

HOUSE BILL No. 4451

March 13, 2007, Introduced by Reps. Marleau, Vagnozzi, David Law, Moss, Amos, Stakoe, Knollenberg, DeRoche, Garfield, Gaffney, Cushingberry, Byrnes, Farrah, Pastor, Hildenbrand, Condino, Accavitti, Meisner, Gonzales, Mayes, Melton, Donigan, Agema, Calley, Green, Dean, Lemmons, LeBlanc, Casperson, Meekhof, Pavlov, Sak and Scott and referred to the Committee on Intergovernmental, Urban and Regional Affairs.

A bill to amend 2001 PA 34, entitled
"Revised municipal finance act,"
by amending section 103 (MCL 141.2103) and by adding sections 518
and 519.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 103. As used in this act:

2 (a) "Assessed value", "assessed valuation", "valuation as
3 assessed", and "valuation as shown by the last preceding tax
4 assessment roll", or similar terms, used in this act, any statute,
5 or charter as a basis for computing limitations upon the taxing or
6 borrowing power of any municipality, mean the state equalized
7 valuation as determined under the general property tax act, 1893 PA
8 206, MCL 211.1 to 211.157.

9 (b) "Chief administrative officer" means that term as defined

1 in section 2b of the uniform budgeting and accounting act, 1968 PA
2 2, MCL 141.422b.

3 (c) "Debt" means all borrowed money, loans, and other
4 indebtedness, including principal and interest, evidenced by bonds,
5 obligations, refunding obligations, notes, contracts, securities,
6 refunding securities, municipal securities, or certificates of
7 indebtedness that are lawfully issued or assumed, in whole or in
8 part, by a municipality, or will be evidenced by a judgment or
9 decree against the municipality.

10 (d) "Debt retirement fund" means a segregated account or group
11 of accounts used to account for the payment of, interest on, or
12 principal and interest on a municipal security.

13 (e) "Deficit" means a situation for any fund of a municipality
14 in which, at the end of a fiscal year, total expenditures,
15 including an accrued deficit, exceeded total revenues for the
16 fiscal year, including any surplus carried forward.

17 (f) "Department" means the department of treasury.

18 (g) "Fiscal year" means a 12-month period fixed by statute,
19 charter, or ordinance, or if not so fixed, then as determined by
20 the department.

21 (h) "Governing body" means the county board of commissioners
22 of a county; the township board of a township; the council, common
23 council, or commission of a city; the council, commission, or board
24 of trustees of a village; the board of education or district board
25 of a school district; the board of an intermediate school district;
26 the board of trustees of a community college district; the county
27 drain commissioner or drainage board of a drainage district; the

1 board of the district library; the legislative body of a
2 metropolitan district; the port commission of a port district; and,
3 in the case of another governmental authority or agency, that
4 official or official body having general governing powers over the
5 authority or agency.

6 (I) "HEALTH CARE TRUST FUND" MEANS A TRUST OR FUND CREATED IN
7 ACCORDANCE WITH THE PUBLIC EMPLOYEE HEALTH CARE FUND INVESTMENT
8 ACT, 1999 PA 149, MCL 38.1211 TO 38.1216, OR OTHER STATE OR FEDERAL
9 STATUTE, AND USED EXCLUSIVELY TO PROVIDE FUNDING FOR POSTEMPLOYMENT
10 HEALTH CARE BENEFITS FOR PUBLIC EMPLOYEE RETIREES OF A COUNTY,
11 CITY, VILLAGE, OR TOWNSHIP. A HEALTH CARE TRUST FUND ALSO INCLUDES
12 THE RETIREE HEALTH FUND VEHICLE ADMINISTERED BY THE MUNICIPAL
13 EMPLOYEES RETIREMENT SYSTEM DESCRIBED IN THE MUNICIPAL EMPLOYEES
14 RETIREMENT ACT OF 1984, 1984 PA 427, MCL 38.1501 TO 38.1555, FOR A
15 COUNTY, CITY, VILLAGE, OR TOWNSHIP THAT HAS ADOPTED THE MUNICIPAL
16 EMPLOYEE RETIREMENT SYSTEM TO PROVIDE FUNDING FOR POSTEMPLOYMENT
17 HEALTH CARE BENEFITS FOR PUBLIC EMPLOYEE RETIREES.

18 (J) ~~(i)~~ "Municipal security" means a security that when issued
19 was not exempt from this act or ~~the municipal finance act, FORMER~~
20 1943 PA 202, ~~MCL 131.1 to 139.3,~~ by the provisions of this act or
21 by the provisions of ~~the municipal finance act, FORMER~~ 1943 PA 202,
22 ~~MCL 131.1 to 139.3,~~ or by the provisions of the law authorizing its
23 issuance and that is payable from or secured by any of the
24 following:

25 (i) Ad valorem real and personal property taxes.

26 (ii) Special assessments.

27 (iii) The limited or unlimited full faith and credit pledge of

1 the municipality.

2 (iv) Other sources of revenue described in this act for debt or
3 securities authorized by this act.

4 (K) ~~(j)~~ "Municipality" means a county, township, city,
5 village, school district, intermediate school district, community
6 college district, metropolitan district, port district, drainage
7 district, district library, or another governmental authority or
8 agency in this state that has the power to issue a security.
9 Municipality does not include this state or any authority, agency,
10 fund, commission, board, or department of this state.

11 (I) ~~(k)~~ "Outstanding security" means a security that has been
12 issued, but not defeased or repaid, including a security that when
13 issued was exempt from this act or ~~the municipal finance act,~~
14 **FORMER** 1943 PA 202, ~~MCL 131.1 to 139.3,~~ by the provisions of this
15 act or by the provisions of ~~the municipal finance act,~~ **FORMER** 1943
16 PA 202, ~~MCL 131.1 to 139.3,~~ or by the provisions of the law
17 authorizing its issuance.

18 (M) ~~(l)~~ "Qualified status" means a municipality that has filed
19 a qualifying statement under section 303 and has been determined by
20 the department to be qualified to issue municipal securities
21 without further approval by the department.

22 (N) ~~(m)~~ "Refunding security" means a municipal security issued
23 to refund an outstanding security.

24 (O) ~~(n)~~ "Security" means an evidence of debt such as a bond,
25 note, contract, obligation, refunding obligation, certificate of
26 indebtedness, or other similar instrument issued by a municipality,
27 which pledges payment of the debt by the municipality from an

1 identified source of revenue.

2 (P) ~~(e)~~—"Sinking fund" means a fund for the payment of
3 principal only of a mandatory redemption security.

4 (Q) ~~(p)~~—"Taxable value" means the taxable value of the
5 property as determined under section 27a of the general property
6 tax act, 1893 PA 206, MCL 211.27a.

7 (R) "UNFUNDED ACCRUED LIABILITY" MEANS THE DIFFERENCE BETWEEN
8 THE ASSETS AND LIABILITIES OF A HEALTH CARE TRUST FUND AS
9 DETERMINED BY AN ACTUARIAL STUDY CONDUCTED PURSUANT TO RULE 43 OR
10 45 OF THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD.

11 SEC. 518. (1) THROUGH SEPTEMBER 30, 2010, A COUNTY, CITY,
12 VILLAGE, OR TOWNSHIP MAY BY ORDINANCE OR RESOLUTION OF ITS
13 GOVERNING BODY, AND WITHOUT A VOTE OF ITS ELECTORS, ISSUE A
14 MUNICIPAL SECURITY UNDER THIS SECTION TO PAY THE COSTS OF THE
15 UNFUNDED ACCRUED LIABILITY PROVIDED THAT THE AMOUNT OF TAXES
16 NECESSARY TO PAY THE PRINCIPAL AND INTEREST ON THAT MUNICIPAL
17 SECURITY, TOGETHER WITH THE TAXES LEVIED FOR THE SAME YEAR, SHALL
18 NOT EXCEED THE LIMIT AUTHORIZED BY LAW. POSTEMPLOYMENT HEALTH CARE
19 BENEFITS MAY BE FUNDED BY THE COUNTY, CITY, VILLAGE, OR TOWNSHIP,
20 NOTWITHSTANDING THE FACT THAT THE COUNTY, CITY, VILLAGE, OR
21 TOWNSHIP HAS NO LEGAL OBLIGATION TO PAY THE BENEFITS OR HAS THE
22 RIGHT TO ALTER OR ELIMINATE THE PAYMENT OF THOSE BENEFITS. THE
23 FUNDING OF POSTEMPLOYMENT HEALTH CARE BENEFITS BY A COUNTY, CITY,
24 VILLAGE, OR TOWNSHIP AS PROVIDED IN THIS ACT SHALL NOT CONSTITUTE A
25 CONTRACT TO PAY THE POSTEMPLOYMENT HEALTH CARE BENEFITS.

26 (2) BEFORE A COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUES A
27 MUNICIPAL SECURITY UNDER THIS SECTION, THE COUNTY, CITY, VILLAGE,

1 OR TOWNSHIP SHALL PUBLISH A NOTICE OF INTENT TO ISSUE THE MUNICIPAL
2 SECURITY. THE NOTICE OF INTENT AND THE RIGHTS OF REFERENDUM SHALL
3 MEET THE REQUIREMENTS OF SECTION 517(2) EXCEPT THAT PETITIONERS
4 SHALL HAVE 60 DAYS AFTER THE PUBLICATION OF THE NOTICE OF INTENT TO
5 FILE A PETITION AND THE REGISTERED ELECTOR REQUIREMENT SHALL BE NOT
6 LESS THAN 5% OR 10,000 REGISTERED ELECTORS, WHICHEVER IS LESS.

7 (3) A COUNTY, CITY, VILLAGE, OR TOWNSHIP BY RESOLUTION AND
8 WITH A VOTE OF ITS ELECTORS MAY ISSUE A MUNICIPAL SECURITY PLEDGING
9 ITS UNLIMITED TAXES TO PAY THE COSTS OF AN UNFUNDED ACCRUED
10 LIABILITY.

11 (4) THE PROCEEDS OF A MUNICIPAL SECURITY ISSUED UNDER THIS
12 SECTION MAY BE USED TO PAY THE COSTS OF ISSUANCE OF THE MUNICIPAL
13 SECURITY. THE PROCEEDS OF A MUNICIPAL SECURITY ISSUED UNDER THIS
14 SECTION SHALL BE DEPOSITED IN A HEALTH CARE TRUST FUND; A TRUST
15 CREATED BY THE ISSUER WHICH HAS AS ITS BENEFICIARY A HEALTH CARE
16 TRUST FUND; OR FOR A COUNTY, CITY, VILLAGE, OR TOWNSHIP, A
17 RESTRICTED FUND WITHIN A TRUST THAT WOULD ONLY BE USED TO RETIRE
18 THE MUNICIPAL SECURITIES ISSUED UNDER SUBSECTION (1) OR (3). A
19 COUNTY, CITY, VILLAGE, OR TOWNSHIP SHALL HAVE THE POWER TO CREATE A
20 TRUST TO CARRY OUT THE PURPOSES OF THIS SUBSECTION. THE TRUST
21 CREATED UNDER THIS SUBSECTION SHALL INVEST ITS FUNDS IN THE SAME
22 MANNER AS FUNDS INVESTED BY A HEALTH CARE TRUST FUND. THE TRUST
23 CREATED UNDER THIS SUBSECTION SHALL COMPLY WITH ALL OF THE
24 FOLLOWING:

25 (A) REPORT ITS FINANCIAL CONDITION ACCORDING TO GENERALLY
26 ACCEPTED ACCOUNTING PRINCIPLES.

27 (B) BE TAX EXEMPT UNDER THE INTERNAL REVENUE CODE.

1 (5) BEFORE A COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUES A
2 MUNICIPAL SECURITY UNDER THIS SECTION, THE COUNTY, CITY, VILLAGE,
3 OR TOWNSHIP SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC A
4 COMPREHENSIVE FINANCIAL PLAN THAT INCLUDES ALL OF THE FOLLOWING:

5 (A) EVIDENCE THAT THE ISSUANCE OF THE MUNICIPAL SECURITY
6 TOGETHER WITH OTHER FUNDS LAWFULLY AVAILABLE WILL BE SUFFICIENT TO
7 ELIMINATE THE UNFUNDED ACCRUED LIABILITY.

8 (B) A DEBT SERVICE AMORTIZATION SCHEDULE AND A DESCRIPTION OF
9 ACTIONS REQUIRED TO SATISFY THE DEBT SERVICE AMORTIZATION SCHEDULE.

10 (C) A CERTIFICATION BY THE PERSON PREPARING THE PLAN THAT THE
11 COMPREHENSIVE FINANCIAL PLAN IS COMPLETE AND ACCURATE.

12 (D) DOCUMENTATION THAT THE ISSUANCE OF MUNICIPAL SECURITIES
13 WILL RESULT IN PROJECTED PRESENT VALUE SAVINGS REGARDING THE
14 UNFUNDED ACCRUED LIABILITY.

15 (E) A PLAN IN PLACE FROM THE COUNTY, CITY, VILLAGE, OR
16 TOWNSHIP TO MITIGATE THE INCREASE IN HEALTH CARE COSTS AND MAY
17 INCLUDE A WELLNESS PROGRAM THAT PROMOTES THE MAINTENANCE OR
18 IMPROVEMENT OF HEALTHY BEHAVIORS.

19 (6) MUNICIPAL SECURITIES ISSUED UNDER SUBSECTION (1) OR (3) BY
20 A COUNTY, CITY, VILLAGE, OR TOWNSHIP, AND CURRENTLY OUTSTANDING,
21 SHALL NOT EXCEED 5% OF THE STATE EQUALIZED VALUATION OF THE
22 PROPERTY ASSESSED IN THAT COUNTY, CITY, VILLAGE, OR TOWNSHIP.

23 (7) MUNICIPAL SECURITIES ISSUED UNDER SUBSECTION (1) OR (3) BY
24 A COUNTY, CITY, VILLAGE, OR TOWNSHIP AND THE INTEREST ON AND INCOME
25 FROM THE MUNICIPAL SECURITIES ARE EXEMPT FROM TAXATION BY THIS
26 STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

27 (8) A COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUING MUNICIPAL

1 SECURITIES UNDER SUBSECTION (1) OR (3) MAY ENTER INTO INDENTURES OR
2 OTHER AGREEMENTS WITH TRUSTEES AND ESCROW AGENTS FOR THE ISSUANCE,
3 ADMINISTRATION, OR PAYMENT OF THE MUNICIPAL SECURITIES.

4 (9) MUNICIPAL SECURITIES ISSUED UNDER SUBSECTION (1) OR (3) BY
5 A COUNTY, CITY, VILLAGE, OR TOWNSHIP SHALL NOT ON A CUMULATIVE
6 BASIS EXCEED 75% OF CURRENT UNFUNDED ACCRUED LIABILITIES ON
7 POSTEMPLOYMENT HEALTH CARE BENEFITS OWED TO EMPLOYEES OF THE
8 COUNTY, CITY, VILLAGE, OR TOWNSHIP THAT EXIST ON THE DATE OF THE
9 AMENDATORY ACT THAT ADDED THIS SUBSECTION.

10 (10) A COUNTY, CITY, VILLAGE, OR TOWNSHIP SHALL NOT ISSUE A
11 MUNICIPAL SECURITY UNDER SUBSECTION (1) OR (3) UNLESS THE COUNTY,
12 CITY, VILLAGE, OR TOWNSHIP HAS BEEN ASSIGNED A CREDIT RATING WITHIN
13 THE CATEGORY OF AA OR HIGHER BY AT LEAST 1 NATIONALLY RECOGNIZED
14 RATING AGENCY.

15 (11) A COUNTY, CITY, VILLAGE, OR TOWNSHIP SHALL NOT ISSUE A
16 MUNICIPAL SECURITY UNDER SUBSECTION (1) OR (3) UNLESS THE PROJECTED
17 DIFFERENCE BETWEEN THE ASSUMED RATE OF RETURN ON THE HEALTH CARE
18 TRUST FUND INVESTMENTS AND THE PROJECTED ACTUAL INTEREST RATE PAID
19 ON THE MUNICIPAL SECURITIES ISSUED UNDER SUBSECTION (1) OR (3) IS
20 NOT LESS THAN 100 BASIS POINTS

21 (12) BEFORE A COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUES A
22 MUNICIPAL SECURITY UNDER THIS SECTION, THE COUNTY, CITY, VILLAGE,
23 OR TOWNSHIP SHALL OBTAIN THE APPROVAL OF THE DEPARTMENT OF
24 TREASURY. THE DEPARTMENT OF TREASURY SHALL REVIEW THE PROPOSED
25 ISSUANCE OF MUNICIPAL SECURITIES AND IF IT VERIFIES THAT THE
26 COUNTY, CITY, VILLAGE, OR TOWNSHIP MEETS THE REQUIREMENTS OF THIS
27 SECTION, THE DEPARTMENT OF TREASURY SHALL APPROVE THE ISSUANCE OF

1 MUNICIPAL SECURITIES UNDER THIS SECTION.

2 SEC. 519. MUNICIPAL SECURITIES ISSUED UNDER SECTION 517 OR 518
3 SHALL ALSO BE SECURED BY THE GENERAL FUND OF THE COUNTY, CITY,
4 VILLAGE, OR TOWNSHIP AND MAY INCLUDE THE PHRASE "GENERAL OBLIGATION
5 LIMITED TAX" IN THE RESOLUTION AUTHORIZING THE ISSUANCE. THE
6 COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUING THE MUNICIPAL SECURITIES
7 THAT HAVE NOT BEEN APPROVED BY THE ELECTORS IS NOT AUTHORIZED TO
8 LEVY ANY TAX NOT AUTHORIZED BY LAW AT THE TIME THE MUNICIPAL
9 SECURITIES ARE ISSUED TO PAY FOR THE MUNICIPAL SECURITIES.