Legislative Analysis

DETROIT FINANCIAL RECOVERY BONDS

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Senate Bill 160 as passed by the Senate
Sponsor: Sen. Darwin L. Booher
House Committee: Government Operations
Senate Committee: Banking and Financial Institutions
Complete to 3-24-15

SUMMARY:

The bill would amend the Home Rule City Act to apply to financial recovery bonds issued by the City of Detroit. The bill would amend Section 36a, which allows the issuance of financial recovery bonds to address a financial emergency, with the terms and conditions subject to the approval of the state's Local Emergency Financial Assistance Loan Board.

According to representatives for the City of Detroit, Senate Bill 160 would reduce borrowing costs on financial recovery bonds issued by the city to finance its recent exit from Chapter 9 bankruptcy. (See ***Fiscal Impact*** later in the summary.)

Senate Bill 160 applies to instances when the city has entered into an agreement with a trustee for the deposit of revenues pledged by the city into a trust account established for the sole purpose of paying principal and interest on those bonds and related administrative expenses.

Under those circumstances, subject to the approval of the State Treasurer, at all times after the issuance of the bonds and before the deposit of the revenues into that trust account, the revenues of the city to be deposited must be held in trust for the benefit of the trustee and the bonds by any party that comes into possession of the revenues.

The revenues would have to be held in trust for the benefit of the trustee and the bonds, regardless of whether the city directly collects the revenues, a third party collects the revenues on the city's behalf, or any other person comes into possession of the revenues. The revenues would remain subject to the trust regardless of subsequent transfer or transfers of the revenues until such time as the revenues are deposited into the trust account.

To the extent that the city or any other person holds a residual or other interest in the revenues held in trust and to be deposited with the trustee in the trust account, that interest is subordinate to a lien in the revenues in favor of the trustee for the purpose of ensuring delivery of the revenues to the trust account.

The bill specifies that this lien arises by operation of law and without further act or notice of any kind at the earliest time that the city has or acquires any rights in the revenues pledged under the agreement, is and will remain paramount and superior to all other liens and interests of any kind, and is perfected without delivery, recording, or notice.

Further, the revenues held in trust and to be deposited into the trust account are exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the city other than those expressly specified in the agreement.

(Specifically, the bill refers to "a city with a population of more than 600,000 that is located in a county organized under 1966 PA 293, MCL 45.501 to 45.521, that issues or has issued financial recovery bonds. That description applies only the City of Detroit.)

FISCAL IMPACT:

As noted above, according to representatives for the City of Detroit, Senate Bill 160 would reduce borrowing costs on financial recovery bonds issued by the city to finance its recent exit from Chapter 9 bankruptcy. Specifically, estimates provided by the city indicate that the city could save $2.0 million to $3.0 million annually over the 10-year term of the bonds ($20.0 million to $30.0 million over the life of the bond) if they could obtain a statutory lien on the city income tax revenue dedicated to repay the bonds. In December 2014, the city issued $275.0 million underwritten by Barclay's Bank. Barclay's agreed to hold the bonds for 150 days, after which the bank would reissue the debt to the public at a fixed interest rate. Under the deal, the city was required to seek at least two credit ratings, with the hope that one would rank as investment grade. Standard and Poor's and Fitch advised the city that its credit worthiness would not rank as investment grade unless they received a statutory lien on the city income tax revenue, which is the repayment source for the bonds. The provisions of the bill would have no direct fiscal impact on state government.

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