

SENATE BILL No. 1345

September 8, 2004, Introduced by Senator BIRKHOLZ and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending sections 87c and 87d (MCL 211.87c and 211.87d), section 87c as amended by 2002 PA 165 and section 87d as amended by 1982 PA 503.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 87c. (1) A county that has created a fund pursuant to
2 section 87b by resolution of its board of commissioners and
3 without a vote of its electors may borrow money and issue its
4 revolving fund notes to establish or continue, in whole or in
5 part, the delinquent tax revolving fund and to pay the expenses
6 of the borrowing.

7 (2) If a fund is created and a county determines to borrow
8 pursuant to this section, the county treasurer shall be the agent
9 for the county in connection with all transactions relative to

1 the fund.

2 ~~(3) If provided by separate resolution of the county board~~
3 ~~of commissioners for any year in which a county determines to~~
4 ~~borrow for the purposes provided in this section and subject to~~
5 ~~subsection (15), there shall be payable from the surplus in the~~
6 ~~fund an amount equal to 20% of the following amount to the county~~
7 ~~treasurer for services as agent for the county and the remainder~~
8 ~~of the following amount to the county treasurer's office for~~
9 ~~delinquent tax administration expenses:~~

10 ~~—— (a) For any delinquent tax on which the interest rate before~~
11 ~~sale exceeds 1% per month, 1/27 of the interest collected per~~
12 ~~month.~~

13 ~~—— (b) For any delinquent tax on which the interest rate before~~
14 ~~sale is 1% per month or less, 3/64 of the interest collected each~~
15 ~~month.~~

16 ~~—— (4) The amount payable under subsection (3) to the county~~
17 ~~treasurer for services as agent for the county shall not exceed~~
18 ~~20% of the county treasurer's annual salary, and any excess over~~
19 ~~this limitation shall be payable to the county treasurer's office~~
20 ~~for delinquent tax administration expenses. In addition, the~~
21 ~~total sum payable under subsection (3) shall not exceed 5% of the~~
22 ~~total budget of the treasurer's office for that year.~~

23 ~~(3) —(5)—~~ In the resolution authorizing the borrowing and
24 issuance of notes, the delinquent taxes from which the borrowing
25 is to be repaid shall be pledged to the payment of the principal
26 and interest of the notes, and the proceeds of the collection of
27 the delinquent taxes pledged and the interest on the proceeds

1 shall be placed in a segregated fund or account and shall not be
2 used for any other purpose until the notes are paid in full,
3 including interest. The segregated fund or account shall be
4 established as a part of the delinquent tax revolving fund and
5 shall be accounted for separately on the books of the county
6 treasurer.

7 (4) ~~—(6)—~~ The proceeds of the notes shall be placed in and
8 used as the whole or part of the fund established pursuant to
9 section 87b, after the expenses of borrowing have been deducted.

10 (5) ~~—(7)—~~ The notes issued pursuant to this section shall
11 comply with all of the following:

12 (a) Be in an aggregate principal amount not exceeding the
13 aggregate amount of the delinquent taxes pledged, exclusive of
14 interest.

15 (b) Bear interest not exceeding 14.5% per annum.

16 (c) Be in those denominations, and mature on the date not
17 exceeding 6 years after their date of issue, as the board of
18 commissioners by its resolution determines.

19 (d) May be issued at an original issue discount not to exceed
20 2% of the face value of the note issued.

21 (6) ~~—(8)—~~ The resolution authorizing issuance of the notes
22 may provide that all or part of the notes shall be subject to
23 prepayment and, if subject to prepayment, shall provide the
24 amount of call premium payable, if any, the number of days'
25 notice of prepayment that shall be given, and whether the notice
26 shall be written or published, or both. Otherwise, the notes
27 shall not be subject to prepayment.

1 (7) ~~—(9)—~~ The sale and award of notes shall be conducted and
2 made by the treasurer of the county issuing them at a public or
3 private sale. If a public sale is held, the notes shall be
4 advertised for sale once not less than 5 days before sale in a
5 publication printed in the English language and circulated in
6 this state that carries as a part of its regular service notices
7 of the sales of municipal bonds and that has been designated in
8 the resolution as a publication complying with these
9 qualifications. The notice of sale shall be in the form
10 designated by the county treasurer. The notes may be sold
11 subject to the option of the county treasurer and the county
12 treasurer may withhold a part of the issue from delivery if, in
13 his or her opinion, sufficient funds are available before
14 delivery of the notes to make full delivery unnecessary to the
15 purposes of the borrowing.

16 (8) ~~—(10)—~~ The notes are full faith and credit obligations of
17 the county issuing them and, subject to section 87d, if the
18 proceeds of the taxes pledged are not sufficient to pay the
19 principal and interest of the notes when due, the county shall
20 impose a general ad valorem tax without limitation as to rate or
21 amount on all taxable property in the county to pay the principal
22 and interest and may reimburse itself from delinquent taxes
23 collected.

24 (9) ~~—(11)—~~ If the resolution provides and subject to section
25 87d, the notes may be designated general obligation tax notes.

26 (10) ~~—(12)—~~ Notwithstanding any other provisions of this
27 section and section 87d, all the following apply:

1 (a) Interest on the notes may be payable at any time provided
2 in the resolution, and may be set, reset, or calculated as
3 provided in the resolution.

4 (b) Notes issued under this section may have 1 or more of the
5 following attributes:

6 (i) Made the subject of a put or agreement to repurchase by
7 the county treasurer.

8 (ii) Secured by a letter of credit issued by a bank under an
9 agreement entered into by the county treasurer or by any other
10 collateral that the resolution may authorize.

11 (iii) Callable as set forth in the resolution.

12 (iv) Reissued by the county treasurer once reacquired by the
13 county treasurer under any put or repurchase agreement.

14 (c) The county treasurer may by order do 1 or more of the
15 following:

16 (i) Authorize the issuance of renewal notes.

17 (ii) Refund or refund in advance notes by the issuance of new
18 notes, whether the notes to be refunded have or have not
19 matured.

20 (iii) Issue notes partly to refund notes and partly for any
21 other purposes authorized by this act.

22 (iv) Buy and sell any notes issued under this section.

23 (d) Renewal, refunding, or advance refunding notes shall
24 comply with all of the following:

25 (i) Shall be sold and the proceeds applied to the purchase
26 redemption or payment of the notes to be renewed or refunded.

27 (ii) Shall not be subject to the revised municipal finance

1 act, 2001 PA 34, MCL 141.2101 to 141.2821.

2 (iii) May be sold or resold at a public or private sale.

3 (iv) May pledge the delinquent taxes pledged in the issue to
4 be refunded in advance after the original issue is defeased by
5 the advance refunding issue.

6 (e) Notes may be issued secured by a second lien on
7 delinquent taxes, interest, and county property tax
8 administration fees already the subject of a first lien because
9 of the issuance of a prior note issue.

10 (f) Any notes issued may be secured in whole or in part under
11 a trust or escrow agreement, which agreement may also govern the
12 issuance of renewal notes, refunding notes, and advance refunding
13 notes. The agreement may authorize the trustee or escrow agent
14 to make investments of any type authorized in the agreement.

15 (11) ~~—(13)—~~ The notes issued under this section and interest
16 on the notes shall be payable in lawful money of the United
17 States of America and shall be exempt from all taxation by this
18 state or a taxing authority in this state.

19 (12) ~~—(14)—~~ The notes issued under this section may be made
20 payable at a bank or trust company, or may be made registrable as
21 to principal or as to principal and interest under the terms and
22 conditions specified in the authorizing resolution or by the
23 county treasurer when awarding the notes.

24 ~~—(15) A county treasurer elected or appointed to office after~~
25 ~~October 1, 1999 is not eligible for the payment under~~
26 ~~subsection (3) for services as agent for the county unless that~~
27 ~~county treasurer held office on October 1, 1999 and has not~~

1 ~~vacated that office after October 1, 1999.~~

2 (13) ~~—(16)—~~ Notwithstanding 1966 PA 293, MCL 45.501 to
3 45.521, a county operating under a home rule charter shall not be
4 restricted by the provisions of the home rule charter in
5 connection with the powers granted to the county to issue notes
6 by sections 87b and 87d and this section. The treasurer of a
7 county described in this subsection, notwithstanding any charter
8 provisions to the contrary, shall have all of the powers granted
9 to county treasurers by sections 87b and 87d and this section.

10 ~~(17) Notwithstanding the provisions of 1947 PA 261,~~
11 ~~MCL 45.451 to 45.457, the provisions of this section shall~~
12 ~~control the entitlement of the county treasurer to the fee~~
13 ~~provided for in this section.~~

14 (14) ~~—(18)—~~ If the treasurer authorizes on the order
15 authorizing the notes, any notes issued may be secured in whole
16 or in part under a trust or escrow agreement. That agreement may
17 authorize the trustee or escrow agent to make investments of any
18 type authorized in the agreement.

19 (15) ~~—(19)—~~ Notes issued under this act are exempt from the
20 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
21 141.2821.

22 Sec. 87d. (1) Notwithstanding section ~~87e(10)~~ **87c(8)**, a
23 county ~~which~~ **that** determines to borrow pursuant to section 87c
24 may submit to its voters the question of issuing revolving fund
25 notes at any general or special election, which question shall
26 provide for the establishment of the revolving fund for not to
27 exceed 10 years and shall be in substantially the following

1 form:

2 "Shall the county of _____ establish or continue for
3 _____ years a delinquent tax revolving fund and, in
4 connection with that fund, borrow an amount not to exceed the
5 delinquent taxes pledged for repayment of the borrowing or
6 borrowings, as may be made each year, and issue its general
7 obligation unlimited tax notes, pledging the county's full faith
8 and credit for the purpose of providing money for the delinquent
9 tax revolving fund?"

10 (2) If a majority of the electors voting on the question vote
11 in favor of the question, the county may proceed to issue the
12 notes as provided for in this act, which notes may be designated
13 general obligation unlimited tax notes.

14 (3) If a majority of the electors voting on the question vote
15 against the question, or if the question is not submitted, the
16 county may also issue the notes but only in accordance with
17 subsection (6).

18 (4) In addition, this section shall validate a question
19 submitted to the electors before ~~the effective date of this~~
20 ~~section~~ **December 21, 1978** in which the electors were asked to
21 approve the issuance of general obligation tax notes secured by
22 delinquent taxes, regardless of how the question may have been
23 phrased. The defeat of the question shall require that the notes
24 be issued as nonvoted until a future question is approved by the
25 electors.

26 (5) A county may submit to its electors the question
27 authorized by this section once each calendar year.

1 (6) If nonvoted notes are issued pursuant to section 87c, **all**
2 **of the following apply:**

3 (a) The resolution authorizing the borrowing and issuance of
4 the notes shall establish the pledged delinquent taxes, the
5 interest ~~thereon~~ **on the pledged delinquent taxes**, and any
6 amounts received in the future from taxing units in the county
7 because of the uncollectibility of any delinquent taxes as funds
8 pledged to note repayment, which amounts shall be placed in a
9 segregated fund and used for no other purpose except to repay the
10 notes and the interest ~~thereon~~ **on the notes**. The resolution
11 shall provide that the expenses of borrowing shall be repaid from
12 the county property tax administration fees on the pledged
13 delinquent taxes. ~~and the~~ **The** balance of the county property
14 tax administration fees may be added to the funds pledged to note
15 repayment, if **provided in** the resolution. ~~provides.~~

16 (b) The notes shall be designated general obligation limited
17 tax notes.

18 (c) The resolution may establish a special fund to secure the
19 notes, referred to as a note reserve fund, and ~~shall pay~~
20 **require payment** into the note reserve fund **of** any proceeds of
21 sale of the notes to the extent provided in the resolution
22 authorizing issuance of the notes. All money in the note reserve
23 fund, except as ~~hereafter provided~~ **otherwise provided in this**
24 **section**, shall be added to the funds pledged to note repayment
25 and shall be used solely for payment of principal and interest on
26 the notes for which the fund was established, or the purchase of
27 notes for which the fund was established. Money in the note

1 reserve fund shall first be withdrawn for payment of principal
 2 and interest on notes before other county general funds are used
 3 to make the payments. All income or interest earned by, or
 4 increment to, the note reserve fund due to its investment or
 5 reinvestment shall be deposited in the delinquent tax revolving
 6 fund ~~—~~ when the notes for which the fund was established are
 7 retired. The resolution shall provide that when the note reserve
 8 fund is sufficient to retire the notes and accrued interest
 9 ~~thereon~~ **on the notes**, it may be ~~so~~ used **for that purpose**.

10 (d) A resolution ~~which~~ **that** establishes a note reserve fund
 11 may provide for an additional borrowing of an amount not to
 12 exceed the amount of the reserve, and the county ~~shall have the~~
 13 ~~power to~~ **may** borrow that additional amount.

14 (e) The notes shall be the full faith and credit obligations
 15 of the county issuing them. If the proceeds of the taxes, ~~and~~
 16 interest, ~~and, when pledged,~~ county property tax administration
 17 fees **if pledged**, or note reserve fund are not sufficient to pay
 18 the principal and interest ~~—~~ when due, the county shall pay the
 19 ~~same~~ **principal and interest** from its general funds or **from** any
 20 additional tax ~~which~~ **that** may be levied within its
 21 constitutional and statutory debt limits, and the county may
 22 thereafter reimburse itself from delinquent taxes collected. The
 23 county's obligation to pay from its general funds shall be its
 24 first budget obligation and shall be provided for in the
 25 borrowing resolution in the following language:

26 "This note issue, in addition, shall be a general obligation
 27 of the county of _____, secured by its full faith and

1 credit, which shall include this county's limited tax obligation,
2 within applicable constitutional and statutory limits, and its
3 general funds. The county budget shall provide that if the
4 pledged delinquent taxes and any other pledged amounts are not
5 collected in sufficient amounts to meet the payments of principal
6 and interest due on these notes, the county, before paying any
7 other budgeted amounts, will promptly advance from its general
8 funds sufficient money to pay that principal and interest."

9 (7) If coupon notes are issued, pursuant to section 87c or
10 this section, **all of the following apply:**

11 (a) Interest shall be payable semiannually or annually.

12 (b) The coupons shall specify the source from which the notes
13 shall be payable, which may be by reference to the note itself.

14 (c) The coupons shall contain the facsimile signature of the
15 county treasurer.