, any agency
22 or instrumentality of the foregoing, or any group self-insurance
23 pool formed pursuant to Act No. 35 of the Public Acts of 1951,
24 being sections 124.1 to 124.13 of the Michigan Compiled Laws.
25 For purposes of a project funded under section 16a OR 16B, gov-
26 ernmental unit includes an Indian tribe that has jurisdiction
27 over construction and operation of a project qualifying under 319

1 of title III of the federal water pollution control act, chapter
2 758, 101 Stat. 52, 33 U.S.C. 1329. A governmental unit shall not
3 include the Michigan strategic fund created pursuant to Act
4 No. 270 of the Public Acts of 1984, being sections 125.2001 to
5 125.2093 of the Michigan Compiled Laws, or an economic develop-
6 ment corporation created under the economic development corpora-
7 tion act, Act No. 338 of the Public Acts of 1974, being sections
8 125.1601 to 125.1636 of the Michigan Compiled Laws. After
9 July 1, 1988, a governmental unit does not include a
10 self-insurance pool unless the self-insurance pool has filed a
11 certification by an independent actuary that the reserves set
12 aside pursuant to section 7a of Act No. 35 of the Public Acts of
13 1951, being section 124.7a of the Michigan Compiled Laws, are
14 adequate for the payment of claims.

15 (h) "Municipal obligation" means a bond or note or evidence
16 of debt issued by a governmental unit for a purpose authorized by
17 law.

18 (i) "Notes" means an obligation of the authority issued as
19 provided in this act, including commercial paper, with a maturity
20 of 3 years or less.

21 (j) "Project" means a sewage treatment works project or a
22 nonpoint source project, or both, as defined in the state clean
23 water assistance act, ACT NO. 317 OF THE PUBLIC ACTS OF 1988.

24 (k) "Reserve fund" means a bond reserve fund or note reserve
25 fund created and established under section 16.

26 (l) "Revenues" means all fees, charges, money, profits,
27 payments of principal of or interest on municipal obligations and

1 other investments, gifts, grants, contributions, and all other
2 income derived or to be derived by the authority under this act.

3 Sec. 7. The board has all of the following powers:

4 (a) To adopt bylaws for the regulation of its affairs.

5 (b) To adopt an official seal.

6 (c) To maintain a principal office at a place within this
7 state.

8 (d) To sue and be sued in its own name and to plead and be
9 impleaded.

10 (e) To loan money to a governmental unit at a rate or rates
11 as the authority determines and to purchase and sell, and to
12 commit to purchase and sell, municipal obligations pursuant to
13 this act.

14 (f) To borrow money and issue negotiable revenue bonds and
15 notes pursuant to this act.

16 (g) To make and enter into contracts and other instruments
17 necessary or incidental to the performance of its duties and the
18 exercise of its powers. By rotating the services of legal coun-
19 sel, the authority shall seek to increase the pool of nationally
20 recognized bond counsel.

21 (h) To receive and accept from any source grants or contri-
22 butions of money, property, or other things of value, excluding
23 appropriations from the general fund of the state except for
24 appropriations to the state water pollution control revolving
25 fund established under section 16a AND THE MUNICIPAL POLLUTION
26 CONTROL FUND ESTABLISHED UNDER SECTION 16B, to be used, held, and
27 applied only for the purposes for which the grants and

1 contributions were made. A GOVERNMENTAL UNIT MAY USE STATE
2 COLLECTED TAXES OR OTHER STATE REVENUES ANNUALLY APPROPRIATED TO
3 THE GOVERNMENTAL UNIT THAT ARE NOT RESTRICTED AS TO USE BY THE
4 STATE CONSTITUTION OF 1963 TO PAY ANY AMOUNTS OWED TO THE
5 AUTHORITY.

6 (i) To do all acts necessary or convenient to carry out the
7 powers expressly granted.

8 (j) To require that final actions of the board are entered
9 in the journal for the board and that all writings prepared,
10 owned, used, in the possession of, or retained by the board in
11 the performance of an official function be made available to the
12 public in compliance with the freedom of information act, Act
13 No. 442 of the Public Acts of 1976, being sections 15.231 to
14 15.246 of the Michigan Compiled Laws.

15 (k) To promulgate rules necessary to carry out the purposes
16 of this act and to exercise the powers expressly granted in this
17 act pursuant to the administrative procedures act of 1969, Act
18 No. 306 of the Public Acts of 1969, being sections 24.201 to
19 24.328 of the Michigan Compiled Laws.

20 (l) To engage the services of private consultants on a con-
21 tract basis for rendering professional and technical assistance
22 and advice.

23 (m) To investigate and assess the infrastructure needs of
24 the state, current methods of financing infrastructure rehabili-
25 tation and improvements, and resources and financing options cur-
26 rently available and potentially useful to improve the state's
27 infrastructure and lower the costs of those improvements.

1 (n) To indemnify and procure insurance indemnifying members
2 of the board from personal loss or accountability from liability
3 asserted by a person on bonds or notes of the authority or from
4 any personal liability or accountability by reason of the issu-
5 ance of the bonds or notes, or by reason of any other action
6 taken or the failure to act by the authority.

7 (o) To investigate and assess short-term and long-term bor-
8 rowing requirements for operating, capital improvements, and
9 delinquent taxes.

10 (p) To provide assistance, as that term is defined in sec-
11 tion 3 of the state clean water assistance act, Act No. 317 of
12 the Public Acts of 1988, being section 323.453 of the Michigan
13 Compiled Laws, to any municipality for a revolving fund project
14 and to perform all functions necessary or incident to providing
15 that assistance and to the operation of the state water pollution
16 control revolving fund established under section 16a.

17 (q) To enter into agreements with the federal government to
18 implement the establishment and operation of the state water pol-
19 lution control revolving fund established under section 16a pur-
20 suant to the provisions of the federal water pollution control
21 act and the rules and regulations promulgated under that act.

22 (R) TO PROVIDE ASSISTANCE TO ANY MUNICIPALITY PURSUANT TO
23 SECTION 16B AND TO PERFORM ALL FUNCTIONS NECESSARY OR INCIDENT TO
24 PROVIDING THAT ASSISTANCE AND TO THE OPERATION OF THE MUNICIPAL
25 POLLUTION CONTROL FUND ESTABLISHED UNDER SECTION 16B.

26 (S) ~~-(r)-~~ To manage an investment or create and manage an
27 investment pool for a governmental unit. In implementing this

1 subdivision, the authority may contract with private or public
2 sector fund investment advisors, investment managers, and fund
3 administrators, and with the department of treasury to pool a
4 governmental unit's investment with the investment of state sur-
5 plus funds under Act No. 105 of the Public Acts of 1855, being
6 sections 21.141 to 21.147 of the Michigan Compiled Laws.

7 However, the authority may not invest a governmental unit's money
8 in a manner not authorized by law or charter for that governmen-
9 tal unit. The department of treasury shall consider and account
10 for a governmental unit's investment that is pooled with state
11 surplus fund investments as a trust fund that is equivalent to a
12 debt service fund within the state common cash fund.

13 Sec. 13. Within limitations that are stated in the issuance
14 or authorization resolution of the authority, the authority may
15 authorize a member of the board or the executive director of the
16 authority to do 1 or more of the following:

17 (a) Sell and deliver, and receive payment for, notes or
18 bonds.

19 (b) Refund notes or bonds by the delivery of new notes or
20 bonds whether or not the notes or bonds to be refunded have
21 matured or are subject to redemption.

22 (c) Deliver notes or bonds, partly to refund notes or bonds
23 and partly for any other authorized purpose.

24 (d) Buy notes or bonds so issued and resell those notes or
25 bonds.

26 (e) Approve interest rates or methods for fixing interest
27 rates, prices, discounts, maturities, principal amounts,

1 denominations, dates of issuance, interest payment dates,
2 redemption rights at the option of the authority or the holder,
3 the place of delivery and payment, and other matters and proce-
4 dures necessary to complete the transactions authorized.

5 (f) Direct the investment of any and all money of the
6 authority that the authority has the power to invest.

7 (g) Manage investments and create and manage investment
8 pools on behalf of governmental units and the state water pollu-
9 tion control revolving fund established under section 16a OR THE
10 MUNICIPAL POLLUTION CONTROL FUND ESTABLISHED UNDER SECTION 16B.

11 SEC. 16B. (1) THE AUTHORITY SHALL ESTABLISH A MUNICIPAL
12 POLLUTION CONTROL FUND. THIS FUND MAY RECEIVE MONEY FROM ANY
13 SOURCE CONSIDERED APPROPRIATE BY THE AUTHORITY AND AS OTHERWISE
14 PROVIDED BY LAW. INTEREST AND EARNINGS OF THIS FUND SHALL BE
15 CREDITED TO THIS FUND. MONEY IN THIS FUND SHALL BE SEGREGATED
16 AND SHALL NOT REVERT TO THE GENERAL FUND. MONEY IN THIS FUND
17 SHALL BE USED TO BUY DOWN THE RATE OF INTEREST OR PROVIDE SIMILAR
18 ASSISTANCE ON BONDS ISSUED BY A MUNICIPALITY PURSUANT TO THE
19 MUNICIPAL POLLUTION CONTROL FINANCING ACT FOR SEWAGE TREATMENT
20 WORKS PROJECTS THAT CORRECT OR SEPARATE COMBINED SEWER SYSTEMS TO
21 ELIMINATE COMBINED SEWER OVERFLOWS IN A MANNER CONSISTENT WITH
22 THE REQUIREMENTS OF THE STATE CLEAN WATER ASSISTANCE ACT, ACT
23 NO. 317 OF THE PUBLIC ACTS OF 1988, BEING SECTIONS 323.451 TO
24 323.470 OF THE MICHIGAN COMPILED LAWS, AND THE RULES PROMULGATED
25 UNDER THAT ACT.

26 (2) THE AUTHORITY SHALL PROVIDE ASSISTANCE FROM THE
27 MUNICIPAL POLLUTION CONTROL FUND, UPON APPLICATION, ON A FIRST

1 COME FIRST SERVE BASIS. IF ASSISTANCE IS PROVIDED IN THE FORM OF
2 A BUY DOWN OF THE RATE OF INTEREST, THE AUTHORITY SHALL BUY DOWN
3 THE RATE OF INTEREST NOT MORE THAN 2 PERCENTAGE POINTS. THE
4 AUTHORITY MAY COORDINATE ASSISTANCE PROVIDED TO SEWAGE TREATMENT
5 WORKS PROJECTS TO CORRECT OR SEPARATE COMBINED SEWERS UNDER THIS
6 SECTION WITH ASSISTANCE PROVIDED UNDER SECTION 16A.

7 (3) THE AUTHORITY SHALL ONLY PROVIDE ASSISTANCE TO A MUNICI-
8 PALITY UNDER THIS SECTION IF THE AUTHORITY HAS PURCHASED THE
9 BONDS ISSUED BY THE MUNICIPALITY PURSUANT TO THE MUNICIPAL POLLU-
10 TION CONTROL FINANCE ACT AS PROVIDED IN THIS ACT. THE AUTHORITY
11 MAY WAIVE THIS REQUIREMENT IF A MUNICIPALITY DEMONSTRATES TO THE
12 SATISFACTION OF THE AUTHORITY THAT THE BONDS ISSUED BY THE MUNIC-
13 IPALITY WILL BE SOLD AT A RATE OF INTEREST THAT IS EQUAL TO OR
14 LESS THAN THE CURRENT RATE OF INTEREST ON BONDS ISSUED BY THE
15 AUTHORITY.

16 (4) AS USED IN THIS SECTION:

17 (A) "COMBINED SEWER SYSTEM" MEANS A SEWER INTENDED TO SERVE
18 AS A SANITARY SEWER AND A STORM SEWER.

19 (B) "COMBINED SEWER OVERFLOW" MEANS A DISCHARGE FROM A COM-
20 BINED SEWER SYSTEM THAT OCCURS WHEN THE FLOW CAPACITY OF THE COM-
21 BINED SEWER SYSTEM IS EXCEEDED.

22 (C) "SANITARY SEWER" MEANS A SEWER INTENDED TO CARRY ONLY
23 SANITARY AND INDUSTRIAL WASTE FROM RESIDENCES, COMMERCIAL BUILD-
24 INGS, INDUSTRIAL PLANTS, AND INSTITUTIONS.

25 (D) "STORM SEWER" MEANS A SEWER INTENDED TO CARRY ONLY STORM
26 WATERS, SURFACE RUNOFF, STREET WASH WATERS, AND DRAINAGE.

1 Section 2. This amendatory act shall not take effect unless
2 all of the following bills of the 86th Legislature are enacted
3 into law:

4 (a) Senate Bill No. _____ or House/ ^{Joint Resolution P}~~Bill No.~~ _____ (request
5 no. 02382'91).

6 (b) Senate Bill No. _____ or House Bill No. 4877 (request
7 no. 02434'91).