

# HOUSE BILL No. 5957

September 11, 1990, Introduced by Rep. Mathieu and referred to the Committee on Conservation, Recreation and Environment.

A bill to provide for the financing of certain pollution control projects; and to provide for the powers and duties of certain municipalities, including the power to issue bonds for certain purposes.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "municipal pollution control financing act".

3       Sec. 2. As used in this act:

4       (a) "Bonds" means the bonds of a municipality issued as pro-  
5 vided in this act.

6       (b) "Construction" means any action undertaken in the  
7 designing or building of a pollution control facility. This term  
8 includes, but is not limited to, all of the following:

9       (i) Engineering services.

1 (ii) Legal services.

2 (iii) Financial services.

3 (iv) Design of plans and specifications.

4 (v) Acquisition of land or structural components, or both.

5 (vi) Building, erection, alteration, remodeling, or exten-  
6 sion of a pollution control facility.

7 (vii) Remedial action or response activity.

8 (viii) Municipal supervision of the project activities  
9 described in subparagraphs (i) to (vii).

10 (c) "Hazardous substance" means that term as it is defined  
11 in the environmental response act, Act No. 307 of the Public Acts  
12 of 1982, being sections 299.601 to 299.611 of the Michigan  
13 Compiled Laws.

14 (d) "Improvement" means any action undertaken to expand,  
15 rehabilitate, or restore a pollution control facility.

16 (e) "Municipality" means a county, city, township, charter  
17 township, village, or an authority created or established pursu-  
18 ant to the laws of this state.

19 (f) "Pollution control facility" means any works, instrumen-  
20 talities, or equipment necessary or appropriate to provide for  
21 the abatement of air, water, or land pollution.

22 (g) "Project" means construction, improvement, or replace-  
23 ment of air, water, or land pollution control facilities, or a  
24 response activity undertaken by a municipality that is liable for  
25 a release or threatened release of a hazardous substance pursuant  
26 to Act No. 307 of the Public Acts of 1982.

1       (h) "Remedial action" includes, but is not limited to,  
2 cleanup, removal containment, isolation, destruction, or  
3 treatment of a hazardous substance released or threatened to be  
4 released into the environment, monitoring, maintenance, or the  
5 taking of other actions that may be necessary to prevent, mini-  
6 mize, or mitigate injury to the public health, safety, or wel-  
7 fare, or to the environment.

8       (i) "Replacement" means any actions taken to obtain and  
9 install equipment, accessories, or appurtenances during the  
10 useful life of a project of a pollution control facility neces-  
11 sary to maintain the capacity and performance for which the  
12 equipment, accessories, or appurtenances are designed and  
13 constructed.

14       (j) "Response activity" means evaluation, interim response  
15 activity, remedial action, or the taking of other actions neces-  
16 sary to protect the public health, safety, or welfare, or the  
17 environment, or the natural resources. Response activity also  
18 includes health assessments or health effect studies carried out  
19 under the supervision, or with the approval of, the department of  
20 public health, legal costs related to any of the response activi-  
21 ty, and enforcement actions of a municipality to recover costs  
22 from other persons who may be liable.

23       Sec. 3. (1) The legislative body of a municipality may  
24 issue and sell bonds for all of the following purposes:

25       (a) For the construction, improvement, or replacement of a  
26 project.

1 (b) To pay interest on the bonds for the period of time as  
2 determined by the legislative body.

3 (c) To provide for the establishment of a reserve to addi-  
4 tionally secure the bonds in an amount, if any, considered neces-  
5 sary by the legislative body.

6 (d) To pay the costs of issuance of the bonds.

7 (2) The bonds provided for in subsection (1) shall bear  
8 interest not to exceed the maximum rate permitted by the munici-  
9 pal finance act, Act No. 202 of the Public Acts of 1943, being  
10 sections 131.1 to 139.3 of the Michigan Compiled Laws, and be  
11 payable in not more than 40 years from the date of issuance. The  
12 legislative body of the municipality shall determine in the pro-  
13 ceeding authorizing the bonds the denomination or denominations  
14 of the bonds, the date, time, and manner of payment of the bonds,  
15 the rights of prior redemption at the option of the local unit of  
16 government or the holder as is determined by the legislative  
17 body, the dates of payment of interest, the rights of registra-  
18 tion, and other detail as may be necessary to market the bonds.  
19 The bonds may be sold by the municipality at public or private  
20 sale at the time or times, at the price or prices, and at a dis-  
21 count as the legislative body determines. The bonds may be  
22 serial bonds or term bonds with or without mandatory redemption  
23 requirements, or both, as shall be determined by the legislative  
24 body. The bonds may be issued without vote of the electors and  
25 without requirement for publication of any prior notice of intent  
26 to issue the bonds. Except as otherwise provided in this act,  
27 all bonds issued under this act shall be issued and sold and may

1 be refunded in conformity with Act No. 202 of the Public Acts of  
2 1943.

3       Sec. 4. (1) Bonds issued under this act shall be full faith  
4 and credit general obligation bonds of the municipality and the  
5 principal and interest on the bonds shall be payable from any  
6 unrestricted money in th general fund of the municipality, as a  
7 first budget item, and may be paid from the general fund notwith-  
8 standing that those funds from the general fund of the municipal-  
9 ity may have been appropriated for other purposes. It shall be  
10 the duty of every officer of the municipality charged with deter-  
11 mining the amount of and for the certification, levying, and col-  
12 lecting of taxes of the municipality, to include in the ad  
13 valorem tax levy of the municipality each year an amount esti-  
14 mated to be sufficient when taken with the money on hand or esti-  
15 mated to be on hand for the purpose of paying the interest on and  
16 principal of the bonds becoming due, whether by maturity, prior  
17 redemption, or otherwise, prior to the time of the tax collection  
18 of the year following the tax levy. The legislative body of the  
19 municipality, in addition, in the proceedings authorizing the  
20 bonds, may do any of the following:

21       (a) Use, pledge, and create a statutory lien on the net rev-  
22 enues to the municipality of any pollution control facility  
23 within the municipality for the payment of the principal of and  
24 interest on the bonds issued under this act. The use, pledge,  
25 and lien may be a first pledge and lien on the revenues or the  
26 pledge and lien may be subordinate to some other pledge and  
27 statutory lien created on the net revenues.

1 (b) Use, pledge, and create a statutory lien on any state  
2 collected taxes or other state revenues annually appropriated to  
3 the municipality which are not restricted as to the use by the  
4 state constitution of 1963 as additional security for the payment  
5 of the principal and interest on the bonds issued under this  
6 act.

7 (c) Use, pledge, and create a statutory lien on any revenue  
8 that the municipality may receive from the sale or lease of prop-  
9 erty on which a project that included a response activity has  
10 been completed, on any increased tax revenues that are attribut-  
11 able to completion of a project that included a response activi-  
12 ty, and on any money that the municipality may recover from other  
13 persons who may be liable for a response activity.

14 (2) If a pledge is made under subsection (1), and the net  
15 revenues primarily pledged to the payment are insufficient to  
16 make a payment, the municipality shall be obligated to pay the  
17 bonds and interest on the bonds in the same manner and to the  
18 same extent as other general obligation bonds of the municipali-  
19 ty, including the levy, when necessary, of a tax on all taxable  
20 property in the municipality without limitation as to rate or  
21 amount, in addition to all other taxes that the municipality is  
22 authorized to levy, but not exceeding the rate or amount neces-  
23 sary to make the payment.

24 Sec. 5. For statutory and charter debt limitation purposes,  
25 bonds issued under this act shall not be considered to be indebt-  
26 edness of the municipality that issues the bonds. The maximum  
27 amount of bonds that may be issued by a municipality, when taken

1 together with other outstanding indebtedness of the municipality,  
2 may not exceed 10% of the state equalized valuation of the  
3 municipality. The legislative body of the municipality, in the  
4 proceedings authorizing the bonds, may provide for the defeasance  
5 of the bonds by the deposit in trust for the defeasance, cash,  
6 and securities in amounts as provided in the proceedings, that  
7 will provide for payment of principal and interest on the bonds  
8 as the interest becomes due and the principal becomes due at  
9 maturity, redemption, or otherwise, as designated in the resolu-  
10 tion authorizing the bonds, in which event the bonds for all pur-  
11 poses of this act and the proceedings authorizing the bonds are  
12 no longer outstanding and the bondholders, except for those  
13 rights determined to continue to exist in such proceedings autho-  
14 rizing the bonds, no longer have any rights with respect to those  
15 bonds and the security from the bonds.

16       Sec. 6. Two or more municipalities may enter into agree-  
17 ments providing for the joint construction, improvement, or  
18 replacement of projects pursuant to this act, for the joint  
19 ownership and operation of the projects and pollution control  
20 facilities, for the sharing of the costs of the construction,  
21 replacement, or improvement of projects, for the operation of the  
22 projects, and for the issuance of bonds pursuant to this act by  
23 each municipality to pay the share of the cost of the project  
24 payable by each municipality.

25       Sec. 7. The authority granted under this act shall be in  
26 addition to and not in derogation of any power existing in any  
27 municipality under any statutory or charter provisions that it

1 may have or may adopt or be subject to, and the powers granted by  
2 this act may be exercised by a municipality as provided in this  
3 act, notwithstanding that the exercise of the powers may conflict  
4 with the provisions of a municipal charter. The bonds authorized  
5 under this act are not subject to any limitations or provisions  
6 contained in the laws of this state pertaining to municipalities  
7 or in the charters of municipalities, other than as provided for  
8 in this act.

9       Sec. 8. This act shall not take effect unless all of the  
10 following bills of the 85th Legislature are enacted into law:

11       (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5959 (request  
12 no. 05937'90).

13       (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5958 (request  
14 no. 05938'90).

15       (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 5956 (request  
16 no. 05939'90).