

SENATE BILL No. 474

May 24, 1989, Introduced by Senator DE GROW and referred to the Committee on Local Government and Veterans.

A bill to amend the title and sections 1, 2, 5, 7, 9, 10, 11, 12, 12b, and 13 of Act No. 233 of the Public Acts of 1955, entitled as amended

"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; and to provide for the issuance of bonds to acquire, construct, extend, or improve the systems,"

sections 1, 2, 5, 7, 9, 10, 11, 12, and 13 as amended by Act No. 154 of the Public Acts of 1981, being sections 124.281, 124.282, 124.285, 124.287, 124.289, 124.290, 124.291, 124.292, 124.292b, and 124.293 of the Michigan Compiled Laws; and to add section 1a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Section 1. The title and sections 1, 2, 5, 7, 9, 10, 11,
- 2 12, 12b, and 13 of Act No. 233 of the Public Acts of 1955,

1 sections 1, 2, 5, 7, 9, 10, 11, 12, and 13 as amended by Act
2 No. 154 of the Public Acts of 1981, being sections 124.281,
3 124.282, 124.285, 124.287, 124.289, 124.290, 124.291, 124.292,
4 124.292b, and 124.293 of the Michigan Compiled Laws, are amended
5 and section 1a is added to read as follows:

6 TITLE

7 An act to provide for the incorporation of certain municipal
8 authorities to acquire, own, extend, improve, and operate
9 RECREATION FACILITIES, sewage disposal systems, water supply sys-
10 tems, and solid waste management systems; to prescribe the
11 rights, powers, and duties ~~thereof~~ OF THE MUNICIPAL
12 AUTHORITIES; to authorize contracts between ~~such~~ THE MUNICIPAL
13 authorities and public corporations; and to provide for the issu-
14 ance of bonds to acquire, construct, extend, or improve the sys-
15 tems OR FACILITIES.

16 Sec. 1. As used in this act:

17 (a) "Sewage disposal system," includes all interceptor
18 sewers, storm sewers, sanitary sewers, combined sanitary and
19 storm sewers, sewage treatment plants, and all other plants,
20 works, instrumentalities, and properties used or useful in con-
21 nection with the collection, treatment, or disposal of sewage or
22 industrial wastes.

23 (b) "Water supply system," includes all plants, works,
24 instrumentalities, and properties used or useful in connection
25 with obtaining a water supply, the treatment of water, or the
26 distribution of water.

1 (c) "Solid waste management system" includes all plants,
 2 works, instrumentalities, and properties used or useful in
 3 connection with the collection, transportation, processing, or
 4 disposal of discarded or waste materials of any sort, including
 5 access roads and facilities for resource recovery. ~~"Solid~~
 6 waste management system ~~"~~ does not include the storage or dis-
 7 posal of toxic materials.

8 (D) "RECREATION FACILITY" INCLUDES PUBLIC PARK AND RECRE-
 9 ATION AREAS INCLUDING THE LAND, BUILDINGS, AND OTHER STRUCTURES
 10 ON THE LAND, AND EQUIPMENT RELATED TO THE RECREATION FACILITY.

11 (E) ~~-(d)-~~ "Municipality," includes each county, township,
 12 city, or village.

13 (F) ~~-(e)-~~ "Constituent municipality" or "constituent
 14 municipalities" includes all of the municipalities ~~which~~ THAT
 15 signed or became signatories of articles of incorporation of any
 16 authority incorporated under this act. ~~except~~ HOWEVER, if
 17 the authority is incorporated by 2 or more counties, ~~in which~~
 18 ~~event~~ each municipality within the respective territorial limits
 19 of the counties ~~as~~ THAT are either original incorporators or
 20 subsequently become a constituent part of the authorities under
 21 section 6 ~~shall be~~ IS considered ~~to be~~ a constituent munic-
 22 ipality for the purposes of this act.

23 SEC. 1A. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE
 24 "MUNICIPAL AUTHORITIES ACT".

25 Sec. 2. (1) Any 2 or more municipalities may incorporate an
 26 authority for the purpose of acquiring, owning, improving,
 27 enlarging, extending, and operating a RECREATION FACILITY, A

1 sewage disposal system, a water supply system, a solid waste
 2 management system, or a combination of systems OR FACILITIES by
 3 the adoption of articles of incorporation by the legislative body
 4 of each of the municipalities. The fact of the adoption shall be
 5 endorsed on ~~such~~ THE articles of incorporation by the chair-
 6 person of the county board of commissioners and the county clerk
 7 in case of a county; the mayor and clerk in case of a city; the
 8 president and clerk in case of a village; and the supervisor and
 9 clerk in case of a township, in ~~form~~ substantially ~~as follows~~
 10 THE FOLLOWING FORM:

11 "The ~~foregoing~~ ABOVE articles of incorporation were
 12 adopted by the of the of
 13 County, Michigan, at a meeting ~~duly~~ PROPERLY held
 on
 14 the day of, 19....
 15
 16 of said
 17 of said
 18"

19 (2) The authority shall be comprised of the territory lying
 20 within the incorporating municipalities. The articles of incor-
 21 poration shall be published at least once in a newspaper desig-
 22 nated in the articles and having general circulation within the
 23 territory encompassed by the authority. One printed copy of the
 24 articles of incorporation certified as a true copy by the person
 25 or persons designated for the certification, with the date and
 26 place of the publication, shall be filed with the secretary of

1 state and the clerk of the county within which the territory or
2 the major portion of the territory is located. The authority
3 shall become effective at the time provided in the articles of
4 incorporation. The validity of the incorporation shall be con-
5 clusively presumed unless questioned in a court of competent
6 jurisdiction within 60 days after the filing of the certified
7 copies with the secretary of state and the county clerk.

8 Sec. 5. The authority may acquire property for a RECREATION
9 FACILITY, A sewage disposal system, a water supply system, a
10 solid waste management system, or a combination of systems OR
11 FACILITIES by purchase, construction, lease, gift, or devise,
12 either within or without its corporate limits, and may hold,
13 manage, control, sell, exchange, or lease the property. For the
14 purpose of condemnation, the authority may proceed under the pro-
15 visions of Act No. 149 of the Public Acts of 1911, as amended,
16 being sections 213.21 to ~~213.41~~ 213.25 of the Michigan Compiled
17 Laws, or any other statute ~~which~~ THAT grants to any municipal-
18 ity or public body the authority to acquire private property for
19 public use.

20 Sec. 7. (1) The authority and any of its constituent munic-
21 ipalities may enter into a contract or contracts providing for
22 the acquisition, construction, improvement, enlargement, exten-
23 sion, operation, and financing of a RECREATION FACILITY, A sewage
24 disposal system, a water supply system, a solid waste management
25 system, or a combination of systems ~~which~~ OR FACILITIES. THE
26 contract or contracts shall provide for the allocation and
27 payment of the share of the total cost to be borne by each

1 contracting municipality in annual installments for a period of
2 not ~~exceeding~~ MORE THAN 40 years. Each contracting municipal-
3 ity may pledge its full faith and credit for the payment of the
4 obligation in the manner and times specified in the contract or
5 contracts, ~~in which event~~ AND each contracting municipality may
6 THEN include in its annual tax levy an amount sufficient so that
7 the estimated collections from the tax levy will be sufficient to
8 promptly pay when due the portion of the obligation falling due
9 before the time of the following year's tax collection. If the
10 contract or an unlimited tax pledge in support of the contract
11 has been approved by the electors of a municipality, the tax may
12 be in addition to any tax ~~which~~ THAT the municipality may oth-
13 erwise be authorized to levy and may be imposed without limita-
14 tion as to rate or amount but shall not be in excess of the rate
15 or amount necessary to pay the contractual obligation. If at the
16 time of making the annual tax levy ~~—~~ there are other funds on
17 hand earmarked for the payment of the contractual obligation,
18 ~~then~~ credit for those funds may be taken upon the annual levy
19 for the payment of the obligation. Other funds may be raised by
20 each contracting municipality by the use of ~~any, or~~ 1, all, or
21 any combination of the following additional methods:

22 (a) The levy of special assessments on property benefited by
23 a sewage disposal system, water supply system, or a combination
24 of systems, the procedures relative to the levying and collection
25 of the special assessments to conform as near as is applicable to
26 charter or statutory provisions for the levying and collection,

1 except that a petition shall not be required from property
2 owners.

3 (b) The levy and collection of rates or charges to users and
4 beneficiaries of the service or services furnished by the
5 RECREATION FACILITY, sewage disposal system, water supply system,
6 solid waste management system, or combination of systems OR
7 FACILITIES.

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

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

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

17 (2) The contract or contracts may provide for any and all
18 matters relating to the acquisition, construction, operation, and
19 financing of the RECREATION FACILITY, sewage disposal system,
20 water supply system, solid waste management system, or combina-
21 tion of systems ~~as~~ OR FACILITIES THAT are considered necessary,
22 including authorization to the authority to issue bonds secured
23 by the full faith and credit pledges of the contracting munici-
24 palities, as authorized by section 9. The contract or contracts
25 may provide for appropriate remedy or remedies in case of
26 default.

1 Sec. 9. For the purpose of obtaining funds for the
2 acquisition, construction, improving, enlarging, or extending of
3 the RECREATION FACILITY, sewage disposal system, water supply
4 system, solid waste management system, or combination of systems
5 OR FACILITIES authorized by this act, the authority, after the
6 execution of the contract or contracts authorized by sections 7
7 and 8, upon ordinance or resolution adopted by the authority, may
8 issue its negotiable bonds secured by the full faith and credit
9 pledges made by each contracting municipality pursuant to autho-
10 rization contained in this act and the contract or contracts
11 entered into pursuant to sections 7 and 8. The bonds shall
12 mature ~~over~~ not more than 40 years from the date of issuance,
13 and may provide for the use of money received from the sale of
14 the bonds to pay operation and maintenance costs of a RECREATION
15 FACILITY, sewage disposal system, water supply system, or solid
16 waste management system before receipt of the first revenues from
17 the bonds. Except as otherwise provided in this act, the bonds
18 shall be issued and sold and subject to all other applicable pro-
19 visions of THE MUNICIPAL FINANCE ACT, Act No. 202 of the Public
20 Acts of 1943, as amended, being sections 131.1 to ~~138.2~~ 139.3
21 of the Michigan Compiled Laws. The ordinance or resolution
22 authorizing the issuance of the bonds shall have embodied in the
23 bonds the terms of the contract or contracts authorized by sec-
24 tions 7 and 8.

25 Sec. 10. The authority and any constituent or nonconstitu-
26 ent municipality of the authority may contract for the furnishing
27 of RECREATION, water, sewage disposal, or waste management

1 services, or a combination of the services, by the authority to
2 the municipality. The charges or rates specified in a contract
3 shall be subject to change by the authority ~~—~~ if necessary to
4 meet its obligations. The charges or rates to a nonconstituent
5 municipality may be greater than those to constituent
6 municipalities. The authority and any other public corporation
7 may contract for the furnishing of RECREATION, water, sewage dis-
8 posal, or solid waste management system services, or a combina-
9 tion of services, by the other public corporation to the author-
10 ity or may contract for the use by the authority of any of the
11 facilities of the RECREATION FACILITY; water supply system;
12 sewage disposal system, including sewers; solid waste management
13 systems; or a combination of systems OR FACILITIES of the other
14 public corporation. Any lump sum payment for those uses may be
15 considered as a part of the cost of the authority system and may
16 be financed the same as other capital costs are financed under
17 this act. Each contract authorized in this section shall be for
18 a period OF not ~~—exceeding—~~ MORE THAN 40 years. ~~—Each—~~ IF THE
19 ORDINANCE OR RESOLUTION OF THE MUNICIPALITY ADOPTING THE CONTRACT
20 SO PROVIDES, EACH contract authorized in this section shall be a
21 general obligation of the municipality.

22 Sec. 11. (1) A change in the jurisdiction over territory in
23 a municipality ~~—which—~~ THAT has contracted with the authority for
24 the acquisition, construction, and financing of a RECREATION
25 FACILITY, sewage disposal system, water supply system, solid
26 waste management system, or a combination of systems OR
27 FACILITIES under this act, or THAT has contracted with the

1 authority for RECREATION, sewage disposal, water, or solid waste
2 management services, or a combination of services shall not
3 impair the obligations of the contract. ~~In event of~~ IF THERE
4 IS a change in jurisdiction over territory, the contract shall be
5 carried out ~~insofar as the territory is concerned~~ FOR THAT
6 TERRITORY by the authority and the municipality ~~as shall have~~
7 THAT HAS jurisdiction to furnish RECREATION, water, sewage dis-
8 posal, or solid waste management services, or a combination of
9 services to the territory. ~~, unless~~ HOWEVER, IF that require-
10 ment ~~would operate~~ OPERATES to impair a contract obligation,
11 ~~in which case~~ the contracting municipality shall retain juris-
12 diction over the territory for the purpose of carrying out its
13 contractual obligations. A change in municipal jurisdiction over
14 territory within an authority shall not in any manner affect the
15 authority or its boundaries.

16 (2) A generator of waste shall not be precluded by an ordi-
17 nance, rule, regulation, policy, or practice from arranging for
18 the use of the generator's recyclable waste materials.

19 Sec. 12. Instead of the provisions in sections 7, 8, and 9
20 in respect to the acquisition, construction, improvement,
21 enlargement, extension, or financing of a RECREATION FACILITY,
22 sewage disposal system, water supply system, solid waste manage-
23 ment system, or a combination of systems OR FACILITIES, the
24 authority may elect to proceed under the provisions of THE REVE-
25 NUE BOND ACT OF 1933, Act No. 94 of the Public Acts of 1933, as
26 amended, being sections 141.101 to ~~141.139~~ 141.140 of the
27 Michigan Compiled Laws, or any other act authorizing the issuance

1 of revenue bonds ~~—~~ by which the financing of a project would be
2 consummated by the issuance of revenue bonds payable from the
3 revenues of the system or systems, if the charges and rates for
4 service in any contract entered into under the provisions of sec-
5 tion 10 are sufficient to satisfy the provisions of the act under
6 which revenue bonds shall be issued. A project may be financed
7 in part under the provisions of sections 7, 8, and 9 and in part
8 as permitted under this section.

9 Sec. 12b. (1) As an additional or alternative method of
10 financing a RECREATION FACILITY, water supply system, or sewage
11 disposal system, hereinafter generally referred to in this sec-
12 tion and section 12c as the "project", ~~any~~ AN authority propos-
13 ing a project to cost a sum of \$50,000,000.00 or more for ~~such~~
14 THOSE purposes ~~—~~ is authorized to proceed under the provisions
15 of this section and section 12c. ~~In such event the~~ THE author-
16 ity is ~~hereby~~ authorized by resolution or resolutions of its
17 governing body to provide for the issuance of revenue bonds for
18 the purpose of paying all or any portion of the cost of the
19 project, or for the purpose of refunding the bonds, including
20 refunding bonds, or for any combination of ~~such~~ THESE
21 purposes. The term "cost of the project" includes all expendi-
22 tures made in connection with the acquisition and construction
23 ~~thereof~~ OF THE PROJECT, financing charges, interest to accrue
24 on the bonds during the period of construction of the project and
25 for a period of not ~~to exceed~~ MORE THAN 1 year ~~thereafter~~
26 AFTER THE CONSTRUCTION OF THE PROJECT, cost of engineering and
27 legal expenses, plans, specifications and surveys, other expenses

1 necessary or incident to determining the feasibility or
2 practicability of constructing the project, administrative
3 expense, and ~~such~~ ANY other expense as may be necessary or
4 incident to the construction of the project, the financing of the
5 project and the placing of the project in operation, including
6 the repayment of any ~~moneys~~ MONEY advanced by constituent
7 municipalities of the authority for any of the above purposes.
8 The authority may enter into ~~such~~ contracts for financial,
9 fiscal agents, legal, or engineering services in connection with
10 the financing and construction of the project as it ~~deems~~
11 CONSIDERS necessary and advisable. The authority shall not con-
12 tract for the payment of stand-by bids or finders' fees.

13 (2) Principal of and interest and redemption premiums on the
14 bonds issued under this section shall be payable solely from the
15 revenues of the project. ~~—, except that~~ HOWEVER, payments may
16 also be made from the proceeds of refunding bonds issued under
17 this section. The term "revenues of the project" as used in this
18 section and section 12c means revenues derived from contracts
19 with municipalities entered into pursuant to the provisions of
20 section 10 of this act ~~—~~ and all other sources of revenue of
21 the authority derived from the operation of the project. The
22 bonds may be either serial bonds or term bonds, or any combina-
23 tion ~~thereof~~ OF SERIAL BONDS OR TERM BONDS. Any serial bonds
24 shall have annual or semiannual maturities, the first maturity of
25 which shall be payable not more than 10 years from their date.
26 ~~Any~~ THE bonds shall be redeemable commencing with an interest
27 payment date to be determined at ~~such~~ THE prices and upon

1 ~~such~~ THE terms and conditions as prescribed by the authorizing
2 resolution of the governing body of the authority ~~—~~ and recited
3 upon the face of the bonds. The bonds shall mature not more than
4 40 years from their date, AND shall be coupon bonds bearing
5 interest at not more than 6% per annum, payable semiannually,
6 except as to the first coupon ~~—, which~~ THAT may be for any
7 number of months not exceeding 10. ~~—~~ THE BONDS shall be pay-
8 able in ~~such~~ THE medium, shall be in ~~such~~ THE form and exe-
9 cuted in ~~such~~ THE manner, shall have ~~such~~ THE privilege of
10 registration as to principal or principal and interest, shall be
11 payable at ~~such~~ THE places within or without the state, and
12 shall otherwise have ~~such~~ other details, as may be fixed by
13 resolution of the governing body of the authority. The resolu-
14 tion of the governing body of the authority may provide the terms
15 and conditions under which additional revenue bonds may be
16 issued, having parity of lien with those issued and outstanding
17 for the purpose of completing the project or providing for addi-
18 tions, extensions, and improvements ~~thereto~~ TO THE PROJECT.
19 All bonds issued under the provisions of this section shall con-
20 tain a statement on their face that they are payable solely and
21 only from the revenues of the authority specifically pledged for
22 their payment ~~—~~ and that the authority is authorized to pay
23 ~~such~~ THE bonds and interest only from the revenues pledged
24 ~~thereto~~ FOR THE PAYMENT OF THE BONDS under the provisions of
25 this section. If any official whose signature appears on the
26 bonds or coupons ceases to be ~~such~~ AN officer before delivery
27 of the bonds, the signature shall ~~nevertheless~~ be valid and

1 sufficient for all purposes with like effect as though the person
2 had remained in office until delivery. All ~~such~~ THE bonds are
3 ~~hereby~~ declared to be fully negotiable and to have all of the
4 qualities incident to negotiable instruments under ~~the negotia-~~
5 ~~ble instruments law of the state~~ ARTICLE 3 OF THE UNIFORM COM-
6 MERCIAL CODE, ACT NO. 174 OF THE PUBLIC ACTS OF 1962, BEING SEC-
7 TIONS 440.3101 TO 440.3805 OF THE MICHIGAN COMPILED LAWS, subject
8 only to the provisions for registration of the bonds ~~which~~ THAT
9 may appear ~~therein~~ IN THE BONDS. The bonds shall be exempt
10 from all taxation by the state or any of its political subdivi-
11 sions, and may be sold by the governing body of the authority in
12 ~~such~~ THE manner as it, in its sole discretion, determines to be
13 in the best interest of the authority. ~~, but~~ HOWEVER, no sale
14 shall be made at a price that will result in an interest cost of
15 more than 6% per annum. The issuance and sale of bonds shall not
16 be subject to the approval or authorization of any other agency
17 of government, whether federal, state, or local, but shall be
18 entirely within the discretion and judgment of the governing body
19 of the authority. Prior to the preparation of definitive bonds,
20 the governing body of the authority may provide for the issuance
21 of temporary bonds, with or without coupons, exchangeable for
22 definitive bonds upon the issuance of the latter. The proceed-
23 ings authorizing the bonds may provide that the bonds shall con-
24 tain a recital that they are issued pursuant to this act, and
25 ~~such~~ THE recital shall be conclusive evidence of their validity
26 and the regularity of their issuance.

1 Sec. 13. The legislative body of each municipality ~~which~~
2 THAT is a member of the authority is authorized to raise by tax
3 or pay from its general funds ~~—~~ any money required to be paid
4 by the articles of incorporation for administrative expenses
5 INCLUDING, BUT NOT LIMITED TO, LEGAL AND FINANCIAL SERVICES, or
6 for the purpose of obtaining maps, plans, designs, specifica-
7 tions, and cost estimates of a proposed RECREATION FACILITY,
8 sewage disposal system, water supply system, or waste management
9 system. The authority ~~shall~~ DOES not have direct taxing
10 power.