

SENATE BILL No. 898

May 26, 1988, Introduced by Senators IRWIN, SHINKLE, BINSFELD, CHERRY, EHLERS and POLLACK and referred to the Committee on Finance.

A bill to amend the title and sections 3, 5, 7, 9, 13, 15a, 20, 25, and 27 of Act No. 227 of the Public Acts of 1985, entitled

"Shared credit rating act,"

section 15a as amended by Act No. 280 of the Public Acts of 1987 and section 27 as amended by Act No. 228 of the Public Acts of 1986, being sections 141.1053, 141.1055, 141.1057, 141.1059, 141.1063, 141.1065a, 141.1070, 141.1075, and 141.1077 of the Michigan Compiled Laws; and to add section 16a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 3, 5, 7, 9, 13, 15a, 20,
2 25, and 27 of Act No. 227 of the Public Acts of 1985, section 15a
3 as amended by Act No. 280 of the Public Acts of 1987 and section
4 27 as amended by Act No. 228 of the Public Acts of 1986, being
5 sections 141.1053, 141.1055, 141.1057, 141.1059, 141.1063,

1 141.1065a, 141.1070, 141.1075, and 141.1077 of the Michigan
2 Compiled Laws, are amended and section 16a is added to read as
3 follows:

4 TITLE

5 An act to create the Michigan municipal bond authority and
6 to prescribe its powers and duties; to provide for the issuance
7 of, and terms and conditions for, notes and bonds of the authori-
8 ty; TO AUTHORIZE CERTAIN FORMS OF ASSISTANCE TO GOVERNMENTAL
9 UNITS; to impose conditions on, grant certain powers to political
10 subdivisions of the state regarding, and allow certain agreements
11 regarding obligations of political subdivisions of the state pur-
12 chased by the authority; to exempt the property, income, and
13 operation of the authority, its bonds and notes, and the interest
14 on its bonds and notes from certain taxes; and to grant powers
15 and impose duties on officers and agencies of the state and
16 political subdivisions of the state.

17 Sec. 3. As used in this act:

18 (a) "Authority" means the Michigan municipal bond authority
19 created in section 4.

20 (b) "Board" means the board of trustees of the authority
21 established in section 5.

22 (c) "Bonds" means bonds of the authority issued as provided
23 in this act.

24 (D) "CAPITALIZATION GRANT" MEANS THE FEDERAL GRANT MADE TO
25 THIS STATE BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
26 FOR THE PURPOSE OF ESTABLISHING A STATE WATER POLLUTION CONTROL
27 REVOLVING FUND, AS PROVIDED IN TITLE VI OF THE FEDERAL WATER

1 POLLUTION CONTROL ACT, CHAPTER 758, 101 STAT. 22, 33 U.S.C. 1381
2 TO 1387.

3 (E) "FEDERAL WATER POLLUTION CONTROL ACT" MEANS CHAPTER 758,
4 86 STAT. 816, 33 U.S.C. 1251 TO 1252, 1253 TO 1257, 1258 TO 1263,
5 1265 TO 1268, 1281, 1282 TO 1293, 1294 TO 1299, 1311 TO 1313,
6 1314 TO 1326, 1328 TO 1330, 1341 TO 1345, 1361 TO 1377, AND 1381
7 TO 1387.

8 (F) ~~(d)~~ "Fully marketable form" means a municipal obliga-
9 tion duly executed and accompanied by ~~both~~ ALL of the
10 following:

11 (i) An approving legal opinion of a bond counsel approved by
12 the authority and of nationally recognized standing in the field
13 of municipal law.

14 (ii) Closing documents in a form and substance satisfactory
15 to the authority. The municipal obligation so executed need not
16 be printed or lithographed nor be in more than 1 denomination.

17 (iii) Evidence that the pledge for payment of the municipal
18 obligation will be sufficient to pay the principal of and inter-
19 est on the municipal obligation when due.

20 (iv) An order of approval or an order of exception issued by
21 the department of treasury under the municipal finance act, Act
22 No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3
23 of the Michigan Compiled Laws, which orders shall also include a
24 certification that the conditions of subparagraphs (i) and (iii)
25 have been met.

26 (v) FOR PURPOSES OF A PROJECT FUNDED UNDER SECTION 16A, AN
27 ORDER OF APPROVAL ISSUED BY THE DIRECTOR OF THE DEPARTMENT OF

1 NATURAL RESOURCES UNDER THE STATE CLEAN WATER ASSISTANCE ACT.
2 THE ORDER SHALL STATE THAT THE PROJECT PROPOSED BY THE GOVERNMENT-
3 TAL UNIT HAS BEEN APPROVED FOR ASSISTANCE BY THE DIRECTOR OF THE
4 DEPARTMENT OF NATURAL RESOURCES.

5 (G) ~~(e)~~ "Governmental unit" means a county, city, town-
6 ship, village, school district, intermediate school district,
7 community college, public university, authority, district, or any
8 other body corporate and politic or other political subdivision.
9 FOR PURPOSES OF A PROJECT FUNDED UNDER SECTION 16A, GOVERNMENTAL
10 UNIT INCLUDES AN INDIAN TRIBE THAT HAS JURISDICTION OVER CON-
11 STRUCTION AND OPERATION OF A PROJECT QUALIFYING UNDER 319 OF
12 TITLE III OF THE FEDERAL WATER POLLUTION CONTROL ACT, CHAPTER
13 758, 101 STAT. 52, 33 U.S.C. 1329. In relation to the sale of
14 private activity bonds as defined in section 103(n) of the inter-
15 nal revenue code, a governmental unit shall not include the
16 Michigan strategic fund created pursuant to THE MICHIGAN STRATE-
17 GIC FUND ACT, Act No. 270 of the Public Acts of 1984, being sec-
18 tions 125.2001 to 125.2093 of the Michigan Compiled Laws, or an
19 economic development corporation created under THE ECONOMIC
20 DEVELOPMENT CORPORATIONS ACT, Act No. 338 of the Public Acts of
21 1974, being sections 125.1601 to 125.1636 of the Michigan
22 Compiled Laws.

23 (G) ~~(f)~~ "Municipal obligation" means a bond or note or
24 evidence of debt issued by a governmental unit for a purpose
25 authorized by law.

26 (H) ~~(g)~~ "Notes" means notes of the authority issued as
27 provided in this act including commercial paper.

1 (I) "PROJECT" MEANS A SEWAGE TREATMENT WORKS PROJECT OR A
2 NONPOINT SOURCE PROJECT, OR BOTH, AS DEFINED IN THE STATE CLEAN
3 WATER ASSISTANCE ACT.

4 (J) ~~(h)~~ "Reserve fund" means a bond reserve fund or note
5 reserve fund created and established under ~~Section~~ SECTION 16.

6 (K) ~~(i)~~ "Revenues" means all fees, charges, money, prof-
7 its, payments of principal of or interest on municipal obliga-
8 tions and other investments, gifts, grants, contributions, and
9 all other income derived or to be derived by the authority under
10 this act.

11 Sec. 5. (1) The authority shall be governed by a board of
12 trustees consisting of the state treasurer, THE DIRECTOR OF THE
13 DEPARTMENT OF NATURAL RESOURCES, 2 appointees of the governor to
14 serve at the pleasure of the governor who shall be public offi-
15 cials or employees with expertise in the state's infrastructure
16 needs, and 5 residents of the state to be appointed by the gover-
17 nor with the advice and consent of the senate. Of the 5 resi-
18 dents appointed by the governor, 1 shall be appointed from 1 or
19 more nominees of the speaker of the house of representatives and
20 1 shall be appointed from 1 or more nominees of the majority
21 leader of the senate. A trustee shall serve a term of 3 years.
22 In appointing the initial 5 resident members of the board, the
23 governor shall designate 1 to serve for 3 years, 2 to serve for
24 2 years, and 2 to serve for 1 year.

25 (2) Upon appointment, a member of the board shall enter
26 office and exercise the duties of office. A member of the board

1 shall qualify by taking and filing the constitutional oath of
2 office.

3 (3) Regardless of the cause of a vacancy, the governor shall
4 fill a vacancy in the office of a member of the board by appoint-
5 ment with the advice and consent of the senate. A member of the
6 board shall hold office until a successor has been appointed and
7 has qualified.

8 (4) The board shall organize and make its own rules of
9 procedure. The board shall conduct all business at public meet-
10 ings held in compliance with the open meetings act, Act No. 267
11 of the Public Acts of 1976, being sections 15.261 to 15.275 of
12 the Michigan Compiled Laws. Public notice of the time, date, and
13 place of each meeting shall be given in the manner required by
14 Act No. 267 of the Public Acts of 1976. Five members of the
15 board shall constitute a quorum for the transaction of business.
16 An action of the board shall require a concurring vote by a
17 majority of the board. A state officer who is a member of the
18 board may designate a representative from his or her department
19 to serve instead of that state officer as a member of the board
20 for 1 or more meetings.

21 Sec. 7. The board shall have all of the following powers:

22 (a) To adopt bylaws for the regulation of its affairs.

23 (b) To adopt an official seal.

24 (c) To maintain a principal office at a place within this
25 state.

26 (d) To sue and be sued in its own name and to plead and be
27 impleaded.

1 (e) To loan money to a governmental unit at such rate or
2 rates as the authority shall determine and to purchase and sell,
3 and to commit to purchase and sell, municipal obligations pursu-
4 ant to this act.

5 (f) To borrow money and issue negotiable revenue bonds and
6 notes pursuant to this act.

7 (g) To make and enter into contracts and other instruments
8 necessary or incidental to the performance of its duties and the
9 exercise of its powers. By rotating the services of legal coun-
10 sel, the authority shall seek to increase the pool of nationally
11 recognized bond counsel.

12 (h) To receive and accept from any source grants or contri-
13 butions of money, property, or other things of value, excluding
14 appropriations from the general fund of the state EXCEPT FOR
15 APPROPRIATIONS TO THE STATE WATER POLLUTION CONTROL REVOLVING
16 FUND ESTABLISHED UNDER SECTION 16A, to be used, held, and applied
17 only for the purposes for which the grants and contributions were
18 made.

19 (i) To do all acts necessary or convenient to carry out the
20 powers expressly granted.

21 (j) To require that final actions of the board are entered
22 in the journal for the board and that all writings prepared,
23 owned, used, in the possession of, retained by the board in the
24 performance of an official function be made available to the
25 public in compliance with the freedom of information act, Act
26 No. 442 of the Public Acts of 1976, being sections 15.231 to
27 15.246 of the Michigan Compiled Laws.

1 (k) To promulgate rules necessary to carry out the purposes
2 of this act and to exercise the powers expressly granted in this
3 act pursuant to the administrative procedures act of 1969, Act
4 No. 306 of the Public Acts of 1969, being sections 24.201 to
5 24.328 of the Michigan Compiled Laws.

6 (l) To engage the services of private consultants on a con-
7 tract basis for rendering professional and technical assistance
8 and advice.

9 (m) To investigate and assess the infrastructure needs of
10 the state, current methods of financing infrastructure rehabili-
11 tation and improvements, and resources and financing options cur-
12 rently available and potentially useful to improve the state's
13 infrastructure and lower the costs of those improvements.

14 (n) To indemnify and procure insurance indemnifying members
15 of the board from personal loss or accountability from liability
16 asserted by a person on bonds or notes of the authority or from
17 any personal liability or accountability by reason of the issu-
18 ance of the bonds or notes, or by reason of any other action
19 taken or the failure to act by the authority.

20 (o) To investigate and assess short-term and long-term bor-
21 rowing requirements for operating, capital improvements, and
22 delinquent taxes.

23 (P) PROVIDE ASSISTANCE, AS THAT TERM IS DEFINED BY THE STATE
24 CLEAN WATER ASSISTANCE ACT, TO ANY MUNICIPALITY FOR A REVOLVING
25 FUND PROJECT AND TO PERFORM ALL FUNCTIONS NECESSARY OR INCIDENT
26 TO PROVIDING THAT ASSISTANCE AND TO THE OPERATION OF THE STATE

1 WATER POLLUTION CONTROL REVOLVING FUND ESTABLISHED UNDER
2 SECTION 16A.

3 (Q) ENTER INTO AGREEMENTS WITH THE FEDERAL GOVERNMENT TO
4 IMPLEMENT THE ESTABLISHMENT AND OPERATION OF THE STATE WATER POL-
5 LUTION CONTROL REVOLVING FUND ESTABLISHED UNDER SECTION 16A PUR-
6 SUANT TO THE PROVISIONS OF THE FEDERAL WATER POLLUTION CONTROL
7 ACT AND THE RULES AND REGULATIONS PROMULGATED UNDER THAT ACT.

8 Sec. 9. (1) The authority may issue from time to time
9 authority bonds or notes in the principal amounts the authority
10 considers necessary to provide funds for any purposes including,
11 but not limited to, the making of loans; the payment, funding, or
12 refunding of the principal of, interest on, or redemption premi-
13 ums on bonds or notes issued by the authority whether the bonds
14 or notes or interest to be funded or refunded have or have not
15 become due; the establishment or increase of reserves to secure
16 or to pay authority bonds or notes or interest on those bonds or
17 notes; the payment of interest on the bonds or notes for a period
18 as the authority determines; THE FUNDING OF A STATE MATCH
19 REQUIREMENT FOR A CAPITALIZATION GRANT OR TO REIMBURSE AN ADVANCE
20 FOR THAT STATE MATCH REQUIREMENT; and the payment of all other
21 costs or expenses of the authority incident to and necessary or
22 convenient to carry out its corporate purposes and powers.

23 (2) The bonds or notes of the authority shall not be a gen-
24 eral obligation of the authority but shall be payable solely from
25 the revenues or funds, or both, pledged to the payment of the
26 principal of and interest on the bonds or notes as provided in
27 the bond or note authorizing resolution. Authority bonds or

1 notes may be additionally secured by a pledge of any grant or
2 contributions from the United States, the state, a governmental
3 unit, or any person, firm, or corporation, or by a pledge of
4 income or revenues, funds, or money of the authority from any
5 source whatsoever.

6 (3) Bonds or notes of the authority shall be authorized by
7 resolution of the authority and may be issued in 1 or more series
8 and shall bear the date or dates of issuance; mature at the time
9 or times not exceeding 50 years from the date of their issue;
10 provide sinking fund payments; bear interest at a fixed or vari-
11 able rate or rates of interest per annum or at no interest; be in
12 the denomination or denominations; be in the form, either coupon
13 or registered; carry the conversion or registration privileges;
14 have the rank or priority; be executed in the manner; be payable
15 from the sources in the medium of payment at the place or places
16 within or without the state; and be subject to redemption at the
17 option of the authority or the holder and with the terms and
18 redemption premiums as the resolution provides.

19 (4) If a member of the board, the executive director of the
20 authority, or an officer of the authority whose signature or fac-
21 simile thereof appears on a note, bond, or coupon ceases to be a
22 member, executive director, or officer before the delivery of
23 that note or bond, the signature shall, nevertheless, be valid
24 and sufficient for all purposes, the same as if the member, exec-
25 utive director, or officer had remained in office until the
26 delivery.

1 (5) Bonds or notes of the authority may be sold at public or
2 private sale at the time or times, at the price or prices, and at
3 a discount as the authority determines. An authority bond or
4 note is not subject to the municipal finance act, Act No. 202 of
5 the Public Acts of 1943, being sections 131.1 to 139.3 of the
6 Michigan Compiled Laws. The bond or note shall not require state
7 treasurer approval under Act No. 202 of the Public Acts of 1943.

8 Sec. 13. Within limitations which shall be contained in the
9 issuance or authorization resolution of the authority, the
10 authority may authorize a member of the board to do 1 or more of
11 the following:

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

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

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

19 (d) Buy notes or bonds so issued and resell those notes or
20 bonds.

21 (e) Approve interest rates or methods for fixing interest
22 rates, prices, discounts, maturities, principal amounts, denomi-
23 nations, dates of issuance, interest payment dates, redemption
24 rights at the option of the authority or the holder, the place of
25 delivery and payment, and other matters and procedures necessary
26 to complete the transactions authorized.

1 (F) DIRECT THE INVESTMENT OF ANY AND ALL FUNDS OF THE
2 AUTHORITY THAT THE AUTHORITY HAS THE POWER TO INVEST.

3 Sec. 15a. ~~The~~ EXCEPT FOR BONDS OR NOTES ISSUED PURSUANT
4 TO THE STATE WATER POLLUTION CONTROL REVOLVING FUND ESTABLISHED
5 UNDER SECTION 16A, THE authority shall not have outstanding at
6 any time bonds in an aggregate principal amount exceeding
7 \$800,000,000.00 excluding bonds issued to refund outstanding
8 bonds and notes.

9 SEC. 16A. THE AUTHORITY SHALL ESTABLISH A STATE WATER POL-
10 LUTION CONTROL REVOLVING FUND THAT COMPLIES WITH THE REQUIREMENTS
11 AND OBJECTIVES OF THE FEDERAL WATER POLLUTION CONTROL ACT. THE
12 AUTHORITY MAY FUND THE STATE WATER POLLUTION CONTROL REVOLVING
13 FUND THROUGH FEDERAL GRANTS, REVENUES OF THE AUTHORITY, OR
14 THROUGH ANY OTHER MEANS PERMITTED UNDER THE FEDERAL WATER POLLU-
15 TION CONTROL ACT AND THE RULES PROMULGATED UNDER THAT ACT. THE
16 AUTHORITY MAY PROVIDE ASSISTANCE AS THAT TERM IS DEFINED IN THE
17 STATE CLEAN WATER ASSISTANCE ACT TO A GOVERNMENTAL UNIT FOR A
18 PROJECT WITH PROCEEDS OF THE STATE WATER POLLUTION CONTROL
19 REVOLVING FUND. IF THE FINANCIAL ASSISTANCE IS IN THE FORM OF A
20 LOAN, THE LOAN SHALL BE MADE THROUGH A LOAN AGREEMENT IN WHICH A
21 GOVERNMENTAL UNIT AGREES TO MAKE LOAN REPAYMENTS TO THE AUTHORITY
22 OR THROUGH THE PURCHASE OR REFINANCING OF MUNICIPAL OBLIGATIONS
23 IN FULLY MARKETABLE FORM. LOAN AGREEMENTS WITH GOVERNMENTAL
24 UNITS SHALL CONTAIN APPROPRIATE PROVISIONS RELATING TO MATURITY
25 OR LENGTH OF LOAN, REPAYMENT TERMS, STATE OR LOCAL FUNDING
26 REQUIREMENTS, AND OTHER PROVISIONS AS ARE NECESSARY TO COMPLY
27 WITH THE PROVISIONS OF THE FEDERAL WATER POLLUTION CONTROL ACT

1 AND ANY AGREEMENTS ENTERED INTO WITH THE FEDERAL GOVERNMENT FOR
2 IMPLEMENTATION OF THE FEDERAL WATER POLLUTION CONTROL ACT.
3 PROJECTS ELIGIBLE FOR ASSISTANCE FROM THE STATE WATER POLLUTION
4 CONTROL REVOLVING FUND SHALL BE DETERMINED PURSUANT TO THE STATE
5 CLEAN WATER ASSISTANCE ACT. THE MAXIMUM AMOUNT OF ANY MUNICIPAL
6 OBLIGATION PURCHASED WITH PROCEEDS OF THE STATE WATER POLLUTION
7 CONTROL REVOLVING FUND AND THE MAXIMUM INTEREST RATE ON A LOAN OR
8 MUNICIPAL OBLIGATION SHALL BE DETERMINED PURSUANT TO THE STATE
9 CLEAN WATER ASSISTANCE ACT.

10 Sec. 20. The state pledges to and agrees with the holders
11 of bonds or notes issued under this act that, EXCEPT AS OTHERWISE
12 PROVIDED UNDER SECTION 27, the state shall not limit or restrict
13 the rights vested in the authority by this act to do any 1 or
14 more of the following:

15 (a) Purchase, acquire, hold, sell, or dispose of municipal
16 obligations or other investments.

17 (b) Make loans to a governmental unit.

18 (c) Establish and collect fees or other charges as are con-
19 venient or necessary to produce sufficient revenues to meet the
20 expenses of operation of the authority.

21 (d) Fulfill the terms of an agreement made with the holders
22 of authority bonds or notes, or in any way impair the rights or
23 remedies of the holders of authority bonds or notes until the
24 bonds and notes, together with interest on the bonds or notes and
25 interest on any unpaid installments of interest, and all costs
26 and expenses in connection with an action or proceedings by or on
27 behalf of those holders are fully met, paid, and discharged.

1 Sec. 25. (1) This act shall be construed liberally to
2 effectuate the legislative intent and the purposes as complete
3 and independent authority for the performance of each and every
4 act and thing authorized by this act and all powers granted shall
5 be broadly interpreted to effectuate the intent and purposes and
6 not as a limitation of powers.

7 (2) THIS ACT SHALL BE CONSTRUED LIBERALLY TO ASSURE COMPLI-
8 ANCE WITH THE FEDERAL WATER POLLUTION CONTROL ACT AND WITH ANY
9 APPLICABLE RULES PROMULGATED UNDER THAT ACT.

10 Sec. 27. ~~The~~ EXCEPT FOR BONDS OR NOTES ISSUED PURSUANT TO
11 THE STATE WATER POLLUTION CONTROL REVOLVING FUND ESTABLISHED
12 UNDER SECTION 16A, THE authority shall not issue new bonds or
13 notes after October 1, 1990, to make loans to governmental
14 units.

15 Section 2. This amendatory act shall take effect
16 September 1, 1988.

17 Section 3. This amendatory act shall not take effect unless
18 Senate Bill No. 800 of the 84th Legislature is enacted into law.