



SENATE BILL No. 1166

May 24 1994 Introduced by Senator GEAKE and referred to the Committee on Health Policy and Senior Citizens

A bill to amend the title and sections 2, 3, 12, 14 and 43a of Act No 38 of the Public Acts of 1969 entitled as amended "Hospital finance authority act," sections 3, 14, and 43a as amended by Act No 302 of the Public Acts of 1992 and section 12 as amended by Act No 303 of the Public Acts of 1992, being sections 331 32, 331 33, 331 42, 331 44, and 331 73a of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 The title and sections 2, 3 12 14, and 43a of
2 Act No 38 of the Public Acts of 1969, sections 3, 14, and 43a as
3 amended by Act No 302 of the Public Acts of 1992 and section 12
4 as amended by Act No 303 of the Public Acts of 1992, being sec-
5 tions 331 32, 331 33, 331 42 331 44, and 331 73a of the Michigan
6 Compiled Laws, are amended to read as follows

1 TITLE

2 An act to create a state hospital finance authority to lend
3 money to nonprofit hospitals AND HEALTH CARE AND RETIREMENT HOUS-
4 ING PROVIDERS for capital improvements or to refinance hospital
5 HEALTH CARE AND RETIREMENT HOUSING indebtedness to provide for
6 the incorporation of local hospital authorities with power to
7 lend money to nonprofit hospitals AND HEALTH CARE AND RETIREMENT
8 HOUSING PROVIDERS for hospital, HEALTH CARE, AND RETIREMENT
9 HOUSING indebtedness or to refinance hospital, HEALTH CARE, AND
10 RETIREMENT HOUSING indebtedness to construct, acquire, recon-
11 struct, remodel, improve, add to enlarge, repair own, lease
12 and sell hospital, HEALTH CARE, AND RETIREMENT HOUSING facili-
13 ties to finance outstanding hospital, HEALTH CARE, AND
14 RETIREMENT indebtedness to authorize the authorities to borrow
15 money and issue obligations to accomplish the purposes of this
16 act including the refunding or advance refunding of obligations
17 issued by certain entities to permit the authorities to enter
18 into loans contracts, leases mortgages and security agreements
19 which may include provisions for the appointment of receivers to
20 exempt obligations and property of the authorities from taxation
21 and to provide other rights powers, and duties of the
22 authorities

23 Sec 2 It is declared that, for the benefit of the people
24 of ~~the~~ THIS state and the improvement of their health welfare
25 and living conditions, it is essential that hospitals within
26 ~~the~~ THIS state be provided with appropriate means at reasonable
27 cost to maintain, expand, enlarge, and establish health care,

1 hospitals, NURSING CARE, RETIREMENT, and other related
2 facilities that hospitals be provided with the ability to refi-
3 nance indebtedness and that authorities created or incorporated
4 under this act be provided with the ability to refund or to
5 refund in advance obligations ~~of 1 or more of these authorities~~
6 ISSUED FOR THE BENEFIT OF HOSPITALS This act shall provide a
7 method to enable hospitals in ~~the~~ THIS state to provide or
8 maintain at reasonable cost pursuant to reasonable terms the
9 facilities, structures, and services needed to accomplish the
10 purposes of this act, all to the public benefit and good, to the
11 extent and manner provided in this act

12 Sec 3 As used in this act

13 (a) "State authority" means the hospital finance authority
14 created by this act

15 (b) "Local authority" means a public municipal corporation
16 incorporated under this act

17 (c) "Incorporating unit" means a county city, village, or
18 township or a combination thereof incorporating a local authority
19 pursuant to this act

20 (d) "Governing body" means the board charged with the gov-
21 erning of the incorporating unit

22 (e) "Hospital" means a nonpublic corporation, association,
23 institution, or establishment located within this state for the
24 care of the sick or wounded or of those who require medical
25 treatment ~~—~~ OR NURSING CARE OR WHICH PROVIDES RETIREMENT HOUS-
26 ING FACILITIES operated without profit to an individual,
27 corporation, or association It includes nonprofit corporations

1 or other organizations engaged ~~solely~~ in some phase of
2 hospital, NURSING CARE, OR RETIREMENT HOUSING activity or in
3 OWNING, CONTROLLING, OR providing a supporting service to hospi-
4 tals or public corporations that operate or own hospital
5 facilities

6 (f) "Hospital facilities" means a building or structure
7 suitable and intended for, or incidental or ancillary to, use by
8 a hospital and includes NURSING HOMES, HOMES FOR THE AGED, CON-
9 TINUING CARE RETIREMENT COMMUNITY FACILITIES, outpatient clinics,
10 laboratories, laundries nurses', doctors', or interns' resi-
11 dences administration buildings facilities for research
12 directly involved with hospital care, maintenance, storage or
13 utility facilities, parking lots, and garages and all necessary
14 useful or related equipment furnishings and appurtenances and
15 all lands necessary or convenient as a site for these
16 facilities Hospital facilities include an office facility not
17 less than 80% of which is intended for lease to direct providers
18 of health care and that has been determined by the department of
19 public health to meet a demonstrated need and to be geograph-
20 ically or functionally related to 1 or more other hospital facil-
21 ities, if the authority that is issuing the bonds determines the
22 financing of the office facility is necessary to accomplish the
23 purposes and objectives of this act HOSPITAL FACILITIES ALSO
24 INCLUDE ASSISTED LIVING FACILITIES, CONGREGATE CARE FACILITIES
25 AND OTHER RETIREMENT HOUSING FACILITIES DIRECTLY OR INDIRECTLY
26 OWNED OR CONTROLLED BY A HOSPITAL OR NURSING HOME OR AN ENTITY
27 WHICH OWNS OR CONTROLS A HOSPITAL OR NURSING HOME OR FINANCED BY

1 DEBT INCURRED WITH AN AUTHORITY INCORPORATED UNDER THIS ACT WHICH
2 A HOSPITAL OR NURSING HOME, OR AN ENTITY WHICH OWNS OR CONTROLS
3 OR IS OWNED OR CONTROLLED BY A HOSPITAL OR NURSING HOME, IS OBLI-
4 GATED TO REPAY

5 (g) "Hospital loan" means a loan made by the state authority
6 or a local authority to a hospital

7 (h) "Project costs" means the total of the reasonable or
8 necessary costs incurred for carrying out the works and undertak-
9 ings for the acquisition or construction of hospital facilities
10 under this act These include the costs of studies and surveys
11 plans and specifications architectural and engineering services
12 legal, organization, marketing, or other special services
13 financing, acquisition, demolition construction, equipment and
14 site development of new and rehabilitated buildings rehabilita-
15 tion, reconstruction, repair, or remodeling of existing build-
16 ings interest and carrying charges during construction and
17 before full earnings are achieved and operating expenses before
18 full earnings are achieved or a period of 1 year following the
19 completion of construction whichever occurs first and a reason-
20 able reserve for payment of principal and interest on bonds or
21 notes of the authority ~~If the authority has declared its~~
22 ~~intention to finance the hospital facilities before the comple-~~
23 ~~tion of the hospital facilities project~~ PROJECT costs include
24 reimbursement of a hospital for the costs described in this sub-
25 division expended by a hospital either from its own funds or from
26 money borrowed by the hospital for such purposes before issuance
27 and delivery of bonds by the authority for the purpose of

1 providing funds to pay the project costs Project costs also
2 includes the refinancing of any existing debt of a hospital nec-
3 essary in order to permit the hospital to borrow or lease from
4 the authority and give adequate security for the loan or lease
5 The determination of the authority with respect to the necessity
6 of refinancing and adequate security for a loan or lease is con-
7 clusive except with respect to the approval of the municipal
8 finance commission or its successor agency when prior approval is
9 required

10 (1) "Direct provider of health care" means a person or
11 organization whose primary current activity is the provision of
12 health care to individuals, and includes a licensed or certified
13 physician, dentist, nurse, podiatrist, physician's assistant, or
14 an organization comprised of these health professionals or
15 employing these health professionals

16 Sec 12 The state authority has the powers necessary to
17 carry out and effectuate the purposes of this act including but
18 not limited to all of the following

19 (a) To sue and be sued to have a seal and authority to
20 alter that seal at pleasure, to have perpetual succession, to
21 make, execute, and deliver contracts, conveyances, and other
22 instruments necessary or convenient to the exercise of its
23 powers, and to make and amend bylaws

24 (b) To solicit and accept gifts, grants, loans, and other
25 aids from any person, corporation, or governmental agency

26 (c) To make loans, to participate in the making of loans, to
27 undertake commitments, to make loans and mortgages, to sell loans

1 and mortgages at public or private sale, to modify or alter loans
2 and mortgages to discharge loans and mortgages, to foreclose on
3 a mortgage or commence an action to protect or enforce a right
4 conferred upon the state authority by a law, mortgage, loan, con-
5 tract, or other agreement, to bid for and purchase property that
6 was the subject of a mortgage at a foreclosure or at any other
7 sale and to acquire or take possession of that property, to com-
8 plete, administer, pay the principal and interest on any obliga-
9 tions incurred in connection with acquired property, and to dis-
10 pose of and otherwise deal with the property in a manner neces-
11 sary or desirable to protect the interests of the state authority
12 in the property The loans made by the authority may be secured
13 or unsecured, as the authority determines

14 (d) To loan money to hospitals for the purpose of refinanc-
15 ing any outstanding indebtedness of a hospital if the state
16 authority determines the refinancing is necessary to realize the
17 objectives and purposes of this act A hospital loan made pursu-
18 ant to this subdivision shall not exceed the amount of the prin-
19 cipal interest and redemption premium if any, of the indebted-
20 ness to be refinanced that has not been repaid plus the market-
21 ing financing legal and other costs incurred in connection
22 with the refinancing and the issuance of bonds of the state
23 authority issued in whole or in part to provide funds to make the
24 hospital loan described in this subdivision, including the costs
25 of funding a bond reserve and paying capitalized interest on the
26 bonds for a period not to exceed 1 year after the issuance of the
27 bonds The determination of the state authority under this

1 subdivision is conclusive except with respect to the approval of
2 the municipal finance commission or its successor agency when
3 prior approval is required

4 (e) To charge impose and collect fees and charges in con-
5 nection with its loans commitments and servicing including
6 reimbursement of costs of financing by the authority, service
7 charges, insurance premiums, and an allocable share of the oper-
8 ating expenses of the authority and to make provision for
9 increasing those fees and charges if necessary as the state
10 authority determines is reasonable and approved by the state
11 authority

12 (f) To acquire hold and dispose of real or personal prop-
13 erty convenient for the accomplishment of the purpose of this
14 act

15 (g) To procure insurance against a loss in connection with
16 its property assets or activities

17 (h) To borrow money and issue its bonds or notes for the
18 money and provide for the rights of the holders of the bonds or
19 notes and to secure the bonds by mortgage assignment or pledge
20 of any or all of its properties including any part of the secur-
21 ity for its hospital loans The state shall not be liable on any
22 bonds of the state authority, the bonds and notes are not a debt
23 of the state, and each bond and note shall contain on its face a
24 statement to that effect

25 (i) To invest any funds not required for immediate use or
26 disbursement, at its discretion in any of the following

1 (1) Obligations of this state, ~~or~~ the United States, OR AN
2 AGENCY OF THE UNITED STATES

3 (11) Obligations the principal and interest of which are
4 guaranteed by this state or the United States

5 (111) Certificates of deposit of a bank that is a member of
6 the federal reserve system

7 (1V) Certificates of deposit of a savings and loan associa-
8 tion that is a member of the federal home loan bank system

9 (V) Commercial paper that is rated at the time of purchase
10 within the 2 highest classifications established by not less than
11 2 national rating services and that matures not more than 270
12 days after the date of purchase

13 (V1) In United States government or federal agency obliga-
14 tion repurchase agreements

15 (V11) In bankers' acceptances of United States banks

16 (V111) In mutual funds composed of investment vehicles that
17 are legal for direct investment by the state authority

18 (1X) Subject to the approval of the state treasurer, obliga-
19 tions specified by the state authority in a contract with the
20 holders of its bonds or notes

21 (J) To engage necessary personnel and to engage the services
22 of private consultants for rendering professional and technical
23 assistance and advice

24 (K) To promulgate rules necessary to carry out the purposes
25 of this act and to exercise the powers expressly granted in this
26 act pursuant to the administrative procedures act of 1969, Act

1 No 306 of the Public Acts of 1969, as amended, being sections
2 24 201 to 24 328 of the Michigan Compiled Laws

3 (1) To enter into interest rate exchanges or swaps, hedges,
4 or similar agreements with respect to its bonds or notes in the
5 same manner and subject to the same limitations and conditions as
6 provided for a municipality in section 15 of chapter III of the
7 municipal finance act, Act No 202 of the Public Acts of 1943,
8 being section 133 15 of the Michigan Compiled Laws

9 Sec 14 (1) The state authority periodically may issue its
10 negotiable bonds and notes, including, but not limited to, com-
11 mercial paper in a principal amount that, in the opinion of the
12 state authority, is necessary to provide sufficient funds for the
13 making of hospital loans, including temporary loans during the
14 construction of hospital facilities, and for the payment of
15 interest on bonds and notes of the state authority during con-
16 struction of hospital facilities for which the hospital loan was
17 made and for a reasonable time after the loan was made and for
18 the establishment of reserves to secure those bonds and notes

19 (2) The state authority periodically may issue renewal
20 notes, may issue bonds to pay notes, and if the state authority
21 considers refunding expedient to refund or to refund in advance
22 bonds or notes issued by ~~the state authority or a local author-~~
23 ~~ity incorporated under this act by the issuance of new bonds-~~ AN
24 ENTITY FOR THE BENEFIT OF A HOSPITAL pursuant to the require-
25 ments of sections 43a to 43g

26 (3) Except as may otherwise be expressly provided by the
27 state authority, every issue of its notes or bonds shall be

1 general obligations of the authority payable out of any
2 properties, revenues, or money of the state authority, subject
3 only to any agreements with the holders of particular notes or
4 bonds pledging any particular properties, revenues, or money

5 (4) A resolution authorizing notes or bonds or an issue of
6 notes or bonds under this chapter may contain provisions, which
7 are a part of the contract with the holders of the bonds or
8 notes, regarding 1 or more of the following

9 (a) Pledging and creating a lien on all or any part of the
10 fees and charges made or received or to be received by the state
11 authority, all or any part of the money received in payment of
12 hospital loans and interest on hospital loans, and other money
13 received or to be received, to secure the payment of the notes or
14 bonds or of any issue of notes or bonds, subject to those agree-
15 ments with bondholders or noteholders that then exist

16 (b) Pledging and creating a lien on all or any part of the
17 assets of the state authority, including notes mortgages, and
18 obligations securing the assets to secure the payment of the
19 notes or bonds or of any issue of notes or bonds, subject to
20 those agreements with noteholders or bondholders that then
21 exist

22 (c) Pledging and creating a lien on any loan, grant, or con-
23 tribution to be received from the federal state, or local gov-
24 ernment or other source

25 (d) The use and disposition of the income from hospital
26 loans and mortgages owned by the state authority and payment of

1 principal and interest of mortgages and loans owned by the state
2 authority

3 (e) The setting aside of reserves or sinking funds and the
4 regulation and disposition of those reserves or sinking funds

5 (f) Limitations on the purpose to which the proceeds of the
6 sale of notes or bonds may be applied and pledging the proceeds
7 to secure the payment of the notes or bonds or of any issue of
8 the notes or bonds

9 (g) Limitations on the issuance of additional notes or bonds
10 and the terms upon which additional notes or bonds may be issued
11 and secured

12 (h) The procedure by which the terms of a contract with
13 noteholders or bondholders may be amended or abrogated, the
14 amount of notes or bonds the holders of which must consent to the
15 amendment or abrogation, and the manner in which the consent may
16 be given

17 (i) Vesting in a trustee or trustees the property, rights,
18 powers, remedies, and duties that the state authority considers
19 necessary or convenient

20 (5) Within limitations stated in the issuance or authoriza-
21 tion resolution of the state authority the state authority may
22 authorize a member of the state authority or an officer or other
23 employee of the state authority to do 1 or more of the
24 following

25 (a) Sell deliver, and receive payment for notes or bonds

1 (b) Refund notes or bonds by the delivery of new notes or
2 bonds whether or not the notes or bonds to be refunded have
3 matured or are subject to redemption

4 (c) Deliver notes or bonds, to refund notes or bonds or for
5 any other authorized purpose

6 (d) Purchase notes or bonds issued by the state authority
7 and resell those notes or bonds

8 (e) Approve interest rates or methods for fixing interest
9 rates, prices, discounts, maturities, principal amounts, denomi-
10 nations, dates of issuance mandatory or optional redemption pro-
11 visions, the place of delivery and payment and other matters and
12 procedures necessary to complete the transactions authorized by
13 the state authority

14 Sec 43a (1) Refunding bonds of an authority created or
15 incorporated under this act issued pursuant to section 14(2) or
16 32 may be issued in 1 or more series to refund any series of
17 bonds or notes, in whole or in part issued by that authority,
18 issued by any other authority created or incorporated under this
19 act, or issued for the benefit of a hospital by an economic
20 development corporation incorporated pursuant to the economic
21 development corporations act Act No 338 of the Public Acts of
22 1974, being sections 125 1601 to 125 1636, OR IN THE CASE OF THE
23 STATE AUTHORITY BY AN ISSUER FOR THE BENEFIT OF A HOSPITAL,
24 whether the bonds to be refunded have or have not matured, are or
25 are not redeemable on the date of the issuance of the refunding
26 bonds, or are or are not subject to redemption prior to
27 maturity The bonds may be issued partly to refund bonds and

1 partly for any other purpose authorized by this act Refunding
2 bonds shall not be issued to refund bonds that do not mature or
3 will not be redeemed pursuant to the plan of refunding within 40
4 years after the date of issuance of the refunding bonds The
5 refunding bonds may be issued in a principal amount greater than
6 the principal amount of the bonds to be refunded, as may be nec-
7 essary to effect the refunding pursuant to the plan of
8 refunding Refunding bonds shall not be issued unless the
9 authority issuing the bonds is reasonably satisfied that the hos-
10 pital facility and other revenues pledged will produce sufficient
11 revenues to meet the principal and interest on the refunding
12 bonds, other costs expenses and charges in connection with the
13 issuance of the refunding bonds and the charges or obligations
14 of the hospital which may be prior to or equal to the refunding
15 bonds promptly as they become due and that the hospital is oth-
16 erwise soundly financed

17 (2) Refunding bonds may be issued for any 1 or more of the
18 following purposes

19 (a) To reduce debt service costs on the basis of the total
20 amount of debt service to be paid on the refunding bonds as com-
21 pared with the total amount of debt service that would be
22 required to be paid on the bonds to be refunded should the
23 refunding not occur

24 (b) To reduce debt service costs on the basis of the present
25 value of debt service to be paid on the refunding bonds as com-
26 pared with the present value of debt service that would be

1 required to be paid on the bonds to be refunded should the
2 refunding not occur

3 (c) To produce a repayment schedule on the refunding bonds
4 more favorable to the hospital than the repayment schedule on the
5 bonds to be refunded

6 (d) To eliminate restrictions or requirements determined by
7 the authority to be excessively burdensome to the hospital