

SENATE BILL No. 868

November 29, 2001, Introduced by Senator DE BEAUSSAERT and referred to the Committee on Finance.

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

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 municipi-
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. IF THE
12 CONTRACT OR UNLIMITED TAX PLEDGE IN SUPPORT OF THE CONTRACT HAS
13 BEEN APPROVED BY THE ELECTORS OF THE MUNICIPALITY, THE CONTRACT
14 IS SUBJECT TO THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34,
15 MCL 141.2101 TO 141.2821. If the contract or an unlimited tax
16 pledge in support of the contract has been approved by the elec-
17 tors of a municipality, the tax may be in addition to any tax
18 ~~which~~ THAT the municipality may otherwise be authorized to levy
19 and may be imposed without limitation as to rate or amount but
20 shall not be in excess of the rate or amount necessary to pay the
21 contractual obligation. If at the time of making the annual tax
22 levy, there are other funds on hand earmarked for the payment of
23 the contractual obligation, then credit for those funds may be
24 taken upon the annual levy for the payment of the obligation.
25 Other funds may be raised by each contracting municipality by the
26 use of any, or all, or any combination of the following
27 additional methods:

1 (a) The levy of special assessments on property benefited by
2 a sewage disposal system, water supply system, or a combination
3 of systems, the procedures relative to the levying and collection
4 of the special assessments to conform as near as is applicable to
5 charter or statutory provisions for the levying and collection,
6 except that a petition shall not be required from property
7 owners.

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

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

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

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

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

1 contract or contracts may provide for appropriate remedy or
2 remedies in case of default.

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

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

25 (2) ~~(3)~~ Except as otherwise provided in this act, bonds
26 issued pursuant to this section shall be issued and sold and
27 subject to all other applicable provisions of the ~~municipal~~

1 ~~finance act, Act No. 202 of the Public Acts of 1943, as amended,~~
2 ~~being sections 131.1 to 139.3 of the Michigan Compiled Laws~~
3 REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
4 141.2821.

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

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

22 (b) The pledge of revenues of the project or any part of the
23 project.

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

1 (d) The safeguarding and application of the fund from which
2 the cost of the project is to be paid and of the revenues pledged
3 to the payment of the bonds, all of which may be deposited in as
4 received and paid out by ~~such~~ THOSE banks as ~~may be therein~~
5 provided IN THE RESOLUTION OR INDENTURE.

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

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

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

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

1 and approved by the manager or managers of the account purchasing
2 the bonds.

3 (3) Any bank or trust company designated as trustee or as
4 depository for any funds, notwithstanding any provision of law to
5 the contrary, is authorized to pledge as collateral security for
6 moneys deposited in such bank or trust company direct obligations
7 of, or obligations the principal and interest of which are uncon-
8 ditionally guaranteed by the government of the United States, or
9 other marketable securities eligible as security for the deposit
10 of trust funds under regulations of the federal reserve board and
11 having a market value, exclusive of accrued interest, at least
12 equal to the amount of the deposit; or in lieu of the collateral
13 security as to all or any part of the deposit, there may be
14 lodged with the trustee, or with the governing body of the
15 authority in case of moneys deposited or remaining on deposit
16 with the trustee, and remain in full force and effect as security
17 for the moneys deposited, the indemnifying bonds of a surety com-
18 pany or companies qualified as surety for deposits of the govern-
19 ment of the United States and qualified to transact business in
20 ~~the~~ THIS state, in a sum at least equal to the amount of moneys
21 deposited with such bank or trust company, if such indemnity bond
22 or bonds be approved by the governing body of the authority. All
23 expenses incurred in carrying out the provisions appearing in any
24 trust indenture or bond resolution and the cost of any surety
25 bond furnished may be treated as part of the cost of maintaining
26 and operating the project. The resolution or trust indenture may
27 contain such other provisions as the governing body of the

1 authority may deem reasonable and proper for the security of the
2 bondholders, including, but without limitation, covenants pre-
3 scribing all happenings or occurrences ~~which~~ THAT constitute
4 events of default and the terms and conditions upon which bonds
5 may become or be declared to be due before maturity and as to the
6 rights, liabilities, powers, and duties arising upon the breach
7 by the authority of any of its duties and obligations.

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

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

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

~~1 required by subsection (5) for bonds authorized by section 12b or
2 this section.~~