

# SENATE BILL No. 366

June 5, 1991, Introduced by Senator CISKY and referred to the Committee on Natural Resources and Environmental Affairs.

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  $\frac{3}{8}$  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, ALL OF the following  
21 shall 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~~ THAT are secured only by a mort-  
26 gage on 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~~ BEFORE January 9, 1973  
10 for water supply, sewage, drainage, or refuse disposal, or  
11 resource recovery projects, or ~~if~~ incurred after January 8,  
12 1973 ~~then only~~ for ~~these~~ projects necessary to protect the  
13 public health by abating pollution. A certification by the  
14 county, district, or state health department shall be sufficient  
15 proof that the project is necessary to protect the public health  
16 by abating pollution.

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

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

1 No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3  
2 of the Michigan Compiled Laws.

3 (J) BONDS ISSUED PURSUANT TO THE MUNICIPAL POLLUTION CONTROL  
4 FINANCING ACT.

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

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

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

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

24 (9) In computing the net indebtedness ~~determined under~~ FOR  
25 THE PURPOSES OF subsection (2), there may be added to the  
26 assessed value of real and personal property in ~~any~~ A city for  
27 a fiscal year an amount equal to the assessed value equivalent of

1 certain city revenues as determined under this ~~subdivision~~  
2 SUBSECTION. The assessed value equivalent shall be calculated by  
3 dividing the sum of the following amounts by the city's millage  
4 rate for the fiscal year:

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

12 (b) The amount levied by the city for its own use during the  
13 city's fiscal year from the specific tax levied under Act No. 198  
14 of the Public Acts of 1974, as amended, being sections 207.551 to  
15 207.571 of the Michigan Compiled Laws.

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

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

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

1 (b) To submit to the electors a charter more often than once  
2 in every 2 years, ~~nor~~ OR unless the charter is filed with the  
3 city clerk 60 days before the election, but this provision  
4 ~~shall~~ DOES not apply to the submission and resubmission of  
5 charters of cities ~~which~~ THAT may be incorporated under this  
6 act until they ~~shall~~ have first adopted a charter. ~~Where~~ IF  
7 a city submits to the electors a charter, ~~and~~ the charter is  
8 adopted by the electors, and the city ~~has operated~~ OPERATES  
9 under the charter, ~~which~~ BUT THE charter ~~has~~ WAS not, at the  
10 time it ~~is~~ WAS adopted, ~~been~~ on file with the city clerk AT  
11 LEAST 60 days, then the legislative body of the city, upon its  
12 giving the notice of election as provided in the charter, may  
13 resubmit THE CHARTER to the electors, at a special or general  
14 election. ~~—, which, if~~ IF the charter ~~—, which, if~~ IS adopted by the  
15 electors, IT shall be considered operative and effective as of  
16 the date of the first submission and adoption. The charter shall  
17 not be resubmitted unless 60 days have elapsed between the date  
18 of the filing of the charter and the date of the election at  
19 which the charter is resubmitted.

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

1 (d) To decrease the salary of a municipal judge after his or  
2 her election or appointment, or during the judge's term of  
3 office, notwithstanding any charter provision to the contrary;  
4 nor shall the term of a public official be shortened or extended  
5 beyond the period for which the official is elected or appointed,  
6 unless he or she resigns or is removed for cause, where the  
7 office is held for a fixed term.

8 (e) To adopt a charter or an amendment to the charter unless  
9 approved by a majority of the electors voting ~~thereon~~ ON THE  
10 CHARTER OR AMENDMENT; to sell a park, cemetery, or any part of a  
11 park or cemetery, except ~~where~~ IF the park is not required  
12 under an official master plan of the city; to engage in a busi-  
13 ness enterprise requiring an investment of money in excess of 10  
14 cents per capita; or to authorize an issue of bonds except bonds  
15 issued in anticipation of the collection of taxes actually levied  
16 and uncollected or for which an appropriation has been made;  
17 bonds ~~which~~ THAT the city is authorized by its charter to issue  
18 as part of its budget system, to an amount ~~which~~ THAT in any  
19 year, together with the taxes levied for the same year, will not  
20 exceed the limit of taxation authorized by law; special assess-  
21 ment bonds; bonds for the city's portion of local improvements;  
22 refunding bonds; emergency bonds as defined by this act; and  
23 bonds which the legislative body is authorized by specific stat-  
24 ute to issue without vote of the electors, unless approved by a  
25 majority of the electors voting ~~thereon~~ ON THE BONDS at a gen-  
26 eral or special election. In addition to the foregoing, a city  
27 ~~which now has, or which may hereafter have,~~ THAT HAS a

1 population of 750,000 persons or more may issue bonds, upon  
2 resolution of its governing body, without prior approval of the  
3 electors, which the city is authorized by its charter to issue as  
4 part of its budget system, to an amount which in any year,  
5 together with the ad valorem taxes levied for the same year,  
6 exclusive of debt service taxes or taxes levied pursuant to other  
7 laws, will not exceed 2-1/2% of the assessed value of the real  
8 and personal property in the city, this limitation to supersede  
9 and take the place of any contrary language in any existing city  
10 charter. For the purposes of this subdivision only, the assessed  
11 value of real and personal property in ~~any~~ such A city shall  
12 include the assessed value equivalent of money received during  
13 the city's fiscal year from the department of treasury pursuant  
14 to sections 134 ~~—~~ and 136(1), (2), and (3) of Act No. 228 of  
15 the Public Acts of 1975, being sections 208.134 and 208.136 of  
16 the Michigan Compiled Laws. The assessed value equivalent shall  
17 be calculated by dividing the money received by the city's mill-  
18 age rate for the fiscal year. Notwithstanding the former provi-  
19 sions of this subdivision requiring approval by 3/5 of the elec-  
20 tors voting thereon as a prerequisite to the exercise of certain  
21 powers, these powers may be exercised if approved by a majority  
22 of the electors voting thereon at a general or special election  
23 held on or after April 1, 1966.

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

26 (g) To issue bonds without providing a sinking fund to pay  
27 them at maturity, except as provided in section 4g(1), but

1 sinking funds shall not be required in the case of serial bonds  
2 ~~which~~ THAT fall due annually. Bonds, whether authorized under  
3 this act or any other act, except refunding bonds, revenue bonds,  
4 motor vehicle highway fund bonds, rehabilitation bonds, judgment  
5 bonds, bonds or other obligations issued to fund an operating  
6 deficit of a city, BONDS ISSUED PURSUANT TO THE MUNICIPAL POLLU-  
7 TION CONTROL FINANCING ACT, bonds or other obligations to pay  
8 premiums or to establish funds to self-insure for losses as  
9 authorized by the municipal finance act, Act No. 202 of the  
10 Public Acts of 1943, being sections 131.1 to 139.3 of the  
11 Michigan Compiled Laws, bonds the issuance of which has been  
12 approved by the voters, and bonds issued to comply with an order  
13 of a court of competent jurisdiction shall not be issued by a  
14 city unless notice of the issuance of the bonds is published once  
15 in a newspaper of general circulation in the city at least 45  
16 days before the issuance of the bonds, within which period ~~a~~  
17 ~~petition~~ THERE may be filed with the legislative body A PETITION  
18 FOR A VOTE ON THE QUESTION OF THE ISSUANCE OF THE BONDS, signed  
19 by not less than 10% or 15,000 of the registered electors in the  
20 city, whichever is less. ~~, in which event~~ IF SUCH A PETITION  
21 IS FILED, the legislative body shall submit the question of the  
22 issuance of the bonds to the electors of the city, at a regular  
23 or special election in the city. The bonds shall not be issued  
24 unless a majority vote of the electors voting on the issuance  
25 vote in favor of issuing the bonds. The notice of intent to  
26 issue bonds shall state the maximum amount of the bond issue, the  
27 purpose of the bond issuance, source of payment, right of

1 referendum on the issuance of the bonds, and other information as  
2 the legislative body determines to be necessary to adequately  
3 inform the electors and ~~all~~ other interested persons of the  
4 nature of the issue and of their rights with respect to the  
5 issue. ~~If a notice of intent has been published before July 31,~~  
6 ~~1973, in substantial compliance with this section, and the refer-~~  
7 ~~endum period formerly provided by this section has expired, but~~  
8 ~~the bonds have not been issued, the notice and the publication of~~  
9 ~~the notice are hereby validated and, if no petition for a refer-~~  
10 ~~endum on issuance of the bonds has been or is signed and filed~~  
11 ~~within the time period formerly provided by this section, the~~  
12 ~~bonds may be issued without submitting the proposition for~~  
13 ~~approval to the electors, or if a petition has been or is so~~  
14 ~~signed and filed, the bonds may be issued if approved at an elec-~~  
15 ~~tion as provided in this subdivision.~~

16 (h) To repudiate a debt by a change in its charter or by  
17 consolidation with ~~any other~~ ANOTHER municipality.

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

22 Section 2. This amendatory act shall not take effect unless  
23 Senate Bill No. 364

24 of the 86th Legislature is enacted into law.