

REPRINT
SUBSTITUTE FOR
SENATE BILL NO. 868

(As passed the Senate February 28, 2002)

A bill to amend 1955 PA 233, entitled

"An act to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve, and operate sewage disposal systems, water supply systems, and solid waste management systems; to prescribe the rights, powers, and duties thereof; to authorize contracts between such authorities and public corporations; to provide for the issuance of bonds to acquire, construct, extend, or improve the systems; and to prescribe penalties and provide remedies,"

by amending sections 7, 9, and 12c (MCL 124.287, 124.289, and 124.292c), section 7 as amended by 1981 PA 154, section 9 as amended by 1994 PA 36, and section 12c as amended by 1983 PA 30.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) The authority and any of its constituent munic-
2 ipalities may enter into a contract or contracts providing for
3 the acquisition, construction, improvement, enlargement, exten-
4 sion, operation, and financing of a sewage disposal system, a
5 water supply system, a solid waste management system, or a

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1 combination of systems, which contract or contracts shall provide
2 for the allocation and payment of the share of the total cost to
3 be borne by each contracting municipality in annual installments
4 for a period of not exceeding 40 years. Each contracting munici-
5 pality may pledge its full faith and credit for the payment of
6 the obligation in the manner and times specified in the contract
7 or contracts, in which event each contracting municipality may
8 include in its annual tax levy an amount sufficient so that the
9 estimated collections from the tax levy will be sufficient to
10 promptly pay when due the portion of the obligation falling due
11 before the time of the following year's tax collection. THE CON-
12 TRACT IS NOT SUBJECT TO THE REVISED MUNICIPAL FINANCE ACT, 2001
13 PA 34, MCL 141.2101 TO 141.2821. If the contract or an unlimited
14 tax pledge in support of the contract has been approved by the
15 electors of a municipality, the tax may be in addition to any tax
16 ~~which~~ THAT the municipality may otherwise be authorized to levy
17 and may be imposed without limitation as to rate or amount but
18 shall not be in excess of the rate or amount necessary to pay the
19 contractual obligation. If at the time of making the annual tax
20 levy, there are other funds on hand earmarked for the payment of
21 the contractual obligation, then credit for those funds may be
22 taken upon the annual levy for the payment of the obligation.
23 Other funds may be raised by each contracting municipality by the
24 use of any, or all, or any combination of the following addi-
25 tional methods:
26 (a) The levy of special assessments on property benefited by
27 a sewage disposal system, water supply system, or a combination

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1 of systems, the procedures relative to the levying and collection
2 of the special assessments to conform as near as is applicable to
3 charter or statutory provisions for the levying and collection,
4 except that a petition shall not be required from property
5 owners.

6 (b) The levy and collection of rates or charges to users and
7 beneficiaries of the service or services furnished by the sewage
8 disposal system, water supply system, solid waste management
9 system, or combination of systems.

10 (c) The exaction of connection charges to be paid by owners
11 of land directly or indirectly connected with the sewage disposal
12 system, water supply system, solid waste management system, or
13 combination of systems.

14 (d) The receipt of money derived from the imposition of
15 taxes by this state, except as the use of the money for the pur-
16 pose is expressly prohibited by the state constitution of 1963.

17 (e) The receipt of other funds ~~which~~ THAT may be validly
18 used for the purpose.

19 (2) The contract or contracts may provide for any and all
20 matters relating to the acquisition, construction, operation, and
21 financing of the sewage disposal system, water supply system,
22 solid waste management system, or combination of systems as are
23 considered necessary, including authorization to the authority to
24 issue bonds secured by the full faith and credit pledges of the
25 contracting municipalities, as authorized by section 9. The con-
26 tract or contracts may provide for appropriate remedy or remedies
27 in case of default.

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1 Sec. 9. (1) To obtain funds for the acquisition,
2 construction, improvement, enlargement, or extension of the
3 sewage disposal system, water supply system, solid waste manage-
4 ment system, or combination of systems authorized by this act,
5 the authority, after the execution of the contract or contracts
6 authorized by sections 7 and 8, upon ordinance or resolution
7 adopted by the authority, may issue its negotiable bonds secured
8 by the full faith and credit pledges made by each contracting
9 municipality pursuant to authorization contained in this act and
10 the contract or contracts entered into pursuant to sections 7 and
11 8. The bonds shall mature over not more than 40 years from the
12 date of issuance, and may provide for the use of money received
13 from the sale of the bonds to pay operation and maintenance costs
14 of a sewage disposal system, water supply system, solid waste
15 management system, or combination of systems before receipt of
16 the first revenues from the bonds.

17 ~~(2) The authority may issue bonds to refund all or a por-~~
18 ~~tion of bonds issued pursuant to this section if the aggregate~~
19 ~~present value of the principal and interest to be paid on the~~
20 ~~refunding bonds will be less than the aggregate present value of~~
21 ~~the principal and interest to be paid on the bonds being~~
22 ~~refunded.~~

23 (2) ~~(3)~~ Except as otherwise provided in this act, bonds
24 issued pursuant to this section shall be issued and sold and
25 subject to all other applicable provisions of the ~~municipal~~
26 ~~finance act, Act No. 202 of the Public Acts of 1943, as amended,~~
27 ~~being sections 131.1 to 139.3 of the Michigan Compiled Laws~~

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1 REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
2 141.2821.

3 Sec. 12c. (1) In the discretion of the governing body of
4 the authority, any series of bonds issued pursuant to the autho-
5 rization of section 12b may be secured by a trust indenture by
6 and between the authority and a corporate trustee, which may be
7 any trust company or bank having the powers of a trust company
8 within or without the state, but no trust indenture shall convey
9 or mortgage the project or any part of the project. Either the
10 resolution providing for the issuance of bonds or the trust
11 indenture may contain ~~such~~ THE provisions for the security and
12 payment of the bonds and for the protection and enforcement of
13 the rights and remedies of the bondholders as ~~may be~~ deemed
14 advisable by the governing body of the authority, not in viola-
15 tion of the constitution of this state, including specifically
16 covenants setting forth THE FOLLOWING:

17 (a) The duties of the authority in relationship to the con-
18 struction, maintenance, operation, repair, and insurance of the
19 project.

20 (b) The pledge of revenues of the project or any part of the
21 project.

22 (c) Limitations on the amount of money derived from the
23 operation of the project ~~which~~ THAT may be expended for operat-
24 ing, administrative, or other specified expenses of the
25 authority.

26 (d) The safeguarding and application of the fund from which
27 the cost of the project is to be paid and of the revenues pledged

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1 to the payment of the bonds, all of which may be deposited in as
2 received and paid out by ~~such~~ THOSE banks as ~~may be therein~~
3 provided IN THE RESOLUTION OR INDENTURE.

4 (e) Provisions for the employment of consulting engineers to
5 supervise the construction of the project, and to supervise its
6 maintenance and operation, to which consulting engineers may be
7 delegated all rights and duties with respect ~~thereto~~ TO THE
8 PROJECT deemed advisable by the governing body of the authority
9 and the appointment of which consulting engineers shall be
10 subject to ~~such~~ THE approval by the purchasers or holders of
11 the bonds as ~~may be~~ provided in the resolution or indenture.

12 (f) Rights and remedies of the bondholders and the trustee,
13 if any, and ~~such~~ THE restrictions thereon as may be considered
14 advisable.

15 (g) Any other and additional provisions ordinarily found in
16 trust agreements securing bond issues protecting and enforcing
17 the rights and security of the holders of the bonds and designed
18 to make the bonds more attractive and salable at the best avail-
19 able prices.

20 (2) The resolution or trust indenture shall contain a provi-
21 sion requiring an annual audit of the books and records of the
22 authority, or any fiscal agent or trustee specified in the reso-
23 lution or trust indenture by a certified public accountant or
24 accountants to be selected by the governing body of the authority
25 and approved by the manager or managers of the account purchasing
26 the bonds.

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1 (3) Any bank or trust company designated as trustee or as
2 depository for any funds, notwithstanding any provision of law to
3 the contrary, is authorized to pledge as collateral security for
4 moneys deposited in such bank or trust company direct obligations
5 of, or obligations the principal and interest of which are uncon-
6 ditionally guaranteed by the government of the United States, or
7 other marketable securities eligible as security for the deposit
8 of trust funds under regulations of the federal reserve board and
9 having a market value, exclusive of accrued interest, at least
10 equal to the amount of the deposit; or in lieu of the collateral
11 security as to all or any part of the deposit, there may be
12 lodged with the trustee, or with the governing body of the
13 authority in case of moneys deposited or remaining on deposit
14 with the trustee, and remain in full force and effect as security
15 for the moneys deposited, the indemnifying bonds of a surety com-
16 pany or companies qualified as surety for deposits of the govern-
17 ment of the United States and qualified to transact business in
18 ~~the~~ THIS state, in a sum at least equal to the amount of moneys
19 deposited with such bank or trust company, if such indemnity bond
20 or bonds be approved by the governing body of the authority. All
21 expenses incurred in carrying out the provisions appearing in any
22 trust indenture or bond resolution and the cost of any surety
23 bond furnished may be treated as part of the cost of maintaining
24 and operating the project. The resolution or trust indenture may
25 contain such other provisions as the governing body of the
26 authority may deem reasonable and proper for the security of the
27 bondholders, including, but without limitation, covenants

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1 prescribing all happenings or occurrences ~~which~~ THAT constitute
2 events of default and the terms and conditions upon which bonds
3 may become or be declared to be due before maturity and as to the
4 rights, liabilities, powers, and duties arising upon the breach
5 by the authority of any of its duties and obligations.

6 (4) Nothing contained in the 1958 amendments to this act
7 shall be construed to authorize the issuance of other than reve-
8 nue bonds.

9 ~~(5) Unless an exception from prior approval is available~~
10 ~~pursuant to subsection (6), a bond issued under section 12b and~~
11 ~~this section shall be subject to the prior approval of the munic-~~
12 ~~ipal finance commission or its successor agency in accordance~~
13 ~~with the provisions of Act No. 202 of the Public Acts of 1943, as~~
14 ~~amended, being sections 131.1 to 139.3 of the Michigan Compiled~~
15 ~~Laws.~~

16 ~~(6) The requirement of subsection (5) for obtaining the~~
17 ~~prior approval of the municipal finance commission or its succes-~~
18 ~~sor agency before issuing bonds under section 12b or this section~~
19 ~~shall be subject to sections 10 and 11 of chapter III of Act~~
20 ~~No. 202 of the Public Acts of 1943, being sections 133.10 and~~
21 ~~133.11 of the Michigan Compiled Laws, and the department of trea-~~
22 ~~sury shall have the same authority as provided by section 11 of~~
23 ~~chapter III of Act No. 202 of the Public Acts of 1943 to issue an~~
24 ~~order providing or denying an exception from the prior approval~~
25 ~~required by subsection (5) for bonds authorized by section 12b or~~
26 ~~this section.~~