

HOUSE BILL No. 5830

August 15, 2012, Introduced by Rep. Kowall and referred to the Committee on Appropriations.

A bill to amend 1964 PA 183, entitled

"An act creating the state building authority with power to acquire, construct, furnish, equip, own, improve, enlarge, operate, mortgage, and maintain facilities for the use of the state or any of its agencies; to act as a developer or co-owner of facilities as a condominium project for the use of the state or any of its agencies; to authorize the execution of leases pertaining to those facilities 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 authorized in this act; to authorize the appointment of a trustee for bondholders; to permit remedies for the benefit of parties in interest; to provide for other powers and duties of the authority; and to provide for other matters in relation to the authority and its obligations,"

by amending sections 3, 5, 7, and 8 (MCL 830.413, 830.415, 830.417, and 830.418), sections 3 and 7 as amended by 2005 PA 67, section 5 as amended by 1994 PA 252, and section 8 as amended by 2002 PA 382.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. The building authority may do any of the following:

2 (a) Adopt bylaws for the regulation of its affairs and the
3 conduct of its business.

4 (b) Adopt an official seal.

5 (c) Maintain a principal office at a place within this state.

6 (d) Sue and be sued in its own name and plead and be
7 impleaded.

8 (e) Acquire, construct, furnish, equip, improve, restore,
9 renovate, enlarge, own, operate, and maintain facilities that are
10 approved ~~by concurrent resolution of the legislature~~ **IN AN**
11 **APPROPRIATIONS ACT** for the use of this state or an agency of this
12 state.

13 (f) Acquire in the name of the building authority, hold, and
14 dispose of real and personal property, or an interest in real and
15 personal property, in the exercise of its powers and the
16 performance of its duties.

17 (g) Act as a developer or co-owner of a facility that is a
18 condominium project under the condominium act, 1978 PA 59, MCL
19 559.101 to 559.276, in the exercise of its powers and the
20 performance of its duties.

21 (h) Borrow money for a corporate purpose as prescribed in this
22 act, issue negotiable revenue bonds payable solely from the true
23 rental except to the extent paid from the proceeds of sale of
24 revenue obligations and any additional security provided for and
25 pledged by the building authority in the resolution authorizing
26 revenue obligations under section 8, and provide for the payment of

1 the bonds and the rights of the holders of the bonds and mortgage
2 facilities in favor of the holders of bonds issued under this act.

3 (i) Make and enter into contracts, leases, and other
4 instruments necessary or incident to the performance of its duties
5 and the execution of its powers. A lease may include provisions for
6 construction, improvement, restoration, renovation, capital
7 maintenance improvements, operation, use, and disposition of the
8 facilities on payment of the bonds. If the cost of a contract for
9 construction, materials, or services, other than compensation for
10 personal or professional services, involves an expenditure of more
11 than \$5,000.00, the building authority shall make a written
12 contract with the lowest qualified bidder, after advertisement for
13 not less than 2 consecutive weeks in a newspaper of general
14 circulation in this state, and in other publications as determined
15 by the building authority.

16 (j) Employ and fix the compensation of consulting engineers,
17 architects, superintendents, managers, and other construction,
18 accounting, appraisal, and financial experts, attorneys, and other
19 employees and agents as the authority determines are necessary to
20 perform its duties and functions under this act.

21 (k) Receive and accept from a federal agency grants for or in
22 aid of the construction of facilities and receive and accept aid or
23 contributions from any source of either money, property, labor, or
24 other things of value, to be held, used, and applied only for the
25 purposes for which the grants and contributions were made.

26 (l) Require fidelity bonds from employees handling money of the
27 building authority. The bonds shall be in sums and subject to the

1 terms and conditions that the board considers satisfactory.

2 (m) Do all acts necessary or, in the opinion of the building
3 authority, convenient to carry out the powers expressly granted.

4 (n) Require that final actions of the board are entered in the
5 journal of the board. A writing prepared, owned, used, in the
6 possession of, or retained by the board in the performance of an
7 official function shall be made available to the public in
8 compliance with the freedom of information act, 1976 PA 442, MCL
9 15.231 to 15.246.

10 (o) Require that the books and records of account of the
11 building authority are audited annually by the auditor general, or
12 if the auditor general is unable to act, by an independent
13 certified public accountant appointed by the auditor general.

14 (p) Make and enter into contracts for insurance, letters of
15 credit, and commitments to purchase its revenue obligations, or
16 enter into other transactions to provide separate security to
17 assure the timely payment of any revenue obligations of the
18 building authority. A contract of the building authority permitted
19 by this section shall not be a general obligation of the state or
20 building authority.

21 Sec. 5. (1) Property owned by the state may be conveyed to the
22 building authority for any purpose expressed in this act, subject,
23 however, to prior approval by the state administrative board, by
24 the attorney general, and ~~by concurrent resolution of the~~
25 ~~legislature concurred in by a majority of the members elected to~~
26 ~~and serving in each house. The votes and names of the members~~
27 ~~voting on the resolution shall be entered in the journal. AS~~

1 **PROVIDED IN AN APPROPRIATIONS ACT.** After approval as provided in
2 this subsection, a conveyance shall be executed for and on behalf
3 of the state by the governor and secretary of state, or in the
4 event of the absence or disability of either of them, by the
5 lieutenant governor or deputy secretary of state.

6 (2) In addition to other authority granted by law, property
7 owned by an institution of higher education may be conveyed to the
8 building authority for any purpose expressed in this act, subject,
9 however, to approval by the governing body of the institution of
10 higher education, by the state administrative board, and ~~by~~
11 ~~concurrent resolution of the legislature concurred in by a majority~~
12 ~~of the members elected to and serving in each house. The votes and~~
13 ~~names of the members voting on the resolution shall be entered in~~
14 ~~the journal.~~ **AS PROVIDED IN AN APPROPRIATIONS ACT.** After approval
15 as provided in this subsection, a conveyance shall be executed for
16 and on behalf of the institution of higher education by authorized
17 officers of the institution of higher education. In addition to
18 other authority granted by law, an institution of higher education
19 may enter into a lease with the building authority under section 6
20 for the period provided in that section.

21 Sec. 7. (1) The state may lease facilities from the building
22 authority for public purposes within the concepts provided in this
23 act, upon terms and conditions agreed upon and subject to the
24 limitations and provisions provided in section 6. Before execution,
25 a lease shall be approved by the state administrative board and,
26 except as provided in subsections (3) and (4), ~~by concurrent~~
27 ~~resolution of the legislature concurred in by a majority of the~~

1 ~~members elected to and serving in each house. The votes and names~~
2 ~~of the members voting shall be entered in the journal.~~ **AS PROVIDED**
3 **IN AN APPROPRIATIONS ACT.** The lease as approved by the building
4 authority and the administrative board, and if required, the
5 legislature or an institution of higher education, may provide for
6 a determinable true rental as a range as permitted under section
7 1(e).

8 (2) If a lease is approved containing a true rental stated as
9 a range, then actual rental to be paid under the lease shall be
10 fixed at an amount certified by the appraiser and, after the
11 certification, shall be approved by the state administrative board
12 and the building authority. The appraiser shall not certify, and
13 the board and authority shall not approve, a true rental amount
14 unless the amount is fixed within or below the stated range. A
15 lease shall not be executed more than 3-5 years after its approval
16 by the legislature. The state shall pay to the building authority
17 or its assignee the true rental at the times, in the manner, and at
18 the place specified in the lease. The governor and the budget
19 director shall include in the annual budget of the state for each
20 year an amount fully sufficient to pay the true rental required to
21 be paid by the state to the building authority or its assignee
22 required by any lease under this act. If the lease is for an
23 institution of higher education, then in addition, the lease shall
24 be authorized by the institution of higher education and signed by
25 its authorized officers.

26 (3) The state, except institutions of higher education, may
27 lease from the building authority property that is comprised only

1 of furnishings or equipment if all of the following requirements
2 are met:

3 (a) Before a lease that is only for furnishings or equipment
4 is executed, the general form of the lease shall be approved by
5 ~~concurrent resolution of the legislature concurred in by a majority~~
6 ~~of the members elected to and serving in each house.~~ **AS PROVIDED IN**
7 **AN APPROPRIATIONS ACT.** The form of the lease approved by the
8 legislature need not contain a description of the property to be
9 leased or the rental or a rental range. However, before the state
10 executes the lease, the description of the property to be leased
11 and the rental shall be approved by the state administrative board
12 as provided in subsection (2). The ~~concurrent resolution of the~~
13 ~~legislature~~ **APPROPRIATIONS ACT** approving the form of lease shall
14 also approve a maximum amount of furnishings and equipment that may
15 be leased during the ~~2-4~~ years following the approval of the lease
16 pursuant to the form of lease approved.

17 (b) A lease that is only for furnishings or equipment shall be
18 executed only if the furnishings or equipment are for use by a
19 state agency as determined under the management and budget act,
20 1984 PA 431, MCL 18.1101 to 18.1594.

21 (4) Through September 30, 2007, an institution of higher
22 education, this state, and the building authority may enter into a
23 lease for capital maintenance improvements if, before a lease that
24 is only for capital maintenance improvements is executed, the
25 general form of the lease is approved by concurrent resolution of
26 the legislature concurred in by a majority of the members elected
27 to and serving in each house. The form of the lease approved by the

1 legislature need not contain a description of the capital
2 maintenance improvements to be leased or the rental or a rental
3 range. However, before this state executes the lease, the
4 description of the capital maintenance improvements to be leased
5 and the rental shall be approved by the state administrative board.

6 (5) The building authority shall retain title to capital
7 maintenance improvements during the term of a lease approved under
8 subsection (4). The building authority shall not be required to
9 have any ownership interest in the structure to which a capital
10 maintenance improvement is made. Title to the capital maintenance
11 improvement shall be evidenced by a bill of sale.

12 (6) The actual rental to be paid under a lease approved under
13 subsection (4) for a capital maintenance improvement shall be
14 determined by an appraiser or by an alternate method and, after the
15 determination, shall be approved by the state administrative board
16 and the building authority. The state administrative board shall
17 approve any alternate method for determining actual rental, and an
18 alternate method may include a determination by a person or
19 business that is in the business of providing capital maintenance
20 improvements to institutions of higher education.

21 (7) The state shall pay to the building authority or its
22 assignee the true rental at the times, in the manner, and at the
23 place specified in the lease approved under subsection (4). The
24 governor and the budget director shall include in the annual budget
25 of the state for each year an amount fully sufficient to pay the
26 true rental required to be paid by this state to the building
27 authority or its assignee required by any lease under this act.

1 Sec. 8. (1) By resolution or resolutions of its board, the
2 building authority may provide for the issuance of revenue
3 obligations, which may include revenue bonds, revenue notes, or
4 other evidences of revenue indebtedness, and refunding revenue
5 bonds or notes, or other refunding evidences of indebtedness, the
6 obligations for which shall not become a general obligation of this
7 state or a charge against this state, but all revenue obligations
8 and the interest on the revenue obligations and the call premiums
9 for the revenue obligations shall be payable solely from true
10 rental, except to the extent paid from the proceeds of sale of
11 revenue obligations and any additional security provided for and
12 pledged, or from other funds as provided in this act, and each
13 revenue obligation shall have such a statement printed on the face
14 of the revenue obligation. If the resolution of the building
15 authority provides for interest coupons to be attached to a revenue
16 obligation, each interest coupon shall have a statement printed on
17 the coupon that the coupon is not a general obligation of this
18 state or the building authority but is payable solely from certain
19 revenues as specified in the revenue obligation. Revenue
20 obligations may be issued for the purpose of paying part or all of
21 the costs of the facilities or for the purpose of refunding or
22 advance refunding, in whole or in part, outstanding revenue
23 obligations issued pursuant to this act whether the obligations to
24 be refunded or advance refunded have matured or are redeemable or
25 shall mature or become redeemable after being refunded. The cost of
26 the facilities may include an allowance for legal, engineering,
27 architectural, and consulting services; interest on revenue

1 obligations becoming due before the collection of the first true
2 rental available for the payment of those revenue obligations; a
3 reserve for the payment of principal, interest, and redemption
4 premiums on the revenue obligations of the authority; and other
5 necessary incidental expenses including, but not limited to,
6 placement fees; fees or charges for insurance, letters of credit,
7 lines of credit, remarketing agreements, or commitments to purchase
8 obligations issued ~~pursuant to~~ **UNDER** this act; fees or charges
9 associated with an agreement to manage payment, revenue, or
10 interest rate exposure; or any other fees or charges for any other
11 security provided to assure timely payment of the obligations.

12 (2) The proceeds of a revenue obligation issue may be used to
13 pay the cost of facilities that are subject to more than 1 lease if
14 either subdivision (a) or (b) is true:

15 (a) Both of the following are true:

16 (i) The resolution authorizing the revenue obligations provides
17 for the use of a specific allocable portion of the revenue
18 obligation proceeds to pay the estimated cost of each of the
19 facilities, together with the allocable portion of the reserves,
20 discount, interest on the obligations becoming due before the first
21 true rental available for payment of the obligations, and
22 obligation issuance expense with respect to each facility.

23 (ii) The true rental and other funds of the building authority
24 and other security as provided in this act available for the
25 revenue obligations including other funds as provided in this act
26 are sufficient to pay the allocable portion of the revenue
27 obligation issue for which the true rental and other funds and

1 security are pledged.

2 (b) The obligation is part of an interim financing pool
3 described in subsection (20).

4 (3) Revenue obligations that refund outstanding obligations
5 may include the payment of interest accrued, or to accrue, to the
6 earliest or any subsequent date of redemption, purchase, or
7 maturity of the revenue obligations to be refunded, redemption
8 premium, if any, and any commission, service fee, and other expense
9 necessary to be paid in connection with revenue obligations that
10 refund outstanding obligations. Proceeds of refunding revenue
11 obligations may also be used to pay part of the cost of issuance of
12 the refunding revenue obligations, interest on the refunding
13 revenue obligations, a reserve for the payment of principal,
14 interest, and redemption premiums on the refunding revenue
15 obligations, and other necessary incidental expenses including, but
16 not limited to, placement fees; fees or charges for insurance,
17 letters of credit, lines of credit, remarketing agreements, or
18 commitments to purchase obligations issued pursuant to this act;
19 fees or charges associated with an agreement to manage payment,
20 revenue, or interest rate exposure; or any other fees or charges
21 for any other security provided to assure timely payment of the
22 obligations. The building authority may also provide for the
23 withdrawal of any funds from a reserve created for the payment of
24 principal, interest, and redemption premiums on the refunded
25 obligations and for the deposit of those funds in the reserve for
26 the payment of principal, interest, and redemption premiums on the
27 refunding obligations or may provide for use of that reserve money

1 to pay principal, interest, and redemption premiums on the
2 obligations to be refunded. Obligations issued to refund
3 outstanding obligations may be issued in a principal amount greater
4 than, the same as, or less than the principal amount of the
5 obligations to be refunded, and subject to the maximum rate of
6 interest provided in subsection (8), may bear interest rates that
7 are higher than, the same as, or lower than the interest rates of
8 the obligations to be refunded. If obligations are issued to refund
9 outstanding obligations of the authority, a lease whose rental has
10 been pledged for repayment of the obligations to be refunded shall
11 not be terminated solely by reason of the payment or provision for
12 payment of the obligations to be refunded, and the lease and all of
13 the rights and obligations under the lease remain in full force and
14 effect in accordance with its terms.

15 (4) Except as otherwise provided in this section, the building
16 authority shall use income or profit derived from the investment of
17 money in a fund or account of the building authority, including the
18 proceeds of sale of the revenue obligations, only for the purpose
19 of paying principal, interest, and redemption premiums on the
20 revenue obligations of the building authority, or for any purpose
21 for which the proceeds of the revenue obligations may be used under
22 this act, as determined by the resolution of the board authorizing
23 the issuance of revenue obligations.

24 (5) Within limits considered appropriate and established by
25 the board, the board may authorize by resolution a member of the
26 board or the person appointed by the building authority as its
27 chief operating officer or chief staff person, if the authorization

1 limits or prescribes the maximum interest rates, minimum price,
2 maximum principal amount, and the latest maturity date of the
3 obligations, to do any of the following:

4 (a) Determine interest rates or methods for determining
5 interest rates for, maturities of, principal amounts of,
6 denominations of, dates of issuance of, interest payment dates for,
7 redemption rights and the terms under which redemption rights may
8 be waived, transferred, or sold, prepayment rights with respect to,
9 the purchase price of, and the type of funds for settlement of
10 obligations.

11 (b) Determine which, if any, letter of credit, line of credit,
12 standby note or bond purchase agreement, bond insurance, or other
13 agreement providing security or liquidity for obligations of the
14 building authority, approved by the board, provides a cost savings
15 and should be entered into in connection with the issuance of the
16 obligations of the building authority.

17 (c) Take any other action on behalf of the board within
18 limitations established by the board as the board considers
19 necessary in connection with the issuance of obligations of the
20 building authority.

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

26 (a) The true rental derived from the facilities constructed or
27 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 insurance, a letter of credit, or a line
6 of credit acquired as security for the revenue obligations.

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

9 (f) The proceeds of the foreclosure or enforcement of a
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, and payments received pursuant to an agreement to
18 manage payment, revenue, or interest rate exposure as provided in
19 subsection (19).

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

22 (7) To the extent provided by resolution of the board,
23 principal of, and interest and redemption premiums on, refunding
24 revenue obligations shall be secured by and payable only from any
25 or all of the following sources:

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

1 (b) The proceeds of the refunding obligations.

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

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

7 (e) The proceeds of obligations issued to refund the refunding
8 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 from the proceeds of the obligations being refunded,
12 granted by the authority as security for the refunding 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, and payments received pursuant to an agreement to
18 manage payment, revenue, or interest rate exposure as provided in
19 subsection (19).

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

22 (8) Obligations issued under this act may be either serial
23 obligations or term obligations, or any combination of serial or
24 term obligations. The obligations shall mature not more than 40
25 years from their date, and in any event not more than 1 year from
26 the due date of the last true rental pledged for the payment of the
27 obligations, and may bear interest at fixed or variable interest

1 rates, or may be without stated interest, but the net interest rate
2 or rates of interest, taking into account any discount on the sale
3 of the obligations, shall not exceed a rate permitted by the
4 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
5 141.2821. The obligations may be sold at a discount.

6 (9) Except as otherwise provided in this subsection, in the
7 resolution or resolutions authorizing the issuance of the
8 obligations, the board shall determine the principal amount of the
9 obligations to be issued, the registration provisions, the date of
10 issuance, the obligation numbers, the obligation denominations, the
11 obligation designations, the obligation maturities, the interest
12 payment dates, the paying agent or paying agents or the method of
13 selection of the agent or agents, the rights of prior redemption of
14 the obligations, and the terms under which redemption rights may be
15 waived, transferred, or sold, the rights of the holders to require
16 prepayment of the principal of or interest on the obligations, the
17 maximum rate of interest, the method of execution of the
18 obligations, and such other provisions respecting the obligations,
19 the rights of the holders of the obligations, the security for the
20 obligations, and the procedures for disbursement of the obligation
21 proceeds and for the investment of the proceeds of obligations and
22 money for the payment of obligations. Rather than making the
23 determinations required by this subsection, the board may authorize
24 a person identified in subsection (5) to make the determinations
25 and take the actions authorized under subsection (5).

26 (10) 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 1
2 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 rental
4 to the paying agent or trustee. For the purposes and within the
5 limitations set forth in this act, the board may by resolution
6 covenant to issue or cause to be issued, or use its best efforts to
7 issue or cause to be issued, refunding revenue obligations to
8 refund obligations issued under this act.

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

1 or resolutions authorizing the obligations, including the right to
2 sell the facility upon foreclosure sale, not inconsistent with this
3 act.

4 (12) All obligations and the interest coupons, if any,
5 attached to the obligations are declared to be fully negotiable and
6 to have all of the qualities incident to negotiable instruments
7 under the uniform commercial code, 1962 PA 174, MCL 440.1101 to
8 440.11102, subject only to the provisions for registration of the
9 obligations that may appear on the obligations. The obligations and
10 interest on the obligations are exempt from all taxation by this
11 state or any of its political subdivisions.

12 (13) The obligations may be sold at private or at public sale
13 under the procedures and subject to the conditions prescribed by
14 resolution of the board.

15 (14) The building authority may issue additional obligations
16 of equal standing with respect to the pledge of the true rentals
17 and additional security provided pursuant to this act with
18 previously issued obligations of the building authority issued to
19 acquire or construct a facility or facilities, or to refund the
20 obligations, for the purpose of completing, or making additions,
21 improvements, or replacements to, the facility or facilities for
22 which the previous obligations of the authority were issued or to
23 refund all or part of obligations previously issued for such a
24 facility, under the terms and conditions provided in the resolution
25 authorizing the previous issue of obligations.

26 (15) The authority shall not have obligations outstanding at
27 any 1 time for any of its corporate purposes in a principal amount

1 totaling more than \$2,700,000,000.00, which limitations shall not
2 include principal appreciation as provided in subsection (17) or
3 obligations or portions of obligations used to pay for any of the
4 following:

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

7 (b) Amounts set aside for a reserve for payment of principal,
8 interest, and redemption premiums.

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

11 (d) The sums expected to be set aside for the purposes
12 provided in this subsection for any obligations authorized by the
13 authority but not sold. The amount set aside or expected to be set
14 aside for the purposes provided in this subsection shall be
15 conclusively determined by a certificate setting forth the amounts
16 executed by the executive director of the building authority. In
17 addition, there shall be excluded from the limitation obligations
18 issued to refund prior obligations if those prior obligations will
19 not be retired within 90 days after the date of issuance of the
20 refunding obligations. If an obligation is issued to retire a prior
21 obligation within 90 days after the date of issuance of the
22 refunding obligation, the obligation is counted against the
23 limitation when the refunded obligation is retired.

24 (16) The authority may apply and pledge, if not already
25 pledged, all or any unpledged part of the true rental and other
26 revenues of a facility; income and profit from the investment of
27 money pertaining to a facility; and money in a fund or account of

1 the authority pertaining to a facility to pay the principal,
2 interest, and redemption premiums on revenue obligations of the
3 authority other than those to which the true rental and other
4 revenues, investment income, or profit or funds or accounts
5 pertain; to pay amounts due under an agreement to manage payment,
6 revenue, or interest rate exposure regardless of the obligations or
7 investments to which the agreement relates; or to pay part or all
8 of the cost of additional facilities to be acquired by the
9 authority for the use of the state. The authority may establish a
10 separate fund into which the rental and other revenues, investment
11 income or profit, or money of such a fund or account shall be
12 deposited to be used to pay principal, interest, and redemption
13 premiums on outstanding obligations of the authority or to acquire
14 facilities for the use of this state. The authority shall not
15 acquire a facility unless the acquisition is approved by the state
16 administrative board and ~~by a concurrent resolution of the~~
17 ~~legislature approved by a majority of the members elected to and~~
18 ~~serving in each house.~~ **IN AN APPROPRIATIONS ACT.** The authority may
19 pledge any or all of the foregoing to the payment of revenue
20 obligations of the authority other than those to which they
21 pertain. If the true rental and other revenues, investment income
22 or profit, or the money in funds or accounts to be applied as
23 specified in this subsection pertain to a facility leased to the
24 state and an institution of higher education pursuant to a lease
25 executed and delivered before January 1, 1983, no application or
26 pledge thereof may be made unless approved by the institution of
27 higher education.

1 (17) If the authority issues an obligation that appreciates in
2 principal amount, the amount of principal appreciation each year on
3 that obligation, after the date of original issuance, shall not be
4 considered to be principal indebtedness for the purposes of the
5 limitation in subsection (15) or any other limitation. The
6 appreciation of principal after the date of original issue shall be
7 considered interest and shall be within the interest rate
8 limitations set forth in this act.

9 (18) Of the \$2,700,000,000.00 authorized under subsection
10 (15), priority shall be determined by the joint capital outlay
11 committee.

12 (19) In connection with an obligation issued previously or to
13 be issued under this act or an investment made previously or to be
14 made, the board may by resolution authorize and approve the
15 execution and delivery of an agreement to manage payment, revenue,
16 or interest rate exposure. The agreement may include, but is not
17 limited to, an interest rate exchange agreement, an agreement
18 providing for payment or receipt of money based on levels of or
19 changes in interest rates, an agreement to exchange cash flows or
20 series of payments, or an agreement providing for or incorporating
21 interest rate caps, collars, floors, or locks. Subject to a prior
22 pledge or lien created under this act, a payment to be made by the
23 building authority under an agreement described in this subsection
24 is payable, together with other obligations of the building
25 authority, from those sources described in subsections (6) and (7),
26 all with the parity or priority and upon the conditions set forth
27 in the board's resolution. An agreement entered into under this

1 subsection is not a general obligation of this state or the
2 building authority, and the agreement does not count against the
3 limitation on outstanding obligations contained in subsection (15).

4 (20) The building authority may authorize by resolution a pool
5 of obligations to meet interim financing needs. A pool may be
6 issued in 1 or more series, may relate to 1 or more projects, and
7 is subject to all of the following:

8 (a) The board's resolution approving the pool shall state at
9 least all of the following:

10 (i) The name or designation of the pool to distinguish it from
11 any other pool issued under this subsection.

12 (ii) The latest date by which an obligation issued under the
13 pool must mature, which shall not be later than 5 years after the
14 date on which the pool is established. The duration of the pool
15 shall be the time from the date on which the pool is established to
16 the latest possible maturity date of obligations issued pursuant to
17 the pool, or sooner as provided by resolution.

18 (iii) The maximum par amount of obligations that may be
19 outstanding at any time during the duration of the pool. The
20 resolution may state the maximum par amount of obligations that may
21 be issued pursuant to the pool.

22 (iv) Other terms of the obligations as provided in subsection
23 (8) or the limits within which the chief operating officer, chief
24 staff person, or member of the board shall determine those terms as
25 provided in subsection (5).

26 (v) The security for obligations issued pursuant to the pool.

27 (vi) Other provisions, not inconsistent with the terms of this

1 act, that the board determines to be necessary or appropriate to
2 the pool.

3 (b) Proceeds of obligations issued as part of a pool
4 established under this subsection may be used for any of the
5 purposes for which revenue obligations of the building authority
6 may be used as described in subsection (1). However, an obligation
7 shall not be issued with respect to a facility unless all of the
8 following are true:

9 (i) The board approves the financing of the facility pursuant
10 to the pool, which approval may be made at the same time as or
11 after the establishment of the pool.

12 (ii) The board approves the proposed form of lease for the
13 facility, which approval may be made prior to, at the same time as,
14 or after the establishment of the pool.

15 (iii) The state administrative board, an institution of higher
16 education, if applicable, and the legislature have approved the
17 form of the lease as required by section 7, which approval may be
18 made prior to, at the same time as, or after the establishment of
19 the pool.

20 (iv) The aggregate amounts of obligations issued and
21 outstanding with respect to a facility under a pool, together with
22 other obligations that may have been issued and are outstanding
23 with respect to the facility under this act do not exceed the cost
24 of the facility, including allowable interest costs, as approved by
25 the state administrative board, an institution of higher education,
26 if applicable, and the legislature.

27 (v) On or before the issuance of obligations the proceeds of

1 which are to finance the acquisition, construction, renovation, or
2 rehabilitation of the facility, the building authority and the
3 state, and, if applicable, an institution of higher education,
4 enter into the lease or an agreement to construct or acquire the
5 facility, which lease or agreement sets forth the terms and
6 conditions under which the building authority will finance the
7 construction or acquisition of the facility for lease to the state
8 or to the state and any applicable institution of higher education.

9 (21) Bonds and notes issued under this act are not subject to
10 the revised municipal finance act, 2001 PA 34, MCL 141.2101 to
11 141.2821.

12 (22) The issuance of bonds and notes under this act is subject
13 to the agency financing reporting act, **2002 PA 470, MCL 129.171 TO**
14 **129.177.**