



HOUSE BILL No. 4304

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

A bill to amend sections 3 and 8 of Act No. 94 of the Public Acts of 1933, entitled as amended

"The revenue bond act of 1933,"

section 3 as amended by Act No. 501 of the Public Acts of 1988, being sections 141.103 and 141.108 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT;

1 Section 1. Sections 3 and 8 of Act No. 94 of the Public
2 Acts of 1933, section 3 as amended by Act No. 501 of the Public
3 Acts of 1988, being sections 141.103 and 141.108 of the Michigan
4 Compiled Laws, are amended to read as follows:

5 Sec. 3. As used in this act:

6 (a) "Public corporation" means a county, city, village,
7 township, school district, port district, or metropolitan

1 district of the state or a combination thereof if authorized by
 2 law to act jointly; an authority created by or under an act of
 3 the legislature; or a municipal health facilities corporation or
 4 subsidiary municipal health facilities corporation incorporated
 5 as provided in the municipal health facilities ~~corporation~~
 6 CORPORATIONS act, Act No. 230 of the Public Acts of 1987, being
 7 sections 331.1101 to 331.1507 of the Michigan Compiled Laws.

8 (b) "Public improvements" means only the following
 9 improvements: housing facilities; garbage disposal plants; rub-
 10 bish disposal plants; incinerators; transportation systems,
 11 including plants, works, instrumentalities, and properties used
 12 or useful in connection with those systems; sewage disposal sys-
 13 tems, including sanitary sewers, combined sanitary and storm
 14 sewers, plants, works, instrumentalities, and properties used or
 15 useful in connection with the collection, treatment, or disposal
 16 of sewage or industrial wastes AND INCLUDING A PROJECT AS DEFINED
 17 IN SECTION 2 OF THE COMBINED SEWER OVERFLOW ABATEMENT FINANCING
 18 ACT; water supply systems, including plants, works, instrumentali-
 19 ties, and properties used or useful in connection with obtaining
 20 a water supply, ~~the treatment of~~ TREATING water, or ~~the dis-~~
 21 ~~tribution of~~ DISTRIBUTING water; utility systems for supplying
 22 light, heat, or power, including plants, works, instrumentali-
 23 ties, and properties used or useful in connection with those sys-
 24 tems; approved cable television systems, approved cable communi-
 25 cation systems, or telephone systems, including plants, works,
 26 instrumentalities, and properties used or useful in connection
 27 with those systems; automobile parking facilities, including

1 within or as part of the facilities areas or buildings that may
 2 be rented or leased to private enterprises serving the public;
 3 yacht basins; harbors; docks; wharves; terminal facilities; ele-
 4 vated highways; bridges over, tunnels under, and ferries across
 5 lakes or a part of a lake, rivers, streams, straits, or channels;
 6 community buildings; public wholesale markets for farm and food
 7 products; stadiums; convention halls; auditoriums; dormitories;
 8 hospitals and other health care facilities; buildings devoted to
 9 public use; museums; parks; recreational facilities; reforesta-
 10 tion projects; aeronautical facilities; and marine railways; or
 11 any right or interest therein or equipment therefor. The term
 12 "public improvement" means the whole or a part of, ~~any of the~~
 13 ~~above named improvements or of~~ any combination of, ~~the above~~
 14 ~~named improvements~~ or any interest or participation in ~~the~~
 15 ~~above named~~ THESE improvements, as determined by the governing
 16 body. The definition contained in this subdivision ~~shall~~ DOES
 17 not ~~be construed as broadening or enlarging~~ BROADEN OR ENLARGE
 18 the extent of a particular public improvement made by a public
 19 corporation.

20 (c) "Borrower" means a public corporation exercising the
 21 power to issue bonds as provided in this act.

22 (d) "Governing body" means for a county, the board of com-
 23 missioners; for a city, the council ~~, common council,~~
 24 ~~commission,~~ or other body having legislative powers; for a vil-
 25 lage, the council ~~, common council, commission, board of~~
 26 ~~trustees,~~ or other body having legislative powers; for a
 27 township, the township board; for a school district, the board of

1 education; for a port district, the port commission; for a
2 metropolitan district, the legislative body of the district; for
3 a municipal health facilities corporation, the board of trustees;
4 for a nonprofit subsidiary municipal health facilities corpora-
5 tion, the nonprofit subsidiary board; and for an authority, the
6 body in which is lodged general governing powers. If the charter
7 of a public corporation or applicable law provides that a sepa-
8 rate board has general management over a public improvement,
9 "governing body" means, with respect to that public improvement,
10 the separate board, subject to review by the legislative body of
11 the public corporation as the charter or law may provide. Unless
12 the charter or law specifically provides otherwise, the separate
13 board shall adopt the bond authorizing ordinance, but shall not
14 pledge full faith and credit.

15 (e) "Rates" means the charges, fees, rentals, and rates that
16 may be fixed and imposed for the services, facilities, and com-
17 modities furnished by a public improvement.

18 (f) "Revenues" means the income derived from the rates
19 charged for the services, facilities, and commodities furnished
20 by a public improvement. Revenues shall include, to the extent
21 provided in the authorizing ordinance, earnings on investment of
22 funds of the public improvement and other revenues derived from
23 or pledged to operation of the public improvement.

24 (g) "Net revenues" means the revenues of a public improve-
25 ment remaining after deducting the reasonable expenses of admin-
26 istration, operation, and maintenance of the public improvement.

1 (h) "Project cost" or "costs" means the costs of purchasing,
 2 acquiring, constructing, improving, enlarging, extending, or
 3 repairing a public improvement, including any engineering, archi-
 4 tectural, legal, accounting, financial, and other expenses inci-
 5 dent to the public improvement. Project costs include interest
 6 on the bonds, and other obligations of the borrower issued to pay
 7 project costs, during the period of construction and until full
 8 revenues are developed. Project costs include a reserve or addi-
 9 tion to a reserve for payment of principal and interest on the
 10 bonds and the amount required for operation and maintenance until
 11 sufficient ~~revenues have developed~~ REVENUE IS GENERATED.

12 (i) "Ordinance" means an ordinance, resolution, or other
 13 appropriate legislative enactment of the governing body of a
 14 public corporation.

15 (j) "Municipal finance commission" means the commission cre-
 16 ated by the municipal finance act, Act No. 202 of the Public
 17 Acts of 1943, as amended, being sections 131.1 to 139.3 of the
 18 Michigan Compiled Laws.

19 (k) "Approved cable television system" or "approved cable
 20 communication system" means a cable television or communication
 21 system that conforms to 1 of the following:

22 (i) A municipality acquires or establishes the system either
 23 before January 1, 1987 or before a system is established in that
 24 municipality by a private person.

25 (ii) A municipality acquires or establishes the system after
 26 a system is established in that municipality by a private person
 27 and after approval by a majority of the electors in the affected

1 area of that municipality voting on the question of the sale of
2 revenue bonds to finance the acquisition or establishment of the
3 municipal system.

4 Sec. 8. There shall be created in the authorizing ordinance
5 a lien, by this act made a statutory lien, upon the net revenues
6 pledged to the payment of the principal of and interest upon
7 ~~such~~ bonds, to and in favor of the holders of ~~such~~ THE bonds
8 and the interest coupons pertaining ~~thereto~~ TO THE BONDS, and
9 each of ~~such~~ THE holders. ~~, which liens~~ THE LIEN shall be a
10 first lien upon ~~such~~ THE net revenues. ~~, except where~~
11 HOWEVER, IF there exists a prior lien, ~~or liens then such~~ THE
12 new lien shall be subject ~~thereto~~ TO THE PRIOR LIEN. THE STAT-
13 UTORY LIEN CREATED BY AN ORDINANCE SHALL TAKE PRIORITY OVER ANY
14 OTHER LIEN OR INTEREST HELD BY A PERSON, INCLUDING A BONA FIDE
15 PURCHASER, CREDITOR, RECEIVER, ASSIGNEE FOR THE BENEFIT OF CREDI-
16 TORS, OR TRUSTEE IN BANKRUPTCY OF THE PUBLIC CORPORATION, IF THE
17 LIEN OR INTEREST ARISES SOLELY BY REASON OF JUDICIAL EXECUTION OR
18 SALE OF THE PROPERTY OF THE PUBLIC CORPORATION, THE INSOLVENCY OF
19 THE PUBLIC CORPORATION, OR THE FILING OF ANY PETITION FOR RELIEF
20 UNDER TITLE 11 OF THE UNITED STATES CODE BY THE PUBLIC CORPORA-
21 TION, WHETHER OR NOT THE PLEDGE OF NET REVENUES AROSE BEFORE OR
22 AFTER THE OTHER LIEN OR INTEREST OF THE PERSON, BONA FIDE PUR-
23 CHASER, CREDITOR, RECEIVER, ASSIGNEE FOR THE BENEFIT OF CREDI-
24 TORS, OR TRUSTEE IN BANKRUPTCY AROSE.

25 Section 2. This amendatory act shall not take effect unless
26 Senate Bill No. _____ or House Bill No. 4303 (request
27 no. 01811'93) of the 87th Legislature is enacted into law.