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MUNICIPAL FINANCE & AGENCY FINANCING REPORTING ACT

Senate Bill 841 as passed by the Senate
Senate Bill 1074 as passed by the Senate
Senate Bill 1201 (Substitute H-1)
Sponsor: Sen. Bill Bullard, Jr.

Senate Bill 1062 as passed by the Senate
Sponsor: Sen. Valde Garcia

House Committee: Tax Policy
Senate Committee: Finance

First Analysis (5-16-02)

THE APPARENT PROBLEM:

The Revised Municipal Finance Act took effect March 1, 2002. It was created by Public Act 34 of 2001 (Senate Bill 29). Most of the old Municipal Finance Act was repealed on the same date. The new act will govern nearly all municipal borrowing and it puts in place, among other things, a new bond approval process whereby municipalities may qualify annually with the Department of Treasury and then may issue debt without prior departmental approval. The adoption of the new act, however, requires that a great many other statutes be amended as well. Generally speaking, borrowing by governmental units takes place under a general act, such as the Revised Municipal Finance Act, and a specific act authorizing a particular kind of entity to issue debt for particular purposes. There are perhaps as many as 170 bills needed to make all the various statutes on borrowing conform to the Revised Municipal Finance Act. At the same time, some securities issued by state government agencies and by local governments or authorities are not subject to the revised act or to the companion Revenue Bond Act. Instead, they are being made subject to a new act that would require the filing of reports with the Department of Treasury about the issuance of securities.

THE CONTENT OF THE BILLS:

Senate Bill 1201 would create the Agency Financing Reporting Act, which would require state agencies and municipalities issuing debt that is exempt from the Revised Municipal Finance Act or the Revenue Bond Act to file information with the Department of Treasury within 15 business days of completing the issuance of any security.

The agency would be required to file with the department a copy of the security; proof of publication of the notice of sale, if applicable; a copy of the award resolution including a detail of the annual interest rate and call features on the security, if any; a copy of the legal opinion regarding the legality and tax status of the security; a copy of the notice of rating of the security received from a recognized rating agency, if any; a copy of the resolution or ordinance authorizing the issuance of the security; and a copy of the official statement, if any. (However, the bill would specify that the failure to comply would not invalidate any of the securities reported.) The department could require that the filings be made in an electronic format prescribed by the department.

The department could issue bulletins to carry out the purposes of the new act. A bulletin issued under the act would have to include a statement of the department's specific statutory authority for any substantive requirement contained within the bulletin.

The term "agency" would be used in the bill to refer to the state, a state authority, agency, fund, commission, board, or department of the state, and would include a municipality issuing debt exempt from the Revised Municipal Finance Act or the Revenue Bond Act. The term "municipality" would mean a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district, district library, or another local governmental authority in the state with the power to issue a security. The term "security" would refer to

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an evidence of debt such as a bond, note, contract, obligation, funding obligation, certificate of indebtedness, or other similar instrument issued by an agency, which pledges payment of the debt from an identified source of revenue. The term would not include items described in Section 105 of the Revised Municipal Finance Act (which excludes certain items from being considered municipal securities, such as contracts for the purchase or lease of real or personal property; mortgages secured by real property; and certain specified emergency loans and qualified agricultural loans from surplus funds.)

In general, each of the other bills would amend a particular statute to substitute references to the Revised Municipal Finance Act for references to the older Municipal Finance Act.

Senate Bill 841 would amend the Fiscal Stabilization Act (MCL 141.1004). In addition to making reference to the Revised Municipal Finance Act, the bill would repeal two sections of the act that address matters superseded by that act.

Senate Bill 1062 would amend Public Act 380 of 1913 (MCL 123.872), under which cities, villages, townships, and counties can use a federal, state, or local grant to make loans to private or public entities for economic development purposes.

Senate Bill 1074 would amend Public Act 234 of 1925 (MCL 120.32), which deals with port districts.

HOUSE COMMITTEE ACTION:

The House Committee on Tax Policy reported a substitute for Senate Bill 1201. The bill as passed the Senate required agencies not subject to the Revised Municipal Finance Act or the Revenue Bond Act to file with the Department of Treasury both before and after issuing securities. The substitute bill requires the filing of information after the issuance of securities. The substitute also added the provision that allows the department to require filings to be made electronically.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bills should have no significant state or local fiscal impact. (5-14-02)

ARGUMENTS:

For:

These are among a series of bills that tax specialists say are needed to make specific bonding and borrowing provisions throughout the Michigan statutes conform to the Revised Municipal Finance Act, which took effect on March 1, 2002. In the case of Senate Bill 1201, it creates a new act to apply to the issuance of bonds and other indebtedness by state agencies and, in rare cases, municipalities that do not fall under either the Revised Municipal Finance Act or the Revenue Bond Act. The act requires that the Department of Treasury be provided with certain specified information about those securities after they are issued (even though they are not part of the standard municipal finance process). Senate Bill 1201 contains language parallel to that currently found in Section 319(3) of the Revised Municipal Finance Act. It is expected that the Section 319 language will be removed from that act, and the new act created by Senate Bill 1201 will instead govern these cases. Senate Bill 1201 ensures that there is adequate state oversight over state and local indebtedness.

POSITIONS:

The Department of Treasury has indicated support for the substitute for Senate Bill 1201. (5-15-02)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.