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BILL ANALYSIS

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Senate Bill 1129 (Substitute S-1 as reported)
Sponsor: Senator Patrick J. Colbeck
Committee: Appropriations

Date Completed: 6-7-12

CONTENT

The bill would amend the Revised Municipal Finance Act to allow a municipality to issue a municipal security to pay all or part of the costs of the unfunded pension liability for a retirement program, under certain circumstances.

Specifically, the bill would add Section 518 to allow a municipality to issue a municipal security to pay all or part of the costs of the unfunded pension liability for a retirement program, in connection with the partial or complete cessation of accruals to a defined benefit plan or the closure of the defined benefit plan to new or existing employees and the implementation of a defined contribution plan, or to fund costs of a municipality that had already ceased accruals to a defined benefit plan. A municipality could issue such a security by ordinance or resolution of its governing body and without a vote of its electors. The amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, could not exceed the limit authorized by law.

Before issuing a municipal security for this purpose, the municipality would be required to publish a notice of intent to issue the security that would meet the requirements of a notice of intent for other municipal securities, as outlined in Section 517(2) of the Act. The municipality also would be required to prepare and make available to the public a comprehensive financial plan that included all of the following:

-- An analysis of the current and future obligations with respect to each retirement program of the municipality.
-- Evidence that the issuance of the municipal security together with other funds lawfully available would be sufficient to eliminate the unfunded pension liability.
-- A debt service amortization schedule and a description of actions required to satisfy the schedule.
-- A certification by the person preparing the plan that the comprehensive financial plan was complete and accurate.

The bill would exempt such municipal securities and the interest and income from them, from taxation by the State or a political subdivision of the State. A municipality issuing these securities could enter into indentures or other agreements with trustees and escrow agents for the issuance, administration, or payment of the securities.

The bill would require a municipality to obtain the approval of the Department of Treasury before issuing this type of municipal security. The Department would be required to approve the issuance of a security if, upon review of the proposed issuance, it verifies that the municipality meets the requirements of proposed Section 518. If the Department failed to respond within 30 days, the municipal securities would be deemed to have been approved.

The Act requires a municipal security to meet one or more of the following conditions, as determined by the Department of Treasury, to be sold at a discount exceeding 10% of the principal amount:

-- The sale will result in the more even distribution for the municipality of total debt service on proposed and outstanding municipal securities.
-- The sale will result in an interest cost saving when compared to the best available alternative that does not include a municipal security being sold at a discount exceeding 10% of the principal amount.
-- This issuance is based on the availability of specific revenue previously pledged for another purpose and lawfully available for this purpose.
-- The security is issued to this State or Federal government to secure a loan or agreement.

The bill would include the issuance of a municipal security pursuant to Section 518 as another condition on this list.

The Act allows municipal securities of a single issue to mature serially or be subject to mandatory redemptions, or both, with maturities as fixed by the municipality's governing body. In any case, the first maturity or mandatory redemption date cannot occur later than five years after the date of issuance, and the total principal amount maturing or subject to mandatory redemption after four years from the date of issuance cannot be less than one-fifth of the total principal amount maturing or subject to mandatory redemption in any subsequent year.

The bill would exempt municipal securities under Section 518 from these maturity and mandatory redemption requirements.

The bill also would define the following terms:

-- "Defined contribution plan" would mean a retirement program that provides for an individual account for each participant and for benefits based solely upon the amount contributed to his or her account, and any income, expenses, gains, losses, credited or charged to the account, and any forfeitures and accounts of other participants that may be allocated to his or her account.
-- "Defined benefit plan" would mean a retirement program other than a defined contribution plan.
-- "Retirement program" would mean a program of rights and obligations that a municipality establishes, maintains, or participates in and that, by its express terms or as a result of surrounding circumstances, either provides retirement income to participants, or results in a deferral of income for periods extending to the termination of covered employment or beyond, or both.
-- "Unfunded pension liability" would mean the amount a defined benefit plan's liabilities exceed its assets according to the most recent governmental accounting standards board's applicable standards.

MCL 141.2103 et al. Legislative Analyst: Cameron S. Mock

FISCAL IMPACT

State: The Department of Treasury would see increased administrative costs associated with this bill, due to the requirement of reviewing any securities proposed to be issued for the purpose of paying off the unfunded accrued liabilities of a municipality's closed defined benefit pension system.

Local: The fiscal impact on local municipalities is indeterminate. Allowing municipalities to issue securities to finance the unfunded accrued liabilities associated with a closed defined benefit pension plan would provide an additional financial instrument with which to pay down the unfunded accrued liability (UAL). However, the actual resulting fiscal impact is unknown and would depend upon the cost of the security compared to market performance, the impact (if any) on the municipality's credit rating, and the potential risks associated with converting a "soft" debt of the municipality (the pension UAL) into a "hard" debt with a rigid and fixed repayment schedule.

Fiscal Analyst: Kathryn Summers