

SENATE BILL No. 1506

November 12, 2002, Introduced by Senator JOHNSON and referred to the Committee on Education.

A bill to create the Michigan public educational facilities authority and to prescribe its powers and duties; to provide for the issuance of notes and bonds of the authority; to create funds and accounts; to authorize certain forms of assistance to public schools to make investments; to exempt certain property from certain taxes; to grant powers and impose duties on officers and agencies of this state and political subdivisions of this state; and to make, accept, and expend certain appropriations.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan public educational facilities authority act".

3 Sec. 2. As used in this act:

4 (a) "Authority" means the Michigan public educational
5 facilities authority created in section 3.

1 (b) "Board" means the board of trustees of the authority
2 established in section 6.

3 (c) "Center for educational performance and information"
4 means the temporary state agency created by Executive
5 Reorganization Order No. 2000-6, MCL 388.996.

6 (d) "Developer" means a person who has entered into a
7 public-private partnership agreement with a qualified public edu-
8 cational facility.

9 (e) "Fully marketable form" means an obligation duly exe-
10 cuted and accompanied by all of the 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 executed obligation need not be printed or
16 lithographed nor be in more than 1 denomination.

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

20 (f) "Obligation" means a bond, note, loan agreement, or
21 other evidence of debt issued by a public school or developer for
22 a purpose authorized by law.

23 (g) "Person" means an individual, corporation, limited or
24 general partnership, joint venture, or limited liability company;
25 a governmental entity, including state authorities, municipali-
26 ties, counties, and townships; police, fire, and other public
27 safety organizations; judicial entities, medical entities, Indian

1 tribes, schools, colleges, universities, tribally controlled
2 community colleges, hospitals, libraries, community centers; and
3 local economic development entities. Except to the extent that
4 state authorities, police, fire, and other public safety organi-
5 zations, judicial entities, medical entities, schools, colleges,
6 universities, hospitals, and libraries may constitute state enti-
7 ties, person does not include this state.

8 (h) "Public school" means a public elementary or secondary
9 educational entity or agency that is established under the
10 revised school code, 1976 PA 451, MCL 380.1 to 380.1852, has as
11 its primary mission the teaching and learning of academic and
12 vocational-technical skills and knowledge, and is operated by a
13 school district, public school academy corporation, strict disci-
14 pline academy corporation, or the department of education or the
15 state board of education. Public school also includes a labora-
16 tory school or other elementary or secondary school that is con-
17 trolled and operated by a state public university described in
18 section 4, 5, or 6 of article VIII of the state constitution of
19 1963.

20 (i) "Public-private partnership agreement" means that term
21 as defined in subsection (k)(2) of section 142 of the internal
22 revenue code of 1986.

23 (j) "Qualified public educational facility" means that term
24 as defined in subsection (k)(1) of section 142 of the internal
25 revenue code of 1986.

26 (k) "Reserve fund" means a bond reserve fund or note reserve
27 fund created and established under section 11.

1 (1) "Revenues" means all fees, charges, money, profits,
2 payments of principal of or interest on obligations and other
3 investments, gifts, grants, contributions, and all other income
4 derived or to be derived by the authority under this act.

5 Sec. 3. (1) The Michigan public educational facilities
6 authority is created as a public body corporate and politic
7 within the department of treasury. Funds of the authority shall
8 be handled in the same manner and subject to the same provisions
9 of law applicable to state funds or in the manner specified in a
10 resolution of the authority authorizing the issuance of bonds or
11 notes.

12 (2) The authority may do 1 or more of the following:

13 (a) Assist through financing and refinancing the construc-
14 tion, acquisition, rehabilitation, refurbishing, and equipping of
15 public schools as provided in section 142 of the internal revenue
16 code of 1986.

17 (b) Authorize the issuance of bonds and notes to provide
18 funds to purchase obligations of public schools and developers.

19 Sec. 4. The powers of the authority shall include all those
20 necessary to carry out and effectuate the purposes of this act,
21 including, but not limited to, 1 or more of the following:

22 (a) To borrow money and issue bonds and notes to finance or
23 refinance part or all of the costs of construction, acquisition,
24 rehabilitation, refurbishing, or equipping of public schools and
25 the renovation and remodeling of public schools and to secure
26 bonds and notes by mortgage, assignment, or pledge of any of its
27 revenues and assets pursuant to this act.

1 (b) To invest any money of the authority at the authority's
2 discretion, in any obligations determined proper by the authori-
3 ty, and to name and use depositories for its money.

4 (c) To receive and accept from any source grants or contri-
5 butions of money, property, or other things of value for the pur-
6 poses described under this subsection.

7 (d) To loan money to a public school or a developer at a
8 rate or rates as the authority determines and to purchase and
9 sell, and to commit to purchase and sell, obligations described
10 in this act.

11 (e) To acquire from any person interests in real or personal
12 property necessary for the operation of the authority.

13 (f) To procure insurance against any loss in connection with
14 the property, assets, or activities of the authority.

15 (g) To sue and be sued, to have a seal, and to make, exe-
16 cute, and deliver contracts, conveyances, and other instruments
17 necessary to the exercise of the authority's powers.

18 (h) To adopt and amend bylaws.

19 (i) To indemnify and procure insurance indemnifying any mem-
20 bers of the board of the authority from personal liability by
21 reason of their service as a board member.

22 (j) To engage the services of consultants on a contract
23 basis for rendering professional and technical assistance and
24 advice.

25 (k) To enforce financial, operational, warranty, security,
26 lease, and guaranty terms and conditions established under
27 financings by the authority.

1 (1) To do all acts necessary or convenient to carry out the
2 powers expressly granted.

3 Sec. 5. (1) The authority shall exercise its duties inde-
4 pendently of the state treasurer. However, the budgeting, per-
5 sonnel, procurement, and related administrative functions of the
6 authority shall be performed under the direction and supervision
7 of the state treasurer.

8 (2) The state treasurer may by written instrument delegate a
9 duty or power conferred by law to a person for the time and to
10 the extent determined by the state treasurer.

11 Sec. 6. (1) The purposes, powers, and duties of the author-
12 ity shall be vested in and exercised by a board of trustees.

13 (2) Except as provided in subsection (15), the board shall
14 be made up of the following members:

15 (a) The state treasurer.

16 (b) Four members appointed by the governor with the advice
17 and consent of the senate.

18 (3) Not more than 2 of the trustees appointed under subsec-
19 tion (2) shall be members of the same political party. Appointed
20 trustees shall hold office for a term of 4 years or until a suc-
21 cessor is appointed, whichever is later, except that in appoint-
22 ing the initial members of the board, the governor shall desig-
23 nate 2 to serve for 4 years, 1 to serve a term of 3 years, and 1
24 to serve a term of 2 years. As used in this subdivision,
25 "members of the same political party" includes a person who, in
26 the determination of the governor, is currently a member of the
27 same political party and a person who was a member of the same

1 political party at any time within the immediately preceding 2
2 years, as attested by the person to be appointed.

3 (4) A vacancy on the board caused by the expiration of a
4 term or other cause of termination of membership on the board
5 shall be filled in the same manner as the original appointment.
6 A trustee appointed to fill a vacancy created other than by expi-
7 ration of a term shall be appointed for the unexpired term of the
8 trustee whom he or she is to succeed in the same manner as the
9 original appointment. A trustee may be reappointed for addi-
10 tional terms.

11 (5) The state treasurer may appoint a representative from
12 his or her department to serve in his or her absence.

13 (6) The trustees shall serve without compensation but may
14 receive reasonable reimbursement for necessary travel and
15 expenses incurred in the discharge of their duties according to
16 the relevant procedures of the civil service commission and the
17 department of management and budget.

18 (7) The governor shall designate 1 member of the board to
19 serve as its chairperson who shall serve at the pleasure of the
20 governor.

21 (8) The board shall meet at the call of the chairperson and
22 as may be provided in the bylaws of the board.

23 (9) A majority of the serving members of the board shall
24 constitute a quorum of the board for the transaction of
25 business. Actions of the board shall be approved by a majority
26 vote of the members present at a meeting. The business of the

1 board shall be conducted in compliance with the open meetings
2 act, 1976 PA 267, MCL 15.261 to 15.275.

3 (10) The authority may employ or contract for legal, finan-
4 cial, and technical experts, consultants, and an executive direc-
5 tor, officers, agents, and employees, permanent and temporary, as
6 the authority requires, and shall determine their qualifications,
7 duties, and compensation. The board may delegate to 1 or more
8 agents or employees those powers or duties with any limitations
9 that the board considers proper.

10 (11) The members of the board and officers and employees of
11 the authority are subject to 1968 PA 317, MCL 15.321 to 15.330,
12 and 1968 PA 318, MCL 15.301 to 15.310.

13 (12) A member of the board or officer, employee, or agent of
14 the authority shall discharge the duties of his or her position
15 in a nonpartisan manner, with good faith, and with that degree of
16 diligence, care, and skill that an ordinarily prudent person
17 would exercise under similar circumstances in a like position.
18 In discharging the duties of his or her position, a member of the
19 board or an officer, employee, or agent of the authority, when
20 acting in good faith, may rely upon the opinion of counsel for
21 the authority, upon the report of an independent appraiser
22 selected with reasonable care by the board, or upon financial
23 statements of the authority represented to the member of the
24 board or officer, employee, or agent of the authority to be cor-
25 rect by the officer of the authority having charge of its books
26 or account, or stated in a written report by a certified public

1 accountant or firm of certified public accountants to fairly
2 reflect the financial condition of the authority.

3 (13) The board may, as appropriate, make inquiries, studies,
4 and investigations, hold hearings, and receive comments from the
5 public.

6 (14) A record or portion of a record, material, information,
7 or other data received, prepared, used, or retained by the
8 authority in connection with an application to the authority, or
9 a project related to an application that relates to trade
10 secrets, commercial, financial, or proprietary information sub-
11 mitted by the applicant, and that is requested in writing by the
12 applicant and acknowledged in writing by the executive director
13 of the authority to be confidential, is not subject to the free-
14 dom of information act, 1976 PA 442, MCL 15.231 to 15.246. As
15 used in this subsection, "trade secrets, commercial, financial,
16 or proprietary information" means information that has not been
17 publicly disseminated or that is unavailable from other sources,
18 the release of which might cause the applicant competitive harm.

19 (15) Until all members of the board are appointed under sub-
20 section (2) and take office, the members of the board of trustees
21 of the Michigan public educational facilities authority serving
22 under Executive Order No. 2002-3, MCL 12.192, are members of the
23 board.

24 Sec. 7. (1) The authority may lend money to a developer or
25 public school through the purchase by the authority of obliga-
26 tions of the developer or public school. The authority may

1 authorize and issue its bonds or notes payable solely from the
2 revenues or funds available to the authority.

3 (2) Bonds and notes of the authority shall not be in any way
4 a debt or liability of this state and shall not create or consti-
5 tute any indebtedness, liability, or obligations of this state or
6 be or constitute a pledge of the faith and credit of this state,
7 but all authority bonds and notes, unless funded or refunded by
8 bonds or notes of the authority, shall be payable solely from
9 revenues or funds pledged or available for their payment as
10 authorized in this act. Each bond and note shall contain on its
11 face a statement to the effect that the authority is obligated to
12 pay the principal of and the interest on the bond or note only
13 from revenues or funds of the authority and that this state is
14 not obligated to pay the principal or interest and that neither
15 the faith and credit nor the taxing power of this state is
16 pledged to the payment of the principal of or the interest on the
17 bond or note.

18 (3) All expenses incurred in carrying out the provisions of
19 this act shall be payable solely from revenues or funds provided
20 or to be provided under the provisions of this act, and nothing
21 in this act shall be construed to authorize the authority to
22 incur any indebtedness or liability on behalf of or payable by
23 this state.

24 (4) Unless approved by a concurrent resolution of the legis-
25 lature, the authority shall not provide preferential treatment in
26 the rate of interest for a particular obligation purchased by the
27 authority that is based upon other than financial and credit

1 considerations and shall not forgive or relinquish all or part of
2 the interest or principal of a particular obligation or of obli-
3 gations of a particular purpose.

4 Sec. 8. (1) The authority may issue authority bonds or
5 notes in the principal amounts the authority considers necessary
6 to provide funds for any purpose, including, but not limited to,
7 the following:

8 (a) Making loans to public schools and developers in this
9 state or in any other state.

10 (b) Purchasing obligations issued by developers and public
11 schools in this state or in any other state.

12 (c) Payment, funding, or refunding of the principal of,
13 interest on, or redemption premiums on authority bonds or notes.

14 (d) Establish or increase reserves to secure or to pay
15 authority bonds or notes or interest on authority bonds or
16 notes.

17 (e) Payment of interest on the authority bonds or notes for
18 a period the authority determines.

19 (f) Making loans to public schools for short-term borrowings
20 under section 1225 of the revised school code, 1976 PA 451, MCL
21 380.1225.

22 (g) Making other expenditures necessary to carry out the
23 authority's duties under this act, including the payment of the
24 authority's operating expenses.

25 (2) The authority may issue renewal notes, issue bonds to
26 pay notes, and refund bonds by the issuance of new bonds, whether
27 or not the bonds to be refunded have matured. The refunding

1 bonds shall be sold and the proceeds applied to the purchase,
2 redemption, or payment of the bonds to be refunded. The author-
3 ity may issue instruments separate from the obligations described
4 in this subsection that establish a contractual right in the
5 holder of the instrument to require mandatory tender for purchase
6 of the obligations to which the instrument applies for a period
7 of time and subject to provisions the authority may determine.

8 (3) The bonds or notes of the authority shall not be a gen-
9 eral obligation of the authority but shall be payable solely from
10 the revenues or funds, or both, pledged to the payment of the
11 principal of and interest on the bonds or notes as provided in
12 the bond or note authorizing resolution. Authority bonds or
13 notes may be additionally secured by a pledge of any grant or
14 contributions from the United States, this state, a governmental
15 unit, or any person, firm, or corporation, or by a pledge of
16 income or revenues, funds, or money of the authority from any
17 source whatsoever.

18 (4) Whether or not the notes or bonds are of a form or char-
19 acter that are negotiable instruments, the notes or bonds are
20 negotiable instruments within the meaning of the uniform commer-
21 cial code, 1962 PA 174, MCL 440.1101 to 440.11102.

22 (5) If a member of the board, the executive director of the
23 authority, or an officer of the authority whose signature or fac-
24 simile of whose signature appears on a note, bond, or coupon
25 ceases to be a member, executive director, or officer before the
26 delivery of that note or bond, the signature shall, nevertheless,
27 be valid and sufficient for all purposes, the same as if the

1 member, executive director, or officer had remained in office
2 until the delivery.

3 (6) The authority may obtain or pledge letters of credit,
4 lines of credit, insurance policies, surety bonds, guarantees,
5 remarketing agreements, or other security arrangements. The
6 amount available under letters of credit, insurance policies,
7 surety bonds, guarantees, or other security arrangements pledged
8 to the reserve fund shall be credited toward the reserve fund
9 requirement for the fund.

10 (7) The authority may authorize payment from the proceeds of
11 the notes or bonds, or other funds available, of the cost of
12 issuance, including, but not limited to, fees for placement,
13 charges for insurance, letters of credit, lines of credit, remar-
14 keting agreements, reimbursement agreements, or purchase or sales
15 agreements or commitments, or agreements to provide security to
16 assure timely payment of notes or bonds.

17 Sec. 9. (1) The notes and bonds shall be authorized by res-
18 olution of the authority and mature at the time provided in the
19 resolution. The notes and bonds shall be in a form, bear inter-
20 est at a rate or rates, be in the denominations, carry registra-
21 tion privileges, be payable, and be subject to the terms of
22 redemption as provided in the resolution.

23 (2) Bonds or notes of the authority may be sold by the
24 authority at public or private sales at prices the authority
25 determines.

26 (3) An authority bond or note is not subject to the revised
27 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The

1 issuance of bonds and notes under this act is subject to the
2 agency financing reporting act, 2002 PA 470, MCL 129.171 to
3 129.177.

4 Sec. 10. A resolution relating to authorizing notes or
5 bonds may contain any of the following provisions, which shall be
6 part of the contract with the holders of the notes or bonds:

7 (a) Pledging all or any part of authority revenues, and all
8 or any part of the money received in payment of loans and inter-
9 est on loans, and other money received or to be received to
10 secure the payment of the notes or bonds.

11 (b) Pledging all or any part of the assets of the authority,
12 including mortgages and obligations obtained by the authority
13 with its programs to secure the payment of the notes or bonds.

14 (c) Pledging all or any part of the payments of principal or
15 interest received by the authority on obligations or other
16 investments held by the authority.

17 (d) Pledging any loan, grant, or contribution.

18 (e) The setting aside of reserves or sinking funds and the
19 regulation and disposition of reserves or sinking funds.

20 (f) Limitations on the purpose to which the proceeds of sale
21 of notes or bonds may be applied and pledging proceeds to secure
22 the payment of the notes or bonds.

23 (g) Limitations on a right to sell or otherwise dispose of
24 property of any kind.

25 (h) Limitations on the issuance of additional notes or
26 bonds, the terms upon which additional notes or bonds may be

1 issued and secured, and the refunding of outstanding or other
2 notes or bonds.

3 (i) The procedure, if any, by which the terms of any con-
4 tract with noteholders or bondholders may be amended or abro-
5 gated, the amount of notes or bonds the holders of which shall
6 consent to the amendment or abrogation, and the manner in which
7 the consent is to be given.

8 (j) Vesting in a trustee or trustees property, rights,
9 powers, and duties in trust as the authority may determine, which
10 may include any of the rights, powers, and duties of the trustee
11 appointed by the bondholders under this act and limiting or abro-
12 gating the right of the bondholders to appoint a trustee under
13 this section or limiting the rights, powers, and duties of the
14 trustee.

15 (k) Establishing a contractual right to require mandatory
16 tender for purchase of the notes or bonds in an instrument sepa-
17 rate from the notes or bonds. The instrument may be issued or
18 sold by the authority to investors.

19 (l) Except as otherwise prohibited by this act, any other
20 provision that may affect the security or protection of the notes
21 or bonds.

22 (m) Delegating to an officer or other employee of the
23 authority, or an agent designated by the authority, for a period
24 of time the authority determines, the power to cause the issue,
25 sale, and delivery of the notes or bonds within limits on those
26 notes or bonds established by the authority regarding any of the
27 following:

- 1 (i) The form.
- 2 (ii) The maximum interest rate or rates.
- 3 (iii) The maturity date or dates.
- 4 (iv) The purchase price.
- 5 (v) The denominations.
- 6 (vi) The redemption premiums.
- 7 (vii) The nature of the security.
- 8 (viii) The selection of the applicable interest rate index.
- 9 (ix) Other terms and conditions with respect to issuance of
10 the notes or bonds that the authority shall prescribe.
- 11 (n) Establishing the payment of the principal or interest on
12 the bonds or notes, sources and methods of that payment, rank or
13 priority of the bonds or notes with respect to a lien or securi-
14 ty, or the acceleration of the maturity of the bonds or notes.
- 15 (o) Creating or authorizing the creation of special funds or
16 money to be held in pledge or otherwise for operating expenses,
17 payment or redemption of bonds or notes, reserves, or other pur-
18 poses, and the use and disposition of the money held in the spe-
19 cial funds.
- 20 (p) Providing for the rights and liabilities, powers, and
21 duties arising upon the breach of a covenant, condition, or obli-
22 gation, and to prescribe events of default and the terms and con-
23 ditions upon which any or all of the bonds, notes, or other obli-
24 gations of the authority shall become or may be declared due and
25 payable before maturity, and the terms and conditions upon which
26 a declaration and its consequences may be waived.

1 (q) Limitations on the rights of the holders of bonds or
2 notes to enforce a pledge or covenant securing bonds or notes.

3 Sec. 11. (1) The authority may create and establish 1 or
4 more special funds as reserve funds to secure notes and bonds of
5 the authority. The authority shall pay into each reserve fund
6 money appropriated and made available by this state for the pur-
7 pose of that reserve fund, proceeds of the sale of bonds or notes
8 to the extent provided for in the authorizing resolution of the
9 authority, and any other money that is made available to the
10 authority for the purpose of the reserve fund from any other
11 source.

12 (2) In the resolution authorizing the issuance of notes or
13 bonds, the authority may establish a reserve fund for the payment
14 of the principal and interest of notes or bonds, for the purchase
15 or redemption of the notes or bonds, payment of a redemption pre-
16 mium required to be paid when the notes or bonds are redeemed
17 before maturity, or for sinking fund payments. The authority
18 shall not use a reserve fund for an optional purchase or optional
19 redemption of notes or bonds if the use would reduce the total of
20 the money in the reserve fund to less than the reserve fund
21 requirement established for the fund. Unless the authorizing
22 resolution of the authority provides otherwise, the reserve fund
23 shall be a fund for all the bonds and notes issued pursuant to a
24 particular resolution without distinction or priority of any bond
25 or note over another.

26 (3) Income or interest earned by a reserve fund or any other
27 money in the reserve fund may be transferred by the authority to

1 other funds or accounts of the authority to the extent the
2 transfer does not reduce the amount of that reserve fund below
3 the requirements for that reserve fund.

4 Sec. 12. (1) Any pledge made by the authority is valid and
5 binding from the date that the pledge is made.

6 (2) The money or property pledged and received by the
7 authority shall immediately be subject to the lien of the pledge
8 without any physical delivery or further act, and the lien of the
9 pledge is valid and binding against all parties having claims in
10 tort, contract, or otherwise against the authority, irrespective
11 of whether the parties have notice of the lien.

12 (3) The resolution or any other instrument by which a pledge
13 is created need not be recorded to establish and perfect a lien
14 or security interest.

15 Sec. 13. The members of the board or any person executing
16 the notes or bonds under this act is not liable personally on the
17 notes or bonds or subject to any personal liability or account-
18 ability by reason of the issuance of the notes or bonds.

19 Sec. 14. Subject to any agreements with noteholders or
20 bondholders, the authority has the power to use any funds avail-
21 able to purchase notes or bonds of the authority at a price
22 determined by the authority or to hold, cancel, or resell author-
23 ity bonds or notes.

24 Sec. 15. This state pledges and agrees with the holders of
25 any notes or bonds issued under this act that this state will not
26 limit or alter the rights vested in the authority to fulfill the
27 terms of any agreements made with the holders, or in any way

1 impair the rights and remedies of the holders until the notes or
2 bonds, together with earned interest, with interest on any unpaid
3 installments of interest, and all costs and expenses in connec-
4 tion with any action or proceeding by or on behalf of the hold-
5 ers, are fully met and discharged. The authority is authorized
6 to include this pledge and agreement of this state in any agree-
7 ment with the holders of notes or bonds under this act.

8 Sec. 16. (1) If the authority defaults in the payment of
9 principal or interest of any notes or bonds when due, whether at
10 maturity or upon call for redemption, and the default continues
11 for a period of 30 days, or if the authority fails or refuses to
12 comply with this act, or defaults in any agreement made with the
13 holders of any notes or bonds, the holders of 51% or more in
14 aggregate principal amount of the notes or bonds of that issue
15 then outstanding may apply to the circuit court of Ingham county
16 for the appointment of a trustee to represent the holders of the
17 notes or bonds.

18 (2) A trustee appointed under this act may, and upon the
19 written request of the holders of 51% or more in aggregate prin-
20 cipal amount of the notes or bonds of that issue then outstanding
21 shall, do 1 or more of the following:

22 (a) Enforce all rights of the bondholders or noteholders,
23 including the right to require the authority to perform its
24 duties under this act.

25 (b) Bring suit upon the notes or bonds.

1 (c) Require the authority to account as if it were the
2 trustee of an express trust for the holders of the notes or
3 bonds.

4 (d) Enjoin any acts or things that may be unlawful or in
5 violation of the rights of the holders of the notes or bonds.

6 (e) Declare the notes or bonds due and payable. If all
7 defaults are made good, then, with the consent of the holders of
8 51% or more of the aggregate principal amount of those notes or
9 bonds then outstanding, the trustee shall annul the declaration
10 that the notes or bonds are due and payable and its
11 consequences.

12 (3) Before declaring the principal of notes or bonds due and
13 payable, the trustee shall first give 30 days' notice in writing
14 to the governor, to the authority, to the state treasurer, and to
15 the attorney general.

16 (4) The trustee has all of the powers necessary or appropri-
17 ate for the general representation of bondholders or noteholders
18 in the enforcement and protection of their rights.

19 (5) An action under this section shall be brought in the
20 circuit court for the county of Ingham.

21 Sec. 17. (1) Money of the authority shall be held by the
22 authority and deposited in a financial institution approved by
23 the state treasurer, which financial institution may give secur-
24 ity for the deposits.

25 (2) The authority may, subject to the approval of the state
26 treasurer, contract with the holders of any of its notes or bonds
27 regarding the custody, collection, securing, investment, and

1 payment of money of the authority, of any money held in trust or
2 otherwise for the payment of notes or bonds, and to carry out the
3 contract. Money held in trust or otherwise for the payment of
4 notes or bonds or in any way to secure notes or bonds and depos-
5 its of money may be secured in the same manner as money of the
6 authority.

7 (3) The authority may enter into an interest rate exchange
8 or swap, hedge, or similar agreement or agreements in connection
9 with the issuance of its notes or bonds or in connection with its
10 then outstanding notes or bonds.

11 Sec. 18. The notes and bonds of the authority are securi-
12 ties in which public officers and bodies of this state and munic-
13 ipalities and municipal subdivisions, insurance companies and
14 associations and other persons carrying on an insurance business,
15 banks, trust companies, savings banks and savings associations,
16 savings and loan associations, investment companies, administra-
17 tors, guardians, executors, trustees and other fiduciaries, and
18 any other person who is now or may be authorized to invest in
19 bonds or other obligations of this state, may properly and
20 legally invest funds, including capital, in their control or
21 belonging to them.

22 Sec. 19. This state covenants with the purchasers and all
23 subsequent holders and transferees of notes and bonds issued by
24 the authority, in consideration of the acceptance of and payment
25 for the notes and bonds, that the notes and bonds of the authori-
26 ty, issued under this act and the income from the notes and bonds
27 and all its fees, charges, grants, revenues, receipts, and other

1 money received or to be received, pledged to pay or secure the
2 payment of the notes or bonds are exempt from all state, city,
3 county, or other taxation provided.

4 Sec. 20. The property of the authority and its income and
5 operation are devoted to an essential public and governmental
6 function and purpose and are exempt from all taxation and special
7 assessments by this state or any of its political subdivisions.

8 Sec. 21. (1) A public school or developer may borrow money
9 and issue obligations in accordance with the laws of this state.
10 The security for obligations shall be that provided by the laws
11 authorizing their issuance. The authority may require a public
12 school or a developer to pledge, and the public school or the
13 developer may pledge, for the payment of the obligation purchased
14 by the authority money received or to be received by the public
15 school or the developer whether derived from imposition of taxes
16 by this state or from other sources and returned or to be
17 returned to the public school or the developer as provided by law
18 except for money the use of which is prohibited for those pur-
19 poses by the state constitution of 1963. If the authority and
20 the public school enter into an agreement, the state treasurer
21 shall pay the pledged money in accordance with the provisions of
22 the agreement.

23 (2) Notwithstanding the provisions of a charter or statute
24 applicable to or constituting a limitation on the maximum rate of
25 interest per annum payable on bonds or notes, or as to annual
26 interest cost of money borrowed or received upon issuance of
27 bonds or notes, a public school or developer may contract to pay

1 no interest or interest that may be a variable rate on money
2 borrowed from the authority and evidenced by the obligations pur-
3 chased by the authority. A public school or developer may con-
4 tract with the authority with respect to a loan from the author-
5 ity or an obligation purchased by the authority. The contract
6 may also provide for agreements by the public school or developer
7 with respect to the entity's fiscal, budget, debt and cash man-
8 agement, and accounting matters as the authority requests.

9 (3) The authority may charge a fee for a public school or
10 developer to utilize its services. A public school is authorized
11 to pay a fee to an authority to utilize its services.

12 Sec. 22. (1) Upon the sale and issuance of obligations to
13 the authority by a public school or developer, that public school
14 or developer shall be held and considered to have agreed to all
15 of the following if the developer fails to pay the interest on or
16 the principal of the obligations held or owned by the authority
17 when due and payable:

18 (a) That the public school or developer waives all and any
19 defenses to the nonpayment and the authority upon the nonpayment
20 shall constitute a holder or owner of the obligations in
21 default.

22 (b) That, notwithstanding the provisions of any other law as
23 to time or duration of default or percentage of holders or owners
24 of obligations entitled to exercise rights of holders or owners
25 of obligations in default, or entitled to invoke any remedies or
26 powers of holders or owners of or of a trustee in connection with
27 or of a board, body, agency, or commission of this state having

1 jurisdiction in the matter or circumstances of obligations in
2 default, the authority may immediately avail itself of all other
3 remedies, rights, and provisions of law applicable in that
4 circumstance.

5 (c) That the failure to exercise or exert any rights or rem-
6 edies within any time or period provided by law shall not be
7 raised as a defense by that public school or developer.

8 (d) That all of the obligations of the issue of obligations
9 of that public school or developer as to which there has been a
10 nonpayment shall for all of the purposes of this section be held
11 and considered to have become due and payable and to be unpaid.

12 (2) The authority may carry out the provisions of this sec-
13 tion and exercise all of the rights and remedies and provisions
14 of law provided or referred to in this section.

15 Sec. 23. The authority shall prepare and submit an annual
16 report to the center for educational performance and information
17 that will include the total number of bond issues, dollar amount
18 of the bond issues, number of public schools assisted, the geo-
19 graphic distribution of the bond financing, and the types of
20 facilities financed.

21 Sec. 24. All the powers, duties, functions, responsibili-
22 ties, debts, and liabilities, including, but not limited to, out-
23 standing bonds, notes, and other obligations, of the Michigan
24 public educational facility authority described in Executive
25 Order No. 2002-3, MCL 12.192, are transferred to the authority by
26 a type II transfer as described in section 3 of the executive
27 reorganization act of 1965, 1965 PA 380, MCL 16.103.