MUNICIPAL SEWAGE AND WATER SUPPLY SYSTEMS

Act 233 of 1955

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; to provide for the issuance of bonds to acquire, construct, extend, or improve the systems; and to prescribe penalties and provide remedies.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981 ;-- Am. 1998, Act 182, Eff. Mar. 23, 1999

The People of the State of Michigan enact:

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124.281 Definitions.

Sec. 1.

As used in this act:

(a) "Authority", unless the context clearly implies a different meaning, means an authority incorporated under section 2.

(b) "Constituent municipality" or "constituent municipalities" includes all of the municipalities that signed or became signatories of articles of incorporation of any authority incorporated under this act. However, if an authority is incorporated by 2 or more counties, each municipality within the respective territorial limits of the counties, whether the counties are original incorporators or subsequently became a constituent part of the authority under section 6, is a constituent municipality.

(c) "Indian tribe" means an Indian tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for services by the United States secretary of the interior because of their status as Indians.

(d) "Municipality" means a county, township, city, or village.

(e) "Sewage disposal system" includes all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of sewage or industrial wastes.

(f) "Solid waste management system" includes all plants, works, instrumentalities, and properties used or useful in connection with the collection, transportation, processing, or disposal of discarded or waste materials of any sort, including access roads and facilities for resource recovery. Solid waste management system does not include the storage or disposal of toxic materials.

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

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1958, Act 34, Imd. Eff. Apr. 3, 1958 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981 ;-- Am. 2009, Act 164, Imd. Eff. Dec. 14, 2009

124.282 Incorporation of authority by municipalities; purpose; adoption of articles of incorporation; endorsement; territory; publishing and filing articles of incorporation; effective date; presumption of validity.

Sec. 2.

(1) Any 2 or more municipalities may incorporate an authority for the purpose of acquiring, owning, improving, enlarging, extending, and operating a sewage disposal system, a water supply system, a solid waste management system, or a combination of systems by the adoption of articles of incorporation by the legislative body of each of the municipalities. The fact of the adoption shall be endorsed on such articles of incorporation by the chairperson of the county board of commissioners and the county clerk in case of a county; the mayor and clerk in case of a city;

the president and clerk in case of a village; and the supervisor and clerk in case of a township, in form substantially as follows:

"The foregoing articles of incorporation were adopted by the ..... of the ..... of ..... County Michigan, at a meeting duly held on the ..... day of ....., 19....

.....
..... of said
.....
..... of said
....."

(2) The authority shall be comprised of the territory lying within the incorporating municipalities. The articles of incorporation shall be published at least once in a newspaper designated in the articles and having general circulation within the territory encompassed by the authority. One printed copy of the articles of incorporation certified as a true copy by the person or persons designated for the certification, with the date and place of the publication, shall be filed with the secretary of state and the clerk of the county within which the territory or the major portion of the territory is located. The authority shall become effective at the time provided in the articles of incorporation. The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of the certified copies with the secretary of state and the county clerk.

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History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.283 Joint authority; articles of incorporation, contents.

Sec. 3.

Said articles of incorporation shall state the name of such authority, the names of the various municipalities creating the same, the purpose or purposes for which it is created, the powers, duties and limitation of the authority and its officers, the method of selecting its governing body, officers and employees, the person or persons who are charged with the responsibilities of causing the articles of incorporation to be published and the printed copies thereof to be certified and filed as above provided, or who are charged with any other responsibility in connection with the incorporation of said authority, and any other matters which the incorporators shall deem advisable, all of which shall be subject to the provisions of the constitution and statutes of the state of Michigan and particularly of this act.

History: 1955, Act 233, Eff. Oct. 14, 1955

124.284 Authority as municipal authority and public body corporate; powers generally.

Sec. 4.

(1) An authority shall be a municipal authority and shall be a public body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purposes of its incorporation and those incident thereto. The enumeration of any powers of this act shall not be construed as a limitation upon an authority's general powers.

(2) An authority may do all of the following:

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

(b) Adopt an official seal and alter the seal at pleasure.

(c) Maintain an office at such place or places within the state as it may designate.

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

(e) Determine the location of any project constructed by it under the provisions of this act, and to determine, in

its discretion and without reference to any other provisions of this act or any other law, the design, standards, and the materials of construction, and construct, maintain, repair, and operate the project. However, the functions, powers, and duties of the state department of public health and the department of natural resources in connection with any such public improvements shall remain unaffected by this act.

(f) Issue bonds of the authority for any of its corporate purposes under such means as may be provided in this act. If revenue bonds are issued under the provisions of section 12 or sections 12b and 12c, the revenue bonds shall be payable solely from the revenues pledged for their payment, as provided in this act.

(g) Adopt and promulgate rules and regulations for the use of any project constructed by it under the provisions of this act.

(h) Acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1958, Act 34, Imd. Eff. Apr. 3, 1958 ;-- Am. 1985, Act 178, Imd. Eff. Dec. 6, 1985

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124.284a Rules and regulations; adoption by resolution; notice; effective date; summary.

Sec. 4a.

The authority shall adopt rules and regulations by resolution of its governing body and with concurrence by resolution of constituent municipalities. After adoption of the resolution and concurrence by the constituent municipalities, a notice of adoption of the resolution and the rules and regulations, or a summary of those rules and regulations, shall be published in a newspaper of general circulation within the territory encompassed by the authority and within the territory furnished service by the authority by contract pursuant to section 10. The rules and regulations shall become effective 30 days after the date of publication of the notice and the rules and regulations or the summary of the rules and regulations. If a summary of rules and regulations is published, the summary shall be written in clear and nontechnical language and the authority shall designate in the publication the location where a full copy of the rules and regulations can be inspected or obtained.

History: Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985 ;-- Am. 2008, Act 172, Imd. Eff. July 2, 2008

124.284b Violation of rule or regulation; civil fine.

Sec. 4b.

Except as otherwise provided in this act, the authority may prescribe a civil fine not to exceed $1,000.00 for the violation of a rule or regulation adopted and promulgated under this act. If a civil fine is prescribed, it shall be prescribed in the rule or regulation. A fine assessed under this section shall be distributed pursuant to section 8379 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8379.

History: Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985 ;-- Am. 2000, Act 24, Eff. July 1, 2000

124.284c Prohibitions and penalties.

Sec. 4c.

The authority may provide in its rules and regulations either or both of the following prohibitions and penalties:

(a) A person who knowingly submits or prepares for submission to the authority a false statement, representation, or certification is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500.00, or both. Each violation constitutes a separate and distinct offense.

(b) A person who knowingly tampers with or alters a monitoring device or process, causing inaccurate readings

or results, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500.00, or both. Each violation constitutes a separate and distinct offense.

History: Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985

124.284d Enforcement of rules and regulations; issuance of citation or appearance ticket; exercise and scope of enforcement powers; costs and fees.

Sec. 4d.

(1) Subject to subsections (2) and (3), rules and regulations promulgated under this act are enforceable by the authority, its constituent municipalities, and municipalities or Indian tribes that have contracted with the authority for the furnishing of service pursuant to section 10. A person charged with enforcement of those rules and regulations may issue a citation or an appearance ticket to any person who is reasonably believed to have violated a rule or regulation promulgated under this act.

(2) The authority shall exercise its enforcement powers under this act against a violator within a municipality.

(3) A municipality or Indian tribe may exercise its enforcement powers under this act against a violator in territory under its jurisdiction.

(4) For the purposes of this section, enforcement powers include the power to bring an action in a court of competent jurisdiction to enjoin the violation of a rule or regulation promulgated under this act or to recover actual damages sustained due to the violation, or both. Costs and fees shall be awarded in those actions as provided in sections 2401 to 2461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2401 to 600.2461, or other applicable law.

History: Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985 ;-- Am. 2009, Act 167, Imd. Eff. Dec. 14, 2009

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124.284e Discontinuance and restoration of service.

Sec. 4e.

(1) The authority may authorize the discontinuance of service to a user who violates a rule or regulation promulgated under this act if the authority determines that discontinuance of service to that user is necessary to protect the integrity of the affected system.

(2) The authority shall authorize restoration of service to that user when the authority determines that the threat to the affected system no longer exists and that the cause of or events resulting in the violation will not recur.

(3) The municipality or Indian tribe that maintains and operates the affected system or part of that system, or the authority, pursuant to that municipality's or Indian tribe's authorization, shall discontinue service as authorized under subsection (1) and restore service as authorized under subsection (2).

History: Add. 1985, Act 178, Imd. Eff. Dec. 6, 1985 ;-- Am. 2009, Act 168, Imd. Eff. Dec. 14, 2009

124.285 Acquiring and holding, managing, controlling, selling, exchanging, or leasing property for system or combination of systems; condemnation.

Sec. 5.

The authority may acquire property for a sewage disposal system, a water supply system, a solid waste management system, or a combination of systems by purchase, construction, lease, gift, or devise, either within or without its corporate limits, and may hold, manage, control, sell, exchange, or lease the property. For the purpose of condemnation, the authority may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as

amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws, or any other statute which grants to any municipality or public body the authority to acquire private property for public use.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.286 Joint authority; subsequent addition of other municipalities; amendment of articles.

Sec. 6.

Any municipality which did not join in the incorporation of an authority may become a constitutent part thereof by amendment to the articles of incorporation adopted by the legislative body of such municipality and by the legislative body of each municipality of which such authority is composed. Other amendments may be made to the articles of incorporation if adopted by the legislative body of each municipality of which the authority is composed. Any such amendment shall be indorsed, published, and certified printed copies filed, in the same manner as the original articles of incorporation, except that the printed copies shall be certified and filed by the recording officer of the authority.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1957, Act 299, Imd. Eff. June 19, 1957
Compiler's Notes: In the first sentence of this section, "constitutent" evidently should read "constituent."

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124.287 Contracts between authority and constituent municipalities or Indian tribe; purpose; pledging full faith and credit for payment of obligation; taxes; additional methods of raising other funds; permissible contract provisions.

Sec. 7.

(1) The authority and any of its constituent municipalities or an Indian tribe may enter into a contract or contracts providing for the acquisition, construction, improvement, enlargement, extension, operation, and financing of a sewage disposal system, a water supply system, a solid waste management system, or a combination of systems. The contract or contracts shall provide for the allocation and payment of the share of the total cost to be borne by each contracting municipality or Indian tribe in annual installments for a period of not exceeding 40 years. Each contracting municipality may pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contract or contracts. If a contracting municipality makes such a pledge, it may include in its annual tax levy an amount sufficient so that the estimated collections from the tax levy will be sufficient to promptly pay when due the portion of the obligation falling due before the time of the following year's tax collection. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If the contract or an unlimited tax pledge in support of the contract has been approved by the electors of a municipality, the tax may be in addition to any tax that the municipality may otherwise be authorized to levy and may be imposed without limitation as to rate or amount but shall not be in excess of the rate or amount necessary to pay the contractual obligation. If at the time of making the annual tax levy there are other funds on hand earmarked for the payment of the contractual obligation, credit for those funds may be taken upon the annual levy for the payment of the obligation. Other funds may be raised by each contracting municipality by the use of 1 or more of the following additional methods:

(a) The levy of special assessments on property benefited by a sewage disposal system, water supply system, or a combination of systems. The procedures relative to the levying and collection of the special assessments shall conform as nearly as is applicable to charter or statutory provisions for the levying and collection, except that a petition is not required from property owners.

(b) The levy and collection of charges to users and beneficiaries of the service or services furnished by the sewage disposal system, water supply system, solid waste management system, or combination of systems.

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

(d) The receipt of money derived from the imposition of taxes by this state, except to the extent that the use of the money for this purpose is expressly prohibited by the state constitution of 1963.

(e) The receipt of other funds that may be validly used for this purpose.

(2) The contract or contracts under subsection (1) may provide for any matters relating to the acquisition, construction, operation, and financing of the sewage disposal system, water supply system, solid waste management system, or combination of systems as are considered necessary, including authorization to the authority to issue bonds secured by the full faith and credit pledges of the contracting municipalities, as authorized by section 9. The contract or contracts may provide for an appropriate remedy or remedies in case of default.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1957, Act 299, Imd. Eff. June 19, 1957 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981 ;-- Am. 2002, Act 241, Imd. Eff. Apr. 29, 2002 ;-- Am. 2009, Act 163, Imd. Eff. Dec. 14, 2009

124.288 Municipality or Indian tribe desiring to contract with authority; authorization; resolution; notice; contents; execution and delivery of contract; effective date; petition requesting referendum upon contract; voting; effect of action taken prior to effective date of subsection (2); special election; verification of petition signatures; number of registered electors.

Sec. 8.

(1) A municipality or Indian tribe desiring to enter into a contract with the authority under section 7 shall authorize, by resolution of its governing body, the execution of the contract. After the adoption of such a resolution by a municipality, the municipality shall publish a notice of the resolution in a newspaper of general circulation in the municipality. The notice shall state all of the following:

(a) That the governing body has adopted a resolution authorizing execution of the contract.

(b) The purpose of the contract.

(c) The source of payment for the contractual obligation.

(d) The right of referendum on the contract.

(e) Other information that the municipality's governing body determines to be necessary to adequately inform all interested persons of the nature of the obligation.

(2) A contract under subsection (1) may be executed and delivered by the municipality upon approval by its governing body without a vote of the electors on the contract, but the contract shall not become effective until the expiration of 45 days after the date of publication of the notice. If within the 45-day period a petition signed by not less than 10% or 15,000, whichever is less, of the registered electors residing within the limits of the municipality is filed with the clerk of the municipality requesting a referendum upon the contract, the contract shall not become effective until approved by the vote of a majority of the qualified electors of the municipality voting on the question at a general or special election. If, before November 19, 1981, a municipality published a resolution authorizing the execution of a contract under this section in substantial compliance with this section as then in effect, and the referendum period formerly provided by this section expired, but the bonds were not issued, the resolution and the publication of the resolution are valid and, if a petition for a referendum on execution of the contract was not signed and filed within the time period formerly provided by this section, the contract may be executed and shall become effective without submitting the proposition for approval to the electors, or if a petition was so signed and filed, the contract may be executed and become effective if approved at an election as formerly provided in this section. A special election called for the purpose provided in this section shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on the petition shall be verified under oath as the actual signatures of the persons whose names are signed to the petition. The clerk of the municipality has the same power to reject signatures as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in any municipality shall be determined by the registration books as of the date of the filing of the petition.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981 ;-- Am. 2009, Act 166, Imd. Eff. Dec. 14, 2009

124.288a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 8a.

A petition under section 8, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election

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law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 182, Eff. Mar. 23, 1999

124.289 Issuance of negotiable bonds; maturity; use of money; conditions for issuance or refunding of bonds; bonds issued, sold, and subject to MCL 141.2101 to 141.2821.

Sec. 9.

(1) To obtain funds for the acquisition, construction, improvement, enlargement, or extension of the sewage disposal system, water supply system, solid waste management system, or combination of systems authorized by this act, the authority, after the execution of the contract or contracts authorized by sections 7 and 8, upon ordinance or resolution adopted by the authority, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting municipality pursuant to authorization contained in this act and the contract or contracts entered into pursuant to sections 7 and 8. The bonds shall mature over not more than 40 years from the date of issuance, and may provide for the use of money received from the sale of the bonds to pay operation and maintenance costs of a sewage disposal system, water supply system, solid waste management system, or combination of systems before receipt of the first revenues from the bonds.

(2) Except as otherwise provided in this act, bonds issued pursuant to this section shall be issued and sold and subject to all other applicable provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981 ;-- Am. 1994, Act 36, Imd. Eff. Mar. 7, 1994 ;-- Am. 2002, Act 241, Imd. Eff. Apr. 29, 2002

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124.290 Contract with municipality or Indian tribe for furnishing certain services; charges or rates; contract with public corporation for services or use of facilities; lump sum payment; financing; duration of contract; contract as general obligation.

Sec. 10.

(1) The authority and any municipality or Indian tribe may contract for the furnishing of water, sewage disposal, or waste management services or a combination of such services by the authority to the municipality or Indian tribe. The charges or rates specified in a contract under this subsection are subject to change by the authority, if necessary to meet its obligations. The charges or rates to a municipality that is not a constituent municipality or to an Indian tribe may be greater than those to constituent municipalities.

(2) The authority and any other public corporation may contract for the furnishing of water, sewage disposal, or solid waste management system services or a combination of such services by the other public corporation to the authority or may contract for the use by the authority of any of the facilities of the water supply system; sewage disposal system, including sewers; or solid waste management system or a combination of systems of the other public corporation. Any lump sum payment for such a use may be considered as a part of the cost of the authority system and may be financed the same as other capital costs are financed under this act.

(3) Each contract authorized in this section shall be for a period not exceeding 40 years. Each contract with a municipality authorized in this section is a general obligation of the municipality.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1957, Act 299, Imd. Eff. June 19, 1957 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981 ;-- Am. 2009, Act 165, Imd. Eff. Dec. 14, 2009

124.291 Change in jurisdiction over territory in contracting municipality; effect on contract obligations;

generator of waste not precluded from arranging for use of recyclable waste materials.

Sec. 11.

(1) A change in the jurisdiction over territory in a municipality which has contracted with the authority for the acquisition, construction, and financing of a sewage disposal system, water supply system, solid waste management system, or a combination of systems under this act, or has contracted with the authority for sewage disposal, water, or solid waste management services, or a combination of services shall not impair the obligations of the contract. In event of a change in jurisdiction over territory, the contract shall be carried out insofar as the territory is concerned by the authority and the municipality as shall have jurisdiction to furnish water, sewage disposal, or solid waste management services, or a combination of services to the territory, unless that requirement would operate to impair a contract obligation, in which case the contracting municipality shall retain jurisdiction over the territory for the purpose of carrying out its contractual obligations. A change in municipal jurisdiction over territory within an authority shall not in any manner affect the authority or its boundaries.

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

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1957, Act 299, Imd. Eff. June 19, 1957 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

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124.292 Financing project by issuance of revenue bonds; charges and rates.

Sec. 12.

Instead of the provisions in sections 7, 8, and 9 in respect to the acquisition, construction, improvement, enlargement, extension, or financing of a sewage disposal system, water supply system, solid waste management system, or a combination of systems, the authority may elect to proceed under the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Michigan Compiled Laws, or any other act authorizing the issuance of revenue bonds, by which the financing of a project would be consummated by the issuance of revenue bonds payable from the revenues of the system or systems, if the charges and rates for service in any contract entered into under the provisions of section 10 are sufficient to satisfy the provisions of the act under which revenue bonds shall be issued. A project may be financed in part under the provisions of sections 7, 8, and 9 and in part as permitted under this section.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1957, Act 299, Imd. Eff. June 19, 1957 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.292a Additional security for payment of municipality's contractual obligations; pledging full faith and credit and state sales tax moneys; resolution.

Sec. 12a.

A municipality contracting with the authority, either under section 7, section 10, or section 12, as additional security for the payment of its contractual obligations, may by resolution of its governing body, irrevocably pledge its full faith and credit, and may further irrevocably pledge not to exceed 25% of the money derived from the state sales tax levied pursuant to law, and from time to time returned to it under section 10 of article 9 of the state constitution of 1963, to the payment of its contractual obligations. The resolution may also authorize and direct the county treasurer or other official charged with the disbursement of those funds, to withhold and pay over to the authority sufficient of the money to make up any deficiency in funds to meet its contractual obligations.

History: Add. 1957, Act 299, Imd. Eff. June 19, 1957 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.292b Acquisition of water systems; projects over $50,000,000, financing; costs; project revenue bonds; payment; terms and conditions of additional bonds; tax exemption; approval.

Sec. 12b.

(1) As an additional or alternative method of financing a water supply system or sewage disposal system, hereinafter generally referred to in this section and section 12c as the "project", any authority proposing a project to cost a sum of $50,000,000.00 or more for such purposes, is authorized to proceed under the provisions of this section and section 12c. In such event the authority is hereby authorized by resolution or resolutions of its governing body to provide for the issuance of revenue bonds for the purpose of paying all or any portion of the cost of the project, or for the purpose of refunding the bonds, including refunding bonds, or for any combination of such purposes. The term "cost of the project" includes all expenditures made in connection with the acquisition and construction thereof, financing charges, interest to accrue on the bonds during the period of construction of the project and for a period of not to exceed 1 year thereafter, cost of engineering and legal expenses, plans, specifications and surveys, other expenses necessary or incident to determining the feasibility or practicability of constructing the project, administrative expense, and such other expense as may be necessary or incident to the construction of the project, the financing of the project and the placing of the project in operation, including the repayment of any moneys advanced by constituent municipalities of the authority for any of the above purposes. The authority may enter into such contracts for financial, fiscal agents, legal or engineering services in connection with the financing and construction of the project as it deems necessary and advisable. The authority shall not contract for the payment of stand-by bids or finders' fees.

(2) Principal of and interest and redemption premiums on the bonds issued under this section shall be payable solely from the revenues of the project, except that payments may also be made from the proceeds of refunding bonds issued under this section. The term "revenues of the project" as used in this section and section 12c means revenues derived from contracts with municipalities entered into pursuant to the provisions of section 10 of this act, and all other sources of revenue of the authority derived from the operation of the project. The bonds may be either serial bonds or term bonds, or any combination thereof. Any serial bonds shall have annual or semiannual maturities, the first maturity of which shall be payable not more than 10 years from their date. Any bonds shall be redeemable commencing with an interest payment date to be determined at such prices and upon such terms and conditions as prescribed by the authorizing resolution of the governing body of the authority, and recited upon the face of the bonds. The bonds shall mature not more than 40 years from their date, shall be coupon bonds bearing interest at not more than 6% per annum, payable semiannually, except as to the first coupon, which may be for any number of months not exceeding 10, shall be payable in such medium, shall be in such form and executed in such manner, shall have such privilege of registration as to principal or principal and interest, shall be payable at such places within or without the state, and shall otherwise have such other details as may be fixed by resolution of the governing body of the authority. The resolution of the governing body of the authority may provide the terms and conditions under which additional revenue bonds may be issued, having parity of lien with those issued and outstanding for the purpose of completing the project or providing for additions, extensions and improvements thereto. All bonds issued under the provisions of this section shall contain a statement on their face that they are payable solely and only from the revenues of the authority specifically pledged for their payment, and that the authority is authorized to pay such bonds and interest only from the revenues pledged thereto under the provisions of this section. If any official whose signature appears on the bonds or coupons ceases to be such officer before delivery of the bonds, the signature shall nevertheless be valid and sufficient for all purposes with like effect as though the person had remained in office until delivery. All such bonds are hereby declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the negotiable instruments law of the state, subject only to the provisions for registration of the bonds which may appear therein. The bonds shall be exempt from all taxation by the state or any of its political subdivisions, and may be sold by the governing body of the authority in such manner as it, in its sole discretion, determines to be in the best interest of the authority, but no sale shall be made at a price that will result in an interest cost of more than 6% per annum. The issuance and sale of bonds shall not be subject to the approval or authorization of any other agency of government, whether federal, state or local, but shall be entirely within the discretion and judgment of the governing body of the authority. Prior to the preparation of definitive bonds, the governing body of the authority may provide for the issuance of temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. The proceedings authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this act, and such recital shall be conclusive evidence of their validity and the regularity of their issuance.

History: Add. 1958, Act 34, Imd. Eff. Apr. 3, 1958

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124.292c Bonds secured by trust indenture; provisions in resolution or trust indenture; annual audit; pledging eligible marketable securities as collateral security for deposits; expenses; construction of 1958 amendments.

Sec. 12c.

(1) In the discretion of the governing body of the authority, any series of bonds issued pursuant to the authorization of section 12b may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, but no trust indenture shall convey or mortgage the project or any part of the project. Either the resolution providing for the issuance of bonds or the trust indenture may contain the provisions for the security and payment of the bonds and for the protection and enforcement of the rights and remedies of the bondholders as deemed advisable by the governing body of the authority, not in violation of the constitution of this state, including specifically covenants setting forth the following:

(a) The duties of the authority in relationship to the construction, maintenance, operation, repair, and insurance of the project.

(b) The pledge of revenues of the project or any part of the project.

(c) Limitations on the amount of money derived from the operation of the project that may be expended for operating, administrative, or other specified expenses of the authority.

(d) The safeguarding and application of the fund from which the cost of the project is to be paid and of the revenues pledged to the payment of the bonds, all of which may be deposited in as received and paid out by those banks as provided in the resolution or indenture.

(e) Provisions for the employment of consulting engineers to supervise the construction of the project, and to supervise its maintenance and operation, to which consulting engineers may be delegated all rights and duties with respect to the project deemed advisable by the governing body of the authority and the appointment of which consulting engineers shall be subject to the approval by the purchasers or holders of the bonds as provided in the resolution or indenture.

(f) Rights and remedies of the bondholders and the trustee, if any, and the restrictions thereon as may be considered advisable.

(g) Any other and additional provisions ordinarily found in trust agreements securing bond issues protecting and enforcing the rights and security of the holders of the bonds and designed to make the bonds more attractive and salable at the best available prices.

(2) The resolution or trust indenture shall contain a provision requiring an annual audit of the books and records of the authority, or any fiscal agent or trustee specified in the resolution or trust indenture by a certified public accountant or accountants to be selected by the governing body of the authority and approved by the manager or managers of the account purchasing the bonds.

(3) Any bank or trust company designated as trustee or as depositary for any funds, notwithstanding any provision of law to the contrary, is authorized to pledge as collateral security for moneys deposited in such bank or trust company direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by the government of the United States, or other marketable securities eligible as security for the deposit of trust funds under regulations of the federal reserve board and having a market value, exclusive of accrued interest, at least equal to the amount of the deposit; or in lieu of the collateral security as to all or any part of the deposit, there may be lodged with the trustee, or with the governing body of the authority in case of moneys deposited or remaining on deposit with the trustee, and remain in full force and effect as security for the moneys deposited, the indemnifying bonds of a surety company or companies qualified as surety for deposits of the government of the United States and qualified to transact business in this state, in a sum at least equal to the amount of moneys deposited with such bank or trust company, if such indemnity bond or bonds be approved by the governing body of the authority. All expenses incurred in carrying out the provisions appearing in any trust indenture or bond resolution and the cost of any surety bond furnished may be treated as part of the cost of maintaining and operating the project. The resolution or trust indenture may contain such other provisions as the governing body of the authority may deem reasonable and proper for the security of the bondholders, including, but without limitation, covenants prescribing all happenings or occurrences that constitute events of default and the terms and conditions upon which bonds may become or be declared to be due before maturity and as to the rights, liabilities, powers, and duties arising upon the breach by the authority of any of its duties and obligations.

(4) Nothing contained in the 1958 amendments to this act shall be construed to authorize the issuance of other than revenue bonds.

History: Add. 1958, Act 34, Imd. Eff. Apr. 3, 1958 ;-- Am. 1983, Act 30, Imd. Eff. May 6, 1983 ;-- Am. 2002, Act 241, Imd. Eff. Apr. 29, 2002

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124.293 Authorization to raise or pay money for administrative expenses or other purposes; direct taxing power.

Sec. 13.

The legislative body of each municipality which is a member of the authority is authorized to raise by tax or pay from its general funds, any money required to be paid by the articles of incorporation for administrative expenses or for the purpose of obtaining maps, plans, designs, specifications, and cost estimates of a proposed sewage disposal system, water supply system, or waste management system. The authority shall not have direct taxing power.

History: 1955, Act 233, Eff. Oct. 14, 1955 ;-- Am. 1981, Act 154, Imd. Eff. Nov. 19, 1981

124.294 Constituent municipalities; additional powers.

Sec. 14.

The powers herein granted shall be in addition to those granted by any charter or other statute.

History: 1955, Act 233, Eff. Oct. 14, 1955

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