Legislative Analysis

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REFUNDING LOCAL AUTHORITY BONDS

Senate Bills 629 and 630 (without amendment)
Sponsor: Sen. Rick Jones
House Committee: Tax Policy
Senate Committee: Economic Development

Complete to 1-28-14

A SUMMARY OF SENATE BILLS 629 & 630 AS PASSED BY THE SENATE 10-31-13

Brief Summary:

Senate Bills 629 and 630 would amend 1948 (1st Extra Session) PA 31 and the Tax Increment Finance Authority Act to permit the refunding of certain bonds issued by the building authority and the tax increment finance authority of the City of Lansing.

Detailed Summary:

Senate Bill 629 – Local Building Authorities
1948 (1st Extra Session) PA 31 authorizes the creation of local building authorities. As amended by 2008 PA 452 (HB 6619), the act allows local building authorities to issue bonds for the purpose of defraying all or part of the costs of refunding capital appreciation bonds issued on May 17, 1990, in anticipation of the receipt of certain contract obligations (i.e., rental payments under a contract between the building authority and the authorizing local unit entered on November 14, 1989.

<u>Senate Bill 629</u> would add that the local building authority could issue bonds to refund the bonds that refunded the 1990 issue.

The act provides that these new refunding bonds may be secured by the future receipts under the contract, and could be payable through 2039 notwithstanding the provisions of the existing contract.

<u>Senate Bill 629</u> would extend the repayment date of these refunding bonds from 2039 to 2043.

The act provides that if the refunding bonds are issued prior to January 1, 2011, they would not be subject to certain provisions of the Revised Municipal Finance Act, 2001 PA 34.

<u>Senate Bill 629</u> would change the issuance date to December 31, 2019**,** and would also exempt the new refunding bonds from Section 611 of the Revised Municipal Finance Act (MCL 141.2611), which prohibits a municipality from issuing a refunding bond if there is no overall benefit to the municipality.

Senate Bill 630 – Tax Increment Finance Authorities
Under the Tax Increment Finance Act, revenue from the State Education Tax (SET) and local and intermediate school district property taxes may by captured by a local tax increment finance authority (TIFA) to the extent necessary to repay certain debt obligations.

2008 PA 453 (HB 6620) amended the Tax Increment Financing Act to include within the definition of "other protected obligation" (for which school taxes may be captured) an obligation of a TIFA that meets both of the following requirements:

(1) Is a contract or lease executed between the municipality and the TIFA to partially implement the TIFA's development plan and tax increment financing plan.

(2) The obligation is issued or incurred by a TIFA (or by a municipality on the TIFA's behalf) between August 19, 1993, and December 31, 1994, to finance a project approved in a tax increment financing plan by a municipality before December 31, 1994, (pre-proposal A). However, that obligation may be amended to extent rental payments for up to 30 years, through 2039, with the duration of the development plan and the tax increment financing plan extended to one year after the final date that the extended cash rental payments are due.[1]

The 2008 amendment also included within the definition of "qualified refunding obligation" (for which school taxes may be captured), a TIFA refunding bond issued to refund a refunding bond that is an "other protected obligation" – see the 2008 amended definition above – issued as capital appreciation bonds dated December 21, 1994, with the authority to issue that latest refunding bond authorized by the TIFA board before January 1, 2011, with a final maturity date of not later than 2039. The 2008 further provided that the municipality governing body may pledge its full faith and credit for the debt service payments (principal and interest) on the refunding obligation.

Senate Bill 630 would allow the bond that refunded the 1994 bonds to be refunded, as authorized by the TIFA board before December 31, 2009, with a final maturity of those new refunding bonds being not later than 2043.

The act provides that the refunding obligation described in the above provision is exempt from several provisions of the Revised Municipal Finance Act, 2001 PA 34.

Senate Bill 630 would also exempt a refunding obligation from Section 611 of that act, which prohibits a municipality from issuing a refunding bond if there is no overall benefit to the municipality.

BACKGROUND INFORMATION:

This pair of bills affects the City of Lansing and its tax increment finance authority (TIFA). In 1989, the City of Lansing Building Authority entered into a contract with the city to finance the construction of various parking facilities through the issuance of the

[1] This 2039 date should probably also be amended to be 2043.

1990 bonds by the building authority. Under a contract with the building authority, the city makes rental payments to the building authority using revenue derived from the city's tax increment finance authority (TIFA) under a sublease between the city and the TIFA. The revenue from the TIFA lease payments comes from the tax revenue that is captured by the TIF district, including the capture of certain school taxes from the state, local school district, and intermediate school district.

The city's contract with the building authority requires that it (the city) make rental payments to the authority as needed to allow the authority to meet its debt service obligations. Under 1948 (1st Extra Session) PA 31 and the Revised Municipal Finance Act, the city's lease contract constitutes a limited tax full faith and credit general obligation of the city, which requires the city to cover any shortfall in the TIF capture as a first budget obligation of the city's General Fund, in order to ensure that its rental obligations are paid in full. The 2008 amendments were intended to allow the Lansing Building Authority and TIFA to restructure their outstanding bond obligations in order to reduce expenditures – and, therefore, reduce the obligation on city's general fund to make the city's rental payments – amid a continued decline in TIF capture revenue.[2]

The decline in TIF capture revenue is generally ascribed to general declines in property tax values and the removal of several buildings from the tax rolls following their acquisition by the state. That decline in TIF capture revenues appears to have continued, with the city again wishing to restructure its authority debt in order to reduce expenditures and its general fund obligations to the authorities. The 2008 amendments need to be amended again in order for that to occur.

In the specific case of the City of Lansing, city budget documents indicate that in FY 2013-14, the city is using $1.4 million from its General Fund to support operations of its TIFA due to continued declines in taxable values within its TIF district (and, therefore, declines in the amount of captured taxes). How these bills affect the city's FY 2013-14 budget depends on the date these bills are enacted and how quickly a bond offering and sale could occur.

Revised Municipal Finance Act Exemptions

The two provisions amended by SB 629 and 630 exempt refunding obligations issued under those provisions from several provisions in the Revised Municipal Finance Act, as follows:

(1) Section 305(2), MCL 141.2305(2): Prohibiting municipal securities from being issued at a discount above 10%.

(2) Section 305(3), MCL 141.2305(3). Permitting municipal securities to be issued at a discount above 10% if the sale (a) evens the distribution of annual debt service; (b) saves interest costs; (c) the sale is based on specific

[2] The Official Statements accompanying the October 8, 2009 bond issues are available through the Municipal Securities Rule Making Board, at http://emma.msrb.org/EP324519-EP32017-EP654119.pdf (Building Authority) and http://emma.msrb.org/EP324519-EP32017-EP654119.pdf (Tax Increment Finance Authority). The TIFA bonds refunded TIFA bonds issued for the construction of the Lansing Center convention facility dated December 21, 1994. (Those 1994 bonds had refunded TIFA bonds from 1992, which were also issued to finance construction of the Lansing Center.)

revenue previously pledged for another purpose; or (d) the security is issued to secure a loan or agreement from the state or the federal government.

(3) Section 305(5), MCL 141.2305(5): Prohibiting refunding obligations under Section 305(3) from having a maturity date beyond the maturity date of the existing security.

(4) Section 305(6), MCL 141.2305(6): Limiting the amount of a security issued in accordance with Section 305(3) to 25% of the total principal amount of any security.

(5) Section 501, MCL 141.2501: Placing certain time limits on the final maturity date of a municipal security. Generally this limit is 30 years, although for property or improvements the maturity cannot be beyond the "estimated period of usefulness" for that property or improvement.

(6) Section 503, MCL 141.2503: Placing certain time limits on the first maturity dates of a bond issue. Generally, the first maturity date must be within five years after date of issuance.

FISCAL IMPACT:

As written, the bills would have little impact on state revenues, and may result in decreased costs to local units. The tax increment finance authorities of the kind covered by HB 630 are already capturing the 6-mil State Education Tax, therefore the only effect these bills would have on state revenues is to continue with the status quo for a few more years. Local and intermediate school taxes are also being captured. The revenue lost due to this extension depends on the affected properties and their values 25 years into the future, and cannot be estimated at this time. In the near term, the bills could reduce costs to local units, since they would not elect to issue new bonds if that would increase their costs. Local units that are having difficulty repaying their bonds after the crash of the housing market could potentially avoid using general fund money to meet their TIFA bond obligations.

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