

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Rep. Hildenbrand

ENROLLED HOUSE BILL No. 6694

AN ACT to amend 2001 PA 34, entitled "An act relative to the borrowing of money and the issuance of certain debt and securities; to provide for tax levies and sinking funds; to prescribe powers and duties of certain departments, state agencies, officials, and employees; to impose certain duties, requirements, and filing fees upon political subdivisions of this state; to authorize the issuance of certain debt and securities; to prescribe penalties; and to repeal acts and parts of acts," by amending section 103 (MCL 141.2103) and by adding sections 518 and 519.

The People of the State of Michigan enact:

Sec. 103. As used in this act:

(a) "Assessed value", "assessed valuation", "valuation as assessed", and "valuation as shown by the last preceding tax assessment roll", or similar terms, used in this act, any statute, or charter as a basis for computing limitations upon the taxing or borrowing power of any municipality, mean the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(b) "Chief administrative officer" means that term as defined in section 2b of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.422b.

(c) "Debt" means all borrowed money, loans, and other indebtedness, including principal and interest, evidenced by bonds, obligations, refunding obligations, notes, contracts, securities, refunding securities, municipal securities, or certificates of indebtedness that are lawfully issued or assumed, in whole or in part, by a municipality, or will be evidenced by a judgment or decree against the municipality.

(d) "Debt retirement fund" means a segregated account or group of accounts used to account for the payment of, interest on, or principal and interest on a municipal security.

(e) "Deficit" means a situation for any fund of a municipality in which, at the end of a fiscal year, total expenditures, including an accrued deficit, exceeded total revenues for the fiscal year, including any surplus carried forward.

(f) "Department" means the department of treasury.

(g) "Fiscal year" means a 12-month period fixed by statute, charter, or ordinance, or if not so fixed, then as determined by the department.

(h) "Governing body" means the county board of commissioners of a county; the township board of a township; the council, common council, or commission of a city; the council, commission, or board of trustees of a village; the board of education or district board of a school district; the board of an intermediate school district; the board of trustees of a community college district; the county drain commissioner or drainage board of a drainage district; the board of the district library; the legislative body of a metropolitan district; the port commission of a port district; and, in the case of another governmental authority or agency, that official or official body having general governing powers over the authority or agency.

(i) "Health care trust fund" means a trust or fund created in accordance with the public employee health care fund investment act, 1999 PA 149, MCL 38.1211 to 38.1216, or other state or federal statute, and used exclusively to provide funding for postemployment health care benefits for public employee retirees of a county, city, village, or township.

A health care trust fund also includes the retiree health fund vehicle administered by the municipal employees retirement system described in the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555, for a county, city, village, or township that has adopted the municipal employee retirement system to provide funding for postemployment health care benefits for public employee retirees.

(j) "Municipal security" means a security that when issued was not exempt from this act or former 1943 PA 202, by the provisions of this act or by the provisions of former 1943 PA 202, or by the provisions of the law authorizing its issuance and that is payable from or secured by any of the following:

- (i) Ad valorem real and personal property taxes.
- (ii) Special assessments.
- (iii) The limited or unlimited full faith and credit pledge of the municipality.
- (iv) Other sources of revenue described in this act for debt or securities authorized by this act.

(k) "Municipality" means a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district, district library, or another governmental authority or agency in this state that has the power to issue a security. Municipality does not include this state or any authority, agency, fund, commission, board, or department of this state.

(l) "Outstanding security" means a security that has been issued, but not defeased or repaid, including a security that when issued was exempt from this act or former 1943 PA 202, by the provisions of this act or by the provisions of former 1943 PA 202, or by the provisions of the law authorizing its issuance.

(m) "Qualified status" means a municipality that has filed a qualifying statement under section 303 and has been determined by the department to be qualified to issue municipal securities without further approval by the department.

(n) "Refunding security" means a municipal security issued to refund an outstanding security.

(o) "Security" means an evidence of debt such as a bond, note, contract, obligation, refunding obligation, certificate of indebtedness, or other similar instrument issued by a municipality, which pledges payment of the debt by the municipality from an identified source of revenue.

(p) "Sinking fund" means a fund for the payment of principal only of a mandatory redemption security.

(q) "Taxable value" means the taxable value of the property as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(r) "Unfunded actuarial liability" means the difference between the assets and liabilities of a health care trust fund as determined by an actuarial study conducted pursuant to Rule 43 or 45 of the governmental accounting standards board.

Sec. 518. (1) Through September 30, 2010, a county, city, village, or township may by ordinance or resolution of its governing body, and without a vote of its electors, issue a municipal security under this section to pay the costs of the unfunded actuarial liability provided that the amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, shall not exceed the limit authorized by law. Postemployment health care benefits may be funded by the county, city, village, or township, notwithstanding the fact that the county, city, village, or township has no legal obligation to pay the benefits or has the right to alter or eliminate the payment of those benefits. The funding of postemployment health care benefits by a county, city, village, or township as provided in this act shall not constitute a contract to pay the postemployment health care benefits.

(2) Before a county, city, village, or township issues a municipal security under this section, the county, city, village, or township shall publish a notice of intent to issue the municipal security. The notice of intent and the rights of referendum shall meet the requirements of section 517(2) except that petitioners shall have 60 days after the publication of the notice of intent to file a petition and the registered elector requirement shall be not less than 5% or 10,000 registered electors, whichever is less.

(3) A county, city, village, or township by resolution and with a vote of its electors may issue a municipal security pledging its unlimited taxes to pay the costs of an unfunded actuarial liability.

(4) The proceeds of a municipal security issued under this section may be used to pay the costs of issuance of the municipal security. The proceeds of a municipal security issued under this section shall be deposited in a health care trust fund; a trust created by the issuer which has as its beneficiary a health care trust fund; or for a county, city, village, or township, a restricted fund within a trust that would only be used to retire the municipal securities issued under subsection (1) or (3). A county, city, village, or township shall have the power to create a trust to carry out the purposes of this subsection. The trust created under this subsection shall invest its funds in the same manner as funds invested by a health care trust fund. The trust created under this subsection shall comply with all of the following:

- (a) Report its financial condition according to generally accepted accounting principles.
- (b) Be tax exempt under the internal revenue code.

(5) Before a county, city, village, or township issues a municipal security under this section, the county, city, village, or township shall prepare and make available to the public a comprehensive financial plan that includes all of the following:

(a) Evidence that the issuance of the municipal security together with other funds lawfully available will be sufficient to eliminate the unfunded actuarial liability.

(b) A debt service amortization schedule and a description of actions required to satisfy the debt service amortization schedule.

(c) A certification by the person preparing the plan that the comprehensive financial plan is complete and accurate.

(d) Documentation that the issuance of municipal securities will result in projected present value savings regarding the unfunded actuarial liability.

(e) A plan in place from the county, city, village, or township to mitigate the increase in health care costs and may include a wellness program that promotes the maintenance or improvement of healthy behaviors.

(6) Municipal securities issued under subsection (1) or (3) by a county, city, village, or township, and currently outstanding, shall not exceed 5% of the state equalized valuation of the property assessed in that county, city, village, or township.

(7) Municipal securities issued under subsection (1) or (3) by a county, city, village, or township and the interest on and income from the municipal securities are exempt from taxation by this state or a political subdivision of this state.

(8) A county, city, village, or township issuing municipal securities under subsection (1) or (3) may enter into indentures or other agreements with trustees and escrow agents for the issuance, administration, or payment of the municipal securities.

(9) Municipal securities issued under subsection (1) or (3) by a county, city, village, or township shall not on a cumulative basis exceed 75% of current unfunded actuarial liabilities on postemployment health care benefits owed to employees of the county, city, village, or township that exist on the date of the amendatory act that added this subsection.

(10) A county, city, village, or township shall not issue a municipal security under subsection (1) or (3) unless the county, city, village, or township has been assigned a credit rating within the category of AA or higher by at least 1 nationally recognized rating agency.

(11) A county, city, village, or township shall not issue a municipal security under subsection (1) or (3) unless the projected difference between the assumed rate of return on the health care trust fund investments and the projected actual interest rate paid on the municipal securities issued under subsection (1) or (3) is not less than 100 basis points.

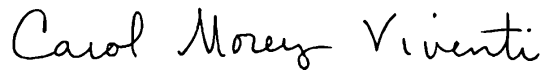
(12) Before a county, city, village, or township issues a municipal security under this section, the county, city, village, or township shall obtain the approval of the department of treasury. The department of treasury shall review the proposed issuance of municipal securities and if it verifies that the county, city, village, or township meets the requirements of this section, the department of treasury shall approve the issuance of municipal securities under this section.

Sec. 519. Municipal securities issued under section 517 or 518 shall also be secured by the general fund of the county, city, village, or township and may include the phrase "general obligation limited tax" in the resolution authorizing the issuance. The county, city, village, or township issuing the municipal securities that have not been approved by the electors is not authorized to levy any tax not authorized by law at the time the municipal securities are issued to pay for the municipal securities.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor