



SENATE BILL No. 856

September 28, 1993, Introduced by Senators BERRYMAN, FAUST, CHERRY, SMITH, HOLMES, CONROY and STABENOW and referred to the Committee on Education.

A bill to amend section 2 of chapter III and section 4 of chapter V of Act No. 202 of the Public Acts of 1943, entitled as amended

"Municipal finance act,"

section 2 of chapter III as amended by Act No. 269 of the Public Acts of 1988 and section 4 of chapter V as amended by Act No. 152 of the Public Acts of 1986, being sections 133.2 and 135.4 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2 of chapter III and section 4 of chap-
2 ter V of Act No. 202 of the Public Acts of 1943, section 2 of
3 chapter III as amended by Act No. 269 of the Public Acts of 1988
4 and section 4 of chapter V as amended by Act No. 152 of the
5 Public Acts of 1986, being sections 133.2 and 135.4 of the
6 Michigan Compiled Laws, are amended to read as follows:

CHAPTER III

1
2 Sec. 2. (1) Except as otherwise provided in this act, obli-
3 gations, the issuance of which are governed by this act, shall
4 not be payable on demand or sold at a price ~~which~~ THAT would
5 make the net interest rate on the money borrowed exceed the maxi-
6 mum rate set under section 1a of this chapter, or sold at a dis-
7 count exceeding 10% of the principal amount of the obligations.
8 Obligations of an authorized issue OF A MUNICIPALITY OTHER THAN A
9 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR COMMUNITY COL-
10 LEGE DISTRICT may be sold at a discount in excess of 10% of the
11 principal amount of the obligations if a waiver of the discount
12 limitation is obtained from the department. The amortization of
13 the discount shall be considered interest and shall be within the
14 interest rate limitation set forth in this section. For the pur-
15 poses of fixing maturities, the amount received by the municipal-
16 ity in payment for an obligation issued at a discount in excess
17 of 10% shall be utilized. Obligations of an authorized issue
18 shall be sold at public sale unless otherwise provided by this
19 act. Obligations of an authorized issue may be sold at private
20 sale ~~—~~ if any of the following apply:

21 (a) The authorized issue of obligations is less than
22 \$100,000.00.

23 (b) The authorized issue of obligations is \$12,000,000.00 or
24 more, and if a waiver of public sale is obtained from the
25 department.

1 (c) The authorized issue of obligations is payable in whole
2 or in part before maturity at the option of the holder of the
3 obligations.

4 (d) The authorized issue is issued in whole or in part for
5 the purpose of refunding or advance refunding.

6 (e) The authorized issue is issued in whole or in part as
7 bonds or notes ~~which~~ THAT appreciate in principal amount or
8 ~~which~~ THAT are to be sold at a discount in excess of 10%.

9 (f) The authorized issue of obligations is to pay premiums
10 or to establish funds to self-insure for losses as provided in
11 section 14 of this chapter and if a waiver of public sale is
12 received from the department.

13 A municipality desiring a waiver from THE public sale
14 requirement or the discount limitation shall notify the depart-
15 ment in writing on a form prescribed by the department of its
16 desire to obtain a waiver of public sale or a waiver of the dis-
17 count limitation. If the notification required above is made,
18 within 10 calendar days after receipt of the notification, the
19 department shall issue an order either denying or approving the
20 request for a waiver. If an order approving the request for
21 waiver is not issued within the 10 calendar days, the request for
22 waiver ~~shall be considered~~ IS disapproved. Obligations of an
23 authorized issue to be sold at public sale shall be sold only
24 after notice by publication, at least 7 days before the sale, in
25 a publication printed in the English language and circulated in
26 this state, ~~which~~ THAT carries as a part of its regular service
27 the notices of the sale of municipal bonds and ~~which~~ THAT has

1 been approved by the department as a publication complying with
2 the qualifications provided in this section. Approval by the
3 department ~~shall be considered~~ IS conclusive of the qualifica-
4 tion of the publication for the insertion of the notice.

5 (2) If the municipality has received a bid or bids at the
6 time fixed for public sale and the bid or bids are rejected by
7 the governing body, the obligations may be sold at private sale
8 within 60 days thereafter at a price not less than the highest
9 bid received at the public offering. If the municipality has
10 offered the obligations at a public offering and has not received
11 any bid, then the obligations may be sold at a private sale
12 within 60 days after the last public offering.

13 (3) The provisions of this section ~~shall be~~ ARE applicable
14 to mortgage revenue bonds to be issued by a municipality.

15 (4) Notwithstanding subsections (1), (2), and (3), obliga-
16 tions may be sold to the federal or state government or an agency
17 of the federal or state government at private sale and without a
18 public offering.

19 (5) Notwithstanding subsections (1), (2), and (3), if the
20 public or private nature of the sale of an obligation is other-
21 wise provided by law, the obligation may be sold pursuant to that
22 law.

23 (6) Whenever any obligations, including obligations excluded
24 under section 2(d)(vi) of chapter I, in excess of \$100,000.00 or
25 subject to subsection (4) have been sold without a public sale, a
26 notice of the sale by a municipality specifying the issuer,
27 principal maturities, rates of interest, and purchaser shall be

1 inserted in a publication qualified under subsection (1) ~~of this~~
2 ~~section~~ within 45 days after delivery of the obligations. The
3 failure to publish by a municipality pursuant to this subsection
4 ~~shall~~ DOES not have any effect on the legality of the obliga-
5 tions issued. However, future issues of that municipality shall
6 not be exempt from public sale unless and until a municipality
7 has published the required notice on the issue for which no
8 notice was published. Issues ~~which~~ THAT involve the early
9 redemption and reissuance of obligations ~~which~~ THAT are not
10 greater than the original issue or ~~which~~ THAT involve renewal
11 or reissuance of the same obligation no larger than the original
12 issue require publication of notice only for the original issue.

13 CHAPTER V

14 Sec. 4. (1) The bonds shall be serial bonds, term bonds, or
15 both term and serial bonds with maturities as fixed by the gov-
16 erning body of the municipality. If serial bonds only are
17 issued, there shall be annual maturities, the first of which
18 shall fall due not more than 5 years from the date of issuance,
19 and a maturity after 4 years from date of issuance shall not be
20 less than 1/5 the amount of any subsequent maturity. If
21 requested by ~~the~~ A municipality OTHER THAN A SCHOOL DISTRICT,
22 INTERMEDIATE SCHOOL DISTRICT, OR COMMUNITY COLLEGE DISTRICT, the
23 department may waive the requirements of this subsection for an
24 obligation ~~which~~ ISSUED BY THE MUNICIPALITY THAT in whole or in
25 part appreciates in principal amount or ~~which~~ THAT is sold at a
26 discount of more than 10%.

1 (2) Bonds issued as term bonds only, which have a maturity
2 more than 5 years from the date of issuance, shall be subject to
3 redemption before the maturity date as fixed by the governing
4 body of the municipality. However, the first redemption date
5 shall fall due not more than 5 years from the date of issuance,
6 and the principal amount of term bonds to be redeemed each year
7 after 4 years from the date of issuance shall be not less than
8 $1/5$ of the principal amount of term bonds required to be redeemed
9 in any subsequent year or payable on the final maturity date of
10 the term bonds, after deducting from the amount payable on the
11 final maturity date the principal amount of term bonds required
12 to be redeemed before the final maturity date. If requested by
13 ~~the~~ A municipality OTHER THAN A SCHOOL DISTRICT, INTERMEDIATE
14 SCHOOL DISTRICT, OR COMMUNITY COLLEGE DISTRICT, the department
15 may waive the requirements of this subsection for an obligation
16 ~~which~~ ISSUED BY THE MUNICIPALITY THAT in whole or in part
17 appreciates in principal amount or ~~which~~ THAT is sold at a dis-
18 count of more than 10%.

19 (3) If the bonds are issued as both term bonds and serial
20 bonds, the bonds shall have the maturities, which shall be annual
21 as to serial bonds, as fixed by the governing body of the
22 municipality. However, the first annual maturity of serial bonds
23 or the first redemption date of term bonds shall be not more than
24 5 years from the date of issuance, and a combination of annual
25 maturities of serial bonds and principal amount of redemption of
26 term bonds after 4 years from the date of issuance shall not be
27 less than $1/5$ the combined amount of any subsequent maturity of

1 serial bonds and the principal amount of term bonds required to
2 be redeemed in any subsequent year or payable on the final matu-
3 rity date of the term bonds, after deducting from the amount pay-
4 able on the final maturity date the principal amount of term
5 bonds required to be redeemed before the final maturity date.

6 (4) The governing body of the municipality may provide that
7 the redemption of term bonds may be satisfied in whole or in part
8 by the purchase and cancellation of term bonds otherwise required
9 to be redeemed. For purposes of this act, term bonds ~~shall be~~
10 ARE considered to mature in the amounts and on the dates on which
11 they are required to be redeemed before their maturity.

12 (5) All outstanding and authorized bonds of a school dis-
13 trict payable out of taxes may be treated as a single issue for
14 the purpose of fixing maturities. Several series of bonds issued
15 under the same authorization may be treated as a single issue for
16 the purpose of fixing maturities.

17 (6) The bonds of any series, or any part thereof, within the
18 scope of this chapter, may be made redeemable on the terms and
19 conditions as provided by ordinance or resolution of the govern-
20 ing body and approved by the commission. A premium shall not be
21 paid on a bond exceeding 3% of its par value, and a bond shall
22 not be made redeemable except upon an interest payment date or
23 dates. The terms upon which each bond may be redeemed shall be
24 recited upon the face of the bond. All bonds hereafter issued
25 ~~which~~ THAT are within the scope of this section shall be gov-
26 erned solely by the foregoing provisions, notwithstanding any
27 charter provisions differing from those provisions, but bonds

1 issued pursuant to approval heretofore given by the electors
2 shall not conflict with the express terms of the approval.