

HOSPITAL FINANCE AUTHORITY ACT (EXCERPT)

Act 38 of 1969

CHAPTER 2

331.41 State hospital finance authority; creation; public body corporate and politic; appointment and terms of members; vacancies; deputies; quorum; action by authority; expenses; authority within department of treasury; independent exercise of powers, duties, and functions; conducting business at public meeting; notice.

Sec. 11. (1) The state hospital finance authority is created. The state authority is a public body corporate and politic of the state and shall consist of the director of the department of public health, the state treasurer, 4 public members, and a chairperson. The 4 public members and chairperson shall be appointed by the governor, by and with the advice and consent of the senate. The public members and the chairperson of the authority shall serve for terms of 4 years, or until a successor is appointed and qualified by taking and filing the constitutional oath of office, whichever is later. Vacancies shall be filled for the unexpired term in the same manner as the original appointment. The director of public health and the state treasurer may each designate a deputy or other employee of their respective departments to serve as a member of the state authority in their absences. The deputy or other employee of that department shall serve at the pleasure of the director of public health or the state treasurer. A majority of the members constitute a quorum for the purpose of conducting the business and exercising the powers of the state authority. Action may be taken by the state authority upon the vote of the majority of its members.

(2) Members of the state authority shall not receive compensation for services but are entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties. Any payments for compensation and expenses shall be paid from the funds of the authority.

(3) The state authority is located within the department of treasury and shall exercise its prescribed statutory powers, duties, and functions independently of the head of the department.

(4) The business that the state hospital finance authority may perform shall be conducted at a public meeting of the authority held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1970, Act 142, Imd. Eff. Aug. 1, 1970;—Am. 1973, Act 195, Imd. Eff. Jan. 8, 1974;—Am. 1974, Act 137, Imd. Eff. June 5, 1974;—Am. 1978, Act 206, Imd. Eff. June 4, 1978;—Am. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992.

Compiler's note: For consolidation of administrative staff of Michigan higher education assistance authority, Michigan higher education facilities authority, Michigan higher education student loan authority, Michigan municipal bond authority, and state hospital finance authority, and for transfer of certain functions to state treasurer, see E.R.O. No. 2002-8, compiled at MCL 12.193.

For transfer of powers and duties of state hospital finance authority to Michigan finance authority, see E.R.O. No. 2010-2, compiled at MCL 12.194.

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331.42 Powers of state authority.

Sec. 12. The state authority has the powers necessary to carry out and effectuate the purposes of this act, including, but not limited to, all of the following:

(a) To sue and be sued, to have a seal and authority to alter that seal at pleasure, to have perpetual succession, to make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers, and to make and amend bylaws.

(b) To solicit and accept gifts, grants, loans, and other aids from any person, corporation, or governmental agency.

(c) To make loans, to participate in the making of loans, to undertake commitments, to make loans and mortgages, to sell loans and mortgages at public or private sale, to modify or alter loans and mortgages, to discharge loans and mortgages, to foreclose on a mortgage or commence an action to protect or enforce a right conferred upon the state authority by a law, mortgage, loan, contract, or other agreement, to bid for and purchase property that was the subject of a mortgage at a foreclosure or at any other sale and to acquire or take possession of that property, to complete, administer, pay the principal and interest on any obligations incurred in connection with acquired property, and to dispose of and otherwise deal with the property in a manner necessary or desirable to protect the interests of the state authority in the property. The loans made by the authority may be secured or unsecured, as the authority determines.

(d) To loan money to hospitals for the purpose of refinancing any outstanding indebtedness of a hospital if

the state authority determines the refinancing is necessary to realize the objectives and purposes of this act. A hospital loan made pursuant to this subdivision shall not exceed the amount of the principal, interest, and redemption premium, if any, of the indebtedness to be refinanced that has not been repaid, plus the marketing, financing, legal, and other costs incurred in connection with the refinancing and the issuance of bonds of the state authority issued in whole or in part to provide funds to make the hospital loan described in this subdivision, including the costs of funding a bond reserve and paying capitalized interest on the bonds for a period not to exceed 1 year after the issuance of the bonds. The determination of the state authority under this subdivision is conclusive except with respect to the approval of the municipal finance commission or its successor agency when prior approval is required.

(e) To charge, impose, and collect fees and charges in connection with its loans, commitments, and servicing including reimbursement of costs of financing by the authority, service charges, insurance premiums, and an allocable share of the operating expenses of the authority and to make provision for increasing those fees and charges, if necessary, as the state authority determines is reasonable and approved by the state authority.

(f) To acquire, hold, and dispose of real or personal property convenient for the accomplishment of the purpose of this act.

(g) To procure insurance against a loss in connection with its property, assets, or activities.

(h) To borrow money and issue its bonds or notes for the money and provide for the rights of the holders of the bonds or notes and to secure the bonds by mortgage, assignment, or pledge of any or all of its properties including any part of the security for its hospital loans. The state shall not be liable on any bonds of the state authority, the bonds and notes are not a debt of the state, and each bond and note shall contain on its face a statement to that effect.

(i) To invest any funds not required for immediate use or disbursement, at its discretion, in any of the following:

(i) Obligations of this state, the United States, or an agency of the United States.

(ii) Obligations the principal and interest of which are guaranteed by this state or the United States.

(iii) Certificates of deposit of a bank that is a member of the federal reserve system.

(iv) Certificates of deposit of a savings and loan association that is a member of the federal home loan bank system.

(v) Commercial paper that is rated at the time of purchase within the 2 highest classifications established by not less than 2 national rating services and that matures not more than 270 days after the date of purchase.

(vi) In United States government or federal agency obligation repurchase agreements.

(vii) In bankers' acceptances of United States banks.

(viii) In mutual funds composed of investment vehicles that are legal for direct investment by the state authority.

(ix) Subject to the approval of the state treasurer, obligations specified by the state authority in a contract with the holders of its bonds or notes.

(j) To engage necessary personnel and to engage the services of private consultants for rendering professional and technical assistance and advice.

(k) To promulgate rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(l) To enter into interest rate exchanges or swaps, hedges, or similar agreements with respect to its bonds or notes in the same manner and subject to the same limitations and conditions as provided for a municipality in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1974, Act 137, Imd. Eff. June 5, 1974;—Am. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1983, Act 48, Imd. Eff. May 16, 1983;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992;—Am. 1992, Act 303, Imd. Eff. Dec. 21, 1992;—Am. 1994, Act 428, Imd. Eff. Jan. 6, 1995;—Am. 2002, Act 436, Imd. Eff. June 10, 2002.

Compiler's note: For consolidation of administrative staff of Michigan higher education assistance authority, Michigan higher education facilities authority, Michigan higher education student loan authority, Michigan municipal bond authority, and state hospital finance authority, and for transfer of certain functions to state treasurer, see E.R.O. No. 2002-8, compiled at MCL 12.193.

Administrative rules: R 331.1 et seq. of the Michigan Administrative Code.

331.43 Hospital loan from state authority; purpose; requirements; security; appointment of receiver; limitation on loan; repayment; interest.

Sec. 13. The state authority may lend money to hospitals for the acquisition, construction, improvement, or alteration of hospital facilities. A hospital loan shall not be made unless the state authority is reasonably satisfied that there will be made available to the hospital from the hospital loan and other sources all the funds

necessary to pay all project costs; that the hospital facility and other revenues pledged will produce sufficient revenues to meet the principal and interest on the hospital loan, other costs, expenses, and charges in connection with the loan and other charges or obligations of the hospital which may be prior or equal to the loan promptly as they become due; and that the hospital is otherwise soundly financed. The hospital loan may be secured by a mortgage of property of the hospital including the hospital facility and may provide for the appointment of a receiver to operate the hospital facilities in case of default. A hospital loan made pursuant to this section shall not exceed the project costs as determined by the state authority. A loan shall be secured in a manner, be repaid in a period not exceeding 50 years, and bear interest at a rate, as determined by the authority, which rate may be decreased or increased so that it is not less than the rate paid by the authority on notes, renewal notes, or bonds issued to fund the loan.

History: 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1970, Act 142, Imd. Eff. Aug. 1, 1970;—Am. 1978, Act 277, Imd. Eff. July 3, 1978.

331.44 Bonds and notes; renewal notes; refunding bonds; notes or bonds as general obligations of authority; contents of resolution authorizing notes or bonds; authority of member, officer, or other employee.

Sec. 14. (1) The state authority periodically may issue its negotiable bonds and notes, including, but not limited to, commercial paper in a principal amount that, in the opinion of the state authority, is necessary to provide sufficient funds for the making of hospital loans, including temporary loans during the construction of hospital facilities, and for the payment of interest on bonds and notes of the state authority during construction of hospital facilities for which the hospital loan was made and for a reasonable time after the loan was made and for the establishment of reserves to secure those bonds and notes.

(2) The state authority periodically may issue renewal notes, may issue bonds to pay notes, and if the state authority considers refunding expedient, to refund or to refund in advance bonds or notes issued by an entity for the benefit of a hospital, pursuant to the requirements of sections 43a to 43g.

(3) Except as may otherwise be expressly provided by the state authority, every issue of its notes or bonds shall be general obligations of the authority payable out of any properties, revenues, or money of the state authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular properties, revenues, or money.

(4) A resolution authorizing notes or bonds or an issue of notes or bonds under this chapter may contain provisions, which are a part of the contract with the holders of the bonds or notes, regarding 1 or more of the following:

(a) Pledging and creating a lien on all or any part of the fees and charges made or received or to be received by the state authority, all or any part of the money received in payment of hospital loans and interest on hospital loans, and other money received or to be received, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to those agreements with bondholders or noteholders that then exist.

(b) Pledging and creating a lien on all or any part of the assets of the state authority, including notes, mortgages, and obligations securing the assets, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to those agreements with noteholders or bondholders that then exist.

(c) Pledging and creating a lien on any loan, grant, or contribution to be received from the federal, state, or local government or other source.

(d) The use and disposition of the income from hospital loans and mortgages owned by the state authority and payment of principal and interest of mortgages and loans owned by the state authority.

(e) The setting aside of reserves or sinking funds and the regulation and disposition of those reserves or sinking funds.

(f) Limitations on the purpose to which the proceeds of the sale of notes or bonds may be applied and pledging the proceeds to secure the payment of the notes or bonds or of any issue of the notes or bonds.

(g) Limitations on the issuance of additional notes or bonds and the terms upon which additional notes or bonds may be issued and secured.

(h) The procedure by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent to the amendment or abrogation, and the manner in which the consent may be given.

(i) Vesting in a trustee or trustees the property, rights, powers, remedies, and duties that the state authority considers necessary or convenient.

(5) Within limitations stated in the issuance or authorization resolution of the state authority, the state authority may authorize a member of the state authority or an officer or other employee of the state authority to do 1 or more of the following:

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

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

(c) Deliver notes or bonds, to refund notes or bonds or for any other authorized purpose.

(d) Purchase notes or bonds issued by the state authority and resell those notes or bonds.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, mandatory or optional redemption provisions, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized by the state authority.

History: 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1970, Act 142, Imd. Eff. Aug. 1, 1970;—Am. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992;—Am. 1994, Act 428, Imd. Eff. Jan. 6, 1995.

331.45 Repealed. 1992, Act 302, Imd. Eff. Dec. 21, 1992.

Compiler's note: The repealed section pertained to the creation and establishment of a bond reserve fund.

331.46 State authority; state treasurer, agent; deposits, payments, security; agreements; system of accounts.

Sec. 16. (1) All moneys of the state authority, except as otherwise authorized or provided in this section, shall be paid to the state treasurer, as agent of the state authority, who shall not commingle such moneys with any other moneys. The moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the state treasurer on requisition of the chairman of the state authority or of such other officer or employee as the state authority shall authorize. If required by the state treasurer or the state authority, all deposits of such moneys shall be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

(2) Notwithstanding the provisions of this section, the state authority, subject to the approval of the state treasurer, may contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment and payment of any moneys of the state authority and any moneys held in trust or otherwise for the payment of notes or bonds. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the state authority and all banks and trust companies are authorized to give such security for such deposits.

(3) Subject to agreements with noteholders and bondholders and the approval of the auditor general, the authority shall prescribe a system of accounts for the state authority.

History: 1969, Act 38, Imd. Eff. July 14, 1969.