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Senate Bill 318 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Hoon-Yung Hopgood
Committee: Education

Date Completed: 4-29-11

CONTENT

The bill would amend the Home Rule City Act to provide for the issuance of financial recovery bonds by the City of Ecorse to pay court-ordered judgments against the city; and provide for the deposit of tax revenue into an escrow account for the payment of the bonds.

Section 36a of the Act allows a city to issue financial recovery bonds in amounts greater than the limitations established by the city charter or the Act, if a financial emergency exists under the Local Government and School District Fiscal Accountability Act.

The bill would apply to a city that has a population under 10,000 according to the latest Federal decennial census, and is located in a charter county. (The City of Ecorse meets these criteria and a financial emergency has been found to exist in the city.)

Financial recovery bonds issued under the bill would have to be limited to the amount necessary to pay court-ordered judgments against the city existing on the bill's effective date.

In the order authorizing the bond issuance, the city could provide for the deposit of revenue generated from taxes levied by the city, including a tax levied to pay a judgment or comply with a court order, into an escrow account to be used for the purpose of paying the principal of and interest on the bonds and the administrative costs associated with issuing the bonds, and the city could pledge the tax revenue for the payment of the bonds.

If the city entered into an agreement with a third-party tax collector for the collection of taxes that the city treasurer otherwise would collect, the agreement would have to provide for the direct payment of all tax revenue pledged for the payment of financial recovery bonds collected by the third-party tax collector, to a trustee to be deposited into an escrow account and used for the sole purpose of paying the principal of and interest on the bonds. The tax revenue paid to the trustee would be subject to a lien and trust, which would be a statutory lien and trust superior to all other liens and interests of any kind, for the sole purpose of paying the principal of and interest on the financial recovery bonds and any other bonds subsequently issued by the city sharing a parity or subordinate pledge of that tax revenue.

The tax revenue would have to be held in trust for the sole benefit of the bondholders and would be exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the city other than for payment of debt service on the bonds subject to the lien.

Section 36a provides that the net indebtedness of a city, reduced by amounts excluded under Section 4a, may not exceed 20% of the city's assessed value. Notwithstanding this provision, if Ecorse issued financial recovery bonds under the bill, its net indebtedness, reduced by the excluded amounts, could not exceed 10% of the city's assessed value. (Section 4a sets limits on a city's net indebtedness incurred for all public purposes, and excludes certain bonds and obligations from the computation of net indebtedness.)

MCL 117.36a

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would change the distribution and timing of certain tax collections as well as the financing of certain obligations. Absent the bill, a local unit would need to finance the payment of a court judgment from existing assets, revenue, or levies. For some local units, this could require substantial increases in the tax levy. The bill would allow the City of Ecorse to finance a court judgment over a substantial period of time (more than 15 years), while still ensuring that parties receiving revenue under the judgment would be paid promptly.

The bill would not change the amount of the judgment, although allowing the bonds would increase the total cost of paying the judgment by the interest cost on the bonds.

The bill would have no fiscal impact on State government.

Fiscal Analyst: David Zin

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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.