

HOUSE BILL No. 4876

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 provide for the financing of certain pollution control projects; and to provide for the powers and duties of certain municipalities, including the power to issue bonds for certain purposes.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "municipal pollution control financing act".

3 Sec. 2. As used in this act:

4 (a) "Bonds" means the bonds of a municipality issued as pro-
5 vided in this act.

6 (b) "Combined sewer overflow" means a discharge from a com-
7 bined sewer system that occurs when the flow capacity of the com-
8 bined sewer system is exceeded.

9 (c) "Combined sewer system" means a sewer intended to serve
10 as a sanitary sewer and a storm sewer.

1 (d) "Construction" means any action undertaken in the
2 designing or building of a pollution control facility. This term
3 includes, but is not limited to, all of the following:

4 (i) Engineering services.

5 (ii) Legal services.

6 (iii) Financial services.

7 (iv) Design of plans and specifications.

8 (v) Acquisition of land or structural components, or both.

9 (vi) Building, erection, alteration, remodeling, or exten-
10 sion of a pollution control facility.

11 (vii) Municipal supervision of the project activities
12 described in subparagraphs (i) to (vi).

13 (e) "Improvement" means any action undertaken to expand,
14 rehabilitate, or restore a pollution control facility.

15 (f) "Municipality" means a county, city, township, charter
16 township, village, or an authority created or established pursu-
17 ant to the laws of this state.

18 (g) "Pollution control facility" means any works, instrumen-
19 talities, or equipment necessary or appropriate to correct or
20 separate combined sewer systems to eliminate combined sewer
21 overflows.

22 (h) "Project" means construction, improvement, or replace-
23 ment of a pollution control facility.

24 (i) "Replacement" means any actions taken to obtain and
25 install equipment, accessories, or appurtenances during the
26 useful life of a pollution control facility necessary to maintain

1 the capacity and performance for which the equipment,
2 accessories, or appurtenances are designed and constructed.

3 (j) "Sanitary sewer" means a sewer intended to carry only
4 sanitary and industrial waste from residences, commercial build-
5 ings, industrial plants, and institutions.

6 (k) "Storm sewer" means a sewer intended to carry only storm
7 waters, surface runoff, street wash waters, and drainage.

8 Sec. 3. (1) The legislative body of a municipality may
9 issue and sell bonds for all of the following purposes:

10 (a) For a project.

11 (b) To pay interest on the bonds for the period of time as
12 determined by the legislative body.

13 (c) To provide for the establishment of a reserve to addi-
14 tionally secure the bonds in an amount, if any, considered neces-
15 sary by the legislative body.

16 (d) To pay the costs of issuance of the bonds.

17 (2) The bonds provided for in subsection (1) shall bear
18 interest not to exceed the maximum rate permitted by the munici-
19 pal finance act, Act No. 202 of the Public Acts of 1943, being
20 sections 131.1 to 139.3 of the Michigan Compiled Laws, and be
21 payable in not more than 40 years from the date of issuance. The
22 legislative body of the municipality shall determine in the pro-
23 ceeding authorizing the bonds the denomination or denominations
24 of the bonds, the date, time, and manner of payment of the bonds,
25 the rights of prior redemption at the option of the local unit of
26 government or the holder as is determined by the legislative
27 body, the dates of payment of interest, the rights of

1 registration, and other detail as may be necessary to market the
2 bonds. The bonds may be sold by the municipality at public or
3 private sale at the time or times, at the price or prices, and at
4 a discount as the legislative body determines. The bonds may be
5 serial bonds or term bonds with or without mandatory redemption
6 requirements, or both, as shall be determined by the legislative
7 body. The bonds may be issued without vote of the electors and
8 without requirement for publication of any prior notice of intent
9 to issue the bonds. Except as otherwise provided in this act,
10 all bonds issued under this act shall be issued and sold and may
11 be refunded in conformity with Act No. 202 of the Public Acts of
12 1943.

13 Sec. 4. (1) Bonds issued under this act shall be full faith
14 and credit general obligation bonds of the municipality and the
15 principal and interest on the bonds shall be payable from any
16 unrestricted money in the general fund of the municipality, as a
17 first budget item, and may be paid from the general fund notwith-
18 standing that those funds from the general fund of the municipal-
19 ity may have been appropriated for other purposes. Each officer
20 of the municipality charged with determining the amount of and
21 for the certification, levying, and collecting of taxes of the
22 municipality, shall include in the ad valorem tax levy of the
23 municipality each year an amount estimated to be sufficient when
24 taken with the money on hand or estimated to be on hand for the
25 purpose of paying the interest on and principal of the bonds
26 becoming due, whether by maturity, prior redemption, or
27 otherwise, prior to the time of the tax collection of the year

1 following the tax levy. The legislative body of the
2 municipality, in addition, in the proceedings authorizing the
3 bonds, may do 1 or more of the following:

4 (a) Use, pledge, and create a statutory lien on the net rev-
5 enues to the municipality of any pollution control facility
6 within the municipality for the payment of the principal of and
7 interest on the bonds issued under this act. The use, pledge,
8 and lien may be a first pledge and lien on the revenues or the
9 pledge and lien may be subordinate to some other pledge and stat-
10 utory lien created on the net revenues.

11 (b) Use, pledge, and create a statutory lien on
12 state-collected taxes or other state revenues annually appropri-
13 ated to the municipality that are not restricted as to use by the
14 state constitution of 1963, as additional security for the pay-
15 ment of the principal and interest on the bonds issued under this
16 act.

17 (2) If a pledge is made under subsection (1), and the net
18 revenues primarily pledged to the payment are insufficient to
19 make a payment, the municipality is obligated to pay the bonds
20 and interest on the bonds in the same manner and to the same
21 extent as other general obligation bonds of the municipality,
22 including the levy, when necessary, of a tax on all taxable prop-
23 erty in the municipality without limitation as to rate or amount,
24 in addition to all other taxes that the municipality is autho-
25 rized to levy, but not exceeding the rate or amount necessary to
26 make the payment.

1 Sec. 5. For statutory and charter debt limitation purposes,
2 bonds issued under this act shall not be considered to be
3 indebtedness of the municipality that issues the bonds. The max-
4 imum amount of bonds that may be issued by a municipality, when
5 taken together with other outstanding indebtedness of the munic-
6 pality, may not exceed 10% of the state equalized valuation of
7 the municipality. The legislative body of the municipality, in
8 the proceedings authorizing the bonds, may provide for the defea-
9 sance of the bonds by the deposit, in trust for the defeasance,
10 of cash and securities in the amount provided in the proceedings
11 that will provide for payment of principal and interest on the
12 bonds as the interest becomes due and the principal becomes due
13 at maturity, redemption, or otherwise, as designated in the reso-
14 lution authorizing the bonds. In the event of such a deposit,
15 the bonds, for the purposes of this act, and the proceedings
16 authorizing the bonds are no longer outstanding, and, except for
17 those rights determined to continue to exist in the proceedings
18 authorizing the bonds, the bondholders no longer have any rights
19 with respect to those bonds and the security from the bonds.

20 Sec. 6. Two or more municipalities may enter into agree-
21 ments providing for joint projects pursuant to this act, for the
22 joint ownership and operation of pollution control facilities,
23 for the sharing of the costs of projects, for the operation of
24 pollution control facilities, and for the issuance of bonds pur-
25 suant to this act by each municipality to pay the share of the
26 cost of the project payable by each municipality.

1 Sec. 7. The authority granted under this act shall be in
2 addition to and not in derogation of any power existing in any
3 municipality under any statutory or charter provisions that it
4 may have or may adopt or be subject to, and the powers granted by
5 this act may be exercised by a municipality as provided in this
6 act, notwithstanding that the exercise of the powers may conflict
7 with the provisions of a municipal charter. The bonds authorized
8 under this act are not subject to limitations or provisions con-
9 tained in the laws of this state pertaining to municipalities or
10 in the charters of municipalities, other than as provided for in
11 this act.

12 Sec. 8. This act shall not take effect unless all of the
13 following bills of the 86th Legislature are enacted into law:

14 (a) Senate Bill No. _____ or House Bill No. 4875 (request
15 no. 00837'91 *).

16 (b) Senate Bill No. _____ or House Bill No. 4872 (request
17 no. 00839'91 *).

18 (c) Senate Bill No. _____ or House Bill No. 4873 (request
19 no. 00840'91 *).