

HOUSE BILL No. 5530

April 17, 2012, Introduced by Rep. Wayne Schmidt 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 103 (MCL 141.2103) and by adding section 518.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 103. As used in this act:

2 (a) "Assessed value", "assessed valuation", "valuation as
3 assessed", and "valuation as shown by the last preceding tax
4 assessment roll", or similar terms, used in this act, any statute,
5 or charter as a basis for computing limitations upon the taxing or
6 borrowing power of any municipality, mean the state equalized
7 valuation as determined under the general property tax act, 1893 PA
8 206, MCL 211.1 to ~~211.157~~.211.155.

9 (b) "Chief administrative officer" means that term as defined
10 in section 2b of the uniform budgeting and accounting act, 1968 PA

1 2, MCL 141.422b.

2 (c) "Debt" means all borrowed money, loans, and other
3 indebtedness, including principal and interest, evidenced by bonds,
4 obligations, refunding obligations, notes, contracts, securities,
5 refunding securities, municipal securities, or certificates of
6 indebtedness that are lawfully issued or assumed, in whole or in
7 part, by a municipality, or will be evidenced by a judgment or
8 decree against the municipality.

9 (d) "Debt retirement fund" means a segregated account or group
10 of accounts used to account for the payment of, interest on, or
11 principal and interest on a municipal security.

12 (e) "Deficit" means a situation for any fund of a municipality
13 in which, at the end of a fiscal year, total expenditures,
14 including an accrued deficit, exceeded total revenues for the
15 fiscal year, including any surplus carried forward.

16 (f) "Department" means the department of treasury.

17 (g) "Fiscal year" means a 12-month period fixed by statute,
18 charter, or ordinance, or if not so fixed, then as determined by
19 the department.

20 (h) "Governing body" means the county board of commissioners
21 of a county; the township board of a township; the council, common
22 council, or commission of a city; the council, commission, or board
23 of trustees of a village; the board of education or district board
24 of a school district; the board of an intermediate school district;
25 the board of trustees of a community college district; the county
26 drain commissioner or drainage board of a drainage district; the
27 board of the district library; the legislative body of a

1 metropolitan district; the port commission of a port district; and,
2 in the case of another governmental authority or agency, that
3 official or official body having general governing powers over the
4 authority or agency.

5 (I) "HEALTH CARE TRUST FUND" MEANS A TRUST OR FUND CREATED IN
6 ACCORDANCE WITH THE PUBLIC EMPLOYEE HEALTH CARE FUND INVESTMENT
7 ACT, 1999 PA 149, MCL 38.1211 TO 38.1216, OR OTHER STATE OR FEDERAL
8 STATUTE, AND USED EXCLUSIVELY TO PROVIDE FUNDING FOR POSTEMPLOYMENT
9 HEALTH CARE BENEFITS FOR PUBLIC EMPLOYEE RETIREES OF A COUNTY,
10 CITY, VILLAGE, OR TOWNSHIP. A HEALTH CARE TRUST FUND ALSO INCLUDES
11 THE RETIREE HEALTH FUND VEHICLE ADMINISTERED BY THE MUNICIPAL
12 EMPLOYEES RETIREMENT SYSTEM DESCRIBED IN THE MUNICIPAL EMPLOYEES
13 RETIREMENT ACT OF 1984, 1984 PA 427, MCL 38.1501 TO 38.1555, FOR A
14 COUNTY, CITY, VILLAGE, OR TOWNSHIP THAT HAS ADOPTED THE MUNICIPAL
15 EMPLOYEE RETIREMENT SYSTEM TO PROVIDE FUNDING FOR POSTEMPLOYMENT
16 HEALTH CARE BENEFITS FOR PUBLIC EMPLOYEE RETIREES.

17 (J) ~~(i)~~ "Municipal security" means a security that when issued
18 was not exempt from this act or ~~the municipal finance act,~~ **FORMER**
19 ~~1943 PA 202, MCL 131.1 to 139.3,~~ by the provisions of this act or
20 by the provisions of ~~the municipal finance act,~~ **FORMER** 1943 PA 202,
21 ~~MCL 131.1 to 139.3,~~ or by the provisions of the law authorizing its
22 issuance and that is payable from or secured by any of the
23 following:

24 (i) Ad valorem real and personal property taxes.

25 (ii) Special assessments.

26 (iii) The limited or unlimited full faith and credit pledge of
27 the municipality.

(iv) Other sources of revenue described in this act for debt or securities authorized by this act.

(K) ~~(j)~~—"Municipality" means a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district, district library, or another governmental authority or agency in this state that has the power to issue a security. Municipality does not include this state or any authority, agency, fund, commission, board, or department of this state.

(I) ~~(k)~~—"Outstanding security" means a security that has been issued, but not defeased or repaid, including a security that when issued was exempt from this act or ~~the municipal finance act,~~ **FORMER** 1943 PA 202, ~~MCL 131.1 to 139.3,~~ by the provisions of this act or by the provisions of ~~the municipal finance act,~~ **FORMER** 1943 PA 202, ~~MCL 131.1 to 139.3,~~ or by the provisions of the law authorizing its issuance.

(M) "PENSION FUND" MEANS A PENSION FUND CREATED PURSUANT TO 1 OR MORE OF THE FOLLOWING:

(i) THE MUNICIPAL EMPLOYEES RETIREMENT ACT OF 1984, 1984 PA 427, MCL 38.1501 TO 38.1555.

(ii) FIRE FIGHTERS AND POLICE OFFICERS RETIREMENT ACT, 1937 PA 345, MCL 38.551 TO 38.562.

(iii) SECTION 12A OF 1851 PA 156, MCL 46.12A.

(iv) 1966 PA 293, MCL 45.501 TO 45.521.

(v) A PENSION FUND CREATED UNDER ANY OTHER STATUTE AND USED EXCLUSIVELY TO PROVIDE FUNDING FOR POSTEMPLOYMENT PENSION BENEFITS FOR PUBLIC EMPLOYEE RETIREES OF A COUNTY, CITY, VILLAGE, OR

1 TOWNSHIP IN THIS STATE.

2 (N) ~~(H)~~—"Qualified status" means a municipality that has filed
3 a qualifying statement under section 303 and has been determined by
4 the department to be qualified to issue municipal securities
5 without further approval by the department.

6 (O) ~~(m)~~—"Refunding security" means a municipal security issued
7 to refund an outstanding security.

8 (P) ~~(n)~~—"Security" means an evidence of debt such as a bond,
9 note, contract, obligation, refunding obligation, certificate of
10 indebtedness, or other similar instrument issued by a municipality,
11 which pledges payment of the debt by the municipality from an
12 identified source of revenue.

13 (Q) ~~(e)~~—"Sinking fund" means a fund for the payment of
14 principal only of a mandatory redemption security.

15 (R) ~~(p)~~—"Taxable value" means the taxable value of the
16 property as determined under section 27a of the general property
17 tax act, 1893 PA 206, MCL 211.27a.

18 (S) "UNFUNDED ACCRUED LIABILITY" MEANS THE DIFFERENCE BETWEEN
19 THE ASSETS AND LIABILITIES OF A PENSION FUND OR A HEALTH CARE TRUST
20 FUND AS DETERMINED BY AN ACTUARIAL STUDY CONDUCTED PURSUANT TO
21 STATEMENT 43 OR 45 OF THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD.

22 SEC. 518. (1) A COUNTY, CITY, VILLAGE, OR TOWNSHIP MAY BY
23 ORDINANCE OR RESOLUTION OF ITS GOVERNING BODY, AND WITHOUT A VOTE
24 OF ITS ELECTORS, ISSUE A MUNICIPAL SECURITY UNDER THIS SECTION TO
25 PAY THE COSTS OF THE UNFUNDED ACCRUED LIABILITY PROVIDED THAT THE
26 AMOUNT OF TAXES NECESSARY TO PAY THE PRINCIPAL AND INTEREST ON THAT
27 MUNICIPAL SECURITY, TOGETHER WITH THE TAXES LEVIED FOR THE SAME

1 YEAR, SHALL NOT EXCEED THE LIMIT AUTHORIZED BY LAW OR TO REFUND IN
2 WHOLE OR IN PART A CONTRACT OBLIGATION ISSUED FOR THE SAME PURPOSE.
3 POSTEMPLOYMENT HEALTH CARE OR PENSION BENEFITS MAY BE FUNDED BY THE
4 COUNTY, CITY, VILLAGE, OR TOWNSHIP. THE FUNDING OF POSTEMPLOYMENT
5 HEALTH CARE BENEFITS BY A COUNTY, CITY, VILLAGE, OR TOWNSHIP AS
6 PROVIDED IN THIS ACT SHALL NOT CONSTITUTE A CONTRACT TO PAY THE
7 POSTEMPLOYMENT HEALTH CARE BENEFITS.

8 (2) BEFORE A COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUES A
9 MUNICIPAL SECURITY UNDER THIS SECTION, THE COUNTY, CITY, VILLAGE,
10 OR TOWNSHIP SHALL PUBLISH A NOTICE OF INTENT TO ISSUE THE MUNICIPAL
11 SECURITY. THE NOTICE OF INTENT AND THE RIGHTS OF REFERENDUM SHALL
12 MEET THE REQUIREMENTS OF SECTION 517(2).

13 (3) A COUNTY, CITY, VILLAGE, OR TOWNSHIP BY RESOLUTION AND
14 WITH A VOTE OF ITS ELECTORS MAY ISSUE A MUNICIPAL SECURITY PLEDGING
15 ITS UNLIMITED TAX FULL FAITH AND CREDIT TO PAY THE COSTS OF AN
16 UNFUNDED ACCRUED LIABILITY.

17 (4) THE PROCEEDS OF A MUNICIPAL SECURITY ISSUED UNDER THIS
18 SECTION MAY BE USED TO PAY THE COSTS OF ISSUANCE OF THE MUNICIPAL
19 SECURITY. EXCEPT FOR A REFUNDING, THE PROCEEDS OF A MUNICIPAL
20 SECURITY ISSUED UNDER THIS SECTION SHALL BE DEPOSITED IN A HEALTH
21 CARE TRUST FUND; A TRUST CREATED BY THE ISSUER WHICH HAS AS ITS
22 BENEFICIARY A HEALTH CARE TRUST FUND; OR FOR A COUNTY, CITY,
23 VILLAGE, OR TOWNSHIP, A RESTRICTED FUND WITHIN A TRUST THAT WOULD
24 ONLY BE USED TO RETIRE THE MUNICIPAL SECURITIES ISSUED UNDER
25 SUBSECTION (1) OR (3); OR A PENSION FUND. A COUNTY, CITY, VILLAGE,
26 OR TOWNSHIP SHALL HAVE THE POWER TO CREATE A TRUST TO CARRY OUT THE
27 PURPOSES OF THIS SUBSECTION. THE TRUST CREATED UNDER THIS

1 SUBSECTION SHALL INVEST ITS FUNDS IN THE SAME MANNER AS FUNDS
2 INVESTED BY A HEALTH CARE TRUST FUND. THE TRUST CREATED UNDER THIS
3 SUBSECTION SHALL COMPLY WITH ALL OF THE FOLLOWING:

4 (A) REPORT ITS FINANCIAL CONDITION ACCORDING TO GENERALLY
5 ACCEPTED ACCOUNTING PRINCIPLES.

6 (B) BE TAX EXEMPT UNDER THE INTERNAL REVENUE CODE.

7 (5) BEFORE A COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUES A
8 MUNICIPAL SECURITY UNDER THIS SECTION, THE COUNTY, CITY, VILLAGE,
9 OR TOWNSHIP SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC A
10 COMPREHENSIVE FINANCIAL PLAN THAT INCLUDES ALL OF THE FOLLOWING:

11 (A) EVIDENCE THAT THE ISSUANCE OF THE MUNICIPAL SECURITY
12 TOGETHER WITH OTHER FUNDS LAWFULLY AVAILABLE WILL BE SUFFICIENT TO
13 ELIMINATE THE UNFUNDED ACCRUED LIABILITY DURING THE PERIOD THE PLAN
14 IS IN EFFECT.

15 (B) A DEBT SERVICE AMORTIZATION SCHEDULE AND A DESCRIPTION OF
16 ACTIONS REQUIRED TO SATISFY THE DEBT SERVICE AMORTIZATION SCHEDULE.

17 (C) A CERTIFICATION BY THE PERSON PREPARING THE PLAN THAT THE
18 COMPREHENSIVE FINANCIAL PLAN IS COMPLETE AND ACCURATE.

19 (D) DOCUMENTATION THAT THE ISSUANCE OF MUNICIPAL SECURITIES
20 WILL RESULT IN PROJECTED PRESENT VALUE SAVINGS REGARDING THE
21 UNFUNDED ACCRUED LIABILITY.

22 (E) IN THE SITUATION WHERE THE PROCEEDS OF THE BORROWING ARE
23 TO BE DEPOSITED IN A HEALTH CARE TRUST FUND, A PLAN IN PLACE FROM
24 THE COUNTY, CITY, VILLAGE, OR TOWNSHIP TO MITIGATE THE INCREASE IN
25 HEALTH CARE COSTS AND MAY INCLUDE A WELLNESS PROGRAM THAT PROMOTES
26 THE MAINTENANCE OR IMPROVEMENT OF HEALTHY BEHAVIORS.

27 (6) MUNICIPAL SECURITIES ISSUED UNDER SUBSECTION (1) OR (3) BY

1 A COUNTY, CITY, VILLAGE, OR TOWNSHIP, AND CURRENTLY OUTSTANDING,
2 SHALL NOT EXCEED 5% OF THE STATE EQUALIZED VALUATION OF THE
3 PROPERTY ASSESSED IN THAT COUNTY, CITY, VILLAGE, OR TOWNSHIP.

4 (7) MUNICIPAL SECURITIES ISSUED UNDER SUBSECTION (1) OR (3) BY
5 A COUNTY, CITY, VILLAGE, OR TOWNSHIP AND THE INTEREST ON AND INCOME
6 FROM THE MUNICIPAL SECURITIES ARE EXEMPT FROM TAXATION BY THIS
7 STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

8 (8) A COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUING MUNICIPAL
9 SECURITIES UNDER SUBSECTION (1) OR (3) MAY ENTER INTO INDENTURES OR
10 OTHER AGREEMENTS WITH TRUSTEES AND ESCROW AGENTS FOR THE ISSUANCE,
11 ADMINISTRATION, OR PAYMENT OF THE MUNICIPAL SECURITIES.

12 (9) IN THE SITUATION WHERE THE PROCEEDS OF THE BORROWING ARE
13 TO BE DEPOSITED IN A HEALTH CARE TRUST FUND, MUNICIPAL SECURITIES
14 ISSUED UNDER SUBSECTION (1) OR (3) BY A COUNTY, CITY, VILLAGE, OR
15 TOWNSHIP SHALL NOT ON A CUMULATIVE BASIS EXCEED THE CURRENT
16 UNFUNDED ACCRUED LIABILITIES ON POSTEMPLOYMENT HEALTH CARE BENEFITS
17 OWED TO EMPLOYEES OF THE COUNTY, CITY, VILLAGE, OR TOWNSHIP THAT
18 ARE REFLECTED IN THE MOST RECENT ACTUARIAL STUDY CONDUCTED PURSUANT
19 TO STATEMENT 43 OR 45 OF THE GOVERNMENTAL ACCOUNTING STANDARDS
20 BOARD ON BEHALF OF THE COUNTY, CITY, VILLAGE, OR TOWNSHIP PRIOR TO
21 THE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

22 (10) A COUNTY, CITY, VILLAGE, OR TOWNSHIP SHALL NOT ISSUE A
23 MUNICIPAL SECURITY UNDER SUBSECTION (1) OR (3) UNLESS THE COUNTY,
24 CITY, VILLAGE, OR TOWNSHIP HAS BEEN ASSIGNED A CREDIT RATING WITHIN
25 THE CATEGORY OF A OR HIGHER BY AT LEAST 1 NATIONALLY RECOGNIZED
26 RATING AGENCY.

27 (11) A COUNTY, CITY, VILLAGE, OR TOWNSHIP SHALL NOT ISSUE A

1 MUNICIPAL SECURITY UNDER SUBSECTION (1) OR (3) UNLESS THE PROJECTED
2 DIFFERENCE BETWEEN THE ASSUMED RATE OF RETURN ON THE HEALTH CARE
3 TRUST FUND OR PENSION FUND INVESTMENTS AND THE PROJECTED ACTUAL
4 INTEREST RATE PAID ON THE MUNICIPAL SECURITIES ISSUED UNDER
5 SUBSECTION (1) OR (3) IS NOT LESS THAN 100 BASIS POINTS.