

Act No. 414
Public Acts of 2002
Approved by the Governor
June 3, 2002
Filed with the Secretary of State
June 3, 2002
EFFECTIVE DATE: June 3, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Senator Cherry

ENROLLED SENATE BILL No. 1080

AN ACT to amend 1987 PA 204, entitled "An act to provide for matters pertaining to a low-level radioactive waste disposal site in this state; to create a low-level radioactive waste authority and prescribe its powers and duties; to create certain boards, committees, and institutes and prescribe their powers and duties; to prescribe the powers and duties of certain persons, municipalities, and counties and state departments and agencies; to provide for certain methods of dispute resolution; to create certain funds; and to provide for an appropriation and the expenditure of certain funds," by amending section 20a (MCL 333.26220a).

The People of the State of Michigan enact:

Sec. 20a. (1) For the purpose of financing the project costs associated with the disposal site, the authority may borrow money and issue its revenue bonds payable solely from the disposal site revenues, except to the extent paid from the proceeds of sale of revenue bonds or from any other security provided for and pledged as provided by this act. The bonds shall be serial bonds or term bonds, or a combination of serial bonds and term bonds, and shall be payable as provided in the resolution authorizing the bonds. The last annual principal installment shall not be longer than the estimated period of usefulness of the disposal site for which the bonds were issued as determined by the authority. The resolution of the authority authorizing the issuance of the bonds may provide for sinking fund payments; for the bonds to bear interest at a fixed or variable rate or rates of interest per annum or at no interest; for the establishment of a reserve and the method of funding the reserve; for the investment of bond proceeds and other money held in funds and accounts created by the resolution; for the denomination or denominations of the bonds; for the form, either coupon or registered, of the bonds; for the conversion or registration privileges; for the manner of execution; for the sources, medium of payment, and place or places within or without the state of payment; and that the bond be subject to redemption at the option of the holder or the authority with the terms and redemption premiums as the resolution provides.

(2) Bonds issued may be sold at a discount but may not be sold at a price that would make the interest cost on the money borrowed after deducting any premium or adding any discount exceed 10% per annum or the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, whichever is greater. Bonds of the authority may be sold at public or private sale. Bonds issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Bonds of the authority shall not be in any way a debt or liability of the state and shall not create or constitute an indebtedness, liability, or obligation of the state or constitute a pledge of the faith and credit of the state, but all bonds issued by the authority, unless funded or refunded by bonds issued by the authority, shall be payable solely from revenues or funds pledged or available for their payment from disposal site revenues, or as otherwise provided by this act. The authority shall not be personally liable for an indebtedness, liability, or obligation under this section. Each bond issued under this section shall contain on its face a statement to the effect that the bond is not in any way a debt or liability of the state, that the state is not obligated to pay principal or interest on the bond, that neither the faith and credit nor the taxing power of the state is pledged for the payment of principal or interest on the bond, and that the authority is obligated to pay the principal of and interest on the bond only from the disposal site revenues.

(4) The authority may authorize and approve an insurance contract, an agreement for a line of credit, a letter of credit, a commitment to purchase bonds, an agreement to remarket bonds or not to call for prior redemption of bonds, swaps, or interest protection agreements including interest rates, hedges, or similar agreements, and any other transaction to provide security to assure timely payment of the bond. The authority may authorize payment from the proceeds of the bond or from other funds available, of the costs of issuance including, but not limited to, fees for placement, charges for replacement, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or agreements to provide security to assure timely payment of the bonds.

(5) A pledge of the disposal site revenues and the funds and accounts pledged by the resolution is valid and binding from the time when the pledge is made. The disposal site revenues pledged and thereafter received by the authority shall be subject to a statutory lien of the pledge without physical delivery of the revenues or money or further act, until payment in full of the principal of and interest upon the bonds, unless the authorizing resolution provides for an earlier discharge of the lien. The lien of a pledge of the disposal site revenue is valid and binding against a party having a claim of any kind in tort, contract, or otherwise against the authority, irrespective of whether that party has notice of the pledge. Neither the resolution authorizing the issuance of the bonds, the trust indenture, nor any other instrument by which a pledge is created need be filed or recorded in order to establish and perfect a lien or security interest in the property pledged.

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

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

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

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

(d) Buy bonds that have been issued and resell those 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 holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(7) The authority may provide in the resolution authorizing the issuance of the bonds for 1 or more of the following:

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

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

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

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

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

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

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

(h) To covenant as to the redemption of the bonds, and privileges for exchange of other bonds of the authority.

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

(j) To establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of the bonds may be amended or abrogated, the amount of bonds the holders of which must consent to the amendment or abrogation, and to the manner in which the consent may be given.

(k) To provide for the rights and liabilities, powers, and duties arising upon the breach of a covenant, condition, or obligation, and to prescribe the events of default and the terms and conditions upon which any or all the bonds shall become or may be declared due and payable before maturity, and the terms and conditions upon which such declarations and its consequences may be waived.

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

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

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

(8) Notwithstanding any other restriction contained in any other law, the state and the public officer, governmental unit, or agencies of the state or governmental unit; a bank, trust company, savings bank and institution, savings and loan association, investment company, or other person carrying on a banking business; an insurance company, insurance association, or any other person carrying on an insurance business; or an executor, administrator, guardian, trustee, or other fiduciary may legally invest a sinking fund, money, or any other fund belonging to them or within their control in bonds or notes issued under this section, and authority bonds shall be authorized security for public deposits. If the interest of the bonds is excluded from gross income for federal income tax purposes, bonds and interest on those bonds shall be exempt from all taxation by the state or a subdivision of the state.

(9) The authority may provide for the issuance of bonds in the amount the authority considers necessary for the purpose of refunding bonds of the authority then outstanding, including the payment of any redemption premium and interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of these bonds. The proceeds of these refunding bonds may be applied to the purchase or retirement at maturity or redemption of outstanding bonds either on the earliest or subsequent redemption date, and pending the application, may be placed in escrow to be applied to the purchase or retirement at maturity or redemption on a date or dates determined by the authority. Pending the application and subject to agreements with the bondholders, the escrowed proceeds may be invested and reinvested in the manner the authority determines, maturing at the time or times as appropriate to assure prompt payment of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, the balance of the proceeds and interest, income, and profits, if any, earned or realized on the investment of the proceeds shall be returned to the authority for use by the authority in any lawful manner. In the resolution authorizing bonds, the authority may provide that the bonds that have been refunded shall be considered paid when there has been deposited in trust money or direct obligations of the United States, or other obligations secured by the foregoing that will provide payments of principal and interest adequate to pay the principal and interest on the refunded bonds as that principal and interest becomes due whether by maturity or prior redemption and that, upon the deposit of the money or obligations, the obligations of the authority to the holders of the refunded bonds are terminated except as to the rights to the money or obligations deposited in trust.

(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.

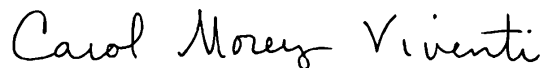
(b) "Bonds" means any note, bond, or other obligation or evidence of indebtedness of the authority.

(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.

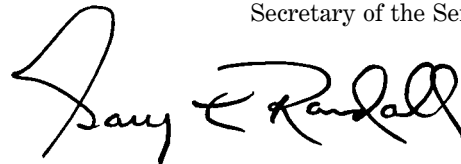
(d) "Project costs" means the costs of assurance of title, construction, insurance during construction, acquisition, improvement, enlargement, extension, or repair of the disposal site unit including any engineering, architectural, legal, accounting, financial, surveying, and other expenses incidental to the disposal site. Project costs shall also include interest on the bonds and other obligations of the borrower issued to pay project costs or to secure the timely payment of the bonds, a reserve or an addition to a reserve for payment of principal and interest on the bonds, the amount determined by the authority required for the operation of maintenance of the disposal site until sufficient revenues have developed, and all costs associated with the issuance of the bonds.

(11) The issuance of bonds under this act is subject to the agency financing reporting act.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.