

# HOUSE BILL No. 4216

February 9, 2011, Introduced by Reps. Pscholka and McMillin and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to amend 2001 PA 34, entitled  
"Revised municipal finance act,"  
by amending section 303 (MCL 141.2303), as amended by 2002 PA 541.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 303. (1) Each municipality shall file an audit report  
2       annually with the department within 6 months from the end of its  
3       fiscal year or as otherwise provided in the uniform budgeting and  
4       accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

5       (2) Accompanying the audit report described in subsection (1),  
6       a municipality shall file a qualifying statement, on a form and in  
7       the manner provided by the department, which shall be certified by  
8       the chief administrative officer. Within 30 business days of the  
9       receipt of the qualifying statement, the department shall determine

1 if the municipality complies with the requirements of subsection  
2 (3). If the department determines that the municipality complies  
3 with the provisions of subsection (3) or if the department fails to  
4 notify the municipality of its determination under this subsection  
5 within 30 business days of receipt of the qualifying statement, the  
6 municipality may proceed to issue municipal securities under this  
7 act without further approval from the department until 30 business  
8 days after the next qualifying statement is due or a new  
9 determination is made by the department, whichever occurs first.

10 (3) To qualify to issue municipal securities without further  
11 approval from the department, the municipality shall be in material  
12 compliance with all of the following requirements, as determined by  
13 the department:

14 (a) The municipality is not operating under the provisions of  
15 ~~the local government fiscal responsibility act, 1990 PA 72, MCL~~  
16 ~~141.1201 to 141.1291.~~ **LOCAL GOVERNMENT AND SCHOOL DISTRICT FISCAL**  
17 **ACCOUNTABILITY ACT.**

18 (b) The municipality did not issue securities in the  
19 immediately preceding 5 fiscal years or current fiscal year that  
20 were authorized by either the emergency municipal loan act, 1980 PA  
21 243, MCL 141.931 to 141.942, other than a security issued for a  
22 loan authorized under section 3(2)(a) of the emergency municipal  
23 loan act, 1980 PA 243, MCL 141.933, or the fiscal stabilization  
24 act, 1981 PA 80, MCL 141.1001 to 141.1011.

25 (c) The municipality was not required by the terms of a court  
26 order or judgment to levy a tax in the preceding fiscal year. For  
27 purposes of this subdivision, the department may determine that a

1 court order or judgment to levy a tax is not material if it did not  
2 have an adverse financial impact on the municipality.

3 (d) The most recent audit report, as required by the uniform  
4 budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a,  
5 was filed with the department within 6 months from the end of the  
6 fiscal year of the municipality.

7 (e) The debt retirement fund balance for any municipal  
8 security that is funded from an unlimited tax levy does not exceed  
9 150% of the amount required for principal and interest payments due  
10 for that municipal security in the next fiscal year.

11 (f) The municipality is not currently exceeding its statutory  
12 or constitutional debt limits.

13 (g) The municipality has no outstanding securities that were  
14 not authorized by statute.

15 (h) The municipality is not currently and during the preceding  
16 fiscal year was not in violation of any provisions in the covenants  
17 for an outstanding security.

18 (i) The municipality was not delinquent more than 1 time in  
19 the preceding fiscal year in transferring employee taxes withheld  
20 to the appropriate agency, transferring taxes collected as agent  
21 for another taxing entity to that taxing unit, or making all  
22 required pension, retirement, or benefit plan contributions.

23 (j) The most recent delinquent property taxes of the  
24 municipality, without regard to payments received from the county  
25 under the general property tax act, 1893 PA 206, MCL 211.1 to  
26 ~~211.157~~, **211.155**, did not exceed 18% of the amount levied.

27 (k) The municipality did not submit a qualifying statement or

1 an application for any other municipal security in the preceding 12  
2 months that was materially false or incorrect.

3 (l) The municipality is not in default on the payment of any  
4 debt, excluding industrial development revenue bonds issued under  
5 the industrial development revenue bond act of 1963, 1963 PA 62,  
6 MCL 125.1251 to 125.1267, economic development corporation bonds  
7 issued under the economic development corporations act, 1974 PA  
8 338, MCL 125.1601 to 125.1636, bonds issued by a local hospital  
9 finance authority for a private hospital under the hospital finance  
10 authority act, 1969 PA 38, MCL 331.31 to 331.84, or any other debt  
11 for which the municipality is not financially liable.

12 (m) The municipality did not end the immediately preceding  
13 fiscal year with a deficit in any fund, unless the municipality has  
14 filed a financial plan to correct that deficit condition that is  
15 acceptable to the department.

16 (n) The municipality has not been found by a court of  
17 competent jurisdiction to be in violation of any finance or tax-  
18 related state or federal statutes during the preceding fiscal year.

19 (o) The municipality has not been determined by the department  
20 to be in violation of this act during the preceding fiscal year.

21 (p) The municipality did not issue a refunding security in the  
22 preceding fiscal year to avoid a potential default on an  
23 outstanding security.

24 (4) If a municipality is notified within 30 business days of  
25 the filing of the qualifying statement that it does not comply with  
26 1 or more of the requirements of subsection (3), the municipality  
27 may correct the noncompliant requirements and request a

1 reconsideration of the determination from the department as  
2 provided in subsection (5).

3 (5) A municipality may request a reconsideration of the  
4 determination from the department. That request shall indicate the  
5 requirements that the department determined the municipality to be  
6 not in compliance with and the action taken by the municipality to  
7 correct the noncompliance. Within 30 business days of the receipt  
8 of the request for reconsideration, the department shall determine  
9 if the municipality complies with the requirements of subsection  
10 (3) or, if the department fails to notify the municipality of its  
11 determination under this subsection within 30 business days of  
12 receipt of the request for reconsideration, the municipality will  
13 be granted qualified status.

14 (6) If a municipality is notified within 30 business days  
15 after filing a request for reconsideration that it does not comply  
16 with the requirements of subsection (3), the municipality shall not  
17 issue municipal securities under this act without the prior written  
18 approval of the department to issue a municipal security as  
19 provided in subsections (7) and (8).

20 (7) If a municipality has not been granted qualified status,  
21 the municipality must obtain, for each municipal security, the  
22 prior written approval of the department to issue a municipal  
23 security. To request prior written approval to issue a municipal  
24 security, the municipality shall submit an application and  
25 supporting documentation to the department on a form and in a  
26 manner prescribed by the department, which shall be certified by  
27 the chief administrative officer. A filing fee equal to 0.03% of

1 the principal amount of the municipal security to be issued, but  
2 not less than \$800.00 and not greater than \$2,000.00 as determined  
3 by the department, shall accompany each application. If the  
4 qualifying statement required by subsection (2) was received by the  
5 department more than 6 months after the end of the municipality's  
6 fiscal year, a late fee of \$100.00 shall accompany the first  
7 application filed after that date. Within 30 business days of  
8 receiving an application, the fee, and supporting documentation  
9 from a municipality, the department shall make a determination  
10 whether the municipality has met all of the following requirements:

11 (a) Has indicated the authority to issue the municipal  
12 security requested.

13 (b) Is projected to be able to repay the municipal security  
14 when due.

15 (c) Has filed information with the department indicating  
16 compliance with the requirements of subsection (3) or adequately  
17 addressed any noncompliance with subsection (3) as determined by  
18 the department.

19 (d) If required by the department, has obtained an investment  
20 grade rating for the municipal security or has purchased insurance  
21 for payment of the principal and interest on the municipal security  
22 to the holders of the municipal security, or has otherwise enhanced  
23 the creditworthiness of the municipal security.

24 (8) If the department determines that the requirements in  
25 subsection (7) have been met, the department shall approve the  
26 issuance of the proposed municipal security. If the department  
27 determines that the requirements in subsection (7) have not been

1 met, the department shall issue a notice of deficiency to the  
2 municipality that prevents the issuance of the proposed municipal  
3 security. The notice of deficiency shall state the specific  
4 deficiencies and problems with the proposed issuance. After the  
5 deficiencies and problems have been addressed as determined by the  
6 department, the department shall approve the issuance of the  
7 proposed municipal security.

8 (9) A determination by the department that a municipality has  
9 been granted qualified status constitutes an order granting  
10 exception from prior approval under former 1943 PA 202, of that  
11 municipality's securities.

12 Enacting section 1. This amendatory act does not take effect  
13 unless Senate Bill No. \_\_\_\_ or House Bill No. 4214(request no.  
14 00011'11) of the 96th Legislature is enacted into law.