



HOUSE BILL No. 4303

February 18, 1993, Introduced by Reps. Mathieu, Middaugh, Wetters, Shepich, McNutt, Brown, O'Neill, Stille, Dalman, Goschka, DeMars, Jaye, Bobier, Horton and Pitoniak and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to provide for the financing of certain combined sewer overflow abatement 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 "combined sewer overflow abatement financing act".

3 Sec. 2. Unless the context suggests a different meaning, as
4 in section 4(1)(b), as used in this act:

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

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

1 (c) "Combined sewer overflow abatement facility" means
2 works, instrumentalities, or equipment necessary or appropriate
3 to abate combined sewer overflows.

4 (d) "Combined sewer system" means a sewer designed and used
5 to convey both storm water and sanitary sewage, and that contains
6 lawfully installed regulators and control devices that allow for
7 delivery of sanitary sewage to treatment during dry weather peri-
8 ods and divert storm water and sanitary sewage to surface waters
9 during storm flow periods.

10 (e) "Construction" means any action undertaken in the
11 designing or building of a combined sewer overflow abatement
12 facility. This term includes, but is not limited to, all of the
13 following:

14 (i) Engineering services.

15 (ii) Legal services.

16 (iii) Financial services.

17 (iv) Design of plans and specifications.

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

19 (vi) Building, erection, alteration, remodeling, or exten-
20 sion of a combined sewer overflow abatement facility.

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

23 (f) "Improvement" means action undertaken to expand, reha-
24 bilitate, or restore a combined sewer overflow abatement
25 facility.

26 (g) "Municipality" means that term as defined in section 4
27 of the state clean water assistance act, Act No. 317 of the

1 Public Acts of 1988, being section 323.454 of the Michigan
2 Compiled Laws.

3 (h) "Project" means construction, improvement, or replace-
4 ment of a combined sewer overflow abatement facility.

5 (i) "Replacement" means action taken to obtain and install
6 equipment, accessories, or appurtenances during the useful life
7 of a combined sewer overflow abatement facility necessary to
8 maintain the capacity and performance for which the equipment,
9 accessories, or appurtenances are designed and constructed.

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

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

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

17 (a) For a project.

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

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

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

24 (2) The bonds provided for in subsection (1) shall bear
25 interest not to exceed the maximum rate permitted by the munici-
26 pal finance act, Act No. 202 of the Public Acts of 1943, being
27 sections 131.1 to 139.3 of the Michigan Compiled Laws, and be

1 payable in not more than 40 years from the date of issuance. In
2 the proceedings authorizing the bonds, the legislative body of
3 the municipality shall determine or provide a method for deter-
4 mining the denomination or denominations of the bonds, the date,
5 time, and manner of payment of the bonds, the rights of prior
6 redemption at the option of the local unit of government or the
7 holder as is determined by the legislative body, the dates of
8 payment of interest, the rights of registration, and other detail
9 as may be necessary to market the bonds. The bonds may be sold
10 by the municipality at public or private sale, at the time or
11 times, at the price or prices, and at a discount as determined by
12 the legislative body. The bonds may be serial bonds or term
13 bonds with or without mandatory redemption requirements, or both,
14 as determined by the legislative body. The bonds may be issued
15 without vote of the electors and without requirement for publica-
16 tion of any prior notice of intent to issue the bonds. Except as
17 otherwise provided in this act, all bonds issued under this act
18 shall be issued and sold and may be refunded in conformity with
19 Act No. 202 of the Public Acts of 1943.

20 Sec. 4. (1) Bonds issued under this act shall be full faith
21 and credit general obligation bonds of the municipality and the
22 principal and interest on the bonds shall be payable from any
23 unrestricted money in the general fund of the municipality, as a
24 first budget item, and may be paid from the general fund notwith-
25 standing that those funds from the general fund of the municipal-
26 ity may have been appropriated for other purposes. The principal
27 and interest on the bonds may also be paid from any other source

1 of money authorized by law or charter. Each officer of the
2 municipality charged with determining the amount of and with the
3 certification, levying, and collecting of taxes of the municipal-
4 ity, shall include in the ad valorem tax levy of the municipality
5 each year an amount estimated to be sufficient, if added to the
6 money on hand or estimated to be on hand, to pay the interest on
7 and principal of the bonds becoming due, whether by maturity,
8 prior redemption, or otherwise, before the time of the tax col-
9 lection of the year following the tax levy. In addition, the
10 legislative body of the municipality, in the proceedings autho-
11 rizing the bonds, may do 1 or more of the following:

12 (a) Use, pledge, and create a statutory lien on the net rev-
13 enues to the municipality of any combined sewer overflow abate-
14 ment facility within the municipality for the payment of the
15 principal of and interest on the bonds issued under this act.
16 The use, pledge, and lien may be a first pledge and lien or a
17 subordinate pledge and lien on the net revenues.

18 (b) If the legislative body of the municipality determines
19 to operate a combined sewer overflow abatement facility and 1 or
20 more other public improvements as a joint public improvement, the
21 legislative body may use, pledge, and create a statutory lien on
22 the net revenues of the joint public improvement for payment of
23 the principal of and interest on bonds issued to defray the cost
24 of the purchase, acquisition, construction, improvement, or
25 replacement of all or part of the joint public improvement. The
26 use, pledge, and lien may be a first pledge and lien or a
27 subordinate pledge and lien on the net revenues.

1 (c) Use, pledge, and create a statutory lien on
2 state-collected taxes or other state revenues annually appropri-
3 ated to the municipality that are not otherwise restricted as to
4 use by the state constitution of 1963, as additional security for
5 the payment of the principal and interest on the bonds issued
6 under this act.

7 (2) If bonds are issued under this act and a pledge is made
8 under subsection (1), and the net revenues primarily pledged to
9 the payment are insufficient to make a payment, the municipality
10 shall pay the bonds and interest on the bonds in the same manner
11 and to the same extent as other general obligation bonds of the
12 municipality, and shall levy, when necessary, a tax on all tax-
13 able property in the municipality at a rate authorized by law or
14 charter. However, if the bonds were issued as unlimited tax
15 bonds with the approval of a majority of the qualified electors
16 of the municipality voting on the question, the tax shall be
17 without limitation as to rate or amount and in addition to all
18 other taxes that the municipality is authorized to levy. In
19 either case, the tax shall not exceed the rate or amount neces-
20 sary to make the payment as estimated by the legislative body of
21 the municipality while taking into account other available funds
22 and probable delinquencies.

23 Sec. 5. For statutory and charter debt limitation purposes,
24 bonds issued under this act are not considered to be indebtedness
25 of the municipality that issues the bonds. Assuming that bonds
26 issued under this act were considered to be indebtedness of the
27 municipality that issues the bonds for statutory and charter debt

1 purposes, if, as a result, the municipality's statutory or
2 charter debt limit would be exceeded, the municipality shall not
3 file for an exception from prior approval by the department of
4 treasury under section 11 of chapter III of the municipal finance
5 act, Act No. 202 of the Public Acts of 1943, being section 133.11
6 of the Michigan Compiled Laws. The maximum amount of bonds that
7 may be issued by a municipality, excluding other outstanding
8 indebtedness of the municipality, may not exceed 10% of the state
9 equalized valuation of the municipality. The legislative body of
10 the municipality, in the proceedings authorizing the bonds, may
11 provide for the defeasance of the bonds by the deposit, in trust
12 for the defeasance, of cash and securities in the amount provided
13 in the proceedings that will provide for payment of principal and
14 interest on the bonds as the interest becomes due and the princi-
15 pal becomes due at maturity, redemption, or otherwise, as desig-
16 nated in the resolution authorizing the bonds. In the event of
17 such a deposit, the bonds, for the purposes of this act, and the
18 proceedings authorizing the bonds are no longer outstanding, and,
19 except for those rights determined to continue to exist in the
20 proceedings authorizing the bonds, the bondholders no longer have
21 any rights with respect to those bonds and the security from the
22 bonds.

23 Sec. 6. Two or more municipalities may enter into agree-
24 ments providing for joint projects pursuant to this act, for the
25 joint ownership and operation of combined sewer overflow abate-
26 ment facilities, for the sharing of the costs of projects, for
27 the operation of combined sewer overflow abatement facilities,

1 and for the issuance of bonds pursuant to this act by each
2 municipality to pay the share of the cost of the project payable
3 by each municipality.

4 Sec. 7. The authority granted under this act is in addition
5 to and not in derogation of any power existing in any municipal-
6 ity under any statutory or charter provisions, and the powers
7 granted by this act may be exercised by a municipality as pro-
8 vided in this act, notwithstanding that the exercise of the
9 powers may conflict with the provisions of a municipal charter.
10 The bonds authorized under this act are not subject to limita-
11 tions or provisions contained in the laws of this state pertain-
12 ing to municipalities or in the charters of municipalities, other
13 than as provided for in this act.

14 Sec. 8. This act shall not take effect unless all of the
15 following bills of the 87th Legislature are enacted into law:

16 (a) Senate Bill No. _____ or House Bill No. 4302 (request
17 no. 01807'93).

18 (b) Senate Bill No. _____ or House Bill No. 4304 (request
19 no. 01810'93).