

# SENATE BILL No. 1356

September 8, 2004, Introduced by Senators BIRKHOLZ, BRATER, SCHAUER, TOY, PATTERSON, McMANUS, VAN WOERKOM, JOHNSON, JELINEK, BROWN, GEORGE, GILBERT, BASHAM, SCOTT, CHERRY, BARCIA, OLSHOVE, JACOBS, LELAND, SWITALSKI, CLARKE, PRUSI, BERNERO, CLARK-COLEMAN, ALLEN, HARDIMAN and KUIPERS and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
(MCL 324.101 to 324.90106) by adding sections 1926, 1927, 1928,  
1929, 1930, 1931, 1932, 1933, and 1934.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1926. Within limitations that shall be contained in  
2 the issuance or authorization resolution of the board, the board  
3 may authorize a member of the board or other person to do 1 or  
4 more of the following:

5       (a) Sell and deliver, and receive payment for notes or  
6 bonds.

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

10       (c) Deliver notes or bonds, partly to refund notes or bonds

1 and partly for any other authorized purpose.

2 (d) Buy notes or bonds so issued and resell those notes or  
3 bonds.

4 (e) Approve interest rates or methods for fixing interest  
5 rates, prices, discounts, maturities, principal amounts,  
6 denominations, dates of issuance, interest payment dates,  
7 redemption rights at the option of the board or the holder, the  
8 place of delivery and payment, and other matters and procedures  
9 necessary to complete the transactions authorized.

10 (f) Direct the investment of any and all bond proceeds.

11 (g) Approve terms of any insurance contract, agreement for a  
12 line of credit, a letter of credit, a commitment to purchase  
13 notes or bonds, an agreement to remarket bonds or notes, an  
14 agreement to manage payment, revenue, or interest rate exposure,  
15 or any other transaction to provide security to assure timely  
16 payment of a bond or note.

17 (h) Perform any power, duty, function, or responsibility of  
18 the board under this part.

19 Sec. 1927. A resolution authorizing bonds or notes may  
20 provide for all of the following that shall be part of the  
21 contract with the holders of the bonds or notes:

22 (a) A pledge for any payment or purpose from revenues of the  
23 trust fund, and of money derived from the revenues, and of the  
24 proceeds of bonds or notes or of an issue of bonds or notes,  
25 subject to any existing agreements with bondholders or  
26 noteholders.

27 (b) A pledge of a loan, grant, or contribution from the

1 federal or state government.

2 (c) The establishment and setting aside of reserves or  
3 sinking funds and the regulation and disposition of reserves or  
4 sinking funds subject to this part.

5 (d) Authority for and limitations on the issuance of  
6 additional bonds or notes for the purposes provided for in the  
7 resolution and the terms upon which additional bonds or notes may  
8 be issued and secured.

9 (e) The procedure, if any, by which the terms of a contract  
10 with noteholders or bondholders may be amended or abrogated, the  
11 number of noteholders or bondholders who are required to consent  
12 to the amendment or abrogation, and the manner in which the  
13 consent may be given.

14 (f) A contract with the bondholders as to the custody,  
15 collection, securing, investment, and payment of bond proceeds.

16 (g) Vesting in a trustee, or a secured party, such property,  
17 income, revenues, receipts, rights, remedies, powers, and duties  
18 in trust or otherwise as the board determines necessary or  
19 appropriate to adequately secure and protect noteholders and  
20 bondholders or to limit or abrogate the right of the holders of  
21 bonds or notes to appoint a trustee under this part or to limit  
22 the rights, powers, and duties of the trustee.

23 (h) Provide to a trustee or the bondholders or noteholders  
24 remedies that may be exercised if the board fails or refuses to  
25 comply with this part or defaults in an agreement made with the  
26 holders of an issue of bonds or notes, which may include any of  
27 the following:

1           (i) By mandamus or other suit, action, or proceeding at law  
2 or in equity, to enforce the rights of the bondholders or  
3 noteholders, and require the board to carry out any other  
4 agreements with the holders of those notes or bonds and to  
5 perform the board's duties under this part.

6           (ii) Bring suit upon the notes or bonds.

7           (iii) By action or suit, require the board to account as if  
8 the board were the trustee of an express trust for the holders of  
9 the notes or bonds.

10          (iv) By action or suit in equity, enjoin any acts or things  
11 that may be unlawful or in violation of the rights of the holders  
12 of the notes or bonds.

13          (v) Declare the notes or bonds due and payable and, if all  
14 defaults shall be made good, then, as permitted by such  
15 resolution, annul that declaration and its consequences.

16          (i) Any other matters of like or different character that in  
17 any way affect the security of protection of the bonds or notes.

18          Sec. 1928. A pledge made by the board shall be valid and  
19 binding from the time the pledge is made. The money or property  
20 pledged and then received by the board immediately is subject to  
21 the lien of the pledge without a physical delivery or further  
22 act. The lien of a pledge is valid and binding as against  
23 parties having claims of any kind in tort, contract, or otherwise  
24 against the board, and is valid and binding as against the  
25 transfers of the money or property pledged, irrespective of  
26 whether parties have notice. Neither the resolution, the trust  
27 agreement, nor any other instrument by which a pledge is created

1 need be recorded in order to establish and perfect a lien or  
2 security interest in the property so pledged.

3       Sec. 1929. The members of the board, any person executing  
4 bonds or notes issued under this part, or any person executing  
5 any agreement on behalf of the board is not liable personally on  
6 the bonds or notes by reason of their issuance.

7       Sec. 1930. The board may purchase the bonds or notes out of  
8 funds or money available for that purpose. The board may hold,  
9 cancel, or resell bonds or notes subject to or in accordance with  
10 an agreement with holders of the bonds or notes.

11       Sec. 1931. The state pledges to and agrees with the holders  
12 of bonds or notes issued under this part that the state shall not  
13 limit or restrict the rights vested in the board by this part to  
14 fulfill the terms of an agreement made with the holders of bonds  
15 or notes, or in any way impair the rights or remedies of the  
16 holders of the bonds or notes until the bonds and notes, together  
17 with interest on the bonds or notes and interest on any unpaid  
18 installments of interest, and all costs and expenses in  
19 connection with an action or proceedings by or on behalf of those  
20 holders are fully met, paid, and discharged.

21       Sec. 1932. Notwithstanding any restriction contained in any  
22 other law, the state and a public officer, local unit of  
23 government, or agency of the state or a local unit of government;  
24 a bank, trust company, savings bank and institution, savings and  
25 loan association, investment company, or other person carrying on  
26 a banking business; an insurance company, insurance association,  
27 or other person carrying on an insurance business; or an

1 executor, administrator, guardian, trustee, or other fiduciary  
2 may legally invest funds belonging to them or within their  
3 control in bonds or notes issued under this part, and the bonds  
4 or notes shall be authorized security for public deposits.

5       Sec. 1933. Bonds or notes issued under this part, and the  
6 interest on and income from those bonds and notes, are exempt  
7 from all taxation of the state or a political subdivision of the  
8 state.

9       Sec. 1934. This part shall be construed liberally to  
10 effectuate the legislative intent and the purposes as complete  
11 and independent authority for the performance of each and every  
12 act and thing authorized by this part, and all powers granted  
13 shall be broadly interpreted to effectuate the intent and  
14 purposes and not as a limitation of powers.

15       Enacting section 1. This amendatory act does not take  
16 effect unless Senate Bill No. 1355  
17                               of the 92nd Legislature is enacted into  
18 law.