

SENATE BILL No. 1080

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

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~~

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~~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 REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
16 141.2821.~~

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

1 ~~be subject to the other requirements of Act No. 202 of the Public~~
2 ~~Acts of 1943.~~

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

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

~~1 payment from the proceeds of the bond or from other funds
2 available, of the costs of issuance including, but not limited
3 to, fees for placement, charges for replacement, letters of
4 credit, lines of credit, remarketing agreements, reimbursement
5 agreements, or purchase or sales agreements or commitments, or
6 agreements to provide security to assure timely payment of the
7 bonds.~~

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

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

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

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

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

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

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

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

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

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

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

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 of 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

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

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~~

~~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.~~

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

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

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

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

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

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.