

SUBSTITUTE FOR
HOUSE BILL NO. 5626

A bill to amend 1981 PA 80, entitled
"Fiscal stabilization act,"
by amending the title and sections 3, 4, 8, and 9 (MCL 141.1003,
141.1004, 141.1008, and 141.1009), the title and sections 3, 8, and
9 as amended by 1987 PA 279 and section 4 as amended by 2002 PA
444.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to authorize certain cities and counties to issue
~~general obligation~~ bonds or obligations to fund an operating
deficit or projected operating deficit; to prescribe the powers and
duties of the state administrative board; to provide for the levy
of ad valorem property taxes to pay the principal and interest on
the bonds or obligations; to prescribe certain conditions related

1 to the bonds or obligations; and to provide remedies for
2 enforcement of this act.

3 Sec. 3. A city or county that meets the applicable conditions
4 described in section 4 may borrow money and issue its general
5 obligation bonds or obligations either for funding an operating
6 deficit for a past fiscal year or years or for funding a projected
7 operating deficit in the current fiscal year, or for funding both.
8 **THE BONDS OR OBLIGATIONS MAY BE ISSUED AS GENERAL OBLIGATION BONDS**
9 **OR OBLIGATIONS, AS BONDS OR OBLIGATIONS PAYABLE SOLELY FROM A**
10 **SPECIFIED SOURCE OR SOURCES OF REVENUES LAWFULLY AVAILABLE TO THE**
11 **CITY OR COUNTY, OR AS A COMBINATION OF GENERAL OBLIGATION BONDS OR**
12 **OBLIGATIONS AND BONDS OR OBLIGATIONS PAYABLE FROM A SPECIFIED**
13 **SOURCE OR SOURCES OF REVENUES.** The authority granted by this act is
14 in addition to any power granted to a city or county by its charter
15 or any other provision of law.

16 Sec. 4. (1) Before a city may make application to the board
17 for approval to issue bonds or obligations under this act, the
18 legislative body of the city shall determine by resolution that all
19 of the following conditions exist:

20 (a) The city had an accumulated operating deficit as of the
21 end of the last completed fiscal year or is projected to have an
22 accumulated operating deficit at the end of the current fiscal
23 year. The determination of the existence of an accumulated
24 operating deficit or a projected accumulated operating deficit
25 shall be made in accordance with generally accepted accounting
26 principles.

27 (b) The amount of the deficit exceeds the amount that the city

1 may borrow from the emergency municipal loan fund pursuant to the
2 emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

3 (c) The amount of the deficit is more than the city can fund
4 by issuing tax anticipation notes under the revised municipal
5 finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

6 (2) Before a county may make application to the board for
7 approval to issue bonds or obligations under this act, the
8 legislative body of the county shall determine by resolution that
9 the county had an accumulated operating deficit as of the end of
10 the last completed fiscal year or is projected to have an
11 accumulated operating deficit at the end of the current fiscal
12 year. The determination of the existence of an accumulated
13 operating deficit or a projected accumulated operating deficit
14 shall be made in accordance with generally accepted accounting
15 principles.

16 (3) If the legislative body of a city or county determines
17 that all of the conditions described in subsection (1) or (2)
18 exist, respectively, it shall also in the same resolution make the
19 following determinations:

20 (a) The amount of the accumulated operating deficit that was
21 incurred or is projected to exist at the end of the current fiscal
22 year.

23 (b) The maximum amount of bonds or obligations necessary to
24 fund the deficit and provide funds for the purposes described in
25 section 5.

26 (4) Before adopting a resolution authorizing the issuance of
27 the bonds or obligations, the city or county shall apply to the

1 secretary of the board for an order approving issuance of the bonds
2 or obligations by the city or county and shall attach to the
3 application a copy of the resolution described in this section.

4 (5) The board shall require that the city or county provide
5 the board with a statement signed by the chief executive officer of
6 the city or county, if a charter county, or the chairperson of the
7 board of county commissioners, which statement indicates how the
8 city or county intends to avoid future deficits. The statement is a
9 condition that shall be met as part of the application by the city
10 or county to the board for issuance of bonds or obligations under
11 this act.

12 (6) Within 7 days after receipt of a full and complete
13 application as determined by the board, the board shall issue an
14 order approving issuance of bonds or obligations by the city or
15 county in an amount not exceeding the amount determined to be
16 necessary by the legislative body of the city or county under
17 subsection (3) or denying the application.

18 (7) After approval of the board, the determinations and
19 findings made by the legislative body of the city or county
20 pursuant to this section are conclusive.

21 (8) The maximum amount of bonds or obligations that are
22 unlimited or limited tax bonds or obligations that may be issued by
23 a city or county under this act shall not exceed 3% of the state
24 equalized valuation of real and personal property located within
25 the territorial boundaries of the city or county, respectively, or
26 the maximum principal amount of all bonds or obligations that may
27 be issued by a city or county under this act shall not exceed

1 ~~\$125,000,000.00~~ **\$250,000,000.00**. The limitations provided by this
 2 subsection do not include bonds or obligations or portions of bonds
 3 or obligations used to pay for any of the following:

4 (a) Amounts set aside for a reserve for payment of principal,
 5 interest, and redemption premiums.

6 (b) Expected costs of issuance of the bonds or obligations.

7 (c) The amount of any discount.

8 (d) Bonds or obligations issued to refund outstanding bonds or
 9 obligations.

10 (9) Except as provided in section 7, the issuance of bonds or
 11 obligations under this act are not subject to the revised municipal
 12 finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The issuance of
 13 bonds or obligations described in this subsection is subject to the
 14 agency financing reporting act, **2002 PA 470, MCL 129.171 TO**
 15 **129.177.**

16 Sec. 8. The bonds or obligations may be issued **AS LIMITED TAX**
 17 **BONDS OR OBLIGATIONS** by resolution of the legislative body of the
 18 city or county without vote of the electors and without publication
 19 of a notice of intent to issue bonds or obligations as required by
 20 section 5(g) of ~~Act No. 279 of the Public Acts of 1909, as amended,~~
 21 ~~being section 117.5 of the Michigan Compiled Laws~~ **THE HOME RULE**
 22 **CITY ACT, 1909 PA 279, MCL 117.5.** The legislative body of ~~the~~ **A**
 23 city or county may submit to the electors of the city or county the
 24 question of issuing the bonds or obligations **AUTHORIZED BY THIS**
 25 **ACT.** If the question is approved, the bonds or obligations may be
 26 issued as unlimited tax bonds or obligations. If the question is
 27 not **SUBMITTED TO OR** approved by the electors, the bonds or

obligations may be issued as limited tax bonds or obligations, as bonds or obligations payable solely from a specified source or sources of revenues lawfully available to the city or county, or as a combination of limited tax bonds or obligations and bonds or obligations payable solely from those specified revenue sources.

Any actions taken before July 15, 1981 to submit to the electors of a city the question of issuing bonds or obligations similar to the bonds or obligations authorized by this act or the question of pledging the city's unlimited taxing power to bonds or obligations described in this act are ratified and confirmed and are effective with respect to bonds or obligations issued pursuant to this act.

Sec. 9. (1) All bonds or obligations issued pursuant to this act before the effective date of the amendatory act that added subsection (2) are subject to the requirements of the Michigan municipal distributable aid bond act, ~~Act No. 97 of the Public Acts of 1981, being sections 141.1021 to 141.1030 of the Michigan Compiled Laws~~ **1981 PA 97, MCL 141.1021 TO 141.1030.**

(2) Unless otherwise provided by the city or county in the resolution required by section 4, bonds or obligations issued pursuant to this act on or after the effective date of the amendatory act that added this subsection are not subject to the requirements of the Michigan municipal distributable aid bond act, ~~Act No. 97 of the Public Acts of 1981~~ **1981 PA 97, MCL 141.1021 TO 141.1030**, notwithstanding that distributable aid is pledged or assigned to secure bonds or obligations under this act.

(3) In the resolution authorizing the bonds or obligations, the legislative body of the city or county may provide for

1 appointment of a trustee, escrow agent, or other person to hold
2 funds or reserves for payment of the bonds or obligations and to
3 perform other duties as the city or county determines, may provide
4 for the vesting in the trustee, escrow agent, or other designated
5 person the property, rights, powers, and remedies as the city or
6 county determines, may pledge and create a lien upon any
7 unencumbered revenues or taxes of the city or county, and may
8 provide for payment of pledged revenues or taxes directly to a
9 paying agent, trustee, escrow agent, the state treasurer, or other
10 person to be held and used solely for payment of principal and
11 interest on the bonds or obligations. A pledge pursuant to this act
12 for benefit of bondholders or others is perfected without delivery,
13 recording, or notice. The resolution authorizing the bonds or
14 obligations also may provide for covenants and promises with
15 respect to fiscal, budget, and accounting matters that are
16 considered necessary or appropriate in the judgment of the city or
17 county to sell the bonds or obligations to the best advantage of
18 the city or county.

19 (4) In the resolution authorizing the bonds or obligations for
20 the payment of the bonds or obligations, the city or county may
21 ~~further pledge money~~ **PROVIDE FOR THE PAYMENT OF THE BONDS OR**
22 **OBLIGATIONS WITH DISTRIBUTABLE AID** received or to be received by
23 the city or county derived from the imposition of taxes by the
24 state and returned or to be returned to the city or county as
25 provided by law except for money that the state constitution of
26 1963 prohibits for use for such a pledge. The city or county and
27 the state treasurer may enter into an agreement providing for the

~~collected by the state and returned to the city or county as~~

ESCROW AGENT, OR OTHER PERSON TO BE USED FOR THE SOLE PURPOSE OF

PAYING PRINCIPAL OR INTEREST ON BONDS OR OBLIGATIONS ISSUED

PURSUANT TO THIS ACT, and that money may be pledged by the city or

county for the payment of bonds or obligations issued under this

act. If the city or county and the state treasurer enter into such

~~an agreement, the state treasurer shall pay the pledged money in~~

~~accordance with the provisions of the agreement. NOTWITHSTANDING~~

ANY OTHER PROVISION OF THIS ACT TO THE CONTRARY, FOR BONDS OR

OBLIGATIONS ISSUED AFTER THE EFFECTIVE DATE OF THE 2009 AMENDATORY

ACT THAT AMENDED THIS SUBSECTION [AND MADE PAYABLE FROM DISTRIBUTABLE AID
IN THE RESOLUTION AUTHORIZING THOSE BONDS OR OBLIGATIONS] A STATUTORY
LIEN AND TRUST IS

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 HAS BEEN DISTRIBUTED BY THE

STATE TREASURER. THE LIEN CREATED UNDER THIS SUBSECTION FOR THE

BENEFIT OF BONDHOLDERS OR OTHERS IS PERFECTED WITHOUT DELIVERY,

RECORDING, OR NOTICE. THE DISTRIBUTABLE AID HELD OR TO BE HELD BY A

PAYING AGENT, TRUSTEE, ESCROW AGENT, OR OTHER PERSON SHALL BE HELD

IN TRUST FOR THE SOLE BENEFIT OF THE HOLDERS OF THE BONDS OR

OBLIGATIONS ISSUED PURSUANT TO THIS ACT AND SHALL 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

House Bill No. 5626 (H-2) as amended December 10, 2009

1 APPLIES AND THE HOLDERS OF BONDS OR OBLIGATIONS ISSUED PURSUANT TO
2 THIS ACT AFTER JANUARY 1, 2010, BUT BEFORE JULY 1, 2010, [] SHALL
3 HAVE A FIRST PRIORITY LIEN THAT IS PARAMOUNT AND SUPERIOR TO ALL
4 OTHER LIENS AND INTERESTS OF ANY KIND THAT ARISE OR ARE CREATED
5 AFTER THE EFFECTIVE DATE OF THE 2009 AMENDATORY ACT THAT AMENDED
6 THIS SUBSECTION AND AFTER BONDS ARE ISSUED SUBJECT TO THE STATUTORY
7 LIEN CREATED BY THIS SUBSECTION. HOWEVER, NOTHING IN THE 2009
8 AMENDATORY ACT THAT AMENDED THIS SUBSECTION SHALL ABRIDGE OR REDUCE
9 THE ABILITY OF THE STATE TREASURER TO WITHHOLD DISTRIBUTABLE AID
10 FROM A CITY OR COUNTY AS PROVIDED BY THE GLENN STEIL STATE REVENUE
11 SHARING ACT OF 1971, 1971 PA 140, MCL 141.901 TO 141.921. This
12 subsection shall not be construed to do any of the following:

13 (a) Create or constitute state indebtedness.

14 (b) Require the state to continue to impose and collect taxes
15 from which distributable aid is paid or to make payments of
16 distributable aid.

17 (c) Limit or prohibit the state from repealing or amending a
18 law enacted for the imposition of taxes from which distributable
19 aid is paid, for the payment or apportionment of distributable aid,
20 or for the manner, time, or amount of distributable aid.

21 (5) With respect to bonds or obligations issued on or before
22 September 30, 1988, in the resolution authorizing the bonds or
23 obligations, the legislative body of the city or county may provide
24 that, from each collection of ad valorem property taxes after the
25 issuance of the bonds or obligations, there shall be set aside in a
26 special fund, to be used for the payment of principal and interest
27 on the bonds or obligations, an amount equal to the total amount of

1 the collection multiplied by a fraction determined as follows:

2 (a) The numerator of the fraction is 125% of the amount of
3 principal and interest coming due on the bonds or obligations in
4 the current fiscal year.

5 (b) The denominator of the fraction is the total amount of the
6 tax levied for the current fiscal year multiplied by a fraction,
7 the numerator of which is the total of the taxes collected during
8 the 5 prior fiscal years and the denominator of which is the total
9 of taxes levied during the 5 prior fiscal years.

10 (6) An authorizing resolution under subsection (4) or (5) may
11 provide that all or any portion of the taxes collected and set
12 aside as provided in subsection (5) shall not be used for any other
13 purpose.

14 (7) As used in this section, "distributable aid" means ~~that~~
15 ~~term as defined in section 2 of the Michigan municipal~~
16 ~~distributable aid bond act, Act No. 97 of the Public Acts of 1981,~~
17 ~~being section 141.1022 of the Michigan Compiled Laws~~ **STATE SHARED**
18 **REVENUES PROVIDED FOR IN THE GLENN STEIL STATE REVENUE SHARING ACT**
19 **OF 1971, 1971 PA 140, MCL 141.901 TO 141.921, THE MICHIGAN BUSINESS**
20 **TAX ACT, 2007 PA 36, MCL 208.1101 TO 208.1601, ANY OTHER LAW**
21 **PROVIDING FOR DISTRIBUTION OF STATE SHARED REVENUES WHICH ARE**
22 **DERIVED FROM THE SAME TAXES DISTRIBUTED UNDER THE GLENN STEIL STATE**
23 **REVENUE SHARING ACT OF 1971, 1971 PA 140, MCL 141.901 TO 141.921,**
24 **AND ANY LAW PROVIDING REIMBURSEMENT TO A MUNICIPALITY UNDER THE**
25 **STATE CONSTITUTION OF 1963 AS REIMBURSEMENT FOR REVENUE WHICH WOULD**
26 **OTHERWISE BE COLLECTED FROM TAXES IMPOSED BY THE MUNICIPALITY.**