

SENATE BILL No. 1170

March 5, 2002, Introduced by Senator BYRUM and referred to the Committee on Finance.

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending sections 23 and 47 (MCL 125.2023 and 125.2047), section 23 as amended by 1987 PA 278.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 23. (1) The fund may borrow money and issue bonds or
2 notes for the following purposes:

3 (a) To provide sufficient funds for achieving the fund's
4 purposes and objectives including, but not limited to, amounts
5 necessary to pay the costs of acquiring a project or part of a
6 project; to make loans for the costs of a project or part of a
7 project; to make loans pursuant to section 7(r) for an export
8 related transaction; for making grants; for providing money to
9 guarantee or insure loans, leases, bonds, notes, or other
10 indebtedness; for making working capital loans; for all other

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SB 1170, As Passed Senate, March 21, 2002

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1 expenditures of the fund incident to and necessary or convenient
2 to carry out the fund's purposes, objectives, and powers; and for
3 any combination of the foregoing. The cost of a project may
4 include administrative costs including, but not limited to, engi-
5 neering, architectural, legal, and accounting fees ~~which~~ THAT
6 are necessary for the project.

7 (b) To refund bonds or notes of the fund issued under this
8 act, of the job development authority issued under former ~~Act~~
9 ~~No. 301 of the Public Acts of 1975~~ 1975 PA 301, of the Michigan
10 economic development authority issued under former ~~Act No. 70 of~~
11 ~~the Public Acts of 1982~~ 1982 PA 70, of an economic development
12 corporation issued under the economic development corporations
13 act, ~~Act No. 338 of the Public Acts of 1974, being sections~~
14 ~~125.1601 to 125.1636 of the Michigan Compiled Laws~~ 1974 PA 338,
15 MCL 125.1601 TO 125.1636, or of a municipality issued under the
16 industrial development revenue bond act of 1963, ~~Act No. 62 of~~
17 ~~the Public Acts of 1963, being sections 125.1251 to 125.1267 of~~
18 ~~the Michigan Compiled Laws~~ 1963 PA 62, MCL 125.1251 TO 125.1267,
19 by the issuance of new bonds, whether or not the bonds or notes
20 to be refunded have matured or are subject to prior redemption or
21 are to be paid, redeemed, or surrendered at the time of the issu-
22 ance of the refunding bonds or notes; and to issue bonds or notes
23 partly to refund ~~such~~ THE bonds or notes and partly for any
24 other purpose provided for by this section.

25 (c) To pay the costs of issuance of bonds or notes under
26 this act; to pay interest on bonds or notes becoming payable
27 prior to the receipt of the first revenues available for payment

1 of that interest as determined by the board; and to establish, in
2 full or in part, a reserve for the payment of the principal and
3 interest on the bonds or notes in the amount determined by the
4 board.

5 (2) The bonds and notes, including, but not limited to, com-
6 mercial paper, shall be authorized by resolution adopted by the
7 board, shall bear the date or dates, and shall mature at the time
8 or times not exceeding 50 years from the date of issuance, as the
9 resolution may provide. The bonds and notes shall bear interest
10 at the rate or rates as may be set, reset, or calculated from
11 time to time, or may bear no interest, as provided in the
12 resolution. The bonds and notes shall be in the denominations,
13 be in the form, either coupon or registered, carry the registra-
14 tion privileges, be transferable, be executed in the manner, be
15 payable in the medium of payment, at the place or places, and be
16 subject to the terms of prior redemption at the option of the
17 fund or the holders of the bonds and notes as the resolution or
18 resolutions may provide. The bonds and notes of the fund may be
19 sold at public or private sale at the price or prices determined
20 by the fund. For purposes of ~~Act No. 326 of the Public Acts of~~
21 ~~1966, being sections 438.31 to 438.33 of the Michigan Compiled~~
22 ~~Laws~~ 1966 PA 326, MCL 438.31 TO 438.33, this act and other acts
23 applicable to the fund shall ~~be deemed to~~ regulate the rate of
24 interest payable or charged by the fund, and ~~Act No. 326 of the~~
25 ~~Public Acts of 1966~~ 1966 PA 326, MCL 438.31 TO 438.33, does not
26 apply. Bonds and notes may be sold at a discount.

1 (3) Bonds or notes may be 1 or more of the following:

2 (a) Made the subject of a put or agreement to repurchase by
3 the fund or others.

4 (b) Secured by a letter of credit or by any other collateral
5 ~~which~~ THAT the resolution may authorize.

6 (c) Reissued by the fund once reacquired by the fund pursu-
7 ant to any put or repurchase agreement.

8 (4) The fund may authorize by resolution any member of the
9 board to do 1 or more of the following:

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

12 (b) Refund notes or bonds by the delivery of new notes or
13 bonds whether or not the notes or bonds to be refunded have
14 matured, are subject to prior redemption, or are to be paid,
15 redeemed, or surrendered at the time of the issuance of refunding
16 bonds or notes.

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

19 (d) Buy notes or bonds so issued at not more than the face
20 value of the notes or 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 fund or the holder, the place of
25 delivery and payment, and other matters and procedures necessary
26 to complete the transactions authorized.

1 (5) Except as may otherwise be expressly provided by the
2 fund, every issue of its notes or bonds shall be general
3 obligations of the fund payable out of revenues, properties, or
4 money of the fund, subject only to agreements with the holders of
5 particular notes or bonds pledging particular receipts, revenues,
6 properties, or money as security for the notes or bonds.

7 (6) The notes or bonds of the fund are negotiable instru-
8 ments within the meaning of and for all the purposes of the uni-
9 form commercial code, ~~Act No. 174 of the Public Acts of 1962,~~
10 ~~being sections 440.1101 to 440.11102 of the Michigan Compiled~~
11 ~~Laws~~ 1962 PA 174, MCL 440.1101 TO 440.11102, subject only to the
12 provisions of the notes or bonds for registration.

13 (7) Bonds or notes issued by the fund are not subject to the
14 terms of the ~~municipal finance act, Act No. 202 of the Public~~
15 ~~Acts of 1943, being sections 131.1 to 139.3 of the Michigan~~
16 ~~Compiled Laws~~ REVISED MUNICIPAL FINANCE ACT, 2001 PA 34,
17 MCL 141.2101 TO 141.2821. The bonds or notes issued by the fund
18 are not required to be registered. A filing of a bond or note of
19 the fund is not required under the uniform securities act, ~~Act~~
20 ~~No. 265 of the Public Acts of 1964, being sections 451.501 to~~
21 ~~451.818 of the Michigan Compiled Laws~~ 1964 PA 265, MCL 451.501
22 TO 451.818.

23 (8) A resolution authorizing notes or bonds may contain any
24 or all of the following covenants, which shall be a part of the
25 contract with the holders of the notes or bonds:

26 (a) A pledge of all or a part of the fees, charges, and
27 revenues made or received by the fund, or all or a part of the

1 money received in payment of lease rentals, or loans and interest
2 ~~thereon~~ ON THE LOANS, and other money received or to be
3 received to secure the payment of the notes or bonds or of an
4 issue of the notes or bonds, subject to agreements with bondhold-
5 ers or noteholders as may then exist.

6 (b) A pledge of all or a part of the assets of the fund,
7 including leases, or notes or mortgages and obligations securing
8 the same to secure the payment of the notes or bonds or of an
9 issue of notes or bonds, subject to agreements with noteholders
10 or bondholders as may then exist.

11 (c) A pledge of a loan, grant, or contribution from the fed-
12 eral, state, or local government, or source in aid of a project
13 as provided for in this act.

14 (d) A pledge of money directly derived from payments from
15 the heritage trust fund created by the heritage trust fund act of
16 1982, former ~~Act No. 327 of the Public Acts of 1982~~ 1982
17 PA 327.

18 (e) The use and disposition of the revenues and income from
19 leases, or from loans, notes, and mortgages owned by the fund.

20 (f) The establishment and setting aside of reserves or sink-
21 ing funds and the regulation and disposition of reserves or sink-
22 ing funds subject to this act.

23 (g) Limitations on the purpose to which the proceeds of sale
24 of the notes or bonds may be applied and limitations on pledging
25 those proceeds to secure the payment of other bonds or notes.

26 (h) Authority for and limitations on the issuance of
27 additional notes or bonds for the purposes provided for in the

1 resolution and the terms upon which additional notes or bonds may
2 be issued and secured. Additional bonds pledging money derived
3 from the heritage trust fund as provided in subdivision (d) may
4 only be issued if the issuance meets the requirements of section
5 204 of the resolution adopted by the Michigan economic develop-
6 ment authority authorizing issuance of its bonds dated
7 December 1, 1982, and any requirement of former ~~Act No. 70 of~~
8 ~~the Public Acts of 1982~~ 1982 PA 70, provided that ~~the~~
9 ~~foregoing~~ THESE requirements do not apply if those bonds have
10 been defeased.

11 (i) The procedure, if any, by which the terms of a contract
12 with noteholders or bondholders may be amended or abrogated, the
13 number of noteholders or bondholders who are required to consent
14 to an amendment or abrogation, and the manner in which the con-
15 sent may be given.

16 (j) Vest in a trustee or a secured party the property,
17 income, revenues, receipts, rights, remedies, powers, and duties
18 in trust or otherwise as the fund may determine necessary or
19 appropriate to adequately secure and protect noteholders and
20 bondholders or to limit or abrogate the rights of the noteholders
21 and bondholders. A trust agreement may be executed by the fund
22 with any trustee who may be located inside or outside this state
23 to accomplish any of the foregoing.

24 (k) Pay maintenance and repair costs of a project.

25 (l) The insurance to be carried on a project and the use and
26 disposition of insurance money and condemnation awards.

1 (m) The terms, conditions, and agreements upon which the
2 holder of the bonds, or a portion of the bonds, is entitled to
3 the appointment of a receiver by the circuit court. A receiver
4 who is appointed may enter and take possession of the project and
5 maintain it or lease or sell the project for cash or on an
6 installment sales contract and prescribe rentals and payments
7 therefor and collect, receive, and apply all income and revenues
8 thereafter arising in the same manner and to the same extent as
9 the fund.

10 (n) Any other matters, of like or different character, which
11 in any way affect the security or protection of the notes or
12 bonds.

13 (9) A pledge made by the fund is valid and binding from the
14 time the pledge is made. The money or property so pledged and
15 thereafter received by the fund is immediately subject to the
16 lien of the pledge without a physical delivery or further act.
17 The lien of ~~such~~ a pledge is valid and binding as against par-
18 ties having claims of any kind in tort, contract, or otherwise
19 against the fund and is valid and binding as against the transfer
20 of the money or property ~~so~~ pledged, irrespective of whether
21 the parties have notice. Neither the resolution, the trust
22 agreement, nor any other instrument by which a pledge is created
23 need be recorded.

24 (10) A member of the board or a person executing the notes
25 or bonds is not liable personally on the notes or bonds and is
26 not subject to personal liability of accountability by reason of
27 the issuance of the notes or bonds.

1 (11) ~~The~~ THIS state is not liable on notes or bonds of the
2 fund, and the notes or bonds shall not be considered a debt of
3 ~~the~~ THIS state. The notes and bonds shall contain on their
4 face a statement indicating this fact.

5 (12) The notes and bonds of the fund are securities in which
6 the public officers and bodies of this state; municipalities and
7 municipal subdivisions; insurance companies, associations, and
8 other persons carrying on an insurance business; banks, trust
9 companies, savings banks, savings associations, and savings and
10 loan associations; investment companies; administrators, guardi-
11 ans, executors, trustees, and other fiduciaries; and all other
12 persons who are authorized to invest in bonds or other obliga-
13 tions of ~~the~~ THIS state may properly and legally invest funds.

14 (13) The property of the fund and its income and operation
15 is exempt from all taxation by this state or any of its political
16 subdivisions, and all bonds and notes of the fund, the interest
17 on the bonds and notes, and their transfer are exempt from all
18 taxation by this state or any of its political subdivisions,
19 except for estate, gift, and inheritance taxes. The state cove-
20 nants with the purchasers and all subsequent holders and trans-
21 ferees of notes and bonds issued by the fund under this act, in
22 consideration of the acceptance of and payment for the notes and
23 bonds, that the notes and bonds of the fund, issued pursuant to
24 this act, the interest on the notes and bonds, the transfer of
25 the notes and bonds, and all its fees, charges, gifts, grants,
26 revenues, receipts, and other money received or to be received
27 and pledged to pay or secure the payment of the notes or bonds

1 shall at all times be free and exempt from all state or local
2 taxation provided by the laws of this state, except for estate,
3 gift, and inheritance taxes.

4 (14) THE ISSUANCE OF BONDS AND NOTES UNDER THIS ACT IS
5 SUBJECT TO THE AGENCY FINANCING REPORTING ACT.

6 Sec. 47. A municipality is hereby authorized to borrow or
7 contract for loan insurance and loan guarantees from the fund
8 pursuant to this act, notwithstanding any charter provision to
9 the contrary, or other provision of law. Any amount borrowed by
10 a municipality pursuant to this act shall not be included in, or
11 charged against, any statutory or charter debt limitation of the
12 municipality. A municipality shall not be required to seek or
13 obtain the approval of the electors ~~, the municipal finance com-~~
14 ~~mission or its successor agency, or the department of treasury~~
15 to borrow money pursuant to this act. The borrowing shall not be
16 subject to the ~~municipal finance act, Act No. 202 of the Public~~
17 ~~Acts of 1943, being sections 131.1 to 139.3 of the Michigan~~
18 ~~Compiled Laws~~ REVISED MUNICIPAL FINANCE ACT, 2001 PA 34,
19 MCL 141.2101 TO 141.2821, nor to section 5(g) of ~~Act No. 279 of~~
20 ~~the Public Acts of 1909, being section 117.5 of the Michigan~~
21 ~~Compiled Laws~~ THE HOME RULE CITY ACT, 1909 PA 279, MCL 117.5.