

HOUSE BILL No. 4661

April 26, 2005, Introduced by Reps. Waters, Cushingberry, Meisner, Anderson, Williams, Miller, Byrum, Whitmer, McConico, Murphy, Farrah, Clack, Clemente and Lemmons, III and referred to the Committee on Commerce.

A bill to amend 1985 PA 227, entitled
"Shared credit rating act,"
by amending the title and sections 3, 7, and 8 (MCL 141.1053,
141.1057, and 141.1058), the title and sections 3 and 7 as amended
by 2000 PA 416 and section 8 as amended by 2003 PA 109, and by
adding section 16c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to create the Michigan municipal bond authority and to
prescribe its powers and duties; to provide for the issuance of,
and terms and conditions for, notes and bonds of the authority; to
authorize certain forms of assistance to governmental units
including the creation and management of investments; to impose

1 conditions on, grant certain powers to political subdivisions of
2 ~~the~~ **THIS** state and water suppliers regarding, and allow certain
3 agreements regarding obligations of **THIS STATE**, political
4 subdivisions of this state, and water suppliers purchased by the
5 authority **OR ASSIGNED TO THE AUTHORITY**; to exempt the property,
6 income, and operation of the authority, its bonds and notes, and
7 the interest on its bonds and notes from certain taxes; to grant
8 powers and impose duties on officers and agencies of ~~the~~ **THIS**
9 state, political subdivisions of this state, and water suppliers;
10 to accept and expend certain appropriations; and to repeal acts and
11 parts of acts.

12 Sec. 3. As used in this act:

13 (a) "Authority" means the Michigan municipal bond authority
14 created in section 4.

15 (b) "Board" means the board of trustees of the authority
16 established in section 5.

17 (c) "Bonds" means bonds of the authority issued under this act
18 with a maturity greater than 3 years.

19 (d) "Capitalization grant" means the federal grant made to
20 this state by the United States environmental protection agency for
21 either of the following purposes:

22 (i) For the purpose of establishing a state water pollution
23 control revolving fund, as provided in title VI of the federal
24 water pollution control act, ~~chapter 758, 101 Stat. 22, 33~~
25 ~~U.S.C.~~ **USC** 1381 to 1387.

26 (ii) For the purpose of establishing a state drinking water
27 revolving fund, as provided in section 1452 ~~of part E of title XIV~~

1 of the public health service act, 42 ~~U.S.C.~~ **USC** 300j-12.

2 (e) "Community water supply" means a community water supply as
3 defined in part 54 of the natural resources and environmental
4 protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

5 (f) "Federal safe drinking water act" means title XIV of the
6 public health service act, chapter 373, 88 Stat. 1660.

7 (g) "Federal water pollution control act" means ~~chapter 758,~~
8 ~~86 Stat. 816,~~ 33 ~~U.S.C.~~ **USC** 1251 to ~~1252, 1253 to 1254, 1255 to~~
9 ~~1257, 1258 to 1263, 1265 to 1270, 1281, 1282 to 1293, 1294 to 1299,~~
10 ~~1311 to 1313, 1314 to 1330, 1341 to 1345, 1361 to 1377, and 1381 to~~
11 1387.

12 (h) "Fully marketable form" means a municipal obligation duly
13 executed and accompanied by all of the following:

14 (i) An approving legal opinion of a bond counsel approved by
15 the authority and of nationally recognized standing in the field of
16 municipal law.

17 (ii) Closing documents in a form and substance satisfactory to
18 the authority. The **EXECUTED** municipal obligation ~~so executed~~ need
19 not be printed or lithographed nor be in more than 1 denomination.

20 (iii) Evidence that the pledge for payment of the municipal
21 obligation will be sufficient to pay the principal of and interest
22 on the municipal obligation when due.

23 (iv) For purposes of a project funded under section 16a, an
24 order of approval issued by the department of environmental quality
25 under part 53 of the natural resources and environmental protection
26 act, 1994 PA 451, MCL 324.5301 to 324.5316. The order shall state
27 that the project proposed by the governmental unit has been

1 approved for assistance by the department of environmental quality.

2 (v) For purposes of a community water supply or a noncommunity
3 water supply funded under section 16b, an order of approval issued
4 by the department of environmental quality under part 54 of the
5 natural resources and environmental protection act, 1994 PA 451,
6 MCL 324.5401 to 324.5418. The order shall state that the community
7 water supply or the noncommunity water supply proposed by the
8 governmental unit has been approved for assistance by the
9 department of environmental quality.

10 (i) "Governmental unit" means **THIS STATE**, a county, city,
11 township, village, school district, intermediate school district,
12 community college, public university, authority, district, any
13 other body corporate and politic or other political subdivision,
14 any agency or instrumentality of the foregoing, or any group self-
15 insurance pool formed pursuant to 1951 PA 35, MCL 124.1 to 124.13.
16 For purposes of a project funded under section 16a, governmental
17 unit includes an Indian tribe that has jurisdiction over
18 construction and operation of a project qualifying under ~~section~~
19 ~~319 of title III of the federal water pollution control act, 33~~
20 ~~U.S.C.—~~ **USC** 1329. For purposes of a community water supply or a
21 noncommunity water supply funded under section 16b, governmental
22 unit includes a community water supplier. A governmental unit does
23 not include a self-insurance pool unless the self-insurance pool
24 has filed a certification by an independent actuary that the
25 reserves set aside under section 7a of 1951 PA 35, MCL 124.7a, are
26 adequate for the payment of claims. A school district shall include
27 a public school academy established under the revised school code,

1 1976 PA 451, MCL 380.1 to 380.1852. Funds loaned to a public school
2 academy or a school district may not be used to finance the
3 purchase, construction, lease, or renovation of property owned,
4 directly or indirectly, by any officer, board member, or employee
5 of that public school.

6 (j) "Municipal obligation" means a bond or note or evidence of
7 debt issued by a governmental unit for a purpose authorized by law.

8 **A MUNICIPAL OBLIGATION INCLUDES LOAN REPAYMENT OBLIGATIONS FROM A**
9 **SCHOOL DISTRICT TO THIS STATE WITH RESPECT TO A QUALIFIED LOAN OR A**
10 **REVOLVING FUND SECURED LOAN MADE UNDER A SCHOOL LOAN ACT THAT IS**
11 **ASSIGNED OR OTHERWISE TRANSFERRED BY THIS STATE TO THE AUTHORITY.**

12 (k) "Noncommunity water supply" means a noncommunity water
13 supply as defined in part 54 of the natural resources and
14 environmental protection act, 1994 PA 451, MCL 324.5401 to
15 324.5418.

16 (l) "Notes" means an obligation of the authority issued as
17 provided in this act, including commercial paper, with a maturity
18 of 3 years or less.

19 (m) "Project" means a sewage treatment works project or a
20 nonpoint source project, or both, as defined in ~~the state clean~~
21 ~~water assistance act~~ **PART 53 OF THE NATURAL RESOURCES AND**
22 **ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.5301 TO**
23 **324.5316.**

24 (n) "Reserve fund" means a bond reserve fund or note reserve
25 fund created and established under section 16.

26 (o) "Revenues" means all fees, charges, money, profits,
27 payments of principal of or interest on municipal obligations and

1 other investments, gifts, grants, contributions, and all other
2 income derived or to be derived by the authority under this act.

3 (P) "SCHOOL LOAN ACT" MEANS AN ACT TO IMPLEMENT SECTION 16 OF
4 ARTICLE IX OF THE STATE CONSTITUTION OF 1963, INCLUDING, BUT NOT
5 LIMITED TO, 1961 PA 108, MCL 388.951 TO 388.963, 1961 PA 112, MCL
6 388.981 TO 388.985, AND THE SCHOOL BOND QUALIFICATION, APPROVAL,
7 AND LOAN ACT. FOR A QUALIFIED BOND, AS DEFINED IN 1961 PA 108, MCL
8 388.951 TO 388.963, WITH A CERTIFICATE OF QUALIFICATION FROM THE
9 STATE TREASURER ISSUED PRIOR TO THE EFFECTIVE DATE OF THE
10 AMENDATORY ACT THAT ADDED THIS SUBDIVISION, "SCHOOL LOAN ACT" MEANS
11 1961 PA 108, MCL 388.951 TO 388.963. FOR A QUALIFIED BOND OR
12 REVOLVING FUND SECURED BOND AS DEFINED IN THE SCHOOL BOND
13 QUALIFICATION, APPROVAL, AND LOAN ACT WITH A CERTIFICATE OF
14 QUALIFICATION OR APPROVAL ISSUED BY THE STATE TREASURER AFTER THE
15 EFFECTIVE DATE OF THE SCHOOL BOND QUALIFICATION, APPROVAL, AND LOAN
16 ACT, SCHOOL LOAN ACT MEANS THE SCHOOL BOND QUALIFICATION, APPROVAL,
17 AND LOAN ACT.

18 (Q) ~~(P)~~ "Water supplier" means a water supplier as defined in
19 part 54 of the natural resources and environmental protection act,
20 1994 PA 451, MCL 324.5401 to 324.5418.

21 Sec. 7. The board has all of the following powers:

22 (a) To adopt bylaws for the regulation of its affairs.

23 (b) To adopt an official seal.

24 (c) To maintain a principal office at a place within this
25 state.

26 (d) To sue and be sued in its own name and to plead and be
27 impleaded.

1 (e) To loan money to a governmental unit, or to a nonprofit
2 corporation, trust, or similar entity for the benefit of a public
3 school academy, at a rate or rates as the authority determines and
4 to purchase and sell, and to commit to purchase and sell, municipal
5 obligations pursuant to this act.

6 (f) To borrow money and issue negotiable revenue bonds and
7 notes pursuant to this act.

8 (g) To make and enter into contracts and other instruments
9 necessary or incidental to the performance of its duties and the
10 exercise of its powers. By rotating the services of legal counsel,
11 the authority shall seek to increase the pool of nationally
12 recognized bond counsel.

13 (h) To receive and accept from any source grants or
14 contributions of money, property, or other things of value,
15 excluding appropriations from the general fund of this state except
16 for appropriations to be used for the benefit of public schools,
17 except for appropriations to a reserve fund established under
18 section 16, except for appropriations to the state water pollution
19 control revolving fund established under section 16a and except for
20 appropriations to the state drinking water revolving fund
21 established under section 16b, **AND EXCEPT FOR APPROPRIATIONS TO THE**
22 **SCHOOL LOAN REVOLVING FUND ESTABLISHED UNDER SECTION 16C**, to be
23 used, held, and applied only for the purposes for which the grants
24 and contributions were made.

25 (i) To do all acts necessary or convenient to carry out the
26 powers expressly granted.

27 (j) To require that final actions of the board are entered in

1 the journal for the board and that all writings prepared, owned,
2 used, in the possession of, or retained by the board in the
3 performance of an official function be made available to the public
4 in compliance with the freedom of information act, 1976 PA 442, MCL
5 15.231 to 15.246.

6 (k) To engage the services of private consultants on a
7 contract basis for rendering professional and technical assistance
8 and advice.

9 (l) To investigate and assess the infrastructure needs of this
10 state, current methods of financing infrastructure rehabilitation
11 and improvements, and resources and financing options currently
12 available and potentially useful to improve this state's
13 infrastructure and lower the costs of those improvements.

14 (m) To indemnify and procure insurance indemnifying members of
15 the board from personal loss or accountability from liability
16 asserted by a person on bonds or notes of the authority or from any
17 personal liability or accountability by reason of the issuance of
18 the bonds or notes, or by reason of any other action taken or the
19 failure to act by the authority.

20 (n) To investigate and assess short-term and long-term
21 borrowing requirements for operating, capital improvements, and
22 delinquent taxes.

23 (o) To provide assistance, as that term is defined in section
24 5301 of the natural resources and environmental protection act,
25 1994 PA 451, MCL 324.5301, to any municipality for a revolving fund
26 project and to perform all functions necessary or incident to
27 providing that assistance and to the operation of the state water

1 pollution control revolving fund established under section 16a.

2 (p) To enter into agreements with the federal government to
3 implement the establishment and operation of the state water
4 pollution control revolving fund established under section 16a
5 pursuant to the provisions of the federal water pollution control
6 act and the rules and regulations promulgated under that act.

7 (q) To provide assistance, as that term is defined in part 54
8 of the natural resources and environmental protection act, 1994 PA
9 451, MCL 324.5401 to 324.5418, to any governmental unit for a
10 revolving fund community water supply or noncommunity water supply
11 and to perform all functions necessary or incident to providing
12 that assistance and to the operation of the state drinking water
13 revolving fund established under section 16b, including, but not
14 limited to, using funding allocated in the federal safe drinking
15 water act for any of the purposes authorized in section 5417(c) of
16 the natural resources and environmental protection act, 1994 PA
17 451, MCL 324.5417.

18 (r) To enter into agreements with the federal government to
19 establish and operate the state drinking water revolving fund under
20 section 16b pursuant to the provisions of the federal safe drinking
21 water act and the rules and regulations promulgated under that act.

22 (S) TO ENTER INTO AGREEMENTS WITH THE STATE TREASURER TO ACT
23 AS THIS STATE'S AGENT TO IMPLEMENT THE ESTABLISHMENT AND OPERATION
24 OF THE SCHOOL LOAN REVOLVING FUND ESTABLISHED UNDER SECTION 16C,
25 INCLUDING PROVISIONS RELATING TO THE RETURN TO THIS STATE OF
26 CONTRIBUTIONS MADE BY THIS STATE FOR DEPOSIT IN THE SCHOOL LOAN
27 REVOLVING FUND THAT ARE NO LONGER NEEDED FOR SCHOOL LOAN REVOLVING

1 **FUND PURPOSES.**

2 Sec. 8. (1) The authority may lend money to a governmental
3 unit through the purchase by the authority of municipal obligations
4 of the governmental unit in fully marketable form. The authority
5 may authorize and issue its bonds or notes payable solely from the
6 revenues or funds available to the authority, and to otherwise
7 assist governmental units.

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

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

27 (4) Unless approved by a concurrent resolution of the

1 legislature and except as permitted by section 16a, ~~or~~ 16b, **OR**
2 **16C**, the authority shall not provide preferential treatment in the
3 rate of interest for a particular municipal obligation purchased by
4 the authority that is based upon other than financial and credit
5 considerations and shall not forgive or relinquish all or part of
6 the interest or principal of a particular municipal obligation or
7 of municipal obligations of a particular purpose.

8 (5) The authority may purchase bonds issued by school
9 districts that are qualified bonds under ~~1961 PA 108, MCL 388.951~~
10 ~~to 388.963~~ **A SCHOOL LOAN ACT**. Except as provided in subsection
11 (6), the principal amount of the qualified bonds purchased by the
12 authority in any calendar year shall not exceed 7.5% of the
13 principal amount of qualified bonds issued by school districts in
14 the immediately preceding calendar year. **THE AUTHORITY MAY ALSO**
15 **PURCHASE OR ACCEPT BY ASSIGNMENT FROM THIS STATE MUNICIPAL**
16 **OBLIGATIONS THAT ARE LOAN REPAYMENT OBLIGATIONS FROM A SCHOOL**
17 **DISTRICT ON A QUALIFIED LOAN OR ON A REVOLVING FUND SECURED LOAN**
18 **MADE BY THIS STATE UNDER A SCHOOL LOAN ACT. MUNICIPAL OBLIGATIONS**
19 **ACQUIRED BY THE AUTHORITY UNDER THIS SUBSECTION ARE NOT REQUIRED TO**
20 **BE IN FULLY MARKETABLE FORM.**

21 (6) In addition to qualified bonds purchased under subsection
22 (5), the authority may purchase qualified bonds issued by school
23 districts not later than September 30, 2004 to obtain funds to
24 repay all or a portion of the outstanding balance of a loan under
25 1961 PA 108, MCL 388.951 to 388.963, on the terms and conditions
26 and subject to the requirements provided by or pursuant to a
27 resolution of the authority. Bonds issued by the authority to

1 purchase school district qualified bonds under this subsection
2 shall be issued in an amount sufficient to provide and pay the
3 reasonable costs of issuance incurred by the school districts as
4 determined by or pursuant to a resolution of the authority.

5 SEC. 16C. THE AUTHORITY SHALL ESTABLISH A SCHOOL LOAN
6 REVOLVING FUND AND SHALL ESTABLISH ACCOUNTS AND SUBACCOUNTS WITH
7 THE SCHOOL LOAN REVOLVING FUND AS IT DETERMINES IS NECESSARY OR
8 APPROPRIATE TO OPERATE THE SCHOOL LOAN REVOLVING FUND. THE
9 AUTHORITY MAY FUND THE SCHOOL LOAN REVOLVING FUND WITH PROCEEDS OF
10 BONDS OR NOTES ISSUED BY THE AUTHORITY, REVENUES OF THE AUTHORITY,
11 CONTRIBUTIONS FROM THIS STATE INCLUDING CONTRIBUTIONS RESULTING
12 FROM THE ASSIGNMENT OF THE RIGHT TO RECEIVE LOAN REPAYMENTS ON
13 QUALIFIED LOANS OR REVOLVING FUND SECURED LOANS MADE OR AUTHORIZED
14 BY THIS STATE UNDER A SCHOOL LOAN ACT, OR REPAYMENTS OF LOANS MADE
15 FROM THE SCHOOL LOAN REVOLVING FUND. FUNDS DEPOSITED IN THE SCHOOL
16 LOAN REVOLVING FUND MAY BE USED ONLY BY THE AUTHORITY TO MAKE
17 QUALIFIED LOANS OR REVOLVING FUND SECURED LOANS TO SCHOOL DISTRICTS
18 AT THE TIMES AND IN THE AMOUNTS APPROVED BY THIS STATE UNDER THE
19 PROVISIONS OF A SCHOOL LOAN ACT FOR THE PURPOSE OF FUNDING A
20 RESERVE FUND ESTABLISHED BY THE AUTHORITY, FOR THE PURPOSE OF
21 SECURING BONDS OR NOTES ISSUED BY THE AUTHORITY TO PROVIDE FUNDS
22 FOR THE SCHOOL LOAN REVOLVING FUND, FOR THE PURPOSE OF ACTING AS A
23 SURETY FOR THE PAYMENT OF BONDS OR NOTES THAT PROVIDE DIRECT OR
24 INDIRECT STATE SPONSORSHIP OR SUPPORT TO A SCHOOL DISTRICT,
25 INCLUDING REVOLVING FUND SECURED BONDS AUTHORIZED UNDER SECTION 6
26 OF THE SCHOOL BOND QUALIFICATION, APPROVAL, AND LOAN ACT, AND FOR
27 THE PURPOSE OF PAYING THE COSTS OF THE AUTHORITY TO ADMINISTER THE

1 FUND. LOANS TO SCHOOL DISTRICTS FROM THE SCHOOL LOAN REVOLVING FUND
2 WITH RESPECT TO QUALIFIED BONDS AS DEFINED IN A SCHOOL LOAN ACT
3 SHALL BE TREATED AS STATE LOANS AS DESCRIBED IN SECTION 16 OF
4 ARTICLE IX OF THE STATE CONSTITUTION OF 1963.

5 Enacting section 1. This amendatory act does not take effect
6 unless all of the following bills of the 93rd Legislature are
7 enacted into law:

8 (a) Senate Bill No.____ or House Bill No. 4660(request no.
9 02556'05).

10 (b) Senate Bill No.____ or House Bill No. 4646(request no.
11 02556'05 b).

12 (c) Senate Bill No.____ or House Bill No. 4663(request no.
13 02556'05 c).

14 (d) Senate Bill No.____ or House Bill No. 4664(request no.
15 02556'05 d).

16 (e) Senate Bill No.____ or House Bill No. 4662(request no.
17 02557'05).