



Telephone: (517) 373-5383 Fax: (517) 373-1986 TDD: (517) 373-0543

House Bill 5626 (Substitute H-2 as passed by the House)

Sponsor: Representative George Cushingberry, Jr.

House Committee: Appropriations

Senate Committee: Local, Urban and State Affairs

Date Completed: 1-26-10

# **CONTENT**

### The bill would amend the Fiscal Stabilization Act to do the following:

- -- Increase from \$125.0 million to \$250.0 million the limit on the maximum principal amount of all bonds or obligations that a city or county may issue.
- -- Provide that general obligation bonds or obligations issued by a city or county to fund an operating deficit could be issued as bonds or obligations payable from a specified revenue source.
- -- Create a statutory lien and trust applicable to distributable aid received from the State Treasurer by a paying agent, escrow agent, or a trustee to pay principal or interest on bonds or obligations.

Under the Act, a city or county that meets certain conditions (described in **BACKGROUND**, below) may borrow money and issue general obligation bonds or obligations to fund an operating deficit for a past fiscal year and/or to fund a projected operating deficit in the current fiscal year. Under the bill, these bonds or obligations could be issued as general obligation bonds or obligations, as bonds or obligations payable solely from a specified source or sources of revenue lawfully available to the city or county, or as a combination of the two methods.

Currently, the maximum amount of bonds or obligations that are unlimited or limited tax bonds or obligations that a city or county may issue under the Act is 3% of the State equalized valuation of real and personal property located within its territorial boundaries, or the maximum principal amount of all bonds or obligations that a city or county may issue is \$125.0 million. The bill would increase this limit to \$250.0 million.

The Act allows the bonds or obligations to be issued by resolution of a city's or county's legislative body without a vote of the electors and without publication of a notice of intent to issue bonds or obligations as required by the Home Rule City Act. Under the bill, this would apply to bonds or obligations issued as limited tax bonds or obligations.

The Fiscal Stabilization Act authorizes the legislative body of a city or county to submit to its electors the question of issuing the bonds or obligations. The bill would refer to the bonds or obligations authorized by the Act.

If the question is approved, the bonds or obligations may be issued as unlimited tax bonds or obligations. If the question is not approved, the bonds or obligations may be issued as

Page 1 of 4 hb5626/0910

limited tax bonds or obligations, as bonds or obligations payable solely from a specified source or sources of revenue lawfully available to the city or county, or as a combination of those methods. Under the bill, this provision would apply if the question were not submitted to or approved by voters.

Currently, in the resolution authorizing the bonds or obligations for the payment of bonds or obligations, the city or county may further pledge money received or to be received derived from the imposition of taxes by the State and returned or to be returned to the city or county as provided by law, except for money that the State Constitution prohibits for use for such a pledge. Under the bill, the city or county could provide for the payment of the bonds or obligations with distributable aid, rather than further pledge money, received or to be received from this source.

(Currently, "distributable aid" means that term as defined in Section 2 of the Michigan Municipal Distributable Aid Bond Act, which was repealed by Public Act 300 of 2002 effective January 1, 2010. That section defined "distributable aid" as State shared revenue provided for in the State Revenue Sharing Act, the Single Business Tax Act, any other law providing for distribution of State shared revenue derived from the same taxes distributed under those Acts, and any law providing reimbursement to a municipality under the State Constitution as reimbursement for revenue that would otherwise be collected from taxes imposed by the municipality.

Under the bill, the term would mean State shared revenue provided for in the State Revenue Sharing Act, the Michigan Business Tax Act, any other law providing for distribution of State shared revenue that is derived from the same taxes distributed under the State Revenue Sharing Act, and any law providing reimbursement to a municipality under the State Constitution as reimbursement for revenue that would otherwise be collected from taxes imposed by the municipality.)

Under the Act, the city or county and the State Treasurer may enter into an agreement providing for the direct payment to a trustee of the money that is derived from taxes collected by the State and returned to the city or county as provided by law. The city or county may pledge that money for the payment of bonds or obligations issued under the Act. If the city or county and State Treasurer enter into such an agreement, the State Treasurer must pay the pledged money in accordance with the agreement.

Under the bill, instead, the city or county and the State Treasurer could enter into agreement providing for the direct payment of distributable aid to a paying agent, trustee, escrow agent, or other person to be used for the sole purpose of paying principal or interest on bonds or obligations. The bill would retain the provision allowing the city or the county to pledge that money for the payment of bonds or obligations. If the city or county and the State Treasurer entered into such an agreement, notwithstanding any other provision of the Act to the contrary, for bonds or obligations issued after the bill took effect and made payable from distributable aid in the resolution authorizing the bonds or obligations, a statutory lien and trust would be created applicable to distributable aid received or to be received from the State Treasurer by a paying agent, escrow agent, or a trustee, after the distributable aid was distributed by the State Treasurer.

The lien created under these provisions for the benefit of bondholders or others would be perfected without delivery, recording, or notice. The distributable aid held or to be held by a paying agent, trustee, escrow agent, or other person also would be held in trust for the sole benefit of the holders of the bonds or obligations issued under the Act and would be exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the city or county other than for payment of debt service on the bonds or obligations to which the lien applied. The holders of bonds or obligations issued after January 1, 2010, but before July 1, 2010, would have a first priority lien that was

Page 2 of 4 hb5626/0910

paramount and superior to all other liens and interests of any kind that arose or were created after the bill's effective date and after bonds were issued subject to the statutory lien. Nothing in the bill, however, would abridge or reduce the State Treasurer's ability to withhold distributable aid from a city or county as provided by the State Revenue Sharing Act.

MCL 141.1003 et al.

## **BACKGROUND**

Under the Fiscal Stabilization Act, before a city or county adopts a resolution authorizing the issuance of bonds or obligations, it must apply to the State Administrative Board for approval. Before a city may apply to the State Administrative Board, the city's legislative body must determine by resolution that all of the following conditions exist:

- -- The city had an accumulated operating deficit as of the end of the last completed fiscal year or is projected to have an accumulated operating deficit at the end of the current fiscal year.
- -- The amount of the deficit exceeds the amount that the city may borrow from the Emergency Municipal Loan Fund pursuant to the Emergency Municipal Loan Act.
- -- The amount of the deficit is more than the city can fund by issuing tax anticipation notes under the Revised Municipal Finance Act.

Before a county may apply to the State Administrative Board, the county's legislative body must determine by resolution that the county had an accumulated operating deficit as of the last completed fiscal year or is projected to have an accumulated operating deficit at the end of the current fiscal year.

If a city's or county's legislative body determines that all of the applicable conditions exist, it also must make the following determinations in the same resolution:

- -- The amount of the deficit that was incurred or is projected to exist at the end of the current fiscal year.
- -- The maximum amount of bonds or obligations necessary to fund the deficit and provide funds for authorized purposes described in the Act.

Authorized purposes include the amount necessary to fund the deficit; a reserve to secure payment of principal and interest on the bonds or obligations in an amount not exceeding the maximum amount of principal and interest becoming due on the bonds or obligations in any fiscal year; a discount of up to 10% of the principal amount of the bonds or obligations; and an amount sufficient to pay all legal, financial, accounting, election, printing, and other expenses related to the issuance of the bonds or obligations.

Legislative Analyst: Julie Cassidy

#### **FISCAL IMPACT**

The bill would have no effect on State revenue or expenditure but would allow a higher level of debt to be issued by local units. The bill also would restrict the expenditure of certain payments, such as revenue sharing payments, by a local unit that issued bonds allowed by the Act. Such payments are generally considered general purpose revenue and may be spent however the local unit chooses. Under the bill, repayment of any required bonds would be the first allowed use of any of the affected payments. While the bill would not restrict the increase in the limit to cities such as the City of Detroit, if the City of Detroit were to issue \$125.0 million in 20-year bonds, at an 8% annual rate under the bill's provision, the debt service payments would average \$12.7 million per year, depending on

Page 3 of 4 hb5626/0910

how the bond payments were structured. Based on the January 2010 Consensus Revenue Estimates, Detroit is expected to receive approximately \$234.7 million in revenue sharing payments during FY 2009-10, of which \$58.1 million will be constitutionally designated payments. Even if constitutionally designated payments declined 10% in future years as a result of the 2010 Census, the payments would still substantially exceed any likely bond service payments for bonds issued as a result of the bill.

Fiscal Analyst: David Zin

#### S0910\s5626sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.