

**SENATE BILL NO. 779**

October 30, 1997, Introduced by Senators V. SMITH, O'BRIEN,  
VAUGHN and PETERS and referred to the Committee on  
Finance.

A bill to amend 1943 PA 202, entitled  
"Municipal finance act,"  
by amending sections 20, 21, 22, 23, and 24 of chapter IV (MCL  
134.20, 134.21, 134.22, 134.23, and 134.24), as added by 1988 PA  
206.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1  
2  
3  
4  
5  
6  
7  
8  
9

CHAPTER IV

Sec. 20. (1) A municipality that is a home rule city under  
~~Act No. 279 of the Public Acts of 1909, being sections 117.1 to~~  
~~117.38 of the Michigan Compiled Laws~~ 1909 PA 279, MCL 117.1 TO  
117.38, that collects ad valorem taxes on behalf of a first class  
school district described in this section, and that does not  
return delinquent ad valorem taxes to the county treasurer in the  
county in which the home rule city is situated may, without a  
vote of the electors in the home rule city, ~~and upon a request~~

1 ~~by a resolution adopted by the board of education of the first~~  
2 ~~class school district,~~ borrow money and issue delinquent ~~ad~~  
3 ~~valorem~~ tax notes OR BONDS IN 1 OR MORE SERIES in anticipation  
4 of the collection of the delinquent ~~ad valorem~~ taxes, as pro-  
5 vided in this section and sections 21 to 24. ~~, which taxes are~~  
6 ~~unpaid pursuant to the previous levy of ad valorem taxes by the~~  
7 ~~school district.~~ The notes may be issued to pay ~~to a~~  
8 DELINQUENT TAXES OR LEVIES THAT WILL BECOME DELINQUENT TAXES  
9 PRIOR TO THE FINAL MATURITY OF THE NOTES OR BONDS TO THE CITY OR,  
10 UPON REQUEST BY A RESOLUTION ADOPTED BY THE BOARD OF EDUCATION OF  
11 THE FIRST CLASS SCHOOL DISTRICT, TO THE first class school dis-  
12 trict ~~,~~ whose boundaries are coterminous with the boundaries of  
13 the home rule city. ~~, the school district's share of delinquent~~  
14 ~~ad valorem taxes that have been delinquent for not more than 3~~  
15 ~~years before the date of issuance of the notes.~~ All OR A PORTION  
16 OF THE delinquent taxes owed to the HOME RULE CITY OR TO THE  
17 school district, OR BOTH, at the time ~~of the issuance of the~~  
18 notes OR BONDS ARE ISSUED or ~~at the~~ FOR THE PERIOD OF time pro-  
19 vided in the resolution authorizing issuance of the notes OR  
20 BONDS may be pledged to the payment of the principal of and  
21 interest on the notes OR BONDS.

22 (2) A HOME RULE CITY MAY ISSUE REFUNDING TAX NOTES OR BONDS  
23 IN 1 OR MORE SERIES TO REFUND TAX NOTES OR BONDS ISSUED UNDER  
24 THIS SECTION AND SECTION 22 IF THE HOME RULE CITY DETERMINES THAT  
25 REFUNDING TAX NOTES OR BONDS IS EXPEDIENT, WHETHER OR NOT THE TAX  
26 NOTES OR BONDS TO BE REFUNDED HAVE MATURED. THE PROCEEDS OF THE

1 REFUNDING TAX NOTES OR BONDS SHALL BE APPLIED TO THE PURCHASE,  
2 REDEMPTION, OR PAYMENT OF THE TAX NOTES OR BONDS REFUNDED.

3 (3) ~~(2)~~ As used in this section and sections 21 to 24: ~~—~~  
4 ~~"notes"~~

5 (A) "DELINQUENT TAXES" MEANS DELINQUENT AD VALOREM TAXES  
6 LEVIED ON REAL OR PERSONAL PROPERTY OR A DELINQUENT SPECIAL AD  
7 VALOREM LEVY, SPECIAL ASSESSMENT, USER FEE OR CHARGE FOR UNPAID  
8 RATES OR CHARGES FOR SERVICES, OR OTHER CHARGE IMPOSED BY OR ON  
9 BEHALF OF A HOME RULE CITY OR SCHOOL DISTRICT OR COLLECTED BY A  
10 HOME RULE CITY OR SCHOOL DISTRICT.

11 (B) "NOTES" means delinquent ~~ad valorem~~ tax notes OR BONDS  
12 authorized to be issued under this section and section 22.

13 Sec. 21. (1) The governing body of a home rule city  
14 described in section 20 may create by resolution a delinquent ~~ad~~  
15 ~~valorem~~ tax fund that may be designated as the "city of  
16 \_\_\_\_\_ delinquent tax fund". Upon the establishment of  
17 the delinquent tax fund, all delinquent ~~ad valorem~~ taxes  
18 pledged in a resolution authorizing issuance of notes OR BONDS,  
19 including taxes LEVIED on personal property, due and payable to  
20 the HOME RULE CITY OR TO THE school district, OR BOTH, are due  
21 and payable to the HOME RULE city for deposit to the delinquent  
22 tax fund UPON RECEIPT. The delinquent tax fund ~~shall~~ MAY be  
23 segregated into separate funds or accounts for the delinquent ~~ad~~  
24 ~~valorem~~ taxes ~~of each year~~ pledged in the resolution authoriz-  
25 ing issuance of the notes OR BONDS.

26 (2) If a delinquent tax fund is established under subsection  
27 (1), the chief financial officer of the HOME RULE city ~~shall be~~

1 IS the agent for the HOME RULE city with respect to the  
2 delinquent tax fund and, upon approval of the governing body of  
3 the HOME RULE city, may enter into contracts with other munici-  
4 palities or private individuals, firms, or corporations in con-  
5 nection with any transaction relating to the delinquent tax fund  
6 or any borrowing made by the HOME RULE city under section 22 of  
7 this chapter, including contracting for all services necessary to  
8 complete the borrowing OR TO COLLECT THE DELINQUENT TAXES.

9 (3) The chief financial officer of the HOME RULE city shall  
10 pay from the delinquent tax fund an amount equal to the delin-  
11 quent ~~ad valorem~~ taxes that are due and payable to the HOME  
12 RULE CITY OR TO THE school district promptly after the net pro-  
13 ceeds of the notes OR BONDS are deposited in the delinquent tax  
14 fund. The amount in the fund that shall be paid and to which the  
15 HOME RULE CITY OR THE school district is entitled is the autho-  
16 rized portion of delinquent ~~ad valorem~~ taxes AND LEVIES THAT  
17 MAY BECOME DELINQUENT TAXES in anticipation of which notes OR  
18 BONDS are issued by the HOME RULE city.

19 (4) The HOME RULE city shall pay to the delinquent tax fund  
20 the interest charges and penalties established by law, CHARTER,  
21 OR AN ORDINANCE AUTHORIZED BY CHARTER and pledged by the resolu-  
22 tion of the governing body authorizing issuance of the notes OR  
23 BONDS. A HOME RULE CITY MAY ESTABLISH PROCEDURES FOR COLLECTING  
24 DELINQUENT TAXES AND ENFORCING TAX LIENS FOR DELINQUENT TAXES AND  
25 MAY IMPOSE INTEREST CHARGES AND PENALTIES AT RATES ESTABLISHED BY  
26 CHARTER OR AN ORDINANCE AUTHORIZED BY CHARTER. The property tax  
27 administration fee of the HOME RULE city authorized under the

1 general property tax act, ~~Act No. 206 of the Public Acts of~~  
2 ~~1893, being sections 211.1 to 211.157 of the Michigan Compiled~~  
3 ~~Laws~~ 1893 PA 206, MCL 211.1 TO 211.157, shall not be pledged to  
4 the notes OR BONDS, shall not be paid to the delinquent tax fund,  
5 and shall be retained by the HOME RULE city for its services. IN  
6 ADDITION TO ANY OTHER FEE OR CHARGE AUTHORIZED BY LAW, CHARTER,  
7 OR AN ORDINANCE AUTHORIZED BY CHARTERS, A HOME RULE CITY MAY  
8 CHARGE A SCHOOL DISTRICT A PRO RATA ALLOCATION OF ALL OF THE  
9 COSTS OF ISSUANCE AND ADMINISTRATION OF THE NOTES OR BONDS ISSUED  
10 UNDER THIS CHAPTER AND THAT CHARGE MAY BE RETAINED FROM THE PRO-  
11 CEEDS OF THE NOTES OR BONDS OTHERWISE PAYABLE TO THAT SCHOOL  
12 DISTRICT.

13 (5) A surplus in the fund after the payment of all principal  
14 of and interest on the notes OR BONDS and all other costs related  
15 to the borrowing shall be transferred by the chief financial  
16 officer of the HOME RULE city from the delinquent tax fund to the  
17 HOME RULE CITY OR TO THE school district ~~entitled to the~~  
18 ~~surplus~~ ON A PRO RATA BASIS AS PROVIDED under the provisions of  
19 the resolution authorizing issuance of the notes OR BONDS.

20 (6) A home rule city described in section 20 may borrow  
21 money to create a delinquent tax fund as provided in this  
22 section.

23 Sec. 22. (1) By resolution of its governing body and with-  
24 out a vote of its electors, a home rule city that creates a  
25 delinquent tax fund under section 21 may borrow money and issue  
26 1 OR MORE SERIES OF delinquent ~~ad valorem~~ tax notes OR BONDS to  
27 establish or continue, in whole or in part, the delinquent tax

1 fund and to pay the expenses of the borrowing. ~~The~~ ALL OR A  
2 PORTION OF THE notes OR BONDS may be a full faith and credit gen-  
3 eral obligation of the HOME RULE city within constitutional,  
4 statutory, and charter limitations applicable to the HOME RULE  
5 city ~~if~~ AS authorized by resolution of the governing body of  
6 the HOME RULE city authorizing issuance of the notes OR BONDS.  
7 NOTES OR BONDS ISSUED PURSUANT TO THIS SECTION OR SECTION 20 ARE  
8 NOT A DEBT OF THE HOME RULE CITY WITHIN THE MEANING OF ANY CON-  
9 STITUTIONAL, STATUTORY, OR CHARTER LIMITATION.

10 (2) In the resolution authorizing the borrowing and issuance  
11 of notes ~~, the delinquent ad valorem taxes from which the notes~~  
12 ~~are to be repaid shall be pledged to the payment of the principal~~  
13 ~~of and interest on the notes, and~~ OR BONDS, the proceeds of the  
14 collection of the delinquent ~~ad valorem~~ taxes pledged TO THE  
15 PAYMENT OF PRINCIPAL OF AND INTEREST ON THE NOTES OR BONDS and  
16 the interest AND PENALTIES on the delinquent ~~ad valorem~~ taxes  
17 shall be placed in ~~a~~ 1 OR MORE segregated debt service ~~fund or~~  
18 ~~account~~ FUNDS OR ACCOUNTS AS PROVIDED BY THE AUTHORIZING  
19 RESOLUTION. The taxes placed in the segregated debt service  
20 ~~fund or account~~ FUNDS OR ACCOUNTS shall not be used for any  
21 other purpose until THERE IS IN THE FUNDS OR ACCOUNTS AN AMOUNT  
22 SUFFICIENT TO PAY the ANNUAL principal of and interest on the  
23 notes ~~are paid in full~~ OR BONDS AND ANY MANDATORY REDEMPTION  
24 REQUIREMENTS OR OTHER PAYMENTS REQUIRED UNDER THE AUTHORIZING  
25 RESOLUTION, AT WHICH TIME AND TO THE EXTENT PERMITTED BY THE  
26 AUTHORIZING RESOLUTION, ANY EXCESS AMOUNTS MAY BE CONSIDERED  
27 SURPLUS AND TRANSFERRED PURSUANT TO SECTION 21(5). The

1 segregated debt service ~~fund or account~~ FUNDS OR ACCOUNTS shall  
2 be established as a part of the delinquent tax fund and shall be  
3 accounted for separately on the books of the HOME RULE city that  
4 issues the notes OR BONDS.

5 (3) The proceeds of notes OR BONDS shall be placed in the  
6 delinquent tax fund and used as provided in section 21, after the  
7 expenses of borrowing have been deducted from the proceeds of the  
8 notes OR BONDS.

9 (4) Before a HOME RULE city issues notes OR BONDS, the chief  
10 financial officer shall make a sworn application to the depart-  
11 ment for permission to issue the notes OR BONDS and shall attach  
12 to the application a certified copy of the resolution authorizing  
13 the issuance of the notes OR BONDS or, if available to the HOME  
14 RULE city, obtain an exception from prior approval of the  
15 department. The application shall specify the actual amount of  
16 the notes OR BONDS or the maximum amount that the notes OR BONDS  
17 shall not exceed, the maturity or maturities of the notes OR  
18 BONDS, and the maximum interest rate on the notes OR BONDS.  
19 After receiving these materials, the department shall issue its  
20 order approving or disapproving the issuance of the notes OR  
21 BONDS. An order of the department permitting the issuance of  
22 notes OR BONDS or an exception from prior approval under this act  
23 is not an approval of the legality of the notes OR BONDS.  
24 However, after the issuance of the notes OR BONDS, a determina-  
25 tion or finding made by the department involving a question of  
26 fact ~~shall be~~ IS considered conclusive of that fact. The  
27 ~~issuance of the order of the department~~ DEPARTMENT'S ORDER

1 granting permission to issue notes OR BONDS establishes the  
2 presumption that the department has made the determinations of  
3 facts or circumstances, has given the approvals, and has reached  
4 the opinions necessary before ~~issuance of~~ ISSUING the order.

5 (5) Notes OR BONDS issued by the HOME RULE city shall meet  
6 all of the following requirements:

7 (a) Be in an aggregate principal amount not exceeding the  
8 aggregate amount of the delinquent ~~ad valorem~~ taxes in antici-  
9 pation of which the notes OR BONDS are issued plus expenses  
10 incurred in connection with the issuance of the notes OR BONDS,  
11 exclusive of interest.

12 (b) Bear interest at a rate not exceeding 18% per annum or  
13 at another rate as provided in section 1a of chapter III.

14 (c) Be in a denomination and mature on a date not exceeding  
15 ~~4~~ 8 years after the date of issue as determined by the govern-  
16 ing body in the resolution authorizing THE issuance of the notes  
17 OR BONDS.

18 (d) Be secured IN WHOLE OR IN PART as provided in this sec-  
19 tion and the resolution of the governing body and as permitted in  
20 section 12 of chapter III.

21 (6) The resolution authorizing THE issuance of the notes OR  
22 BONDS may provide that all or a part of the notes OR BONDS are  
23 subject to redemption and shall set forth the terms and condi-  
24 tions of the redemption, if any.

25 (7) Notwithstanding section 2(1) of chapter III, the sale  
26 and award of notes OR BONDS may be conducted and made by the  
27 chief financial officer of the HOME RULE city issuing ~~them~~ THE

1 NOTES OR BONDS at a public or private sale as provided in the  
2 resolution of the governing body authorizing THE issuance of the  
3 notes OR BONDS.

4 (8) If AND TO THE EXTENT the notes OR BONDS are designated  
5 full faith and credit general obligation notes OR BONDS of the  
6 HOME RULE city ISSUING THE NOTES OR BONDS, the notes OR BONDS are  
7 a general obligation of the HOME RULE city ~~issuing~~ AND the  
8 notes ~~and~~ OR BONDS shall pledge to the payment of principal of  
9 and interest on the notes OR BONDS issued the full faith and  
10 credit of the HOME RULE city, obligating the HOME RULE city to  
11 levy taxes to the extent necessary to pay the principal of and  
12 interest on the notes OR BONDS, subject to applicable constitu-  
13 tional, statutory, and charter limitations.

14 (9) Interest on the notes OR BONDS may be made payable in  
15 the manner provided in the resolution of the governing body of  
16 the HOME RULE city authorizing the issuance of the notes OR  
17 BONDS.

18 (10) The principal of and interest on the notes OR BONDS  
19 shall be payable in lawful money of the United States. The notes  
20 OR BONDS and the interest on the notes OR BONDS are exempt from  
21 all taxation by this state or a political subdivision or taxing  
22 authority ~~in~~ OF this state.

23 (11) The notes OR BONDS may be made payable at a bank or  
24 trust company or as otherwise provided in the resolution of the  
25 governing body of the HOME RULE city authorizing the issuance of  
26 the notes OR BONDS.

1           Sec. 23. (1) If the proceeds of the collection of  
2 delinquent ~~ad valorem~~ taxes pledged in the resolution to THE  
3 payment of ~~the amount of~~ the principal of and interest on the  
4 notes OR BONDS, together with penalties and interest on the  
5 delinquent ~~ad valorem~~ taxes, are not sufficient to pay ~~that~~  
6 ~~amount~~ THE PRINCIPAL OF AND INTEREST ON THE NOTES OR BONDS when  
7 due, upon demand of the HOME RULE city, the school district shall  
8 pay to the HOME RULE city for deposit to the delinquent tax fund  
9 from EITHER the SCHOOL DISTRICT'S general fund ~~of school~~  
10 ~~district~~ or FROM any additional tax that may be levied within  
11 the school district's constitutional and statutory limits, an  
12 amount to pay the SCHOOL DISTRICT'S PRO RATA SHARE OF THE insuf-  
13 ficiency in order that THE principal of and interest on the notes  
14 OR BONDS, together with penalties and interest on the delinquent  
15 ~~ad valorem~~ taxes, ~~shall be~~ ARE paid in full when due. A HOME  
16 RULE CITY MAY PAY THE HOME RULE CITY'S PRO RATA SHARE OF THE  
17 INSUFFICIENCY FROM THE HOME RULE CITY'S GENERAL FUND OR FROM ANY  
18 ADDITIONAL TAX THAT MAY BE LEVIED WITHIN THE HOME RULE CITY'S  
19 CONSTITUTIONAL, STATUTORY, AND CHARTER LIMITS. After payment of  
20 the insufficiency, the school district ~~may~~ OR THE HOME RULE  
21 CITY, AS APPLICABLE, SHALL be reimbursed the amount paid from the  
22 delinquent tax fund by the HOME RULE city from delinquent ~~ad~~  
23 ~~valorem~~ taxes pledged to the notes OR BONDS and collected and  
24 deposited in the delinquent tax fund if those amounts are not  
25 needed to pay principal of and interest on the notes OR BONDS  
26 coming due. AS USED IN THIS CHAPTER, "PRO RATA SHARE" MEANS THE  
27 PROPORTION OF THE PROCEEDS OF THE ORIGINAL ISSUE OF NOTES OR

1 BONDS, LESS COSTS OF ISSUANCE, THAT THE HOME RULE CITY OR THE  
2 SCHOOL DISTRICT, AS APPLICABLE, HAS RECEIVED.

3 (2) If, for any reason, the HOME RULE city issuing the notes  
4 OR BONDS pays any part of the SCHOOL DISTRICT'S PRO RATA SHARE OF  
5 THE principal of or interest on the notes OR BONDS pursuant to  
6 the resolution of the governing body of the HOME RULE city autho-  
7 rizing the issuance of the notes OR BONDS on account of the  
8 pledge of the full faith and credit of the HOME RULE city, the  
9 school district shall PROMPTLY reimburse the HOME RULE city  
10 ~~promptly~~ the amount paid. ~~Such~~ THE obligation to reimburse  
11 the HOME RULE city ~~shall be~~ IS a full faith and credit general  
12 obligation of the school district. If the school district does  
13 not promptly reimburse the HOME RULE city the amount paid, the  
14 HOME RULE city may retain as reimbursement for that amount the  
15 following:

16 (a) Delinquent ~~ad valorem~~ taxes pledged to payment of  
17 principal of and interest on the notes OR BONDS if the amounts  
18 are not needed to pay principal of and interest on the notes OR  
19 BONDS coming due.

20 (b) Any other funds payable from the HOME RULE city to the  
21 school district not otherwise pledged.

22 Sec. 24. ~~Notes~~ OBLIGATIONS issued under sections 20 to 23  
23 may be issued at an original issue discount not to exceed ~~2% of~~  
24 ~~the face value of the note issued~~ THE DISCOUNT AUTHORIZED UNDER  
25 SECTION 2 OF CHAPTER III.