

**SUBSTITUTE FOR
SENATE BILL NO. 1129**

A bill to amend 2001 PA 34, entitled
"Revised municipal finance act,"
by amending sections 103, 305, and 503 (MCL 141.2103, 141.2305, and
141.2503) and by adding section 518.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 103. As used in this act:

2 (a) "Assessed value", "assessed valuation", "valuation as
3 assessed", and "valuation as shown by the last preceding tax
4 assessment roll", or similar terms, used in this act, any statute,
5 or charter as a basis for computing limitations upon the taxing or
6 borrowing power of any municipality, mean the state equalized
7 valuation as determined under the general property tax act, 1893 PA
8 206, MCL 211.1 to ~~211.157~~ **211.155**.

9 (b) "Chief administrative officer" means that term as defined

1 in section 2b of the uniform budgeting and accounting act, 1968 PA
2 2, MCL 141.422b.

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

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

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

17 **(F) "DEFINED BENEFIT PLAN" MEANS A RETIREMENT PROGRAM OTHER**
18 **THAN A DEFINED CONTRIBUTION PLAN.**

19 **(G) "DEFINED CONTRIBUTION PLAN" MEANS A RETIREMENT PROGRAM**
20 **THAT PROVIDES FOR AN INDIVIDUAL ACCOUNT FOR EACH PARTICIPANT AND**
21 **FOR BENEFITS BASED SOLELY UPON THE AMOUNT CONTRIBUTED TO THE**
22 **PARTICIPANT'S ACCOUNT, AND ANY INCOME, EXPENSES, GAINS, AND LOSSES**
23 **CREDITED OR CHARGED TO THE ACCOUNT, AND ANY FORFEITURES OF ACCOUNTS**
24 **OF OTHER PARTICIPANTS THAT MAY BE ALLOCATED TO THE PARTICIPANT'S**
25 **ACCOUNT.**

26 **(H) ~~(f)~~**—"Department" means the department of treasury.

27 **(I) ~~(g)~~**—"Fiscal year" means a 12-month period fixed by

1 statute, charter, or ordinance, or if not so fixed, then as
 2 determined by the department.

3 (J) ~~(h)~~—"Governing body" means the county board of
 4 commissioners of a county; the township board of a township; the
 5 council, common council, or commission of a city; the council,
 6 commission, or board of trustees of a village; the board of
 7 education or district board of a school district; the board of an
 8 intermediate school district; the board of trustees of a community
 9 college district; the county drain commissioner or drainage board
 10 of a drainage district; the board of the district library; the
 11 legislative body of a metropolitan district; the port commission of
 12 a port district; and, in the case of another governmental authority
 13 or agency, that official or official body having general governing
 14 powers over the authority or agency.

15 (K) ~~(i)~~—"Municipal security" means a security that when issued
 16 was not exempt from this act or ~~the municipal finance act, FORMER~~
 17 1943 PA 202 , ~~MCL 131.1 to 139.3,~~ by the provisions of this act or
 18 by ~~the provisions of the municipal finance act, FORMER~~ 1943 PA 202
 19 , ~~MCL 131.1 to 139.3,~~ or by the provisions of the law authorizing
 20 its issuance and that is payable from or secured by any of the
 21 following:

22 (i) Ad valorem real and personal property taxes.

23 (ii) Special assessments.

24 (iii) The limited or unlimited full faith and credit pledge of
 25 the municipality.

26 (iv) Other sources of revenue described in this act for debt or
 27 securities authorized by this act.

(I) ~~(j)~~ "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.

(M) ~~(k)~~ "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 ~~the municipal finance act,~~ **FORMER** 1943 PA 202, ~~MCL 131.1 to 139.3,~~ by the provisions of this act or by ~~the provisions of the municipal finance act,~~ **FORMER** 1943 PA 202, ~~MCL 131.1 to 139.3,~~ or by the provisions of the law authorizing its issuance.

(N) ~~(l)~~ "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.

(O) ~~(m)~~ "Refunding security" means a municipal security issued to refund an outstanding security.

(P) "RETIREMENT PROGRAM" MEANS A PROGRAM OF RIGHTS AND OBLIGATIONS WHICH A MUNICIPALITY ESTABLISHES, MAINTAINS, OR PARTICIPATES IN AND WHICH, BY ITS EXPRESS TERMS OR AS A RESULT OF SURROUNDING CIRCUMSTANCES, DOES 1 OR MORE OF THE FOLLOWING:

(i) PROVIDES RETIREMENT INCOME TO PARTICIPANTS.

(ii) RESULTS IN A DEFERRAL OF INCOME FOR PERIODS EXTENDING TO THE TERMINATION OF COVERED EMPLOYMENT OR BEYOND.

1 (Q) ~~(n)~~—"Security" means an evidence of debt such as a bond,
 2 note, contract, obligation, refunding obligation, certificate of
 3 indebtedness, or other similar instrument issued by a municipality,
 4 which pledges payment of the debt by the municipality from an
 5 identified source of revenue.

6 (R) ~~(e)~~—"Sinking fund" means a fund for the payment of
 7 principal only of a mandatory redemption security.

8 (S) ~~(p)~~—"Taxable value" means the taxable value of the
 9 property as determined under section 27a of the general property
 10 tax act, 1893 PA 206, MCL 211.27a.

11 (T) **"UNFUNDED PENSION LIABILITY" MEANS THE AMOUNT A DEFINED**
 12 **BENEFIT PLAN'S LIABILITIES EXCEED ITS ASSETS ACCORDING TO THE MOST**
 13 **RECENT GOVERNMENTAL ACCOUNTING STANDARDS BOARD'S APPLICABLE**
 14 **STANDARDS.**

15 Sec. 305. (1) A municipal security authorized by law to be
 16 issued by a municipality may, notwithstanding the provisions of a
 17 charter, bear no interest as provided in this section or a rate of
 18 interest not to exceed a maximum rate established by the governing
 19 body of the issuing municipality as set forth in its resolution or
 20 ordinance authorizing the issuance of the municipal security, which
 21 rate shall not exceed 18% per annum or a per annum rate determined
 22 by the department at the request of the municipality, whichever is
 23 higher. In making its determination, the department shall establish
 24 a rate that shall bear a reasonable relationship to 80% of the
 25 adjusted prime rate determined by the department under section 23
 26 of 1941 PA 122, MCL 205.23. Except as otherwise provided in this
 27 section, the rate determined by the department shall be conclusive

1 as to the maximum rate of interest permitted for a municipal
2 security issued under this act.

3 (2) Except as provided in subsection (3), a municipal security
4 issued under this act shall not be sold at a discount exceeding 10%
5 of the principal amount of the municipal security. The amortization
6 of the discount shall be considered interest and shall be within
7 the interest rate limitation set forth in subsection (1).

8 (3) A municipal security may be sold at a discount exceeding
9 10% of the principal amount of the municipal security only if 1 or
10 more of the following conditions apply, as determined by the
11 department:

12 (a) The sale will result in the more even distribution for the
13 municipality of total debt service on proposed and outstanding
14 municipal securities.

15 (b) The sale will result in an interest cost savings when
16 compared to the best available alternative that does not include a
17 municipal security being sold at a discount exceeding 10% of the
18 principal amount.

19 (c) The issuance is based on the availability of specific
20 revenues previously pledged for another purpose and lawfully
21 available for this purpose.

22 (d) The municipal security is issued to this state or the
23 federal government to secure a loan or agreement.

24 **(E) THE MUNICIPAL SECURITY IS ISSUED PURSUANT TO SECTION 518.**

25 (4) A municipal security issued in accordance with subsection
26 (3)(a), (b), or (c) shall be rated investment grade by a nationally
27 recognized rating agency or have insurance for payment of the

1 principal and interest on the municipal security to the holders of
2 the municipal security.

3 (5) Notwithstanding any other provision of this section, a
4 municipal security meeting the requirements of subsection (3) that
5 is a refunding security shall not have a maturity that exceeds the
6 maturity of the existing municipal security.

7 (6) Not more than 25% of the total principal amount of any
8 authorized issue of a municipal security shall meet the
9 qualifications under subsection (3)(a), (b), and (c).

10 (7) A municipal security may bear no interest if sold in
11 accordance with a federal program by which the holder of the
12 municipal security, as a result of holding the municipal security,
13 may declare a credit against a federal tax.

14 (8) A municipal security may bear no interest and appreciate
15 as to principal amount if it meets the requirements of subsections
16 (3), (4), and (6). The accreted principal amount of a municipal
17 security shall be considered interest and shall be within the
18 interest rate limitations provided in subsection (1).

19 Sec. 503. (1) Municipal securities of a single issue may
20 mature serially or be subject to mandatory redemptions, or both,
21 with maturities as fixed by the governing body of the municipality.
22 In any case, the first maturity or mandatory redemption date shall
23 occur not later than 5 years after the date of issuance, and the
24 total principal amount maturing or subject to mandatory redemption
25 in any year after 4 years from the date of issuance shall not be
26 less than 1/5 of the total principal amount maturing or subject to
27 mandatory redemption in any subsequent year.

1 (2) In the resolution authorizing the issuance of a municipal
2 security, the governing body of the municipality may provide that
3 the municipality may purchase municipal securities in the open
4 market at a price not greater than that payable on the next
5 redemption date in order to satisfy all or part of the next
6 succeeding scheduled mandatory redemption.

7 (3) The governing body of the municipality may provide that
8 some or all of the principal amounts maturing in any year may be
9 redeemed at the option of the municipality at the times, on the
10 terms and conditions, and at the price as provided by resolution of
11 the governing body, except that a municipality shall not agree to
12 pay a premium exceeding 3% of the principal amount being redeemed.

13 (4) All outstanding and authorized municipal securities of a
14 school district payable out of taxes may be treated as a single
15 issue for the purpose of fixing maturities. Several series of
16 municipal securities issued under the same authorization may be
17 treated as a single issue for the purpose of fixing maturities.

18 (5) A municipal security issued by a school district that is
19 sold in accordance with a federal program in which the holder of
20 the municipal security, as a result of holding the municipal
21 security, may declare a credit against a federal tax is exempt from
22 the provisions of subsection (1) if the school district deposits in
23 trust payments to provide for the repayment of the municipal
24 security and the first required payment shall occur not later than
25 5 years after the date of issuance and each required payment in any
26 year after 4 years from the date of issuance shall not be less than
27 $\frac{1}{5}$ of the total required payment in any subsequent year.

1 (6) A MUNICIPAL SECURITY ISSUED BY A MUNICIPALITY PURSUANT TO
2 SECTION 518 SHALL NOT BE SUBJECT TO THE MATURITY AND MANDATORY
3 REDEMPTION REQUIREMENTS OF SUBSECTION (1).

4 SEC. 518. (1) IN CONNECTION WITH THE PARTIAL OR COMPLETE
5 CESSATION OF ACCRUALS TO A DEFINED BENEFIT PLAN OR THE CLOSURE OF
6 THE DEFINED BENEFIT PLAN TO NEW OR EXISTING EMPLOYEES, AND THE
7 IMPLEMENTATION OF A DEFINED CONTRIBUTION PLAN, OR TO FUND COSTS OF
8 A MUNICIPALITY THAT HAS ALREADY CEASED ACCRUALS TO A DEFINED
9 BENEFIT PLAN, A MUNICIPALITY MAY BY ORDINANCE OR RESOLUTION OF ITS
10 GOVERNING BODY, AND WITHOUT A VOTE OF ITS ELECTORS, ISSUE A
11 MUNICIPAL SECURITY UNDER THIS SECTION TO PAY ALL OR PART OF THE
12 COSTS OF THE UNFUNDED PENSION LIABILITY FOR THAT RETIREMENT PROGRAM
13 PROVIDED THAT THE AMOUNT OF TAXES NECESSARY TO PAY THE PRINCIPAL
14 AND INTEREST ON THAT MUNICIPAL SECURITY, TOGETHER WITH THE TAXES
15 LEVIED FOR THE SAME YEAR, SHALL NOT EXCEED THE LIMIT AUTHORIZED BY
16 LAW.

17 (2) BEFORE A MUNICIPALITY ISSUES A MUNICIPAL SECURITY UNDER
18 THIS SECTION, THE MUNICIPALITY SHALL PUBLISH A NOTICE OF INTENT TO
19 ISSUE THE MUNICIPAL SECURITY. THE NOTICE OF INTENT AND THE RIGHTS
20 OF REFERENDUM SHALL MEET THE REQUIREMENTS OF SECTION 517(2).

21 (3) BEFORE A MUNICIPALITY ISSUES A MUNICIPAL SECURITY UNDER
22 THIS SECTION, THE MUNICIPALITY SHALL PREPARE AND MAKE AVAILABLE TO
23 THE PUBLIC A COMPREHENSIVE FINANCIAL PLAN THAT INCLUDES ALL OF THE
24 FOLLOWING:

25 (A) AN ANALYSIS OF THE CURRENT AND FUTURE OBLIGATIONS OF THE
26 MUNICIPALITY WITH RESPECT TO EACH RETIREMENT PROGRAM OF THE
27 MUNICIPALITY.

1 (B) EVIDENCE THAT THE ISSUANCE OF THE MUNICIPAL SECURITY
2 TOGETHER WITH OTHER FUNDS LAWFULLY AVAILABLE WILL BE SUFFICIENT TO
3 ELIMINATE THE UNFUNDED PENSION LIABILITY.

4 (C) A DEBT SERVICE AMORTIZATION SCHEDULE AND A DESCRIPTION OF
5 ACTIONS REQUIRED TO SATISFY THE DEBT SERVICE AMORTIZATION SCHEDULE.

6 (D) A CERTIFICATION BY THE PERSON PREPARING THE PLAN THAT THE
7 COMPREHENSIVE FINANCIAL PLAN IS COMPLETE AND ACCURATE.

8 (4) MUNICIPAL SECURITIES ISSUED UNDER THIS SECTION BY A
9 MUNICIPALITY AND THE INTEREST ON AND INCOME FROM THE MUNICIPAL
10 SECURITIES ARE EXEMPT FROM TAXATION BY THIS STATE OR A POLITICAL
11 SUBDIVISION OF THIS STATE.

12 (5) A MUNICIPALITY ISSUING MUNICIPAL SECURITIES UNDER THIS
13 SECTION MAY ENTER INTO INDENTURES OR OTHER AGREEMENTS WITH TRUSTEES
14 AND ESCROW AGENTS FOR THE ISSUANCE, ADMINISTRATION, OR PAYMENT OF
15 THE MUNICIPAL SECURITIES.

16 (6) BEFORE A MUNICIPALITY ISSUES A MUNICIPAL SECURITY UNDER
17 THIS SECTION, THE MUNICIPALITY SHALL OBTAIN THE APPROVAL OF THE
18 DEPARTMENT. THE DEPARTMENT SHALL REVIEW THE PROPOSED ISSUANCE OF
19 MUNICIPAL SECURITIES AND IF IT VERIFIES THAT THE MUNICIPALITY MEETS
20 THE REQUIREMENTS OF THIS SECTION, THE DEPARTMENT SHALL APPROVE THE
21 ISSUANCE OF MUNICIPAL SECURITIES UNDER THIS SECTION. IF THE
22 DEPARTMENT DOES NOT RESPOND WITHIN 60 DAYS, THE MUNICIPAL
23 SECURITIES TO BE ISSUED UNDER THIS SECTION ARE DEEMED TO HAVE BEEN
24 APPROVED.

25 (7) IF A MUNICIPALITY HAS ISSUED A MUNICIPAL SECURITY UNDER
26 THIS SECTION, THAT MUNICIPALITY SHALL NOT CHANGE THE BENEFIT
27 STRUCTURE OF THE DEFINED BENEFIT PLAN IF THE DEFINED BENEFIT PLAN

1 IS UNDERGOING THE PARTIAL CESSATION OF ACCRUALS. HOWEVER, A
2 MUNICIPALITY MAY REDUCE BENEFITS OF THE DEFINED BENEFIT PLAN FOR
3 YEARS OF SERVICE THAT ACCRUE AFTER THE ISSUANCE OF MUNICIPAL
4 SECURITIES UNDER THIS SECTION.