



# HOUSE BILL No. 4306

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

A bill to amend sections 3, 7, 13, 23, and 27 of Act No. 227 of the Public Acts of 1985, entitled as amended

"Shared credit rating act,"

sections 3 and 23 as amended by Act No. 316 of the Public Acts of 1988 and sections 7, 13, and 27 as amended by Act No. 281 of the Public Acts of 1990, being sections 141.1053, 141.1057, 141.1063, 141.1073, and 141.1077 of the Michigan Compiled Laws; and to add section 16b.

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

1 Section 1. Sections 3, 7, 13, 23, and 27 of Act No. 227 of  
2 the Public Acts of 1985, sections 3 and 23 as amended by Act  
3 No. 316 of the Public Acts of 1988 and sections 7, 13, and 27 as  
4 amended by Act No. 281 of the Public Acts of 1990, being sections  
5 141.1053, 141.1057, 141.1063, 141.1073, and 141.1077 of the

1 Michigan Compiled Laws, are amended and section 16b is added to  
2 read as follows:

3 Sec. 3. As used in this act:

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

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

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

10 (d) "Capitalization grant" means the federal grant made to  
11 this state by the United States environmental protection agency  
12 for the purpose of establishing a state water pollution control  
13 revolving fund, as provided in title VI of the federal water pol-  
14 lution control act, chapter 758, 101 Stat. 22, 33 U.S.C. 1381 to  
15 1387.

16 (e) "Federal water pollution control act" means chapter 758,  
17 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to ~~1257~~ 1254, 1255  
18 TO 1257, 1258 to 1263, 1265 to 1268, 1281, 1282 to 1293, 1294 to  
19 1299, 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1345,  
20 1361 to 1377, and 1381 to 1387.

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

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

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

4 (iii) Evidence that the pledge for payment of the municipal  
5 obligation will be sufficient to pay the principal of and inter-  
6 est on the municipal obligation when due.

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

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

21 (g) "Governmental unit" means a county, city, township, vil-  
22 lage, school district, intermediate school district, community  
23 college, public university, authority, district, any other body  
24 corporate and politic or other political subdivision, any agency  
25 or instrumentality of the foregoing, or any group self-insurance  
26 pool formed pursuant to Act No. 35 of the Public Acts of 1951,  
27 being sections 124.1 to 124.13 of the Michigan Compiled Laws.

1 For purposes of a project funded under section 16a OR 16B,  
2 governmental unit includes an Indian tribe that has jurisdiction  
3 over construction and operation of a project qualifying under 319  
4 of title III of the federal water pollution control act, chapter  
5 758, 101 Stat. 52, 33 U.S.C. 1329. A governmental unit shall not  
6 include the Michigan strategic fund created pursuant to Act  
7 No. 270 of the Public Acts of 1984, being sections 125.2001 to  
8 125.2093 of the Michigan Compiled Laws, or an economic develop-  
9 ment corporation created under the economic development corpora-  
10 tion act, Act No. 338 of the Public Acts of 1974, being sections  
11 125.1601 to 125.1636 of the Michigan Compiled Laws. After  
12 July 1, 1988, a governmental unit does not include a  
13 self-insurance pool unless the self-insurance pool has filed a  
14 certification by an independent actuary that the reserves set  
15 aside pursuant to section 7a of Act No. 35 of the Public Acts of  
16 1951, being section 124.7a of the Michigan Compiled Laws, are  
17 adequate for the payment of claims.

18 (h) "Municipal obligation" means a bond or note or evidence  
19 of debt issued by a governmental unit for a purpose authorized by  
20 law.

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

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

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

3 (l) "Revenues" means all fees, charges, money, profits, pay-  
4 ments of principal of or interest on municipal obligations and  
5 other investments, gifts, grants, contributions, and all other  
6 income derived or to be derived by the authority under this act.

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

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

9 (b) To adopt an official seal.

10 (c) To maintain a principal office at a place within this  
11 state.

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

14 (e) To loan money to a governmental unit at a rate or rates  
15 as the authority determines and to purchase and sell, and to  
16 commit to purchase and sell, municipal obligations pursuant to  
17 this act.

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

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

25 (h) To receive and accept from any source grants or contri-  
26 butions of money, property, or other things of value, excluding  
27 appropriations from the general fund of the state except for

1 appropriations to the state water pollution control revolving  
2 fund established under section 16a AND THE COMBINED SEWER OVER-  
3 FLOW ABATEMENT ACCOUNT ESTABLISHED UNDER SECTION 16B, to be used,  
4 held, and applied only for the purposes for which the grants and  
5 contributions were made.

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 GOVERNMENTAL UNIT PURSUANT  
23 TO SECTION 16B AND TO PERFORM ALL FUNCTIONS NECESSARY OR INCIDENT  
24 TO PROVIDING THAT ASSISTANCE AND TO THE OPERATION OF THE COMBINED  
25 SEWER OVERFLOW ABATEMENT ACCOUNT 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 account established under section 16a OR  
10 THE COMBINED SEWER OVERFLOW ABATEMENT ACCOUNT ESTABLISHED UNDER  
11 SECTION 16B.

12 SEC. 16B. (1) THE AUTHORITY SHALL ESTABLISH A COMBINED  
13 SEWER OVERFLOW ABATEMENT ACCOUNT WITHIN THE STATE WATER POLLUTION  
14 CONTROL REVOLVING FUND. THIS ACCOUNT MAY RECEIVE MONEY FROM ANY  
15 SOURCE CONSIDERED APPROPRIATE BY THE AUTHORITY AND AS OTHERWISE  
16 PROVIDED BY LAW. INTEREST AND EARNINGS OF THIS ACCOUNT SHALL BE  
17 CREDITED TO THIS ACCOUNT. MONEY IN THIS ACCOUNT SHALL BE SEGRE-  
18 GATED AND SHALL NOT REVERT TO THE STATE WATER POLLUTION CONTROL  
19 REVOLVING FUND OR THE GENERAL FUND. MONEY IN THIS ACCOUNT SHALL  
20 BE USED TO PROVIDE ASSISTANCE TO GOVERNMENTAL UNITS FOR SEWAGE  
21 TREATMENT WORKS PROJECTS THAT ABATE COMBINED SEWER OVERFLOWS IN A  
22 MANNER CONSISTENT WITH THE REQUIREMENTS OF THE STATE CLEAN WATER  
23 ASSISTANCE ACT, ACT NO. 317 OF THE PUBLIC ACTS OF 1988, BEING  
24 SECTIONS 323.451 TO 323.470 OF THE MICHIGAN COMPILED LAWS, AND  
25 THE RULES PROMULGATED UNDER THAT ACT. HOWEVER, ASSISTANCE SHALL  
26 NOT BE PROVIDED FROM THIS ACCOUNT UNLESS THE GOVERNMENTAL UNIT  
27 APPLYING FOR THE ASSISTANCE IS IN COMPLIANCE WITH A PERMIT OR

1 ORDER ISSUED UNDER ACT NO. 245 OF THE PUBLIC ACTS OF 1929, BEING  
2 SECTIONS 323.1 TO 323.12A OF THE MICHIGAN COMPILED LAWS. IF THE  
3 ASSISTANCE IS IN THE FORM OF A LOAN, THE LOAN SHALL BE MADE  
4 THROUGH A LOAN AGREEMENT IN WHICH A GOVERNMENTAL UNIT AGREES TO  
5 MAKE LOAN REPAYMENTS TO THE AUTHORITY OR THROUGH THE PURCHASE OR  
6 REFINANCING OF MUNICIPAL OBLIGATIONS IN FULLY MARKETABLE FORM.  
7 LOAN AGREEMENTS WITH GOVERNMENTAL UNITS SHALL CONTAIN APPROPRIATE  
8 PROVISIONS RELATING TO MATURITY OR LENGTH OF LOAN, REPAYMENT  
9 TERMS, STATE OR LOCAL FUNDING REQUIREMENTS, AND OTHER PROVISIONS  
10 AS ARE CONSIDERED NECESSARY BY THE AUTHORITY. THE MAXIMUM AMOUNT  
11 OF ANY MUNICIPAL OBLIGATION PURCHASED WITH PROCEEDS OF THE COM-  
12 BINED SEWER OVERFLOW ABATEMENT ACCOUNT AND THE MAXIMUM INTEREST  
13 RATE ON A LOAN OR MUNICIPAL OBLIGATION SHALL BE DETERMINED PURSU-  
14 ANT TO ACT NO. 317 OF THE PUBLIC ACTS OF 1988.

15 (2) MONEY IN THE COMBINED SEWER OVERFLOW ABATEMENT ACCOUNT  
16 SHALL BE EXPENDED ON COMBINED SEWER OVERFLOW ABATEMENT PROJECTS  
17 IN THE ORDER OF THEIR RANKING ON THE PRIORITY LIST ESTABLISHED  
18 UNDER ACT NO. 317 OF THE PUBLIC ACTS OF 1988. HOWEVER, MONEY  
19 SHALL NOT BE EXPENDED IN ANY FISCAL YEAR ON A PROJECT THAT IS  
20 BEING FUNDED DURING THAT FISCAL YEAR BY OTHER ACCOUNTS WITHIN THE  
21 STATE WATER POLLUTION CONTROL REVOLVING FUND.

22 (3) WHEN LOANS FROM THE COMBINED SEWER OVERFLOW ABATEMENT  
23 ACCOUNT ARE REPAYED, THE AUTHORITY SHALL DEPOSIT THE MONEY IT  
24 RECEIVES INTO THE STATE WATER POLLUTION CONTROL REVOLVING FUND'S  
25 GENERAL ACCOUNT.

26 (4) AS USED IN THIS SECTION:

1 (A) "ASSISTANCE" MEANS THAT TERM AS IT IS DEFINED IN ACT  
2 NO. 317 OF THE PUBLIC ACTS OF 1988.

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

6 (C) "COMBINED SEWER SYSTEM" MEANS A SEWER DESIGNED AND USED  
7 TO CONVEY BOTH STORM WATER RUNOFF AND SANITARY SEWAGE, AND WHICH  
8 CONTAINS LAWFULLY INSTALLED REGULATORS AND CONTROL DEVICES THAT  
9 ALLOW FOR DELIVERY OF SANITARY FLOW TO TREATMENT DURING DRY  
10 WEATHER PERIODS AND DIVERT STORM WATER AND SANITARY SEWAGE TO  
11 SURFACE WATERS DURING STORM FLOW PERIODS.

12 Sec. 23. (1) A governmental unit may borrow money and issue  
13 municipal obligations in accordance with the laws of this state.  
14 The security for municipal obligations shall be that provided by  
15 the laws authorizing their issuance. In addition, a governmental  
16 unit may pledge for the payment of a municipal obligation pur-  
17 chased by the authority the municipality's full faith and credit  
18 as determined by its governing body. In addition, the authority  
19 may require a governmental unit to pledge, and the governmental  
20 unit may pledge, for the payment of the municipal obligation pur-  
21 chased by the authority money received or to be received by the  
22 governmental unit whether derived from imposition of taxes by the  
23 state or from other sources and returned or to be returned to the  
24 governmental unit as provided by law except for money the use of  
25 which is prohibited for such purposes by the state constitution  
26 of 1963. The authority and a governmental unit may enter into an  
27 agreement providing for the payment of taxes, which taxes are

1 collected by the state and returned to the governmental unit as  
2 provided by law, to the authority or to a trustee, and those  
3 taxes may be pledged by the governmental unit for the payment of  
4 the municipal obligations of the governmental unit purchased by  
5 the authority. If the authority and the governmental unit enter  
6 into such an agreement, the state treasurer shall pay the pledged  
7 money in accordance with the provisions of the agreement.

8 (2) Notwithstanding the provisions of a charter or statute  
9 applicable to or constituting a limitation on the maximum rate of  
10 interest per annum payable on bonds or notes, or as to annual  
11 interest cost of money borrowed or received upon issuance of  
12 bonds or notes, a governmental unit may contract to pay no inter-  
13 est or interest which may be a variable rate on money borrowed  
14 from the authority and evidenced by the municipal obligations of  
15 that governmental unit purchased by the authority. A governmen-  
16 tal unit may contract with the authority with respect to the loan  
17 or purchase. The contract shall contain the terms and conditions  
18 of the loan or purchase. The contract may also provide for  
19 agreements by the governmental unit with respect to the govern-  
20 mental unit's fiscal, budget, debt and cash management, and  
21 accounting matters as the authority requests.

22 (3) A governmental unit may pay fees and charges required to  
23 be paid to the authority for the authority's services.

24 (4) Notwithstanding the provisions of a law or statute  
25 applicable to or constituting a limitation on the sale of municipi-  
26 pal obligations, a governmental unit may sell municipal  
27 obligations to the authority without limitation as to

1 denomination, and the municipal obligations may be fully  
2 registered, registrable as to principal, or in bearer form; may  
3 bear interest at the rate or rates all in accordance with the  
4 provisions of this section; may be evidenced in the manner; may  
5 contain other provisions not inconsistent with this act; and may  
6 be sold to the authority without advertisement at private negoti-  
7 ated sale at par or at a discount and accrued interest as shall  
8 be provided in the proceedings of the governing body of the gov-  
9 ernmental unit pursuant to which the municipal obligations are  
10 authorized to be issued.

11 (5) A GOVERNMENTAL UNIT MAY USE STATE COLLECTED TAXES OR  
12 OTHER STATE REVENUES ANNUALLY APPROPRIATED TO THE GOVERNMENTAL  
13 UNIT THAT ARE NOT RESTRICTED AS TO USE BY THE STATE CONSTITUTION  
14 OF 1963 TO PAY ANY AMOUNTS OWED TO THE AUTHORITY.

15 (6) ~~(5)~~ Any provision of this act allowing a governmental  
16 unit to pledge its full faith and credit for payment of the prin-  
17 cipal of and interest on municipal obligations purchased by the  
18 authority does not grant any additional authority, beyond that  
19 granted by other statute or by charter, for that governmental  
20 unit to pledge its full faith and credit without a vote of the  
21 people.

22 Sec. 27. Except for bonds or notes issued pursuant to the  
23 state water pollution control revolving fund established under  
24 section 16a OR PURSUANT TO THE COMBINED SEWER OVERFLOW ABATEMENT  
25 ACCOUNT ESTABLISHED UNDER SECTION 16B, the authority shall not  
26 issue new bonds or notes after December 31, 1995, to make loans  
27 to governmental units.

1 Section 2. This amendatory act shall not take effect unless  
2 both of the following occur:

3 (a) Senate Joint Resolution \_\_\_\_\_ or House Joint Resolution  
4 I (request no. 01814'93) of the 87th Legislature becomes a  
5 part of the state constitution of 1963 as provided in section 1  
6 of article XII of the state constitution of 1963.

7 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4305 (request  
8 no. 01812'93) of the 87th Legislature is enacted into law.