

**SUBSTITUTE FOR
SENATE BILL NO. 1080**

A bill to amend 1987 PA 204, entitled
"Low-level radioactive waste authority act,"
by amending section 20a (MCL 333.26220a).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20a. (1) For the purpose of financing the project
2 costs associated with the disposal site, the authority may borrow
3 money and issue its revenue bonds payable solely from the dis-
4 posal site revenues, except to the extent paid from the proceeds
5 of sale of revenue bonds or from any other security provided for
6 and pledged as provided by this act. ~~The bonds shall be serial~~
7 ~~bonds or term bonds, or a combination of serial bonds and term~~
8 ~~bonds, and shall be payable as provided in the resolution autho-~~
9 ~~rizing the bonds. The last annual principal installment shall~~
10 ~~not be longer than the estimated period of usefulness of the~~
11 ~~disposal site for which the bonds were issued as determined by~~

SB 1080, As Passed Senate, February 19, 2002

Senate Bill No. 1080

2

1 ~~the authority. The resolution of the authority authorizing the~~
2 ~~issuance of the bonds may provide for sinking fund payments; for~~
3 ~~the bonds to bear interest at a fixed or variable rate or rates~~
4 ~~of interest per annum or at no interest; for the establishment of~~
5 ~~a reserve and the method of funding the reserve; for the invest-~~
6 ~~ment of bond proceeds and other money held in funds and accounts~~
7 ~~created by the resolution; for the denomination or denominations~~
8 ~~of the bonds; for the form, either coupon or registered, of the~~
9 ~~bonds; for the conversion or registration privileges; for the~~
10 ~~manner of execution; for the sources, medium of payment, and~~
11 ~~place or places within or without the state of payment; and that~~
12 ~~the bond be subject to redemption at the option of the holder or~~
13 ~~the authority with the terms and redemption premiums as the reso-~~
14 ~~lution provides.~~ BONDS ISSUED UNDER THIS ACT ARE SUBJECT TO THE
15 REVENUE BOND ACT OF 1933, 1933 PA 94, MCL 141.101 TO 141.140.

16 ~~-(2) Bonds issued may be sold at a discount but may not be~~
17 ~~sold at a price that would make the interest cost on the money~~
18 ~~borrowed after deducting any premium or adding any discount~~
19 ~~exceed 10% per annum or the maximum rate permitted by the munici-~~
20 ~~pal finance act, Act No. 202 of the Public Acts of 1943, being~~
21 ~~sections 131.1 to 139.3 of the Michigan Compiled Laws, whichever~~
22 ~~is greater. Bonds of the authority may be sold at public or pri-~~
23 ~~vate sale and shall be subject to the prior approval or an excep-~~
24 ~~tion from prior approval requirement of Act No. 202 of the Public~~
25 ~~Acts of 1943, except that the requirements of the bonds shall not~~
26 ~~be subject to the other requirements of Act No. 202 of the Public~~
27 ~~Acts of 1943.~~

SB 1080, As Passed Senate, February 19, 2002

Senate Bill No. 1080

3

1 (2) ~~—(3)—~~ Bonds of the authority shall not be in any way a
2 debt or liability of the state and shall not create or constitute
3 an indebtedness, liability, or obligation of the state or consti-
4 tute a pledge of the faith and credit of the state, but all bonds
5 issued by the authority, unless funded or refunded by bonds
6 issued by the authority, shall be payable solely from revenues or
7 funds pledged or available for their payment from disposal site
8 revenues, or as otherwise provided by this act. The authority
9 shall not be personally liable for an indebtedness, liability, or
10 obligation under this section. Each bond issued under this sec-
11 tion shall contain on its face a statement to the effect that the
12 bond is not in any way a debt or liability of the state, that the
13 state is not obligated to pay principal or interest on the bond,
14 that neither the faith and credit nor the taxing power of the
15 state is pledged for the payment of principal of or interest on
16 the bond, and that the authority is obligated to pay the princi-
17 pal of and interest on the bond only from the disposal site
18 revenues.

19 ~~—(4) The authority may authorize and approve an insurance~~
20 ~~contract, an agreement for a line of credit, a letter of credit,~~
21 ~~a commitment to purchase bonds, an agreement to remarket bonds or~~
22 ~~not to call for prior redemption of bonds, swaps, or interest~~
23 ~~protection agreements including interest rates, hedges, or simi-~~
24 ~~lar agreements, and any other transaction to provide security to~~
25 ~~assure timely payment of the bond. The authority may authorize~~
26 ~~payment from the proceeds of the bond or from other funds~~
27 ~~available, of the costs of issuance including, but not limited~~

SB 1080, As Passed Senate, February 19, 2002

Senate Bill No. 1080

4

1 ~~to, fees for placement, charges for replacement, letters of~~
2 ~~credit, lines of credit, remarketing agreements, reimbursement~~
3 ~~agreements, or purchase or sales agreements or commitments, or~~
4 ~~agreements to provide security to assure timely payment of the~~
5 ~~bonds.~~

6 (3) ~~—(5)—~~ A pledge of the disposal site revenues and the
7 funds and accounts pledged by the resolution is valid and binding
8 from the time when the pledge is made. The disposal site reve-
9 nues pledged and thereafter received by the authority shall be
10 subject to a statutory lien of the pledge without physical deliv-
11 ery of the revenues or money or further act, until payment in
12 full of the principal of and interest upon the bonds, unless the
13 authorizing resolution provides for an earlier discharge of the
14 lien. The lien of a pledge of the disposal site revenue is valid
15 and binding against a party having a claim of any kind in tort,
16 contract, or otherwise against the authority, irrespective of
17 whether that party has notice of the pledge. Neither the resolu-
18 tion authorizing the issuance of the bonds, the trust indenture,
19 nor any other instrument by which a pledge is created need be
20 filed or recorded in order to establish and perfect a lien or
21 security interest in the property pledged.

22 (4) ~~—(6)—~~ In the resolution authorizing the issuance of the
23 bonds, the authority may authorize the state treasurer, as agent
24 for the authority, to do 1 or more of the following:

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

SB 1080, As Passed Senate, February 19, 2002

Senate Bill No. 1080

5

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

4 (c) Deliver bonds, partly to refund bonds, and partly for
5 any other authorized purpose.

6 (d) Buy bonds that have been issued and resell those bonds.

7 (e) Approve interest rates or methods for fixing interest
8 rates, prices, discounts, maturities, principal amounts, denomi-
9 nations, dates of issuance, interest payment dates, redemption
10 rights at the option of the authority or holder, the place of
11 delivery and payment, and other matters and procedures necessary
12 to complete the transactions authorized.

13 (5) ~~-(7)-~~ The authority may provide in the resolution autho-
14 rizing the issuance of the bonds for ~~any~~ 1 OR MORE of the
15 following:

16 (a) A provision that the disposal site revenues shall be
17 pledged for the payment of the bonds.

18 (b) To covenant that the fees and surcharges provided for by
19 section 19 shall be revised from time to time within the limits
20 permitted by law and under the compact when necessary to insure
21 that the revenues to be derived shall be sufficient to pay the
22 principal of and interest on the bonds issued pursuant to this
23 section and other obligations incurred in connection with the
24 issuance of the bonds.

25 (c) To establish, make provision for, and make regulation
26 regarding and disposition of reserves or sinking funds.

SB 1080, As Passed Senate, February 19, 2002

Senate Bill No. 1080

6

1 (d) To covenant with respect to or against limitations on
2 the right to sell or otherwise dispose of property of any kind.

3 (e) A provision for deposit and expenditure of the proceeds
4 of sale of the bonds and for investment of the proceeds and of
5 other funds relating to the bonds.

6 (f) To covenant as to the issuance of additional bonds or
7 notes, or as to limitations on the issuance of additional bonds,
8 and on incurring other debts of the authority.

9 (g) To covenant as to the payment of principal and interest
10 on the bonds, as to the sources and methods of that payment, as
11 to the rank and priority of the bonds with respect to a lien or
12 security, or as to the acceleration of the maturity of the
13 bonds.

14 (h) To covenant as to the redemption of the bonds, and priv-
15 ileges for exchange of other bonds of the authority.

16 (i) To covenant as to create or authorize the creation of
17 special funds or money to be held or pledged or otherwise for
18 operating expenses, payment or redemption of bonds, reserves, or
19 other purposes, and as the use and disposition of the money held
20 in these special funds.

21 (j) To establish the procedure by which the terms of a con-
22 tract or covenant with or for the benefit of the holders of the
23 bonds may be amended or abrogated, the amount of bonds the hold-
24 ers of which must consent to the amendment or abrogation, and to
25 the manner in which the consent may be given.

26 (k) To provide for the rights and liabilities, powers, and
27 duties arising upon the breach of a covenant, condition, or

SB 1080, As Passed Senate, February 19, 2002

Senate Bill No. 1080

7

1 obligation, and to prescribe the events of default and the terms
2 and conditions upon which any or all the bonds shall become or
3 may be declared due and payable before maturity, and the terms
4 and conditions upon which such declarations and its consequences
5 may be waived.

6 (l) Provide for the appointment of a trustee, to vest in a
7 trustee property, rights, powers, and duties in trust as the
8 authority determines, which may include all or any of the rights,
9 powers, or duties of a trustee appointed by the holders of bonds
10 or notes, and to limit or abrogate the right of holders of bonds
11 of the authority to appoint a trustee under this section or to
12 limit the rights, powers, and duties of such trustee.

13 (m) To limit the rights of holders of bonds to enforce a
14 pledge or covenant securing the bonds.

15 (n) Any other matters of like or different character, which
16 in any way affects the security or protection of the bonds.

17 (6) ~~-(8)-~~ Notwithstanding any other restriction contained in
18 any other law, the state and the public officer, governmental
19 unit, or agencies of the state or governmental unit; a bank,
20 trust company, savings bank and institution, savings and loan
21 association, investment company, or other person carrying on a
22 banking business; an insurance company, insurance association, or
23 any other person carrying on an insurance business; or an execu-
24 tor, administrator, guardian, trustee, or other fiduciary may
25 legally invest a sinking fund, money, or any other fund belonging
26 to them or within their control in bonds or notes issued under
27 this section, and authority bonds shall be authorized security

SB 1080, As Passed Senate, February 19, 2002

Senate Bill No. 1080

8

1 for public deposits. If the interest of the bonds is excluded
2 from gross income for federal income tax purposes, bonds and
3 interest on those bonds shall be exempt from all taxation by the
4 state or a subdivision of the state.

5 ~~—(9) The authority may provide for the issuance of bonds in~~
6 ~~the amount the authority considers necessary for the purpose of~~
7 ~~refunding bonds of the authority then outstanding, including the~~
8 ~~payment of any redemption premium and interest accrued or to~~
9 ~~accrue to the earliest or subsequent date of redemption, pur-~~
10 ~~chase, or maturity of these bonds. The proceeds of these refund-~~
11 ~~ing bonds may be applied to the purchase or retirement at matu-~~
12 ~~rity or redemption of outstanding bonds either on the earliest or~~
13 ~~subsequent redemption date, and pending such application, may be~~
14 ~~placed in escrow to be applied to the purchase or retirement at~~
15 ~~maturity or redemption on a date or dates determined by the~~
16 ~~authority. Pending such application and subject to agreements~~
17 ~~with the bondholders, the escrowed proceeds may be invested and~~
18 ~~reinvested in the manner the authority determines, maturing at~~
19 ~~the time or times as appropriate to assure prompt payment of the~~
20 ~~principal, interest, and redemption premium, if any, of the out-~~
21 ~~standing bonds to be refunded. After the terms of the escrow~~
22 ~~have been fully satisfied and carried out, the balance of the~~
23 ~~proceeds and interest, income, and profits, if any, earned or~~
24 ~~realized on the investment of the proceeds shall be returned to~~
25 ~~the authority for use by the authority in any lawful manner. In~~
26 ~~the resolution authorizing bonds, the authority may provide that~~
27 ~~the bonds that have been refunded shall be considered paid when~~

SB 1080, As Passed Senate, February 19, 2002

Senate Bill No. 1080

9

~~1 there has been deposited in trust money or direct obligations of
2 the United States, or other obligations secured by the foregoing
3 which will provide payments of principal and interest adequate to
4 pay the principal and interest on the refunded bonds as that
5 principal and interest becomes due whether by maturity or prior
6 redemption and that, upon the deposit of the money or obliga=
7 tions, the obligations of the authority to the holders of the
8 refunded bonds are terminated except as to the rights to the
9 money or obligations deposited in trust.~~

(7) ~~-(10)-~~ As used in this section:

(a) "Annual principal installment" means a maturity of serial bonds, an amount of term bonds required to be redeemed in that year, or a maturity of term bonds less amounts previously required to be redeemed.

(b) "Bonds" means any note, bond, or other obligation or evidence of indebtedness of the authority.

(c) "Disposal site revenues" means fees and surcharges established by the authority under section 19; other revenues generated by the operation of the disposal site; and other revenues received by the bond holders pursuant to the resolution authorizing the bond, after deduction of reasonable expenses of administration, operation, and maintenance of the disposal site.

(d) "Project costs" means the costs of assurance of title, construction, insurance during construction, acquisition, improvement, enlargement, extension, or repair of the disposal site unit including any engineering, architectural, legal, accounting, financial, surveying, and other expenses incidental

SB 1080, As Passed Senate, February 19, 2002

Senate Bill No. 1080

10

1 to the disposal site. Project costs shall also include interest
2 on the bonds and other obligations of the borrower issued to pay
3 project costs or to secure the timely payment of the bonds, a
4 reserve or an addition to a reserve for payment of principal and
5 interest on the bonds, the amount determined by the authority
6 required for the operation of maintenance of the disposal site
7 until sufficient revenues have developed, and all costs associ-
8 ated with the issuance of the bonds.