

SENATE BILL No. 1079

February 5, 2002, Introduced by Senator SIKKEMA and referred to the Committee on Finance.

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending sections 7, 12, and 17 (MCL 125.2657, 125.2662, and
125.2667), section 7 as amended by 2000 PA 145.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) An authority may do 1 or more of the
2 following:

3 (a) Adopt, amend, and repeal bylaws for the regulation of
4 its affairs and the conduct of its business.

5 (b) Incur and expend funds to pay or reimburse a public or
6 private person for costs of eligible activities attributable to
7 an eligible property.

8 (c) As approved by the municipality, incur costs and expend
9 funds from the local site remediation revolving fund created
10 under section 8 for purposes authorized in that section.

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1 (d) Make and enter into contracts necessary or incidental to
2 the exercise of its powers and the performance of its duties,
3 including, but not limited to, lease purchase agreements, land
4 contracts, installment sales agreements, and loan agreements.

5 (e) On terms and conditions and in a manner and for consid-
6 eration the authority considers proper or for no monetary consid-
7 eration, own, mortgage, convey, or otherwise dispose of, or lease
8 as lessor or lessee, land and other property, real or personal,
9 or rights or interests in the property, that the authority deter-
10 mines are reasonably necessary to achieve the purposes of this
11 act, and grant or acquire licenses, easements, and options with
12 respect to the property.

13 (f) Acquire, maintain, repair, or operate all devices neces-
14 sary to ensure continued eligible activities on eligible
15 property.

16 (g) Accept grants and donations of property, labor, or other
17 things of value from a public or private source.

18 (h) Incur costs in connection with the performance of its
19 authorized functions, including, but not limited to, administra-
20 tive costs and architect, engineer, legal, or accounting fees.

21 (i) Study, develop, and prepare the reports or plans the
22 authority considers necessary to assist it in the exercise of its
23 powers under this act and to monitor and evaluate the progress
24 under this act.

25 (j) Procure insurance against loss in connection with the
26 authority's property, assets, or activities.

1 (k) Invest the money of the authority at the authority's
2 discretion in obligations determined proper by the authority, and
3 name and use depositories for its money.

4 (l) Make loans, participate in the making of loans, under-
5 take commitments to make loans and mortgages, buy and sell loans
6 and mortgages at public or private sale, rewrite loans and mort-
7 gages, discharge loans and mortgages, foreclose on a mortgage,
8 commence an action to protect or enforce a right conferred upon
9 the authority by a law, mortgage, loan, contract, or other agree-
10 ment, bid for and purchase property that was the subject of the
11 mortgage at a foreclosure or other sale, acquire and take posses-
12 sion of the property and in that event compute, administer, pay
13 the principal and interest on obligations incurred in connection
14 with that property, and dispose of and otherwise deal with the
15 property, in a manner ~~as may be~~ necessary or desirable to pro-
16 tect the interests of the authority.

17 (m) Borrow money and issue its notes under the ~~municipal~~
18 ~~finance act, 1943 PA 202, MCL 131.1 to 139.3~~ REVISED MUNICIPAL
19 FINANCE ACT, 2001 PA 34, MCL 141.2101 TO 141.2821, in anticipa-
20 tion of collection of tax increment revenues.

21 (n) Do all other things necessary or convenient to achieve
22 the objectives and purposes of the authority, this act, or other
23 laws that relate to the purposes and responsibilities of the
24 authority.

25 (2) The authority shall determine the captured taxable value
26 of each parcel of eligible property. The captured taxable value
27 of a parcel shall not be less than zero.

1 (3) A municipality may transfer the funds of the
2 municipality to an authority or to another person on behalf of
3 the authority in anticipation of repayment by the authority.

4 Sec. 12. (1) The authority may borrow money and issue its
5 negotiable revenue bonds or notes to finance all or part of the
6 costs of eligible activities or of another activity of the
7 authority under this act. ~~, or to refund or refund in advance~~
8 ~~bonds or notes issued under this section.~~ REVENUE BONDS AND
9 NOTES ISSUED UNDER THIS SECTION ARE SUBJECT TO THE REVENUE BOND
10 ACT OF 1933, 1933 PA 94, MCL 141.101 TO 141.140. The costs that
11 may be financed by the issuance of revenue bonds or notes may
12 include the costs of purchasing, acquiring, constructing, improv-
13 ing, enlarging, extending, or repairing property in connection
14 with an activity authorized under this act; engineering, archi-
15 tectural, legal, accounting, or financial expenses; the costs
16 necessary or incidental to the borrowing of money; interest on
17 the bonds or notes during the period of construction; a reserve
18 for payment of principal and interest on the bonds or notes; and
19 a reserve for operation and maintenance until sufficient revenues
20 have developed. The authority may secure the bonds and notes by
21 mortgage, assignment, or pledge of the property and all money,
22 revenues, or income received in connection with the property.

23 (2) A pledge made by the authority shall be valid and bind-
24 ing from the time the pledge is made. The money or property
25 pledged by the authority immediately shall be subject to the lien
26 of the pledge without a physical delivery, filing, or further
27 act. The lien of ~~such~~ a pledge shall be valid and binding as

1 against parties having claims in tort, contract, or otherwise
2 against the authority, irrespective of whether the parties have
3 notice of the lien. Filing of the resolution, the trust agree-
4 ment, or another instrument by which a pledge is created is not
5 required.

6 (3) Bonds or notes issued under this section shall be exempt
7 from all taxation in this state except estate and transfer taxes,
8 and the interest on the bonds or notes shall be exempt from all
9 taxation in this state, notwithstanding that the interest may be
10 subject to federal income tax.

11 (4) Unless otherwise provided by a majority vote of the mem-
12 bers of its governing body, the municipality shall not be liable
13 on bonds or notes of the authority issued under this section and
14 the bonds or notes shall not be a debt of the municipality.

15 (5) The bonds and notes of the authority may be invested in
16 by the state treasurer and all other public officers, state agen-
17 cies and political subdivisions, insurance companies, banks, sav-
18 ings and loan associations, investment companies, and fiduciaries
19 and trustees, and may be deposited with and received by the state
20 treasurer and all other public officers and the agencies and
21 political subdivisions of this state for all purposes for which
22 the deposit of bonds or notes is authorized. The authority
23 granted by this section is supplemental and in addition to all
24 other authority granted by law.

25 Sec. 17. (1) By resolution of its board, the authority may
26 authorize, issue, and sell its tax increment bonds and notes,
27 subject to the limitations set forth in this section, to finance

1 the purposes of a brownfield plan. The bonds or notes shall
2 ~~mature in not more than 30 years and shall bear interest and be~~
3 ~~sold and~~ be payable in the manner and upon the terms and condi-
4 tions determined, or within the parameters specified, by the
5 authority in the resolution authorizing issuance of the bonds or
6 notes. ~~The bonds or notes may include capitalized interest, an~~
7 ~~amount sufficient to fund costs of the issuance of the bonds or~~
8 ~~notes, and a sum to provide a reasonable reserve for payment of~~
9 ~~principal and interest on the bonds or notes. Except for the~~
10 ~~requirement of the municipal finance act, Act No. 202 of the~~
11 ~~Public Acts of 1943, being sections 131.1 to 139.3 of the~~
12 ~~Michigan Compiled Laws, that the authority receive the approval~~
13 ~~or an exception from approval from the department of treasury~~
14 ~~prior to the issuance of bonds under this subsection, the terms~~
15 ~~of Act No. 202 of the Public Acts of 1943 shall not apply to~~
16 ~~bonds issued under this section.~~ The resolution authorizing the
17 bonds shall create a lien on the tax increment revenues and other
18 revenues pledged by the resolution that shall be a statutory lien
19 and shall be a first lien subject only to liens previously
20 created. The resolution may provide the terms upon which addi-
21 tional bonds or notes may be issued of equal standing and parity
22 of lien as to the tax increment revenues and other revenues
23 pledged under the resolution.

24 (2) The municipality, by majority vote of the members of its
25 governing body, may make a limited tax pledge to support the
26 authority's tax increment bonds or notes or, if authorized by the
27 voters of the municipality, may pledge its unlimited tax full

1 faith and credit for the payment of the principal of and interest
2 on the authority's tax increment bonds or notes.

3 (3) The bonds or notes issued under this section shall be
4 secured by 1 or more sources of revenue identified in section 7
5 as sources of financing of activities of the authority, as pro-
6 vided by resolution of the authority.

7 (4) The bonds and notes of the authority may be invested in
8 by the state treasurer and all other public officers, state agen-
9 cies and political subdivisions, insurance companies, banks, sav-
10 ings and loan associations, investment companies, and fiduciaries
11 and trustees, and may be deposited with and received by the state
12 treasurer and all other public officers and the agencies and
13 political subdivisions of this state for 1 or more of the pur-
14 poses for which the deposit of bonds or notes is authorized. The
15 authority granted by this section is supplemental and in addition
16 to all other authority granted by law.

17 ~~(5) The net present value of the principal and interest to~~
18 ~~be paid on an obligation issued or incurred by an authority or by~~
19 ~~a municipality on behalf of an authority to refund an obligation~~
20 ~~incurred under this section, including the cost of issuance,~~
21 ~~shall be less than the net present value of the principal and~~
22 ~~interest to be paid on the obligation being refunded as calcu-~~
23 ~~lated using a method approved by the department of treasury.~~

24 ~~(6) A bond issued by an authority under this act shall not~~
25 ~~appreciate in principal amount or be sold at a discount of more~~
26 ~~than 10% unless the bond of the authority is sold to the~~
27 ~~revitalization revolving loan fund created by section 20108a of~~

~~1 Act No. 451 of the Public Acts of 1995, being section 324.20108a~~
~~2 of the Michigan Compiled Laws.~~

3 (5) THE BONDS AND NOTES ISSUED UNDER THIS SECTION ARE
4 SUBJECT TO THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34,
5 MCL 141.2101 TO 141.2821.