

# HOUSE BILL No. 5959

September 11, 1990, Introduced by Rep. Bartnik and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 4a and 5 of Act No. 279 of the Public Acts of 1909, entitled as amended

"An act to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; and to repeal certain acts and parts of acts on specific dates,"

as amended by Act No. 268 of the Public Acts of 1988, being sections 117.4a and 117.5 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 4a and 5 of Act No. 279 of the Public  
2 Acts of 1909, as amended by Act No. 268 of the Public Acts of  
3 1988, being sections 117.4a and 117.5 of the Michigan Compiled  
4 Laws, are amended to read as follows:

5       Sec. 4a. (1) Each city in its charter may provide for the  
6 borrowing of money on the credit of the city and issuing bonds

1 for the borrowing of money, for any purpose within the scope of  
2 the powers of the city.

3 (2) Notwithstanding a charter provision to the contrary, the  
4 net indebtedness incurred for all public purposes ~~may be as much~~  
5 ~~as but~~ shall not exceed the greater of the following:

6 (a) Ten percent of the assessed value of all the real and  
7 personal property in the city.

8 (b) Fifteen percent of the assessed value of all the real  
9 and personal property in the city if that portion of the total  
10 amount of indebtedness incurred which exceeds 10% is or has been  
11 used solely for the construction or renovation of hospital  
12 facilities.

13 (3) In case of fire, flood, or other calamity, the legisla-  
14 tive body may borrow for the relief of the inhabitants of the  
15 city and for the preservation of municipal property, a sum not to  
16 exceed  $3/8$  of 1% of the assessed value of all the real and per-  
17 sonal property in the city, due in not more than 5 years, even if  
18 the loan would cause the indebtedness of the city to exceed the  
19 limit established by this section.

20 (4) In computing the net indebtedness, the following shall  
21 be excluded:

22 (a) Bonds issued in anticipation of the payment of special  
23 assessments, even though they are also a general obligation of  
24 the city.

25 (b) Mortgage bonds which are secured only by a mortgage on  
26 the property or franchise of a public utility.

1 (c) Bonds issued to refund money advanced or paid on special  
2 assessments for water main extensions.

3 (d) Motor vehicle highway fund bonds, even though they are  
4 also a general obligation of the city.

5 (e) Revenue bonds.

6 (f) Bonds issued or contract or assessment obligations  
7 incurred to comply with an order of the water resources commis-  
8 sion or a court of competent jurisdiction.

9 (g) Obligations incurred prior to January 9, 1973 for water  
10 supply, sewage, drainage, or refuse disposal, or resource recov-  
11 ery projects or if incurred after January 8, 1973 then only for  
12 those projects necessary to protect the public health by abating  
13 pollution. A certification by the county, district, or state  
14 health department shall be sufficient proof that the project is  
15 necessary to protect the public health by abating pollution.

16 (h) Bonds issued to acquire housing for which rent subsidies  
17 will be received by the city or an agency of the city under a  
18 contract with the United States government and used by the city  
19 to operate and maintain the housing and pay principal and inter-  
20 est on the bonds.

21 (i) Obligations entered into under an intergovernmental  
22 self-insurance contract pursuant to section 5 of Act No. 35 of  
23 the Public Acts of 1951, being section 124.5 of the Michigan  
24 Compiled Laws, or issued to pay premiums or to establish funds to  
25 self-insure for losses pursuant to the municipal finance act, Act  
26 No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3  
27 of the Michigan Compiled Laws.

1 (J) BONDS ISSUED PURSUANT TO THE MUNICIPAL POLLUTION CONTROL  
2 FINANCING ACT.

3 (5) The resources of the sinking fund pledged for the  
4 retirement of any outstanding bonds shall also be deducted from  
5 the amount of the indebtedness.

6 (6) An obligation for the construction, renovation, or mod-  
7 ernization of a hospital pursuant to subsection (2)(b) shall not  
8 be incurred after July 1, 1978 unless the construction, renova-  
9 tion, or modernization has been approved in ~~the manner required~~  
10 ~~by former Act No. 256 of the Public Acts of 1972, if that act is~~  
11 ~~applicable to the project~~ ACCORDANCE WITH ANY APPLICABLE ACT or  
12 unless the obligation is to refinance a previous obligation.

13 (7) Each city may provide in its charter for the borrowing  
14 of money and issuing bonds for the borrowing of money in antici-  
15 pation of the payment of special assessments, which bonds may be  
16 an obligation of the special assessment district or may be both  
17 an obligation of the special assessment district and a general  
18 obligation of the city.

19 (8) All bonds ~~heretofore~~ issued and obligations  
20 ~~heretofore~~ incurred BEFORE JULY 31, 1973 are ~~hereby~~  
21 validated.

22 (9) In computing the net indebtedness, ~~determined under~~ FOR  
23 THE PURPOSES OF subsection (2), there may be added to the  
24 assessed value of real and personal property in any city for a  
25 fiscal year an amount equal to the assessed value equivalent of  
26 certain city revenues as determined under this ~~subdivision~~  
27 SUBSECTION. The assessed value equivalent shall be calculated by

1 dividing the sum of the following amounts by the city's millage  
2 rate for the fiscal year:

3 (a) The amount paid or the estimated amount required to be  
4 paid by the state to the city during the city's fiscal year for  
5 the city's use pursuant to sections 134 and 136(1), (2), and (3)  
6 of the single business tax act, Act No. 228 of the Public Acts of  
7 1975, being sections 208.134 and 208.136 of the Michigan Compiled  
8 Laws. The department of treasury shall certify the amount upon  
9 request.

10 (b) The amount levied by the city for its own use during the  
11 city's fiscal year from the specific tax levied under Act No. 198  
12 of the Public Acts of 1974, as amended, being sections 207.551 to  
13 207.571 of the Michigan Compiled Laws.

14 (c) The amount levied by the city for its own use during the  
15 city's fiscal year from the specific tax levied under the commer-  
16 cial redevelopment act, Act No. 255 of the Public Acts of 1978,  
17 being sections 207.651 to 207.668 of the Michigan Compiled Laws.

18 Sec. 5. A city does not have power:

19 (a) To increase the rate of taxation now fixed by law,  
20 unless the authority to do so is given by a majority of the elec-  
21 tors of the city voting at the election at which the proposition  
22 is submitted, but the increase in any case shall not ~~be such as~~  
23 ~~to~~ cause the rate to exceed 2%, except as provided by law, of  
24 the assessed value of the real and personal property in the  
25 city.

26 (b) To submit to the electors a charter more often than once  
27 in every 2 years, ~~nor~~ OR unless the charter is filed with the

1 city clerk 60 days before the election, but this provision shall  
2 not apply to the submission and resubmission of charters of  
3 cities ~~which~~ THAT may be incorporated under this act until they  
4 ~~shall~~ have first adopted a charter. ~~Where~~ IF a city submits  
5 to the electors a charter, ~~and~~ the charter is adopted by the  
6 electors, and the city ~~has operated~~ OPERATES under the charter,  
7 ~~which~~ BUT THE charter ~~has~~ WAS not, at the time it is adopted,  
8 ~~been~~ on file with the city clerk AT LEAST 60 days, then the  
9 legislative body of the city, upon its giving the notice of elec-  
10 tion as provided in the charter, may resubmit THE CHARTER to the  
11 electors, at a special or general election. ~~—~~ IF the charter  
12 ~~, which, if~~ IS adopted by the electors, IT shall be considered  
13 operative and effective as of the date of the first submission  
14 and adoption. The charter shall not be resubmitted unless 60  
15 days have elapsed between the date of the filing of the charter  
16 and the date of the election at which the charter is  
17 resubmitted.

18 (c) To call more than 2 special elections within 1 year.  
19 This prohibition does not apply to elections ~~which~~ THAT may be  
20 held in the submission and resubmission of charters of cities  
21 ~~which~~ THAT may be incorporated under this act until they have  
22 first adopted a charter, and does not apply to elections ~~which~~  
23 THAT may be held in the resubmission of a charter once adopted as  
24 provided in subdivision (b).

25 (d) To decrease the salary of a municipal judge after his or  
26 her election or appointment, or during the judge's term of  
27 office, notwithstanding any charter provision to the contrary;

1 nor shall the term of a public official be shortened or extended  
2 beyond the period for which the official is elected or appointed,  
3 unless he or she resigns or is removed for cause, where the  
4 office is held for a fixed term.

5 (e) To adopt a charter or an amendment to the charter unless  
6 approved by a majority of the electors voting ~~thereon~~ ON THE  
7 CHARTER OR AMENDMENT; to sell a park, cemetery, or any part of a  
8 park or cemetery, except where the park is not required under an  
9 official master plan of the city; to engage in a business enter-  
10 prise requiring an investment of money in excess of 10 cents per  
11 capita; or to authorize an issue of bonds except bonds issued in  
12 anticipation of the collection of taxes actually levied and  
13 uncollected or for which an appropriation has been made; bonds  
14 which the city is authorized by its charter to issue as part of  
15 its budget system, to an amount which in any year, together with  
16 the taxes levied for the same year, will not exceed the limit of  
17 taxation authorized by law; special assessment bonds; bonds for  
18 the city's portion of local improvements; refunding bonds; emer-  
19 gency bonds as defined by this act; and bonds which the legisla-  
20 tive body is authorized by specific statute to issue without vote  
21 of the electors, unless approved by a majority of the electors  
22 voting thereon at a general or special election. In addition to  
23 the foregoing, a city ~~which~~ THAT now has, or ~~which~~ THAT may  
24 hereafter have, a population of 750,000 persons or more may issue  
25 bonds, upon resolution of its governing body, without prior  
26 approval of the electors, which the city is authorized by its  
27 charter to issue as part of its budget system, to an amount which

1 in any year, together with the ad valorem taxes levied for the  
2 same year, exclusive of debt service taxes or taxes levied pursu-  
3 ant to other laws, will not exceed 2-1/2% of the assessed value  
4 of the real and personal property in the city, this limitation to  
5 supersede and take the place of any contrary language in any  
6 existing city charter. For the purposes of this subdivision  
7 only, the assessed value of real and personal property in any  
8 such city shall include the assessed value equivalent of money  
9 received during the city's fiscal year from the department of  
10 treasury pursuant to sections 134, and 136(1), (2), and (3) of  
11 Act No. 228 of the Public Acts of 1975, being sections 208.134  
12 and 208.136 of the Michigan Compiled Laws. The assessed value  
13 equivalent shall be calculated by dividing the money received by  
14 the city's millage rate for the fiscal year. Notwithstanding the  
15 former provisions of this subdivision requiring approval by 3/5  
16 of the electors voting thereon as a prerequisite to the exercise  
17 of certain powers, these powers may be exercised if approved by a  
18 majority of the electors voting thereon at a general or special  
19 election held on or after April 1, 1966.

20 (f) To make a contract with, or give an official position  
21 to, one who is in default to the city.

22 (g) To issue bonds without providing a sinking fund to pay  
23 them at maturity, except as provided in section 4g(1), but sink-  
24 ing funds shall not be required in the case of serial bonds which  
25 fall due annually. Bonds, whether authorized under this act or  
26 any other act, except refunding bonds, revenue bonds, motor  
27 vehicle highway fund bonds, rehabilitation bonds, judgment bonds,



1 bonds or other obligations issued to fund an operating deficit of  
2 a city, BONDS ISSUED PURSUANT TO THE MUNICIPAL POLLUTION CONTROL  
3 FINANCING ACT, bonds or other obligations to pay premiums or to  
4 establish funds to self-insure for losses as authorized by the  
5 municipal finance act, Act No. 202 of the Public Acts of 1943,  
6 being sections 131.1 to 139.3 of the Michigan Compiled Laws,  
7 bonds the issuance of which has been approved by the voters, and  
8 bonds issued to comply with an order of a court of competent  
9 jurisdiction shall not be issued by a city unless notice of the  
10 issuance of the bonds is published once in a newspaper of general  
11 circulation in the city at least 45 days before the issuance of  
12 the bonds, within which period a petition may be filed with the  
13 legislative body signed by not less than 10% or 15,000 of the  
14 registered electors in the city, whichever is less, in which  
15 event the legislative body shall submit the question of the issu-  
16 ance of the bonds to the electors of the city, at a regular or  
17 special election in the city. The bonds shall not be issued  
18 unless a majority vote of the electors voting on the issuance  
19 vote in favor of issuing the bonds. The notice of intent to  
20 issue bonds shall state the maximum amount of the bond issue, the  
21 purpose of the bond issuance, source of payment, right of refer-  
22 endum on the issuance of the bonds, and other information as the  
23 legislative body determines to be necessary to adequately inform  
24 the electors and all other interested persons of the nature of  
25 the issue and of their rights with respect to the issue. ~~If a~~  
26 ~~notice of intent has been published before July 31, 1973, in~~  
27 ~~substantial compliance with this section, and the referendum~~

~~1 period formerly provided by this section has expired, but the  
2 bonds have not been issued, the notice and the publication of the  
3 notice are hereby validated and, if no petition for a referendum  
4 on issuance of the bonds has been or is signed and filed within  
5 the time period formerly provided by this section, the bonds may  
6 be issued without submitting the proposition for approval to the  
7 electors, or if a petition has been or is so signed and filed,  
8 the bonds may be issued if approved at an election as provided in  
9 this subdivision.~~

10 (h) To repudiate a debt by a change in its charter or by  
11 consolidation with any other municipality.

12 (i) To submit a franchise to the electors at a special elec-  
13 tion, unless the expense of holding the election, as determined  
14 by the legislative body, is paid in advance to the city treasurer  
15 by the grantee in the franchise.

16 Section 2. This amendatory act shall not take effect unless  
17 Senate Bill No. \_\_\_\_\_ or House Bill No. 5957 (request  
18 no. 05940'90) of the 85th Legislature is enacted into law.