

Act No. 241
Public Acts of 1996
Approved by the Governor
June 10, 1996
Filed with the Secretary of State
June 10, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senator Bouchard

ENROLLED SENATE BILL No. 834

AN ACT to amend the title and sections 3, 7, 8, 13, and 27 of Act No. 227 of the Public Acts of 1985, entitled as amended "An act to create the Michigan municipal bond authority and to prescribe its powers and duties; to provide for the issuance of, and terms and conditions for, notes and bonds of the authority; to authorize certain forms of assistance to governmental units including, but not limited to, the management of investments and the creation and management of investment pools; to impose conditions on, grant certain powers to political subdivisions of the state regarding, and allow certain agreements regarding obligations of political subdivisions of the state purchased by the authority; to exempt the property, income, and operation of the authority, its bonds and notes, and the interest on its bonds and notes from certain taxes; and to grant powers and impose duties on officers and agencies of the state and political subdivisions of the state," section 3 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, 141.1058, 141.1063, and 141.1077 of the Michigan Compiled Laws; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Section 1. The title and sections 3, 7, 8, 13, and 27 of Act No. 227 of the Public Acts of 1985, section 3 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, 141.1058, 141.1063, and 141.1077 of the Michigan Compiled Laws, are amended to read as follows:

TITLE

An act to create the Michigan municipal bond authority and to prescribe its powers and duties; to provide for the issuance of, and terms and conditions for, notes and bonds of the authority; to authorize certain forms of assistance to governmental units including the creation and management of investments; to impose conditions on, grant certain powers to political subdivisions of the state regarding, and allow certain agreements regarding obligations of political subdivisions of the state purchased by the authority; to exempt the property, income, and operation of the authority, its bonds and notes, and the interest on its bonds and notes from certain taxes; and to grant powers and impose duties on officers and agencies of the state and political subdivisions of the state.

Sec. 3. As used in this act:

- (a) "Authority" means the Michigan municipal bond authority created in section 4.
- (b) "Board" means the board of trustees of the authority established in section 5.
- (c) "Bonds" means bonds of the authority issued under this act with a maturity greater than 3 years. Bonds do not include qualified bonds as defined in section 16 of article IX of the state constitution of 1963.

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

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

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

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

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

(iii) Evidence that the pledge for payment of the municipal obligation will be sufficient to pay the principal of and interest on the municipal obligation when due.

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

(v) For purposes of a project funded under section 16a, an order of approval issued by the director of the department of environmental quality under part 53 (clean water assistance) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.5301 to 324.5316. The order shall state that the project proposed by the governmental unit has been approved for assistance by the director of the department of natural resources.

(g) "Governmental unit" means a county, city, township, village, school district, intermediate school district, community college, public university, authority, district, any other body corporate and politic or other political subdivision, any agency or instrumentality of the foregoing, or any group self-insurance pool formed pursuant to Act No. 35 of the Public Acts of 1951, being sections 124.1 to 124.13 of the Michigan Compiled Laws. For purposes of a project funded under section 16a, governmental unit includes an Indian tribe that has jurisdiction over construction and operation of a project qualifying under 319 of title III of the federal water pollution control act, chapter 758, 101 Stat. 52, 33 U.S.C. 1329. A governmental unit shall not include the Michigan strategic fund created under the Michigan strategic fund act, Act No. 270 of the Public Acts of 1984, being sections 125.2001 to 125.2093 of the Michigan Compiled Laws, or an economic development corporation created under the economic development corporation act, Act No. 338 of the Public Acts of 1974, being sections 125.1601 to 125.1636 of the Michigan Compiled Laws. A governmental unit does not include a self-insurance pool unless the self-insurance pool has filed a certification by an independent actuary that the reserves set aside under section 7a of Act No. 35 of the Public Acts of 1951, being section 124.7a of the Michigan Compiled Laws, are adequate for the payment of claims. A school district shall include a public school academy established under the revised school code, Act No. 451 of the Public Acts of 1976, being sections 380.1 to 380.1852 of the Michigan Compiled Laws. Funds loaned to a public school academy or a school district may not be used to finance the purchase, construction, lease, or renovation of property owned, directly or indirectly, by any officer, board member, or employee of that public school.

(h) "Municipal obligation" means a bond or note or evidence of debt issued by a governmental unit for a purpose authorized by law. A municipal obligation does not include qualified bonds as defined in section 16 of article IX of the state constitution of 1963.

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

(j) "Project" means a sewage treatment works project or a nonpoint source project, or both, as defined in the state clean water assistance act.

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

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

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

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

(b) To adopt an official seal.

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

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

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

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

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

(h) To receive and accept from any source grants or contributions of money, property, or other things of value, excluding appropriations from the general fund of the state except for appropriations to the state water pollution control revolving fund established under section 16a, to be used, held, and applied only for the purposes for which the grants and contributions were made.

(i) To do all acts necessary or convenient to carry out the powers expressly granted.

(j) To require that final actions of the board are entered in the journal for the board and that all writings prepared, owned, used, in the possession of, or retained by the board in the performance of an official function be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(k) To promulgate rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(l) To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice.

(m) To investigate and assess the infrastructure needs of the state, current methods of financing infrastructure rehabilitation and improvements, and resources and financing options currently available and potentially useful to improve the state's infrastructure and lower the costs of those improvements.

(n) To indemnify and procure insurance indemnifying members of the board from personal loss or accountability from liability asserted by a person on bonds or notes of the authority or from any personal liability or accountability by reason of the issuance of the bonds or notes, or by reason of any other action taken or the failure to act by the authority.

(o) To investigate and assess short-term and long-term borrowing requirements for operating, capital improvements, and delinquent taxes.

(p) To provide assistance, as that term is defined in section 3 of the state clean water assistance act, Act No. 317 of the Public Acts of 1988, being section 323.453 of the Michigan Compiled Laws, to any municipality for a revolving fund project and to perform all functions necessary or incident to providing that assistance and to the operation of the state water pollution control revolving fund established under section 16a.

(q) To enter into agreements with the federal government to implement the establishment and operation of the state water pollution control revolving fund established under section 16a pursuant to the provisions of the federal water pollution control act and the rules and regulations promulgated under that act.

Sec. 8. (1) The authority may lend money to a governmental unit through the purchase by the authority of municipal obligations of the governmental unit in fully marketable form. The authority may authorize and issue its bonds or notes payable solely from the revenues or funds available to the authority, and to otherwise assist governmental units.

(2) Bonds and notes of the authority shall not be in any way a debt or liability of the state and shall not create or constitute any indebtedness, liability, or obligations of the state or be or constitute a pledge of the faith and credit of the state, but all authority bonds and notes, unless funded or refunded by bonds or notes of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act. Each bond and note shall contain on its face a statement to the effect that the authority is obligated to pay the principal of and the interest on the bond or note only from revenues or funds of the authority and that the state is not obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on the bond or note.

(3) All expenses incurred in carrying out the provisions of this act shall be payable solely from revenues or funds provided or to be provided under the provisions of this act, and nothing in this act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by the state.

(4) Unless approved by a concurrent resolution of the legislature, the authority shall not provide preferential treatment in the rate of interest for a particular municipal obligation purchased by the authority that is based upon other than financial and credit considerations and shall not forgive or relinquish all or part of the interest or principal of a particular municipal obligation or of municipal obligations of a particular purpose.

Sec. 13. Within limitations that are stated in the issuance or authorization resolution of the authority, the authority may authorize a member of the board or the executive director of the authority to do 1 or more of the following:

- (a) Sell and deliver, and receive payment for, notes or bonds.
- (b) Refund notes or bonds by the delivery of new notes or bonds whether or not the notes or bonds to be refunded have matured or are subject to redemption.
- (c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purpose.
- (d) Buy notes or bonds so issued and resell those notes or bonds.
- (e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.
- (f) Direct the investment of money of the authority that the authority has the power to invest.
- (g) Create and manage investments on behalf of governmental units and the state water pollution control revolving fund established under section 16a.

Sec. 27. Except for bonds or notes issued pursuant to the state water pollution control revolving fund established under section 16a, the authority shall not issue new bonds or notes after December 31, 2000, to make loans to governmental units.

Section 2. Section 28 of Act No. 227 of the Public Acts of 1985, being section 141.1078 of the Michigan Compiled Laws, is repealed.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.