

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

PART 767

MACKINAC ISLAND STATE PARK COMMISSION

324.76701 "Commission" defined.

Sec. 76701. As used in this part, "commission" means the Mackinac Island state park commission.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76702 Mackinac Island state park commission; additional powers.

Sec. 76702. The Mackinac Island state park commission may, in addition to the powers already conferred on it by law, exercise the following powers: (a) To acquire, construct, improve, repair, maintain, restore, equip, furnish, use, and operate all property, real or personal, necessary or convenient to the exercise of the powers or the performance of the duties conferred upon it by law, including, but not limited to, property that in the judgment of the commission will increase the beauty and utility of the state park facilities and provide recreational, historical, or other facilities for the benefit and enjoyment of the public and landscaping, driveways, streets, or walkways for such property.

(b) To employ consulting architects, engineers, museum technicians, landscape architects, supervisors, managers, lawyers, fiscal agents, and other agents and employees as it considers necessary, and to establish their compensation.

(c) To enlist the guidance, assistance, and cooperation of the Michigan historical commission.

(d) To establish charges for admission to the facilities under its jurisdiction, to establish other charges for the use of any facilities, including fees or charges to be imposed on concessionaires, and to charge rentals for the lease or use of any of its facilities as the commission determines proper and as will assure the prompt and full carrying out of all covenants contained in the proceedings authorizing any bonds pursuant to this part.

(e) To accept gifts, grants, and donations.

(f) To acquire, construct, develop, improve, repair, maintain, and operate, but not to extend the runway beyond 3,600 feet, an airport or landing field on property under its jurisdiction, and to lease to any governmental unit any real or personal property under its jurisdiction for use as an airport or landing field on the terms and conditions approved by the commission and the department of management and budget. The exercise of any power granted by this subdivision is subject to determination by the proper federal authority that such exercise will not affect the title of the state to the land involved. All rules and regulations established by any lessee shall reflect written approval by the commission before the rules or regulations are in effect.

(g) To sell real or personal property that is under the control of the commission if all of the following requirements are met:

(i) The property is sold for fair market value. The determination of fair market value may take into account a commitment by the buyer to keep the property open or accessible to the public. Furthermore, if the property is sold to a person who donated labor or materials for the improvement, repair, maintenance, or restoration of the property, the price may be reduced by an amount not greater than the portion of the fair market value attributable to the donation of labor or materials.

(ii) The commission determines that the property is not of current or potential value to the purposes of the commission as set forth in this subchapter.

(iii) The commission determines that the sale of the property is in the best interests of the state.

(iv) The sale of the property is not otherwise prohibited by law.

(v) If the property is real property, the property is zoned residential or commercial and is not contiguous to state park land.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2006, Act 181, Imd. Eff. June 6, 2006.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

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324.76703 Mackinac Island state park commission; gross revenue bonds; purpose; cost;

interim receipts or certificates; maximum rate of interest; sale and award of notes; notice; resolution; contents; trust indenture; money received as trust funds; disposition; gross revenue refunding bonds; powers of commission; annual audit; signature on bonds; attestation; electronic format; issuance of bonds subject to agency financing reporting act; interest rate agreement.

Sec. 76703. (1) The commission may issue its gross revenue bonds in anticipation of the collection of all or any part of its revenues, for the purpose of acquiring, constructing, reconstructing, improving, bettering, extending, restoring, refurbishing, renovating, repairing, equipping, furnishing, any or all, the properties and facilities that it is authorized to acquire, construct, reconstruct, maintain, or operate under this part, including properties and facilities owned by it, and shall pledge to the payment of the interest on and principal of the bonds, all or any part of the revenues derived from the operation of the properties and facilities controlled and operated by the commission. There may be included in the cost for which bonds are to be issued, reasonable allowances for legal, engineering, or fiscal services, interest during construction or reconstruction and for 6 months after the estimated date of completion of the construction or reconstruction or until full revenues are being received from the operation of the facility, and other incidental expenses. The bonds shall be authorized by resolution of the commission and may be issued in 1 or more series, may bear the date or dates, may mature at the time or times not exceeding 30 years from their respective dates, may bear interest at the rate or rates, may be in the form, either coupon or registered, may be executed in the manner, may be payable at the place or places, may be subject to the terms of redemption, with or without premium, and may contain the terms, covenants, and conditions as the resolution or subsequent resolution may provide. Pending preparation of the definitive bonds, interim receipts, or certificates in the form and with the provisions as the commission may determine may be issued to the purchaser or purchasers of the bonds sold pursuant to this part. The bonds and interim receipts and certificates shall be fully negotiable within the meaning of and for all purposes of the negotiable instruments law of this state. The maximum rate of interest on such bonds shall be that set forth for bonds issued under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The sale and award of notes shall be conducted and made by the commission at a public or private sale. If a public sale is held, the notes shall be advertised for sale once not less than 7 days before sale in a publication printed in the English language and circulated in this state, which carries as a part of its regular service notices of the sales of municipal bonds and which has been designated in the resolution as a publication complying with these qualifications. The notice of sale shall be in the form as designated by the commission. Bonds may be sold at a discount as provided in the bond resolution. Bonds issued under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Any resolution authorizing the issuance of bonds under this part or any instrument of trust entered into as authorized by this part may contain covenants, including, but not limited to, any of the following:

(a) The purpose or purposes to which the proceeds of the sale of the bonds may be applied, and the deposit, use, and disposition of the proceeds.

(b) The use, deposit, securing of deposits, and disposition of the revenues of the commission, including the creation and maintenance of reserves.

(c) The issuance of additional bonds payable from the revenues of the commission.

(d) The operation and maintenance of properties of the commission.

(e) The insurance to be carried thereon, and the use, deposit, and disposition of insurance money.

(f) Books of account and the inspection and audit of the books of account and the accounting methods of the commission.

(g) The nonrendering of any free service by the commission.

(h) The preservation of the properties of the commission, so long as any of the bonds remain outstanding, from any mortgage, sale, lease, or other encumbrance not specifically permitted by the terms of the resolution.

(i) The employment of sufficient personnel for the collection of fees and charges incident to the operation of the facility and for the payment of compensation to the personnel out of the fees and charges.

(3) In the discretion of the commission, any bonds issued under this part may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any bank having the right to exercise the powers of a trust company within this state. Any trust indenture described in this subsection may pledge or assign the revenues from the operation of properties of the commission, but shall not convey or mortgage any properties, except the revenues. Any trust indenture or any resolution providing for the issuance of bonds may contain the provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the improvements in connection with which the bonds have been

authorized, and the custody, safeguarding, and application of all money, and provisions for the employment of consulting engineers, architects, and landscape architects in connection with the planning, construction, or operation of the improvements. Any trust indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any trust indenture or resolution may contain other provisions as the commission considers reasonable and proper for the security of the bondholders. The holder of any bond issued under this part or a trustee in his or her behalf may bring suit against the commission and its members, officers, and agents to enforce the provisions and covenants contained in any trust indenture or resolution. All expenses incurred in carrying out the provisions of any trust indenture may be treated as a part of the cost of operation of the improvements for which the bonds are authorized.

(4) Money received pursuant to this part, whether as proceeds from the sale of bonds or as revenues from the operations of properties, or otherwise received by the commission, shall be considered to be trust funds, to be held and applied solely as provided in this part and in the resolution authorizing, or trust indenture securing, its bonds. All money received may be deposited in as received and paid out by any bank or banks selected for the purpose and eligible to hold public money under the laws of this state, the deposits and paying out to be in the manner provided in the resolution or trust indenture. None of the money need be paid into the state treasury.

(5) If the commission has issued any bonds under this part, the commission may subsequently issue and negotiate new bonds under this part for the purpose of providing for the retirement of those outstanding bonds, in whole or in part. The new bonds shall be designated "gross revenue refunding bonds", and except as otherwise provided in the refunding resolution, shall be secured to the same extent and shall have the same source of payment as the bonds that have been refunded, or may be payable from earnings on investments held in trust to pay refunded bonds for the period of time specified in the ordinance authorizing the bonds. The refunding bonds may be issued to include the amount of any premium to be paid upon the calling of the callable bonds to be refunded or any premium necessary to be paid in order to secure the surrender of the noncallable bonds to be refunded, interest to the maturity or redemption date of the bonds to be refunded, and the cost of issuing the refunding bonds. This section shall not be construed as providing for the redemption of noncallable unmatured bonds without the consent of the holder or holders of the bonds. The refunding bonds may be sold at public sale, may be privately negotiated, or may be exchanged for the obligations to be refunded by the obligations, and if sold, the proceeds shall be deposited in a bank and credited to a special trust account to be used only for the redemption or purchase of the outstanding bonds. If refunding bonds are to be issued and sold for the purpose of refunding noncallable unmatured bonds, those bonds shall be surrendered and canceled at the time of delivery to the purchaser of the refunding bonds, or sufficient funds shall be deposited in trust to pay principal and interest to maturity on noncallable bonds. If refunding bonds are to be issued for the purpose of refunding callable bonds, those bonds shall be surrendered and canceled at the time of delivery to the purchaser of the refunding bonds, or sufficient funds shall be deposited in trust to pay principal, interest, and redemption premium to the earliest redemption date on callable bonds. When the resolution authorizing the bonds to be refunded permits, the borrower may deposit in trust direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States and which do not permit redemption at the option of the issuer, the principal and interest on which when due, without reinvestment, will provide funds sufficient to pay principal, interest, and call premium, when due, on the bonds being refunded.

(6) Notwithstanding the other provisions of this section:

(a) Interest on the bonds may be payable at any time provided in the resolution, and may be set, reset or calculated, or both, as provided in the resolution.

(b) If so authorized in the resolution bonds may be:

(i) Made the subject of a put or agreement to repurchase by the commission.

(ii) Secured by a letter of credit issued by a bank pursuant to an agreement entered into by the commission or secured by any other collateral.

(iii) Callable.

(iv) Reissued by the commission once reacquired by the commission pursuant to any put or repurchase agreement.

(c) The commission may by resolution do any of the following:

(i) Authorize the issuance of renewal bonds.

(ii) Refund, or refund in advance, bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured.

(iii) Issue bonds partly to refund bonds and partly for any other purposes authorized by this part.

- (iv) Buy and sell any bonds issued under this part.
- (d) Renewal, refunding, or advance refunding bonds are subject to all of the following:
 - (i) Shall be sold and the proceeds applied to the purchase redemption or payment of the bonds to be renewed or refunded.
 - (ii) May be sold or resold at a public or private sale upon such terms and conditions as the commission may establish in the order.
 - (iii) May pledge the revenues pledged in the issue to be refunded in advance effective when a defeasance has occurred with respect to the original issue.
- (e) If authorized by the commission in the resolution authorizing the bonds, any bonds issued may be secured in whole or in part pursuant to a trust or escrow agreement, which agreement may also govern the issuance of renewal bonds, refunding bonds, and advance refunding bonds. The agreement may authorize the trustee or escrow agent to make investments of any type authorized in the agreement.
- (f) Powers specified in this subsection shall be in addition to those set forth in all other subsections and sections of this part.
- (7) The commission shall hire an independent certified public accountant approved by the legislative auditor general to perform an annual audit of all of its operations which are required by, or in any way relate to, any covenants made in connection with any bonds issued pursuant to this part.
- (8) The bonds may be issued in electronic format only or, if issued in paper copies, shall be signed by the chairperson or vice-chairperson of the commission and attested to by any other officer of the commission authorized to do so by resolution of the commission. The signature of either officer, but not both, may be affixed by facsimile or electronically.
- (9) The issuance of bonds and notes under this section is subject to the agency financing reporting act.
- (10) For the purpose of more effectively managing its debt service, the commission may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the commission.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2001, Act 78, Eff. Aug. 6, 2001;—Am. 2002, Act 389, Imd. Eff. May 30, 2002.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

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324.76704 Mackinac Island state park commission; charges and fees; payment of bonds.

Sec. 76704. The commission shall prescribe and collect charges and fees as above authorized for admission to and for the use of the services, facilities and commodities supplied by or through all its properties, including museums, the revenues of which have been pledged to the payment of bonds issued under this part, and shall revise such charges and fees from time to time whenever necessary to ensure that the revenues to be derived from the charges and fees shall be fully sufficient to pay principal of and interest on such bonds, and to carry out all requirements and covenants contained in the proceedings pursuant to which any such bonds are issued. All or any part of the gross revenues derived by the commission from the operation, leasing, or other use of any properties of the commission utilized as a part of any state park project financed under this part may be pledged to the payment of such principal and interest. Each bond shall recite in substance that the bond and the interest on the bond are payable solely from the revenues pledged to the payment thereof, and that the bond does not constitute a debt of the commission or of the state of Michigan within the meaning of any constitutional or statutory limitation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76705 Mackinac Island state park commission; public body corporate; tax exemptions.

Sec. 76705. The commission is a public body corporate constituting an instrumentality of the state of Michigan and carrying out duties and functions imposed upon and in the state under its constitution and laws, and shall have the power to sue and be sued. It is accordingly found, determined, and declared that the carrying out of powers of the commission and the purposes of this part are for the benefit of the people of the state and constitute a public purpose. Accordingly, all property owned by the commission or owned by the state and controlled by the commission shall be exempt from all taxes levied by the state and all of its political

subdivisions and taxing districts, and the bonds and interim receipts or certificates issued by the commission and the income therefrom shall be free from taxation within the state, and the commission shall be required to pay no taxes or assessments upon its activities or upon any of its revenues.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Effective date: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

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324.76706 Construction of part; indebtedness.

Sec. 76706. This part shall not be construed or interpreted as authorizing or permitting the incurring of the indebtedness of the state of Michigan contrary to the provisions of the constitution or laws of the state.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76707 Mackinac Island state park commission; authorizing resolution; publication; validity.

Sec. 76707. The commission may in its discretion cause any resolution authorizing the issuance of bonds under this part to be published 1 time in a newspaper published in the county where the facilities are located having a general circulation in that county. Any action or proceeding questioning the validity of the resolution or any provision of the resolution or the validity of the bonds authorized by the resolution or the provisions of any trust indenture in the resolution authorized to be executed for the security of the bonds, must be commenced within 20 days from the publication of the resolution. After the expiration of the 20 days, no right of action or defense founded upon the invalidity of the resolution or any of its provisions or of the trust indenture, if any, or of the bonds, shall be asserted nor shall any court in this state have authority to inquire into such matters.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76708 Mackinac Island state park commission; acts; approval.

Sec. 76708. Except to the extent that the state constitution of 1963 may be construed to require the approval of any act of the commission under this part, by the state administrative board, the commission may carry out all powers and functions granted and imposed in it under this part without first obtaining the approval of any other state department, board, bureau, agency, or official.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA

324.76709 Construction of part.

Sec. 76709. If 1 or more provisions of this part are inconsistent with any other act, general or special, this part is controlling.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Compiler's note: For transfer of Mackinac Island state park commission to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

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