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Senate Bill 891 (as enrolled) (Public Act 206 of 1988)

Sponsor: Senator Virgil C. Smith, Jr.

Senate Committee: Finance

House Committee: Taxation

Date Completed: 7-26-88

## RATIONALE

Counties and local units of government (including school districts) within a county can enter into agreements under which a county establishes a delinquent tax revolving fund, for the purpose of paying local units money that they otherwise would have received had delinquent property taxes been paid. In effect, a county becomes the owner of delinquent taxes in exchange for paying the local unit in which the property lies the amount of taxes owed. This system aids local units because they can depend on an even flow of revenue, and do not have to adjust their budgets to wait for the payment of delinquent taxes. Delinquent tax revolving funds are funded through the sale of bonds or notes: the bonds and notes are then paid off as delinquent taxes are collected.

Although the City of Detroit collects property taxes for the Detroit School District, there is nothing in the statutes that allows a city to create a delinquent tax revolving fund for a school district. It has been suggested that the Detroit School District could protect its revenue flow, and thus be helped to retire its debt, if it were allowed to participate in a delinquent tax fund with the city in the same way that other school districts participate with counties.

## CONTENT

The bill would amend the Municipal Finance Act to allow the City of Detroit, upon a request by the Board of Education of the Detroit School District by resolution and without a vote of the electors, to borrow money and issue delinquent tax notes to the district, in anticipation of collecting the district's delinquent property taxes from a previous tax levy. The notes could be issued for the school district's taxes that had been delinquent for up to three years prior to the issuance of the notes. The delinquent taxes owed to the school district could be pledged to the payment of the principal and interest on the notes issued by the city. Following is a detailed description of the bill.

### Delinquent Tax Fund

The bill would allow Detroit's governing body to create, by resolution, a delinquent tax fund. The city could, without a vote of the electors, borrow money and issue delinquent tax notes to establish or continue a delinquent tax fund and to pay for the expenses of borrowing. These notes could be a full faith and credit general obligation of the city within constitutional, statutory, and charter limitations applicable to the city.

Upon creation of the delinquent tax fund, all delinquent taxes pledged in the resolution authorizing the issuance of

notes due and payable to the school district (including taxes on personal property), would be payable to the city for deposit in the fund. In the resolution authorizing the notes, the delinquent taxes from which the notes were to be repaid would have to be pledged to the payment of the principal and interest on the notes. The proceeds of the collection of the delinquent taxes pledged, and the interest on the delinquent taxes, would be placed in a segregated debt service fund. The taxes placed in the segregated fund could not be used for any other purpose until the principal and interest on the notes were paid. The segregated fund would be established as part of the delinquent tax fund and would have to be accounted for separately in the city's books.

Upon approval of the city's governing body, the city's chief financial officer could enter into contracts with other municipalities, or private individuals, firms, or corporations, in connection with any transaction relating to the delinquent tax fund, including borrowing for the fund and any services necessary to complete the borrowing. The chief financial officer would be required to pay from the fund an amount equal to the delinquent taxes due the school district, promptly after the net proceeds of the notes were deposited in the fund. The city would have to pay to the fund the interest charges and penalties established by law and pledged by the resolution that authorized the notes. The city's property tax administration fee, as authorized by the General Property Tax Act, could not be pledged to the notes or paid to the fund, but would be retained by the city.

A surplus in the fund, after the payment of principal and interest on the notes and all other costs related to the borrowing, would have to be transferred from the fund to the school district under the provisions of the resolution that authorized the notes.

### Requirements for Notes

Before the city could issue notes, the city's chief financial officer would have to make a sworn application to the Department of Treasury for permission to issue the notes, or obtain an exception from prior approval of the Department. (Under the Act the Department can, under certain circumstances, waive its requirement to grant approval before a municipality may issue notes or bonds.) The officer would have to include in the application a copy of the resolution authorizing the notes, the actual or maximum amount of the notes, the maturity of the notes and their maximum interest rate. After receiving these materials, the Department would be required to issue an order approving or disapproving the notes.

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The bill would state that an order permitting issuance, or an exception from prior approval, "is not an approval of the legality of the notes. However, after issuance of the notes a determination or finding made by the department involving a question of fact shall be considered conclusive of that fact".

Notes issued by the city would have to meet the following requirements:

- Be in an aggregate principal amount not exceeding the aggregate amount of the delinquent taxes in whose anticipation the notes were issued, plus the expenses of issuing the notes, excluding interest.
- Bear interest at a rate not exceeding 18% per year or at another rate as provided in the Act for municipal obligations.
- Be in a denomination, and mature on a date not exceeding four years after issuance, as determined by the resolution authorizing the notes.
- Be secured as provided in the bill, the Act, and the resolution.

The resolution could provide that all or a part of the notes were subject to redemption and would have to set forth the terms and conditions of redemption, if any.

#### School District Requirements

If the proceeds of the collection of delinquent taxes pledged to pay for the notes, together with penalties and interest, were not sufficient to pay off the notes, upon demand of the city the school district would have to pay the city for deposit in the fund an amount to pay the insufficiency. The school district would have to pay the amount from its general fund, or from any additional tax that could be levied within its constitutional and statutory limits. After paying the insufficiency, the school district could be reimbursed for the amount paid by the city. The amount could be paid from the fund, from delinquent taxes paid to the fund if those delinquent taxes were not needed to pay the principal and interest on notes coming due.

If the city that issued the notes had to pay any part of the principal and interest on the notes on account of its pledge of full faith and credit, the school district would have to reimburse the city, "promptly", the amount paid. The obligation to reimburse the city would be a full faith and credit general obligation of the school district. If the school district did not promptly reimburse the city, the city could retain as reimbursement any funds payable to the school district from the city, or delinquent taxes pledged to pay the notes if the amount were not needed to pay notes coming due.

#### Miscellaneous

The bill provides that the notes and interest on the notes would be exempt from State or local taxes.

The bill provides that, notwithstanding other provisions of the Act, the sales and award of notes could be conducted and made at a public or private sale, as provided in the resolution authorizing the sale.

The bill would take effect June 30, 1988.

Proposed MCL 134.20-134.24

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

## **ARGUMENTS**

### ***Supporting Argument***

The bill would simply allow the City of Detroit and the Detroit School District to enter into an arrangement to create a delinquent tax fund, for the purpose of providing the district with the revenue that it would have received if property taxes in the district had been paid on time. The bill would mirror arrangements that counties have with local units, and would thus allow the school district to depend upon the revenue for which it had budgeted. This would, in turn, ease the district's cash flow problem and help it to retire its deficit. Since the city collects all of the school district's taxes, and the district lies entirely within the city, it would be appropriate for the city, rather than the county, to administer a delinquent tax fund.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.