

HOUSE BILL No. 5570

April 24, 2012, Introduced by Reps. Rogers, Denby, Pscholka, Ouimet and Hughes and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to amend 1985 PA 227, entitled "Shared credit rating act," by amending sections 3, 7, 8, and 13 (MCL 141.1053, 141.1057, 141.1058, and 141.1063), sections 3, 7, and 8 as amended by 2005 PA 93 and section 13 as amended by 1997 PA 27.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Authority" means the Michigan ~~municipal bond~~ **FINANCE**
3 authority created ~~in section 4.~~ **BY EXECUTIVE REORGANIZATION ORDER**
4 **NO. 2010-2, MCL 12.194.**

5 (b) "Board" means the board of ~~trustees~~ **DIRECTORS** of the
6 authority. ~~established in section 5.~~

7 (c) "Bonds" means bonds of the authority issued under this act
8 with a maturity greater than 3 years.

1 (d) "Capitalization grant" means the federal grant made to
2 this state by the United States environmental protection agency for
3 either of the following purposes:

4 (i) For the purpose of establishing a state water pollution
5 control revolving fund, as provided in title VI of the federal
6 water pollution control act, 33 USC 1381 to 1387.

7 (ii) For the purpose of establishing a state drinking water
8 revolving fund, as provided in section 1452 of the public health
9 service act, 42 USC 300j-12.

10 (e) "Community water supply" means a community water supply as
11 defined in part 54 of the natural resources and environmental
12 protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

13 **(F) "EMERGENCY LOAN BOARD LOAN" MEANS A LOAN MADE BY THE STATE**
14 **OF MICHIGAN TO A GOVERNMENTAL UNIT PURSUANT TO THE EMERGENCY**
15 **MUNICIPAL LOAN ACT, 1980 PA 243, MCL 141.931 TO 141.942.**

16 (G) ~~(f)~~—"Federal safe drinking water act" means title XIV of
17 the public health service act, chapter 373, 88 Stat. 1660.

18 (H) ~~(g)~~—"Federal water pollution control act" means 33 USC
19 1251 to 1387.

20 (I) ~~(h)~~—"Fully marketable form" means a municipal obligation
21 duly executed and accompanied by all of the following:

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

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

1 (iii) Evidence that the pledge for payment of the municipal
2 obligation will be sufficient to pay the principal of and interest
3 on the municipal obligation when due.

4 (iv) For purposes of a project funded under section 16a, an
5 order of approval issued by the department of environmental quality
6 under part 53 of the natural resources and environmental protection
7 act, 1994 PA 451, MCL 324.5301 to ~~324.5316~~ **324.5317**. The order
8 shall state that the project proposed by the governmental unit has
9 been approved for assistance by the department of environmental
10 quality.

11 (v) For purposes of a community water supply or a noncommunity
12 water supply funded under section 16b, an order of approval issued
13 by the department of environmental quality under part 54 of the
14 natural resources and environmental protection act, 1994 PA 451,
15 MCL 324.5401 to 324.5418. The order shall state that the community
16 water supply or the noncommunity water supply proposed by the
17 governmental unit has been approved for assistance by the
18 department of environmental quality.

19 (J) ~~(i)~~—"Governmental unit" means this state, a county, city,
20 township, village, school district, intermediate school district,
21 community college, public university, authority, district, any
22 other body corporate and politic or other political subdivision,
23 any agency or instrumentality of the foregoing, or any group self-
24 insurance pool formed pursuant to 1951 PA 35, MCL 124.1 to 124.13.
25 For purposes of a project funded under section 16a, governmental
26 unit includes an Indian tribe that has jurisdiction over
27 construction and operation of a project qualifying under 33 USC

1 1329. For purposes of a community water supply or a noncommunity
2 water supply funded under section 16b, governmental unit includes a
3 community water supplier. A governmental unit does not include a
4 self-insurance pool unless the self-insurance pool has filed a
5 certification by an independent actuary that the reserves set aside
6 under section 7a of 1951 PA 35, MCL 124.7a, are adequate for the
7 payment of claims. A school district shall include a public school
8 academy established under the revised school code, 1976 PA 451, MCL
9 380.1 to 380.1852. Funds loaned to a public school academy or a
10 school district may not be used to finance the purchase,
11 construction, lease, or renovation of property owned, directly or
12 indirectly, by any officer, board member, or employee of that
13 public school.

14 (K) ~~(j)~~—"Municipal obligation" means a bond or note or
15 evidence of debt issued by a governmental unit for a purpose
16 authorized by law. A municipal obligation includes loan repayment
17 obligations from a school district to this state with respect to a
18 qualified loan made under a school loan act that is assigned or
19 otherwise transferred by this state to the authority. **A MUNICIPAL**
20 **OBLIGATION INCLUDES AN EMERGENCY LOAN BOARD LOAN THAT IS ASSIGNED**
21 **OR OTHERWISE TRANSFERRED BY THIS STATE TO THE AUTHORITY.**

22 (l) ~~(k)~~—"Noncommunity water supply" means a noncommunity water
23 supply as defined in part 54 of the natural resources and
24 environmental protection act, 1994 PA 451, MCL 324.5401 to
25 324.5418.

26 (M) ~~(l)~~—"Notes" means an obligation of the authority issued as
27 provided in this act, including commercial paper, with a maturity

1 of 3 years or less.

2 (N) ~~(m)~~—"Project" means a sewage treatment works project or a
3 nonpoint source project, or both, as defined in part 53 of the
4 natural resources and environmental protection act, 1994 PA 451,
5 MCL 324.5301 to ~~324.5316~~. **324.5317**.

6 (O) ~~(n)~~—"Reserve fund" means a bond reserve fund or note
7 reserve fund created and established under section 16.

8 (P) ~~(o)~~—"Revenues" means all fees, charges, money, profits,
9 payments of principal of or interest on municipal obligations and
10 other investments, gifts, grants, contributions, and all other
11 income derived or to be derived by the authority under this act.

12 (Q) ~~(p)~~—"School loan act" means an act to implement section 16
13 of article IX of the state constitution of 1963, including, but not
14 limited to, **FORMER** 1961 PA 108, ~~MCL 388.951 to 388.963~~, 1961 PA
15 112, MCL 388.981 to 388.985, and the school bond qualification,
16 approval, and loan act, **2005 PA 92, MCL 388.1921 TO 388.1939**. For a
17 qualified bond, as defined in **FORMER** 1961 PA 108, ~~MCL 388.951 to~~
18 ~~388.963~~, with a certificate of qualification from the state
19 treasurer issued prior to ~~the effective date of the amendatory act~~
20 ~~that added this subdivision~~ **JULY 20, 2005**, "school loan act" means
21 **FORMER** 1961 PA 108. ~~, MCL 388.951 to 388.963~~. For a qualified bond
22 as defined in the school bond qualification, approval, and loan
23 act, **2005 PA 92, MCL 388.1921 TO 388.1939**, with a certificate of
24 qualification or approval issued by the state treasurer **ON OR** after
25 ~~the effective date of the school bond qualification, approval, and~~
26 ~~loan act~~ **JULY 20, 2005**, school loan act means the school bond
27 qualification, approval, and loan act, **2005 PA 92, MCL 388.1921 TO**

1 388.1939.

2 (R) ~~(g)~~ "Water supplier" means a water supplier as defined in
3 part 54 of the natural resources and environmental protection act,
4 1994 PA 451, MCL 324.5401 to 324.5418.

5 Sec. 7. The board has all of the following powers:

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

7 (b) To adopt an official seal.

8 (c) To maintain a principal office at a place within this
9 state.

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

12 (e) To loan money to a governmental unit, or to a nonprofit
13 corporation, trust, or similar entity for the benefit of a public
14 school academy, at a rate or rates as the authority determines and
15 to purchase and sell, and to commit to purchase and sell, municipal
16 obligations pursuant to this act.

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

19 (g) To make and enter into contracts and other instruments
20 necessary or incidental to the performance of its duties and the
21 exercise of its powers. By rotating the services of legal counsel,
22 the authority shall seek to increase the pool of nationally
23 recognized bond counsel.

24 (h) To receive and accept from any source grants or
25 contributions of money, property, or other things of value,
26 excluding appropriations from the general fund of this state except
27 for appropriations to be used for the benefit of public schools,

1 except for appropriations to a reserve fund established under
2 section 16, except for appropriations to the state water pollution
3 control revolving fund established under section 16a and except for
4 appropriations to the state drinking water revolving fund
5 established under section 16b, and except for appropriations to the
6 school loan revolving fund established under section 16c, to be
7 used, held, and applied only for the purposes for which the grants
8 and contributions were made.

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

11 (j) To require that final actions of the board are entered in
12 the journal for the board and that all writings prepared, owned,
13 used, in the possession of, or retained by the board in the
14 performance of an official function be made available to the public
15 in compliance with the freedom of information act, 1976 PA 442, MCL
16 15.231 to 15.246.

17 (k) To engage the services of private consultants on a
18 contract basis for rendering professional and technical assistance
19 and advice.

20 (l) To investigate and assess the infrastructure needs of this
21 state, current methods of financing infrastructure rehabilitation
22 and improvements, and resources and financing options currently
23 available and potentially useful to improve this state's
24 infrastructure and lower the costs of those improvements.

25 (m) To indemnify and procure insurance indemnifying members of
26 the board from personal loss or accountability from liability
27 asserted by a person on bonds or notes of the authority or from any

1 personal liability or accountability by reason of the issuance of
2 the bonds or notes, or by reason of any other action taken or the
3 failure to act by the authority.

4 (n) To investigate and assess short-term and long-term
5 borrowing requirements for operating, capital improvements, and
6 delinquent taxes.

7 (o) To provide assistance, as that term is defined in section
8 5301 of the natural resources and environmental protection act,
9 1994 PA 451, MCL 324.5301, to any municipality for a revolving fund
10 project and to perform all functions necessary or incident to
11 providing that assistance and to the operation of the state water
12 pollution control revolving fund established under section 16a.

13 (p) To enter into agreements with the federal government to
14 implement the establishment and operation of the state water
15 pollution control revolving fund established under section 16a
16 pursuant to the provisions of the federal water pollution control
17 act and the rules and regulations promulgated under that act.

18 (q) To provide assistance, as that term is defined in part 54
19 of the natural resources and environmental protection act, 1994 PA
20 451, MCL 324.5401 to 324.5418, to any governmental unit for a
21 revolving fund community water supply or noncommunity water supply
22 and to perform all functions necessary or incident to providing
23 that assistance and to the operation of the state drinking water
24 revolving fund established under section 16b, including, but not
25 limited to, using funding allocated in the federal safe drinking
26 water act for any of the purposes authorized in section 5417(c) of
27 the natural resources and environmental protection act, 1994 PA

1 451, MCL 324.5417.

2 (r) To enter into agreements with the federal government to
3 establish and operate the state drinking water revolving fund under
4 section 16b pursuant to the provisions of the federal safe drinking
5 water act and the rules and regulations promulgated under that act.

6 (s) To enter into agreements with the state treasurer to act
7 as this state's agent to implement the establishment and operation
8 of the school loan revolving fund established under section 16c,
9 including provisions relating to the return to this state of
10 contributions made by this state for deposit in the school loan
11 revolving fund that are no longer needed for school loan revolving
12 fund purposes.

13 **(T) TO ENTER INTO AGREEMENTS WITH THE STATE TREASURER FOR THE**
14 **PURCHASE, ASSIGNMENT, OR TRANSFER OF EMERGENCY LOAN BOARD LOANS AND**
15 **THE REPURCHASE, REASSIGNMENT, OR TRANSFER OF THOSE LOANS.**

16 Sec. 8. (1) The authority may lend money to a governmental
17 unit through the purchase by the authority of municipal obligations
18 of the governmental unit in fully marketable form. The authority
19 may authorize and issue its bonds or notes payable solely from the
20 revenues or funds available to the authority, and to otherwise
21 assist governmental units.

22 (2) Bonds and notes of the authority shall not be in any way a
23 debt or liability of this state and shall not create or constitute
24 any indebtedness, liability, or obligations of this state or be or
25 constitute a pledge of the faith and credit of this state but all
26 authority bonds and notes, unless funded or refunded by bonds or
27 notes of the authority, shall be payable solely from revenues or

1 funds pledged or available for their payment as authorized in this
2 act. Each bond and note shall contain on its face a statement to
3 the effect that the authority is obligated to pay the principal of
4 and the interest on the bond or note only from revenues or funds of
5 the authority and that this state is not obligated to pay the
6 principal or interest and that neither the faith and credit nor the
7 taxing power of this state is pledged to the payment of the
8 principal of or the interest on the bond or note.

9 (3) All expenses incurred in carrying out this act shall be
10 payable solely from revenues or funds provided or to be provided
11 under the provisions of this act, and nothing in this act shall be
12 construed to authorize the authority to incur any indebtedness or
13 liability on behalf of or payable by this state.

14 (4) Unless approved by a concurrent resolution of the
15 legislature and except as permitted by section 16a, 16b, or 16c,
16 the authority shall not provide preferential treatment in the rate
17 of interest for a particular municipal obligation purchased by the
18 authority that is based upon other than financial and credit
19 considerations and shall not forgive or relinquish all or part of
20 the interest or principal of a particular municipal obligation or
21 of municipal obligations of a particular purpose.

22 (5) The authority may purchase bonds issued by school
23 districts that are qualified bonds under a school loan act. ~~Except~~
24 ~~as provided in subsection (6), the principal amount of the~~
25 ~~qualified bonds purchased by the authority in any calendar year~~
26 ~~shall not exceed 7.5% of the principal amount of qualified bonds~~
27 ~~issued by school districts in the immediately preceding calendar~~

1 year.—The authority may also purchase or accept by assignment from
 2 this state municipal obligations that are loan repayment
 3 obligations from a school district on a qualified loan made by this
 4 state under a school loan act **FROM THE STATE OR THE STATE**
 5 **TREASURER. THE AUTHORITY MAY ALSO PURCHASE OR ACCEPT BY ASSIGNMENT**
 6 **OR TRANSFER MUNICIPAL OBLIGATIONS THAT ARE EMERGENCY LOAN BOARD**
 7 **LOANS.** Municipal obligations acquired by the authority under this
 8 subsection are not required to be in fully marketable form.

9 (6) In addition to qualified bonds purchased under subsection
 10 (5), the authority may purchase qualified bonds issued by school
 11 districts not later than September 30, 2004 to obtain funds to
 12 repay all or a portion of the outstanding balance of a loan under
 13 **FORMER** 1961 PA 108 , ~~MCL 388.951 to 388.963,~~ on the terms and
 14 conditions and subject to the requirements provided by or pursuant
 15 to a resolution of the authority. Bonds issued by the authority to
 16 purchase school district qualified bonds under this subsection
 17 shall be issued in an amount sufficient to provide and pay the
 18 reasonable costs of issuance incurred by the school districts as
 19 determined by or pursuant to a resolution of the authority.

20 Sec. 13. Within limitations that are stated in the issuance or
 21 authorization resolution of the authority, the authority may
 22 authorize a member of the board, ~~or~~ the executive director of the
 23 authority, **OR OTHER PERSONNEL WITHIN THE DEPARTMENT OF TREASURY**
 24 **STAFFING AND ASSISTING THE AUTHORITY AND DESIGNATED BY THE BOARD** to
 25 do 1 or more of the following:

- 26 (a) Sell and deliver, and receive payment for, notes or bonds.
 27 (b) Refund notes or bonds by the delivery of new notes or

1 bonds whether or not the notes or bonds to be refunded have matured
2 or are subject to redemption.

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

5 (d) Buy notes or bonds so issued and resell those notes or
6 bonds.

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

13 (f) Direct the investment of money of the authority that the
14 authority has the power to invest.

15 (g) Create and manage investments on behalf of governmental
16 units and the state water pollution control revolving fund
17 established under section 16a and the state drinking water
18 revolving fund established under section 16b.

19 Enacting section 1. This amendatory act does not take effect
20 unless all of the following bills of the 96th Legislature are
21 enacted into law:

22 (a) Senate Bill No. ____ or House Bill No. 5567(request no.
23 05368'12 *).

24 (b) Senate Bill No. ____ or House Bill No. 5568(request no.
25 05369'12 *).

26 (c) Senate Bill No. ____ or House Bill No. 5569(request no.
27 05370'12 *).

1 (d) Senate Bill No. _____ or House Bill No. 5566 (request no.
2 04142'11 *).