

SENATE 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, OR FOR BONDS OR OBLIGATIONS ISSUED BY A CITY UNDER
 2 THIS ACT AFTER JANUARY 1, 2010 AND BEFORE SEPTEMBER 1, 2010, THE
 3 MAXIMUM PRINCIPAL AMOUNT OF ALL BONDS OR OBLIGATIONS ISSUED BY A
 4 CITY SHALL NOT EXCEED \$250,000,000.00. The limitations provided by
 5 this subsection do not include bonds or obligations or portions of
 6 bonds or obligations used to pay for any of the following:

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

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

10 (c) The amount of any discount.

11 (d) Bonds or obligations issued to refund outstanding bonds or
 12 obligations.

13 (9) Except as provided in section 7, the issuance of bonds or
 14 obligations under this act are not subject to the revised municipal
 15 finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The issuance of
 16 bonds or obligations described in this subsection is subject to the
 17 agency financing reporting act, 2002 PA 470, MCL 129.171 TO
 18 129.177.

19 Sec. 8. The bonds or obligations may be issued **AS LIMITED TAX**
 20 **BONDS OR OBLIGATIONS** by resolution of the legislative body of the
 21 city or county without vote of the electors and without publication
 22 of a notice of intent to issue bonds or obligations as required by
 23 section 5(g) of ~~Act No. 279 of the Public Acts of 1909, as amended,~~
 24 ~~being section 117.5 of the Michigan Compiled Laws~~ **THE HOME RULE**
 25 **CITY ACT, 1909 PA 279, MCL 117.5.** The legislative body of ~~the~~ **A**
 26 city or county may submit to the electors of the city or county the
 27 question of issuing the bonds or obligations **AUTHORIZED BY THIS**

1 **ACT.** If the question is approved, the bonds or obligations may be
 2 issued as unlimited tax bonds or obligations. If the question is
 3 not **SUBMITTED TO OR** approved by the electors, the bonds or
 4 obligations may be issued as limited tax bonds or obligations, as
 5 bonds or obligations payable solely from a specified source or
 6 sources of revenues lawfully available to the city or county, or as
 7 a combination of limited tax bonds or obligations and bonds or
 8 obligations payable solely from those specified revenue sources.
 9 Any actions taken before July 15, 1981 to submit to the electors of
 10 a city the question of issuing bonds or obligations similar to the
 11 bonds or obligations authorized by this act or the question of
 12 pledging the city's unlimited taxing power to bonds or obligations
 13 described in this act are ratified and confirmed and are effective
 14 with respect to bonds or obligations issued pursuant to this act.

15 Sec. 9. (1) All bonds or obligations issued pursuant to this
 16 act before ~~the effective date of the amendatory act that added~~
 17 ~~subsection (2)~~ **APRIL 11, 1988** are subject to the requirements of
 18 ~~the Michigan municipal distributable aid bond act, Act No. 97 of~~
 19 ~~the Public Acts of 1981, being sections 141.1021 to 141.1030 of the~~
 20 ~~Michigan Compiled Laws~~ **FORMER 1981 PA 97.**

21 (2) Unless otherwise provided by the city or county in the
 22 resolution required by section 4, bonds or obligations issued
 23 pursuant to this act on or after ~~the effective date of the~~
 24 ~~amendatory act that added this subsection~~ **APRIL 11, 1988 AND BEFORE**
 25 **JANUARY 1, 2010** are not subject to the requirements of ~~the Michigan~~
 26 ~~municipal distributable aid bond act, Act No. 97 of the Public Acts~~
 27 ~~of 1981~~ **FORMER 1981 PA 97**, notwithstanding that distributable aid

1 is pledged or assigned to secure bonds or obligations under this
2 act.

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

23 (4) In the resolution authorizing the bonds or obligations for
24 the payment of the bonds or obligations, the city or county may
25 ~~further pledge money~~ **PROVIDE FOR THE PAYMENT OF THE BONDS OR**
26 **OBLIGATIONS WITH DISTRIBUTABLE AID** received or to be received by
27 the city or county derived from the imposition of taxes by the

1 state and returned or to be returned to the city or county as
2 provided by law except for money that the state constitution of
3 1963 prohibits for use for such a pledge. The city or county and
4 the state treasurer may enter into an agreement providing for the
5 direct payment of ~~that money, which is derived from taxes that are~~
6 ~~collected by the state and returned to the city or county as~~
7 ~~provided by law,~~ **DISTRIBUTABLE AID** to a **PAYING AGENT**, trustee,
8 **ESCROW AGENT, OR OTHER PERSON TO BE USED FOR THE SOLE PURPOSE OF**
9 **PAYING PRINCIPAL OR INTEREST ON BONDS OR OBLIGATIONS ISSUED**
10 **PURSUANT TO THIS ACT**, and that money may be pledged by the city or
11 county for the payment of bonds or obligations issued under this
12 act. If the city or county and the state treasurer enter into such
13 an agreement, ~~the state treasurer shall pay the pledged money in~~
14 ~~accordance with the provisions of the agreement.~~ **NOTWITHSTANDING**
15 **ANY OTHER PROVISION OF THIS ACT TO THE CONTRARY, FOR BONDS OR**
16 **OBLIGATIONS ISSUED AFTER THE EFFECTIVE DATE OF THE 2010 AMENDATORY**
17 **ACT THAT AMENDED THIS SUBSECTION AND MADE PAYABLE FROM**
18 **DISTRIBUTABLE AID IN THE RESOLUTION AUTHORIZING THOSE BONDS OR**
19 **OBLIGATIONS A STATUTORY LIEN AND TRUST IS CREATED APPLICABLE TO**
20 **DISTRIBUTABLE AID RECEIVED OR TO BE RECEIVED FROM THE STATE**
21 **TREASURER BY A PAYING AGENT, ESCROW AGENT, OR A TRUSTEE, AFTER THE**
22 **DISTRIBUTABLE AID HAS BEEN APPROPRIATED BUT SUBJECT TO ANY**
23 **SUBSEQUENT REDUCTION OF THAT APPROPRIATION BY OPERATION OF LAW OR**
24 **EXECUTIVE ORDER. THE DISTRIBUTABLE AID PAID OR TO BE PAID TO A**
25 **PAYING AGENT, TRUSTEE, ESCROW AGENT, OR OTHER PERSON FOR THE**
26 **PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON THE BONDS OR**
27 **OBLIGATIONS ISSUED PURSUANT TO THIS ACT SHALL BE SUBJECT TO A LIEN**

1 AND TRUST, WHICH FOR BONDS OR OBLIGATIONS ISSUED PURSUANT TO THIS
2 ACT AFTER THE EFFECTIVE DATE OF THE 2010 AMENDATORY ACT THAT
3 AMENDED THIS SUBSECTION AND AFTER BONDS ARE ISSUED SUBJECT TO THE
4 STATUTORY LIEN CREATED BY THIS SUBSECTION, IS HEREBY MADE A
5 STATUTORY LIEN AND TRUST PARAMOUNT AND SUPERIOR TO ALL OTHER LIENS
6 AND INTERESTS OF ANY KIND, FOR THE SOLE PURPOSE OF PAYING THE
7 PRINCIPAL OF AND INTEREST ON BONDS AND OBLIGATIONS ISSUED PURSUANT
8 TO THIS ACT. THE LIEN CREATED UNDER THIS SUBSECTION FOR THE BENEFIT
9 OF BONDHOLDERS OR OTHERS IS PERFECTED WITHOUT DELIVERY, RECORDING,
10 OR NOTICE. THE DISTRIBUTABLE AID HELD OR TO BE HELD BY A PAYING
11 AGENT, TRUSTEE, ESCROW AGENT, OR OTHER PERSON SHALL BE HELD IN
12 TRUST FOR THE SOLE BENEFIT OF THE HOLDERS OF THE BONDS OR
13 OBLIGATIONS ISSUED PURSUANT TO THIS ACT AND SHALL BE EXEMPT FROM
14 BEING LEVIED UPON, TAKEN, SEQUESTERED, OR APPLIED TOWARD PAYING THE
15 DEBTS OR LIABILITIES OF THE CITY OR COUNTY OTHER THAN FOR PAYMENT
16 OF DEBT SERVICE ON THE BONDS OR OBLIGATIONS TO WHICH THE LIEN
17 APPLIES AND THE HOLDERS OF BONDS OR OBLIGATIONS ISSUED PURSUANT TO
18 THIS ACT AFTER JANUARY 1, 2010, BUT BEFORE SEPTEMBER 1, 2010, SHALL
19 HAVE A FIRST PRIORITY LIEN THAT IS PARAMOUNT AND SUPERIOR TO ALL
20 OTHER LIENS AND INTERESTS OF ANY KIND THAT ARISE OR ARE CREATED
21 AFTER THE EFFECTIVE DATE OF THE 2010 AMENDATORY ACT THAT AMENDED
22 THIS SUBSECTION AND AFTER BONDS ARE ISSUED SUBJECT TO THE STATUTORY
23 LIEN CREATED BY THIS SUBSECTION. HOWEVER, NOTHING IN THE 2010
24 AMENDATORY ACT THAT AMENDED THIS SUBSECTION SHALL ABRIDGE OR REDUCE
25 THE ABILITY OF THE STATE TREASURER TO WITHHOLD DISTRIBUTABLE AID
26 FROM A CITY OR COUNTY AS PROVIDED BY THE GLENN STEIL STATE REVENUE
27 SHARING ACT OF 1971, 1971 PA 140, MCL 141.901 TO 141.921. FOR BONDS

1 OR OBLIGATIONS ISSUED PURSUANT TO THIS ACT AFTER JANUARY 1, 2010
2 AND BEFORE SEPTEMBER 1, 2010, THE MAXIMUM PRINCIPAL AND INTEREST
3 BECOMING DUE ON THE BONDS OR OBLIGATIONS IN ANY FISCAL YEAR SHALL
4 NOT EXCEED THE AMOUNT OF SHARED REVENUES RECEIVED BY THE CITY FOR
5 THE STATE FISCAL YEAR ENDING SEPTEMBER 30, 2009 AS PROVIDED FOR IN
6 THE GLENN STEIL STATE REVENUE SHARING ACT OF 1971, 1971 PA 140, MCL
7 141.901 TO 141.921, AND AS PROVIDED IN THE STATE CONSTITUTION OF
8 1963. This subsection shall not be construed to do any of the
9 following:

10 (a) Create or constitute state indebtedness.

11 (b) Require the state to continue to impose and collect taxes
12 from which distributable aid is paid or to make payments of
13 distributable aid.

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

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

26 (a) The numerator of the fraction is 125% of the amount of
27 principal and interest coming due on the bonds or obligations in

1 the current fiscal year.

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

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

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