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BILL ANALYSIS

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Senate Bill 160 (as introduced 2-25-15)
Sponsor: Senator Darwin L. Booher
Committee: Banking and Financial Institutions

Date Completed: 3-3-15

CONTENT

The bill would amend the Home Rule City Act to do the following:

-- **Specify that if a city with a population of more than 600,000 in a charter county issued financial recovery bonds to the Michigan Finance Authority, and met other conditions, the city revenue to be deposited would be held in trust for the benefit of the trustee.**
-- **Provide that the revenue would be held in trust for the benefit of the trustee and the bonds regardless of who collected it, and would remain subject to the trust regardless of subsequent transfers until the trustee received the revenue.**
-- **Specify that other interests in the revenue would be subordinate to a statutory lien in favor of the trustee that would superior to all other liens and interests of any kind, and would be perfected without delivery, recording, or notice.**

The bill would take effect 90 days after its enactment.

Under the Act, if a financial emergency exists under the Local Financial Stability and Choice Act, a city may issue financial recovery bonds in amounts greater than the limits established by the city charter or the Home Rule City Act. A city that issues financial recovery bonds may refund all or a portion of those bonds at a later time, subject to the terms and conditions approved by the Local Emergency Financial Assistance Board. If financial recovery bonds are or have been issued by a city, the city may provide additional security for the prior bonds and may issue additional financial recovery bonds to be sold to the Michigan Finance Authority for the purpose of refunding all or a portion of the prior bonds, or other city obligations, and for other purposes approved by the Board.

Under the bill, if a city with a population of more than 600,000 located in a charter county were to issue or had issued additional financial recovery bonds and, as a specified condition of the issuance, entered into an agreement with a trustee for the deposit of city revenue pledged to the trustee for the purposes of repaying those bonds into a trustee-controlled segregated trust account, and the city received the approval of the State Treasurer, then, at all times after the issuance of the bonds and before the deposit of city revenue into the trust account, the revenue to be deposited would be held in trust for the benefit of the trustee and the bonds by any party coming into possession of the revenue.

The revenue would be held in trust for the benefit of the trustee and the bonds regardless of whether the city directly collected the revenue, a third party collected the revenue on the city's behalf, or any other person came into possession of the revenue. The revenue would remain subject to the trust regardless of subsequent transfer or transfers of the revenue until the trustee appointed under the agreement received the revenue for repayment of the bonds.

To the extent that the city or any other person held a residual or other interest in the revenue held in trust and to be deposited with the trustee in the trust account, the interest would be subordinate to a lien in the revenue in favor of the trustee for the purpose of ensuring delivery of the revenue to the trust account. This lien would arise by operation of law and without further act or notice of any kind at the earliest time that the city had or acquired any rights in the revenue pledged pursuant to the agreement. The lien would be superior to all other liens and interests of any kind, and would be perfected without delivery, recording, or notice. The revenue held in trust and to be deposited into the trust account would be 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.

MCL 117.36a Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would reduce the costs of the City of Detroit for debt service on financial recovery bonds by approximately $2.0 million to $3.0 million per year over the 15-year period when bonds are outstanding. A $275.0 million issue of financial recovery bonds initially was privately placed on December 10, 2014, with Barclays Capital, Inc. for up to 150 days. These bonds are to be reoffered in a public sale at which time the bonds will be converted from a variable interest rate to a fixed interest rate. Bond rating agencies have stated that a statutory lien on the income tax revenue pledged to repay the bonds would improve the bond rating and result in lower interest costs. The bill would have no fiscal impact on State government.

Fiscal Analyst: Elizabeth Pratt