

SENATE BILL No. 1182

March 5, 2002, Introduced by Senator PETERS and referred to the Committee on Finance.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 76703 (MCL 324.76703), as amended by 2001 PA
78.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 76703. (1) The commission may issue its gross revenue
2 bonds in anticipation of the collection of all or any part of its
3 revenues, for the purpose of acquiring, constructing, recon-
4 structing, improving, bettering, extending, restoring, refurbish-
5 ing, renovating, repairing, equipping, furnishing, any or all,
6 the properties and facilities that it is authorized to acquire,
7 construct, reconstruct, maintain, or operate under this part,
8 including properties and facilities owned by it, and shall pledge
9 to the payment of the interest on and principal of ~~such~~ THE
10 bonds, all or any part of the revenues derived from the operation

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1 of the properties and facilities ~~so~~ controlled and operated by
2 the commission. There may be included in the cost for which
3 bonds are to be issued, reasonable allowances for legal, engi-
4 neering, or fiscal services, interest during construction or
5 reconstruction and for 6 months after the estimated date of com-
6 pletion of the construction or reconstruction or until full reve-
7 nues are being received from the operation of the facility, and
8 other incidental expenses. The bonds shall be authorized by res-
9 olution of the commission and may be issued in 1 or more series,
10 may bear ~~such~~ THE date or dates, may mature at ~~such~~ THE time
11 or times not exceeding 30 years from their respective dates, may
12 bear interest at ~~such~~ THE rate or rates, may be in ~~such~~ THE
13 form, either coupon or registered, may be executed in ~~such~~ THE
14 manner, may be payable at ~~such~~ THE place or places, may be
15 subject to ~~such~~ THE terms of redemption, with or without premi-
16 um, and may contain ~~such~~ THE terms, covenants, and conditions
17 as ~~such~~ THE resolution or subsequent resolution may provide.
18 Pending preparation of the definitive bonds, interim receipts, or
19 certificates in ~~such~~ THE form and with ~~such~~ THE provisions as
20 the commission may determine may be issued to the purchaser or
21 purchasers of the bonds sold pursuant to this part. The bonds
22 and interim receipts and certificates shall be fully negotiable
23 within the meaning of and for all purposes of the negotiable
24 instruments law of this state. The maximum rate of interest on
25 such bonds shall be that set forth for bonds issued ~~pursuant to~~
26 ~~the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, but~~
27 ~~bonds issued under this part shall not in any other way be~~

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1 ~~subject to the municipal finance act, 1943 PA 202, MCL 131.1 to~~
2 ~~139.3~~ UNDER THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL
3 141.2101 TO 141.2821. The sale and award of notes shall be con-
4 ducted and made by the commission at a public or private sale.
5 If a public sale is held, the notes shall be advertised for sale
6 once not less than 7 days before sale in a publication printed in
7 the English language and circulated in this state, which carries
8 as a part of its regular service notices of the sales of munici-
9 pal bonds and which has been designated in the resolution as a
10 publication complying with these qualifications. The notice of
11 sale shall be in the form as designated by the commission. Bonds
12 may be sold at a discount as provided in the bond resolution.
13 BONDS ISSUED UNDER THIS SECTION ARE NOT SUBJECT TO THE REVISED
14 MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO 141.2821.

15 (2) Any resolution authorizing the issuance of bonds under
16 this part or any instrument of trust entered into as authorized
17 by this part may contain covenants, including, but not limited
18 to, any of the following:

19 (a) The purpose or purposes to which the proceeds of the
20 sale of the bonds may be applied, and the deposit, use, and dis-
21 position of the proceeds.

22 (b) The use, deposit, securing of deposits, and disposition
23 of the revenues of the commission, including the creation and
24 maintenance of reserves.

25 (c) The issuance of additional bonds payable from the reve-
26 nues of the commission.

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1 (d) The operation and maintenance of properties of the
2 commission.

3 (e) The insurance to be carried thereon, and the use, depos-
4 it, and disposition of insurance money.

5 (f) Books of account and the inspection and audit of the
6 books of account and the accounting methods of the commission.

7 (g) The nonrendering of any free service by the commission.

8 (h) The preservation of the properties of the commission, so
9 long as any of the bonds remain outstanding, from any mortgage,
10 sale, lease, or other encumbrance not specifically permitted by
11 the terms of the resolution.

12 (i) The employment of sufficient personnel for the collec-
13 tion of fees and charges incident to the operation of the facil-
14 ity and for the payment of compensation to ~~such~~ THE personnel
15 out of the fees and charges.

16 (3) In the discretion of the commission, any bonds issued
17 under this part may be secured by a trust indenture by and
18 between the commission and a corporate trustee, which may be any
19 bank having the right to exercise the powers of a trust company
20 within this state. Any ~~such~~ trust indenture DESCRIBED IN THIS
21 SUBSECTION may pledge or assign the revenues from the operation
22 of properties of the commission, but shall not convey or mortgage
23 any properties, except ~~such~~ THE revenues. Any trust indenture
24 or any resolution providing for the issuance of bonds may contain
25 ~~such~~ THE provisions for protecting and enforcing the rights and
26 remedies of the bondholders as may be reasonable and proper and
27 not in violation of law, including covenants setting forth the

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1 duties of the commission in relation to the acquisition of
2 property and the construction, improvement, maintenance, repair,
3 operation, and insurance of the improvements in connection with
4 which the bonds have been authorized, and the custody, safeguard-
5 ing, and application of all money, and provisions for the employ-
6 ment of consulting engineers, architects, and landscape archi-
7 tects in connection with the planning, construction, or operation
8 of the improvements. Any trust indenture may set forth the
9 rights and remedies of the bondholders and of the trustee, and
10 may restrict the individual right of action by bondholders as is
11 customary in trust agreements or trust indentures securing bonds
12 and debentures of corporations. In addition to the foregoing,
13 any trust indenture or resolution may contain other provisions as
14 the commission considers reasonable and proper for the security
15 of the bondholders. The holder of any bond issued under this
16 part or a trustee in his or her behalf may bring suit against the
17 commission and its members, officers, and agents to enforce the
18 provisions and covenants contained in any trust indenture or
19 resolution. All expenses incurred in carrying out the provisions
20 of any trust indenture may be treated as a part of the cost of
21 operation of the improvements for which the bonds are
22 authorized.

23 (4) Money received pursuant to this part, whether as pro-
24 ceeds from the sale of bonds or as revenues from the operations
25 of properties, or otherwise received by the commission, shall be
26 considered to be trust funds, to be held and applied solely as
27 provided in this part and in the resolution authorizing, or trust

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1 indenture securing, its bonds. All money received may be
2 deposited in as received and paid out by any bank or banks
3 selected for ~~such~~ THE purpose and eligible to hold public money
4 under the laws of this state, ~~such~~ THE deposits and paying out
5 to be in the manner provided in ~~such~~ THE resolution or trust
6 indenture. None of the money need be paid into the state
7 treasury.

8 (5) If the commission has issued any bonds under this part,
9 the commission may ~~thereafter~~ SUBSEQUENTLY issue and negotiate
10 new bonds under this part for the purpose of providing for the
11 retirement of those outstanding bonds, in whole or in part. The
12 new bonds shall be designated "gross revenue refunding bonds",
13 and except as otherwise provided in the refunding resolution,
14 shall be secured to the same extent and shall have the same
15 source of payment as the bonds ~~which~~ THAT have been refunded,
16 or may be payable from earnings on investments held in trust to
17 pay refunded bonds for the period of time specified in the ordi-
18 nance authorizing the bonds. The refunding bonds may be issued
19 to include the amount of any premium to be paid upon the calling
20 of the callable bonds to be refunded or any premium necessary to
21 be paid in order to secure the surrender of the noncallable bonds
22 to be refunded, interest to the maturity or redemption date of
23 the bonds to be refunded, and the cost of issuing the refunding
24 bonds. This section shall not be construed as providing for the
25 redemption of noncallable unmatured bonds without the consent of
26 the holder or holders of the bonds. The refunding bonds may be
27 sold at public sale, may be privately negotiated, or may be

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1 exchanged for the obligations to be refunded by the obligations,
2 and if sold, the proceeds shall be deposited in a bank and cred-
3 ited to a special trust account to be used only for the redemp-
4 tion or purchase of the outstanding bonds. If refunding bonds
5 are to be issued and sold for the purpose of refunding noncall-
6 able unmatured bonds, those bonds shall be surrendered and
7 canceled at the time of delivery to the purchaser of the refund-
8 ing bonds, or sufficient funds shall be deposited in trust to pay
9 principal and interest to maturity on noncallable bonds. If
10 refunding bonds are to be issued for the purpose of refunding
11 callable bonds, those bonds shall be surrendered and canceled at
12 the time of delivery to the purchaser of the refunding bonds, or
13 sufficient funds shall be deposited in trust to pay principal,
14 interest, and redemption premium to the earliest redemption date
15 on callable bonds. When the resolution authorizing the bonds to
16 be refunded permits, the borrower may deposit in trust direct
17 obligations of, or obligations the principal and interest of
18 which are unconditionally guaranteed by, the United States and
19 which do not permit redemption at the option of the issuer, the
20 principal and interest on which when due, without reinvestment,
21 will provide funds sufficient to pay principal, interest, and
22 call premium, when due, on the bonds being refunded.

23 (6) Notwithstanding the other provisions of this section:

24 (a) Interest on the bonds may be payable at any time pro-
25 vided in the resolution, and may be set, reset or calculated, or
26 both, as provided in the resolution.

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1 (b) If so authorized in the resolution bonds may be:

2 (i) Made the subject of a put or agreement to repurchase by
3 the commission.

4 (ii) Secured by a letter of credit issued by a bank pursuant
5 to an agreement entered into by the commission or secured by any
6 other collateral.

7 (iii) Callable.

8 (iv) Reissued by the commission once reacquired by the com-
9 mission pursuant to any put or repurchase agreement.

10 (c) The commission may by resolution do any of the
11 following:

12 (i) Authorize the issuance of renewal bonds.

13 (ii) Refund, or refund in advance, bonds by the issuance of
14 new bonds, whether the bonds to be refunded have or have not
15 matured.

16 (iii) Issue bonds partly to refund bonds and partly for any
17 other purposes authorized by this part.

18 (iv) Buy and sell any bonds issued under this part.

19 (d) Renewal, refunding, or advance refunding bonds are
20 subject to all of the following:

21 (i) Shall be sold and the proceeds applied to the purchase
22 redemption or payment of the bonds to be renewed or refunded.

23 (ii) May be sold or resold at a public or private sale upon
24 such terms and conditions as the commission may establish in the
25 order.

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1 (iii) May pledge the revenues pledged in the issue to be
2 refunded in advance effective when a defeasance has occurred with
3 respect to the original issue.

4 (e) If AUTHORIZED BY the commission ~~so authorizes~~ in the
5 resolution authorizing the bonds, any bonds issued may be secured
6 in whole or in part pursuant to a trust or escrow agreement,
7 which agreement may also govern the issuance of renewal bonds,
8 refunding bonds, and advance refunding bonds. The agreement may
9 authorize the trustee or escrow agent to make investments of any
10 type authorized in the agreement.

11 (f) Powers specified in this subsection shall be in addition
12 to those set forth in all other subsections and sections of this
13 part.

14 (7) The commission shall hire an independent certified
15 public accountant approved by the legislative auditor general to
16 perform an annual audit of all of its operations which are
17 required by, or in any way relate to, any covenants made in con-
18 nection with any bonds issued pursuant to this part.

19 (8) The bonds may be issued in electronic format only or, if
20 issued in paper copies, shall be signed by the chairperson or
21 vice-chairperson of the commission and attested to by any other
22 officer of the commission authorized to do so by resolution of
23 the commission. The signature of either officer, but not both,
24 may be affixed by facsimile or electronically.

25 (9) THE ISSUANCE OF BONDS AND NOTES UNDER THIS SECTION IS
26 SUBJECT TO THE AGENCY FINANCING REPORTING ACT.