

HOUSE BILL No. 4805

May 10, 1989, Introduced by Rep. Jacobetti and referred to the Committee on Appropriations.

A bill to amend sections 7 and 8 of Act No. 183 of the Public Acts of 1964, entitled as amended

"An act creating the state building authority with power to acquire, construct, furnish, equip, own, improve, enlarge, operate, mortgage, and maintain buildings, necessary parking structures or lots and facilities, and sites therefor, or furnishings or equipment for the use of the state or any of its agencies; to act as a developer or co-owner of buildings, necessary parking structures or lots, and facilities, and sites therefor as a condominium project for the use of the state or any of its agencies; to authorize the execution of leases pertaining to such properties, facilities, furnishings, or equipment by the building authority with the state or any of its agencies; to authorize the payment of true rentals by the state; to provide for the issuance of revenue obligations by the building authority to be paid from the true rentals to be paid by the state and other resources and security provided for and pledged by the building authority; to authorize the creation of funds; to authorize the conveyance of lands by the state or any of its agencies for the purposes herein authorized; to authorize the appointment of a trustee for bondholders and to permit remedies for the benefit of bondholders; and to provide for other matters in relation thereto,"

section 7 as amended by Act No. 248 of the Public Acts of 1988 and section 8 as amended by Act No. 119 of the Public Acts of

1987, being sections 830.417 and 830.418 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 7 and 8 of Act No. 183 of the Public
2 Acts of 1964, section 7 as amended by Act No. 248 of the Public
3 Acts of 1988 and section 8 as amended by Act No. 119 of the
4 Public Acts of 1987, being sections 830.417 and 830.418 of the
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 7. (1) The state may lease, from the building author-
7 ity for public purposes within the concepts provided in this act,
8 facilities, upon terms and conditions agreed upon and subject to
9 the limitations and provisions provided in section 6. Before
10 execution, a lease shall be approved by the state administrative
11 board and, except as provided in subsection (2), by concurrent
12 resolution of the legislature concurred in by a majority of the
13 members elected to and serving in each house. The votes and
14 names of the members voting shall be entered in the journal. The
15 lease as approved by the building authority and the STATE admin-
16 istrative board, and, if required, the legislature or an institu-
17 tion of higher education, may provide for a determinable true
18 rental as a range as permitted under section 1(e). If a lease is
19 approved containing a true rental stated as a range, then actual
20 rental to be paid under the lease shall be fixed within the range
21 approved at an amount certified by the appraiser and thereafter
22 approved by the state administrative board and the building
23 authority. A lease shall not be executed with a true rental
24 based upon an appraisal that is more than 1 year old at the time

1 of execution. The state shall pay to the building authority or
2 its assignee the true rental at the times, in the manner, and at
3 the place specified in the lease. The governor and the budget
4 director shall include in the annual budget of the state for each
5 year an amount fully sufficient to pay the true rental required
6 to be paid by the state to the building authority or its assignee
7 required by any lease under this act. If the lease is for an
8 institution of higher education, then in addition, the lease
9 shall be authorized by the institution of higher education and
10 signed by its authorized officers.

11 (2) FOR A CONSTRUCTION PROJECT INITIALLY AUTHORIZED IN AN
12 APPROPRIATIONS ACT FOR THE 1989-90 FISCAL YEAR OR A FISCAL YEAR
13 AFTER THE 1989-90 FISCAL YEAR FOR AN INSTITUTION OF HIGHER EDUCA-
14 TION, THE INSTITUTION OF HIGHER EDUCATION SHALL PAY 20% OF THE
15 TRUE RENTAL REQUIRED FOR THE CONSTRUCTION PROJECT. THE STATE
16 TREASURER SHALL DEDUCT 20% OF THE ANNUAL TRUE RENTAL FROM THE
17 OPERATIONAL FUNDS ANNUALLY APPROPRIATED TO THAT INSTITUTION OF
18 HIGHER EDUCATION UNTIL THE BONDS ISSUED FOR THE CONSTRUCTION
19 PROJECT, OR OBLIGATIONS ISSUED TO REFUND THOSE BONDS, ARE
20 RETIRED. MONEY DEDUCTED AS PROVIDED IN THIS SUBSECTION SHALL BE
21 USED TO PAY THE STATE'S TRUE RENTAL AS REQUIRED BY SUBSECTION
22 (1).

23 (3) ~~-(2)-~~ The state, except institutions of higher educa-
24 tion, may lease from the building authority property that is com-
25 prised only of furnishings or equipment if all of the following
26 requirements are met:

1 (a) Before a lease that is only for furnishings or equipment
2 is executed, the general form of the lease shall be approved by
3 concurrent resolution of the legislature concurred in by a major-
4 ity of the members elected to and serving in each house. The
5 form of the lease approved by the legislature need not contain a
6 description of the property to be leased or the rental or a
7 rental range. However, before the state executes the lease, the
8 description of the property to be leased and the rental shall be
9 approved by the state administrative board as provided in subsec-
10 tion (1). The concurrent resolution of the legislature approving
11 the form of lease shall also approve a maximum amount of furnish-
12 ings and equipment that may be leased during the 12 months fol-
13 lowing the approval of the lease pursuant to the form of lease
14 approved.

15 (b) A lease that is only for furnishings or equipment shall
16 be executed only if the furnishings or equipment are for use by a
17 state agency as determined under the management and budget act,
18 Act No. 431 of the Public Acts of 1984, being sections 18.1101 to
19 18.1594 of the Michigan Compiled Laws.

20 Sec. 8. (1) The building authority, by resolution or reso-
21 lutions of its board, may provide for the issuance of revenue
22 obligations, which may include revenue bonds, revenue notes, or
23 other evidences of revenue indebtedness, and refunding revenue
24 bonds, notes, or other refunding evidences of indebtedness, the
25 obligations for which shall not become a general obligation of
26 the state or a charge against the state, but all revenue
27 obligations and the interest on the revenue obligations and the

1 call premiums for the revenue obligations shall be payable solely
2 from true rental, except to the extent paid from the proceeds of
3 sale of revenue obligations and any additional security provided
4 for and pledged, or from other funds as provided in this act, and
5 each revenue obligation shall have such a statement printed on
6 the face of the revenue obligation. If the resolution of the
7 building authority provides for interest coupons to be attached
8 to any revenue obligation, each interest coupon shall have a
9 statement printed on the coupon that the coupon is not a general
10 obligation of the state or the building authority but is payable
11 solely from certain revenues as specified in the revenue
12 obligation. Revenue obligations may be issued for the purpose of
13 paying part or all of the costs of the facilities or for the pur-
14 pose of refunding or advance refunding, in whole or in part, out-
15 standing revenue obligations issued pursuant to this act whether
16 the obligations to be refunded or advance refunded have matured
17 or are redeemable or shall mature or become redeemable after
18 being refunded. The cost of the facilities may include an allow-
19 ance for legal, engineering, architectural, and consulting serv-
20 ices; ~~—~~ interest on revenue obligations becoming due before the
21 collection of the first true rental available for the payment of
22 those revenue obligations; a reserve for the payment of princi-
23 pal, interest, and redemption premiums on the revenue obligations
24 of the authority; and other necessary incidental expenses includ-
25 ing, but not limited to, placement fees and fees or charges for
26 insurance, letters of credit, lines of credit, remarketing
27 agreements, or commitments to purchase obligations issued

1 pursuant to this act or any other fees or charges for any other
2 security provided to assure timely payment of the obligations.

3 (2) The proceeds of a revenue obligation issue may be used
4 to pay the cost of facilities that are subject to more than 1
5 lease if both of the following are true:

6 (a) The resolution authorizing the revenue obligations pro-
7 vides for the use of a specific allocable portion of the revenue
8 obligation proceeds to pay the estimated cost of each of the
9 facilities, together with the allocable portion of the reserves,
10 discount, interest on the obligations becoming due before the
11 first true rental available for payment of the obligations, and
12 obligation issuance expense with respect to each facility.

13 (b) The true rental and other funds of the building author-
14 ity and other security as provided in this act available for the
15 revenue obligations including other funds as provided in this act
16 are sufficient to pay the allocable portion of the revenue obli-
17 gation issue for which the true rental and other funds and secur-
18 ity are pledged.

19 (3) Revenue obligations that refund outstanding obligations
20 may include the payment of interest accrued, or to accrue, to the
21 earliest or any subsequent date of redemption, purchase, or matu-
22 rity of the revenue obligations to be refunded, redemption premi-
23 um, if any, and any commission, service fee, and other expense
24 necessary to be paid in connection with revenue obligations that
25 refund outstanding obligations. Proceeds of refunding revenue
26 obligations may also be used to pay part of the cost of issuance
27 of the refunding revenue obligations, interest on the refunding

1 revenue obligations, a reserve for the payment of principal,
2 interest, and redemption premiums on the refunding revenue obli-
3 gations, and other necessary incidental expenses including, but
4 not limited to, placement fees and fees or charges for insurance,
5 letters of credit, lines of credit, remarketing agreements, or
6 commitments to purchase obligations issued pursuant to this act
7 or any other fees or charges for any other security provided to
8 assure timely payment of the obligations. The building authority
9 may also provide for the withdrawal of ~~any funds~~ MONEY from any
10 reserve created for the payment of principal, interest, and
11 redemption premiums on the refunded obligations and for the
12 deposit of ~~those funds~~ THAT MONEY in the reserve for the pay-
13 ment of principal, interest, and redemption premiums on the
14 refunding obligations or may provide for use of that reserve
15 money to pay principal, interest, and redemption premiums on the
16 obligations to be refunded. Obligations issued to refund out-
17 standing obligations may be issued in a principal amount greater
18 than, the same as, or less than the principal amount of the obli-
19 gations to be refunded, and subject to the maximum rate of inter-
20 est provided in subsection (8), may bear interest rates that are
21 higher than, the same as, or lower than the interest rates of the
22 obligations to be refunded. If obligations are issued to refund
23 outstanding obligations of the authority, a lease whose rental
24 has been pledged for repayment of the obligations to be refunded
25 shall not be terminated solely by reason of the payment or provi-
26 sion for payment of the obligations to be refunded, and the lease

1 and all of the rights and obligations under the lease shall
2 remain in full force and effect in accordance with its terms.

3 (4) Except as otherwise provided in this section, income or
4 profit derived from the investment of money in any of the funds
5 or accounts of the building authority, including the proceeds of
6 sale of the revenue obligations, may be used by the building
7 authority only for the purpose of paying principal, interest, and
8 redemption premiums on the revenue obligations of the building
9 authority, or for any purpose for which the proceeds of the reve-
10 nue obligations may be used under this act, as determined by the
11 resolution of the board authorizing the issuance of revenue
12 obligations.

13 (5) The board may authorize by resolution the person
14 appointed by the building authority as its chief operating offi-
15 cer or chief staff person to issue and deliver obligations for
16 and on behalf of the building authority, if the authorization
17 limits or prescribes the maximum interest rates, minimum price,
18 maximum principal amount, and the latest maturity date of the
19 obligations.

20 (6) To the extent provided by resolution of the board, prin-
21 cipal of, and interest and redemption premiums on, revenue obli-
22 gations issued for the purpose of paying all or part of the cost
23 of the facilities shall be secured by and payable only from any
24 or all of the following sources:

25 (a) The true rental derived from the facilities constructed
26 or acquired with the proceeds of the revenue obligations.

1 (b) The proceeds of revenue obligations.

2 (c) The reserve, if any, established for the payment of
3 principal of, or interest or redemption premiums on, the
4 obligations.

5 (d) The proceeds of any insurance, letter of credit, or line
6 of credit acquired as security for the revenue obligations.

7 (e) The proceeds of any obligations issued to refund the
8 revenue obligations.

9 (f) The proceeds of the foreclosure or enforcement of any
10 mortgage, security interest, or deed of trust on the facilities
11 financed by the revenue obligations granted by the authority as
12 security for the revenue obligations.

13 (g) Other funds of the authority not previously pledged for
14 other obligations of the authority, including funds of the
15 authority derived from rentals and other revenues, investment
16 income or profit, or funds or accounts relating to other
17 facilities.

18 (h) Investment earnings and profits on any or all of the
19 sources described in subdivisions (a) to (g).

20 (7) To the extent provided by resolution of the board, prin-
21 cipal of, and interest and redemption premiums on, refunding rev-
22 enue obligations shall be secured by and payable only from any or
23 all of the following sources:

24 (a) The true rental derived from the facilities constructed
25 or acquired with the proceeds of the obligations being refunded.

26 (b) The proceeds of the refunding obligations.

1 (c) The reserve, if any, established for the payment of the
2 principal of, or interest and redemption premiums on, the
3 refunding obligations or the obligations to be refunded.

4 (d) The proceeds of any insurance, letter of credit, or line
5 of credit acquired as security for the revenue obligations.

6 (e) The proceeds of any obligations issued to refund the
7 refunding obligations.

8 (f) The proceeds of the foreclosure or enforcement of any
9 mortgage, security interest, or deed of trust on the facilities
10 financed from the proceeds of the obligations being refunded,
11 granted by the authority as security for the refunding
12 obligations.

13 (g) Other funds of the authority not previously pledged for
14 other obligations of the authority, including other funds of the
15 authority derived from rentals and other revenues, investment
16 income or profit, or funds or accounts relating to other
17 facilities.

18 (h) Investment earnings or profits on any of the sources
19 described in subdivisions (a) to (g).

20 (8) Obligations issued under this act may be either serial
21 obligations or term obligations, or any combination of serial or
22 term obligations. The obligations shall mature not more than 40
23 years from their date, and in any event not more than 1 year from
24 the due date of the last true rental pledged for the payment of
25 the obligations, and may bear interest at fixed or variable
26 interest rates, or may be without stated interest, but the net
27 interest rate or rates of interest, taking into account any

1 discount on the sale of the obligations, shall not exceed 18% or
2 a higher rate if permitted by the municipal finance act, Act
3 No. 202 of the Public Acts of 1943, as amended, being sections
4 131.1 to 139.3 of the Michigan Compiled Laws. The obligations
5 may be sold at a discount. In the resolution or resolutions
6 authorizing the issuance of the obligations, the board shall
7 determine the principal amount of the obligations to be issued,
8 the registration provisions, the date of issuance, the obligation
9 numbers, the obligation denominations, the obligation designa-
10 tions, the obligation maturities, the interest payment dates, the
11 paying agent or paying agents or the method of selection of the
12 agent or agents, the rights of prior redemption of the obliga-
13 tions, the rights of the holders to require prepayment of the
14 principal of or interest on the obligations, the maximum rate of
15 interest, the method of execution of the obligations, and such
16 other provisions respecting the obligations, the rights of the
17 holders of the obligations, the security for the obligations, and
18 the procedures for disbursement of the obligation proceeds and
19 for the investment of the proceeds of obligations and money for
20 the payment of obligations. However, the determination of inter-
21 est rates, maturities, principal amounts, denominations, dates of
22 issuance, interest payment dates, redemption rights, and prepay-
23 ment rights may, within limits set by the board, be made by the
24 chief operating officer or chief staff person of the building
25 authority, as provided in this act.

26 (9) The board in the resolution or resolutions authorizing
27 the issuance of obligations may provide for the assignment of the

1 true rental to be paid by the state under the lease or leases to
2 1 of the paying agents for the obligations or to a trustee, as
3 provided in this act, in which case the state shall pay the
4 rental to the paying agent or trustee. For the purposes and
5 within the limitations set forth in this act, the board may by
6 resolution covenant to issue or cause to be issued, or use its
7 best efforts to issue or cause to be issued, refunding revenue
8 obligations to refund any obligations issued under this act.

9 (10) The board in the resolution, or resolutions, authoriz-
10 ing the obligations may provide for the terms and conditions upon
11 which the holders of the obligations, or any portion of the obli-
12 gations or any trustee for the obligations, shall be entitled to
13 the appointment of a receiver. The receiver may enter and take
14 possession of the facility, may lease and maintain the facility,
15 may prescribe rentals, and MAY collect, receive, and apply income
16 and revenues thereafter arising from the facility in the same
17 manner and to the same extent that the authority is so
18 authorized. The resolution or resolutions may provide for the
19 appointment of a trustee for the holders of the obligations, may
20 give to the trustee the appropriate rights, duties, remedies, and
21 powers, with or without the execution of a deed of trust or mort-
22 gage, necessary and appropriate to secure the obligations, and
23 may provide that the principal of and interest on any obligations
24 issued under this act shall be secured by a mortgage, security
25 interest, or deed of trust covering the facility, which mortgage,
26 security interest, or deed of trust may contain such covenants,
27 agreements, and remedies as will properly safeguard the

1 obligations as may be provided for in the resolution or
2 resolutions authorizing the obligations, including the right to
3 sell the facility upon foreclosure sale, not inconsistent with
4 this act.

5 (11) All obligations and the interest coupons, if any,
6 attached to the obligations are declared to be fully negotiable
7 and to have all of the qualities incident to negotiable instru-
8 ments under the uniform commercial code, Act No. 174 of the
9 Public Acts of 1962, as amended, being sections 440.1101 to
10 440.11102 of the Michigan Compiled Laws, subject only to the pro-
11 visions for registration of the obligations which may appear on
12 the obligations. The obligations and interest on the obligations
13 shall be exempt from all taxation by the state or any of its
14 political subdivisions.

15 (12) Unless an exception from prior approval is available
16 pursuant to subsection (17), the issuance of the obligations
17 ~~shall be~~ IS subject to approval of the department of treasury
18 under Act No. 202 of the Public Acts of 1943, as amended, but Act
19 No. 202 of the Public Acts of 1943, as amended, except as other-
20 wise provided in this act, ~~shall~~ IS not ~~be~~ applicable to the
21 issuance of obligations. The department of treasury shall issue
22 its order of approval when it has determined all of the
23 following:

24 (a) That the revenues, properties, and other securities
25 pledged for revenue obligations are sufficient.

26 (b) That, to the extent authorized by the building
27 authority, insurance, letters of credit, irrevocable commitments

1 to purchase revenue obligations, or other transactions to provide
2 separate security to assure timely payment of any revenue obliga-
3 tions of the building authority have been provided and, in fact,
4 do provide resources, when taken with true rental and proceeds
5 authorized by this act, for the prompt repayment of the revenue
6 obligations.

7 (c) That the purpose for which the revenue obligations are
8 issued and the manner in which the revenue obligations are pro-
9 posed to be issued comply with this act.

10 (13) When prior approval is required, the department of
11 treasury may approve the issuance from time to time of obliga-
12 tions to refinance by refunding any obligations at the same time
13 it approves the issuance of the obligations to be refunded. The
14 department of treasury may require the building authority to file
15 with the department of treasury periodic reports and information
16 as the department of treasury considers necessary. The depart-
17 ment of treasury shall have the enforcement and remedial powers
18 with respect to the building authority and its obligations as may
19 be provided by Act No. 202 of the Public Acts of 1943, as
20 amended, or other provisions of law.

21 (14) The obligations may be sold at private or at public
22 sale. If sold at public sale, notice of the sale of the obliga-
23 tions shall be published once at least 7 days before the date of
24 sale in a publication approved by the department of treasury as a
25 publication carrying as part of its regular services notices of
26 sale of municipal bonds and in a newspaper of general circulation
27 published in the state.

1 (15) The building authority may issue additional obligations
2 of equal standing with respect to the pledge of the true rentals
3 and any additional security provided pursuant to this section
4 with previously issued obligations of the building authority
5 issued to acquire or construct a facility or facilities, or to
6 refund the obligations, for the purpose of completing, making
7 additions, improvements, or replacements to the facility or
8 facilities for which the previous obligations of the authority
9 were issued or to refund all or part of any obligations previ-
10 ously issued for any such facility, under the terms and condi-
11 tions provided in the resolution authorizing the previous issue
12 of obligations.

13 (16) The authority shall not have obligations outstanding at
14 any 1 time for any of its corporate purposes in a principal
15 amount totaling more than ~~-\$1,350,000,000.00-~~ \$1,850,000,000.00,
16 which limitations shall not include principal appreciation as
17 provided in subsection (19) or obligations or portions of obliga-
18 tions used to pay for any of the following:

19 (a) Amounts set aside for payment of interest becoming due
20 before the collection of the first true rental available.

21 (b) Amounts set aside for a reserve for payment of princi-
22 pal, interest, and redemption premiums.

23 (c) Costs of issuance of the obligations and the discount,
24 if any, on sale.

25 (d) The sums expected to be set aside for the purposes pro-
26 vided in subdivisions (a), (b), and (c) for any obligations
27 authorized by the authority but not sold. The amount set aside

1 or expected to be set aside for the purposes provided in
2 subdivisions (a), (b), AND (c) ~~—~~ and ~~(d)~~ THIS SUBSECTION
3 shall be conclusively determined by a certificate setting forth
4 the amounts executed by the executive director of the building
5 authority. In addition, there shall be excluded from the limita-
6 tion obligations issued to refund prior obligations.

7 (17) The requirement of subsection (12) for obtaining the
8 prior approval of the department of treasury before issuing obli-
9 gations under this section shall be subject to sections 10 and 11
10 of chapter III of Act No. 202 of the Public Acts of 1943, being
11 sections 133.10 and 133.11 of the Michigan Compiled Laws, and the
12 department of treasury shall have the same authority as provided
13 by section 11 of chapter III of Act No. 202 of the Public Acts of
14 1943 to issue an order providing or denying an exception from the
15 prior approval required by subsection (12) for obligations autho-
16 rized by this act.

17 (18) The authority may apply and pledge, if not already
18 pledged, all or any unpledged part of the ~~(a)~~ true rental and
19 other revenues of a facility; ~~—(b)~~ income and profit from the
20 investment of money pertaining to a facility; ~~—and (c)~~ OR
21 money in any fund or account of the authority pertaining to a
22 facility, to the payment of the principal, interest, and redemp-
23 tion premiums on revenue obligations of the authority other than
24 those to which the true rental and other revenues, investment
25 income ~~—~~ or profit, or funds or accounts pertain or to pay part
26 or all of the cost of additional facilities to be acquired by the
27 authority for the use of the state. The authority may establish

1 a separate fund into which the rental and other revenues,
2 investment income or profit, or money of any such fund or account
3 shall be deposited to be used to pay principal, interest, and
4 redemption premiums on outstanding obligations of the authority
5 or to acquire facilities for the use of the state. The authority
6 shall not acquire a facility unless the acquisition is approved
7 by the state administrative board and by a concurrent resolution
8 of the legislature approved by a majority of the members elected
9 to and serving in each house. The authority may pledge any or
10 all of the foregoing to the payment of revenue obligations of the
11 authority other than those to which they pertain. If the true
12 rental and other revenues, investment income or profit, or the
13 money in funds or accounts to be applied as specified in this
14 subsection pertain to a facility leased to the state and an
15 institution of higher education pursuant to a lease executed and
16 delivered before January 1, 1983, no application or pledge
17 thereof may be made unless approved by the institution of higher
18 education.

19 (19) If the authority issues an obligation that appreciates
20 in principal amount, the amount of principal appreciation each
21 year on that obligation, after the date of original issuance,
22 shall not be considered to be principal indebtedness for the pur-
23 poses of the limitation in subsection (16) or any other
24 limitation. The appreciation of principal after the date of
25 original issue shall be considered interest and shall be within
26 the interest rate limitations set forth in this act.

1 (20) Of the ~~\$1,350,000,000.00~~ \$1,850,000,000.00 authorized
2 under subsection (16), priority shall be determined by the joint
3 capital outlay committee.