

Act No. 83  
Public Acts of 2016  
Approved by the Governor  
April 12, 2016  
Filed with the Secretary of State  
April 12, 2016  
EFFECTIVE DATE: April 12, 2016

**STATE OF MICHIGAN  
98TH LEGISLATURE  
REGULAR SESSION OF 2016**

**Introduced by Senator Brandenburg**

# **ENROLLED SENATE BILL No. 583**

AN ACT to amend 1933 PA 94, entitled “An act to authorize public corporations to purchase, acquire, construct, improve, enlarge, extend, or repair public improvements within or without their corporate limits, and to own, operate, and maintain the same; to authorize the condemnation of property for such public improvements; to provide for the imposition and collection of charges, fees, rentals, or rates for the services, facilities, and commodities furnished by such public improvements; to provide for the issuance of bonds and refunding bonds payable from the revenues of public improvements; to provide for a pledge by public corporations of their full faith and credit and the levy of taxes without limitation as to rate or amount to the extent necessary for the payment of the bonds, or for advancing money from general funds for payment of bonds; to provide for payment, retirement, and security of such bonds; to provide for the imposition of special assessment bonds for the purpose of refunding outstanding revenue bonds; to prescribe the powers and duties of the department of treasury and of the municipal finance commission or its successor agency relative to such bonds and relative to private activity bonds issued by a state or local governmental entity; to provide for other matters in respect to such public improvements and bonds and to validate action taken and bonds issued; and to prescribe penalties and provide remedies,” by amending the title and section 3 (MCL 141.103), the title as amended by 1998 PA 196 and section 3 as amended by 2002 PA 465, and by adding sections 7b, 21a, 22a, and 24a.

*The People of the State of Michigan enact:*

## **TITLE**

An act to authorize public corporations, or officers of certain public corporations, to purchase, acquire, construct, improve, enlarge, extend, or repair public improvements within or without their corporate limits, and to own, operate, and maintain the same; to authorize the creation, operation, and financing of certain delinquent tax systems; to authorize the condemnation of property for such public improvements; to provide for the imposition and collection of charges, fees, rentals, or rates for the services, facilities, and commodities furnished by such public improvements; to provide for the issuance of bonds or notes and refunding bonds or notes payable from the revenues of public improvements or from delinquent tax systems; to provide for a pledge by public corporations of their full faith and credit and the levy of taxes without limitation as to rate or amount to the extent necessary for the payment of the bonds or notes, or for advancing money from general funds for payment of bonds or notes; to provide for payment, retirement, and security of such bonds; to provide for the imposition of special assessment bonds for the purpose of refunding outstanding revenue bonds; to prescribe the powers and duties of the department of treasury and of the municipal finance commission or its successor agency relative to such bonds or notes and relative to private activity bonds issued by a state or local governmental entity; to provide for other matters in respect to such public improvements and bonds or notes and to validate action taken and bonds issued; and to prescribe penalties and provide remedies.

Sec. 3. As used in this act:

(a) "Public corporation" means a county, city, village, township, school district, port district, or metropolitan district of the state or a combination of these if authorized by law to act jointly; an authority created by or under an act of the legislature; or a municipal health facilities corporation or subsidiary municipal health facilities corporation incorporated as provided in the municipal health facilities corporations act, 1987 PA 230, MCL 331.1101 to 331.1507.

(b) "Public improvements" means only the following improvements: housing facilities; garbage disposal plants; rubbish disposal plants; incinerators; transportation systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems; sewage disposal systems, including sanitary sewers, combined sanitary and storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of sewage or industrial wastes; storm water systems, including storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of storm water; water supply systems, including plants, works, instrumentalities, and properties used or useful in connection with obtaining a water supply, the treatment of water, or the distribution of water; utility systems for supplying light, heat, or power, including plants, works, instrumentalities, and properties used or useful in connection with those systems; approved cable television systems, approved cable communication systems, or telephone systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems; automobile parking facilities, including within or as part of the facilities areas or buildings that may be rented or leased to private enterprises serving the public; yacht basins; harbors; docks; wharves; terminal facilities; elevated highways; bridges over, tunnels under, and ferries across bodies of water; community buildings; public wholesale markets for farm and food products; stadiums; convention halls; auditoriums; dormitories; hospitals and other health care facilities; buildings devoted to public use; museums; parks; recreational facilities; reforestation projects; aeronautical facilities; and marine railways; or any right or interest in or equipment for these improvements. The term "public improvement" means the whole or a part of any of these improvements or of any combination of these improvements or any interest or participation in these improvements, as determined by the governing body. The definition contained in this subdivision does not broaden or enlarge the extent of a particular public improvement made by a public corporation.

(c) "Borrower" means a public corporation exercising the power to issue bonds as provided in this act or a county treasurer exercising the power to issue notes as provided in this act.

(d) "Governing body" means for a county, the board of commissioners; for a city, the body having legislative powers; for a village, the body having legislative powers; for a township, the township board; for a school district, the board of education; for a port district, the port commission; for a metropolitan district, the legislative body of the district; for a municipal health facilities corporation, the board of trustees; for a nonprofit subsidiary municipal health facilities corporation, the nonprofit subsidiary board; and for an authority, the body in which is lodged general governing powers. If the charter of a public corporation or applicable law provides that a separate board has general management over a public improvement, "governing body" means, with respect to that public improvement, the separate board, subject to review by the legislative body of the public corporation as the charter or law may provide. Unless the charter or law specifically provides otherwise, the separate board shall adopt the bond authorizing ordinance, but shall not pledge full faith and credit.

(e) "Rates" means the charges, fees, rentals, and rates that may be fixed and imposed for the services, facilities, and commodities furnished by a public improvement.

(f) "Revenues" means the income derived from the rates charged for the services, facilities, and commodities furnished by a public improvement. Revenues include, to the extent provided in the authorizing ordinance, earnings on investment of funds of the public improvement and other revenues derived from or pledged to operation of the public improvement.

(g) "Net revenues" means the revenues of a public improvement remaining after deducting the reasonable expenses of administration, operation, and maintenance of the public improvement.

(h) "Project cost" or "costs" means the costs of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing a public improvement, including any engineering, architectural, legal, accounting, financial, and other expenses incident to the public improvement. Project costs include interest on the bonds, and other obligations of the borrower issued to pay project costs, during the period of construction and until full revenues are developed. Project costs include a reserve or addition to a reserve for payment of principal and interest on the bonds and the amount required for operation and maintenance until sufficient revenues have developed.

(i) "Ordinance" means an ordinance, resolution, or other appropriate legislative enactment of the governing body of a public corporation.

(j) "Approved cable television system" or "approved cable communication system" means a cable television or communication system to which 1 of the following applies:

(i) A municipality acquires or establishes the system either before January 1, 1987 or before a system is established in that municipality by a private person.

(ii) A municipality acquires or establishes the system after a system is established in that municipality by a private person and after approval by a majority of the electors in the affected area of that municipality voting on the question of the sale of revenue bonds to finance the acquisition or establishment of the municipal system.

(k) "County treasurer" means an elected county treasurer or a county treasurer appointed under section 5 of 1923 PA 199, MCL 201.35, of a county.

(l) "Delinquent tax revenues" means the delinquent taxes, interest, penalties and fees, and chargebacks of uncollected delinquent taxes due or to become due to local units of government to be collected by a county treasurer as agent for the local unit of government in connection with a delinquent tax system and pledged to any borrowing by a county treasurer under section 7b. Delinquent tax revenues do not include fees, charges, and other amounts due and payable to the county treasurer under section 87c(3) of the general property tax act, 1893 PA 206, MCL 211.87c.

(m) "Delinquent tax system" means the delinquent tax revolving fund in any county created and designated under section 87b of the general property tax act, 1893 PA 206, MCL 211.87b, and continued under section 87f of the general property tax act, 1893 PA 206, MCL 211.87f.

(n) "Order" means the legislative enactment of a county treasurer's powers under this act.

Sec. 7b. (1) A county treasurer in any county that has continued a delinquent tax revolving fund under section 87b of the general property tax act, 1893 PA 206, MCL 211.87b, and that has authorized the issuance of notes under this act pursuant to section 87f of the general property tax act, 1893 PA 206, MCL 211.87f, may by order of the county treasurer and without a vote of the electors borrow money and issue its revenue notes on behalf of itself and the local units of government secured by delinquent tax revenues from the county's delinquent tax revolving fund.

(2) In the order authorizing the borrowing and issuance of notes, the delinquent tax revenues from which the borrowing is to be repaid shall be pledged as security for the payment of the principal and interest on the notes. Money and other property held in the delinquent tax revolving fund, including collections on the delinquent tax revenues, shall be kept separate from and shall not be commingled with any other money in the custody of the county treasurer. The segregated fund or account shall be established as a part of the delinquent tax revolving fund and shall be accounted for separately on the books of the county treasurer.

(3) The proceeds of the notes shall be placed in and used as the whole or part of the delinquent tax revolving fund established under section 87b of the general property tax act, 1893 PA 206, MCL 211.87b, after the expenses of borrowing have been deducted.

(4) The notes issued pursuant to this section shall comply with all of the following:

(a) Be in an aggregate principal amount not exceeding the aggregate amount of all of the following:

(i) The delinquent tax revenues pledged, exclusive of interest.

(ii) At the option of the county treasurer, and to the extent authorized under section 87f of the general property tax act, 1893 PA 206, MCL 211.87f, a note reserve fund in an amount not to exceed 15% of each borrowing.

(iii) The cost of issuance.

(b) Bear interest not exceeding 14.5% per annum.

(c) Be in those denominations, and mature on the date not exceeding 6 years after their date of issue, as the county treasurer by order determines.

(d) May be issued at an original issue discount not to exceed 2% of the face value of the note issued.

(e) The order authorizing issuance of the notes may provide that all or part of the notes shall be subject to prepayment and, if subject to prepayment, shall provide the amount of call premium payable, if any, the number of days' notice of prepayment that shall be given, and whether the notice shall be written or published, or both. Otherwise, the notes shall not be subject to prepayment.

(f) The sale and award of notes shall be conducted and made by the county treasurer at a public or private sale. If a public sale is held, the notes shall be advertised for sale once not less than 5 days before sale in a publication printed in the English language and circulated in this state that carries as a part of its regular service notices of the sales of municipal bonds and that has been designated in the resolution as a publication complying with these qualifications. The notice of sale shall be in the form designated by the county treasurer. The notes may be sold subject to the option of the county treasurer, and the county treasurer may withhold a part of the issue from delivery if, in his or her opinion, sufficient funds are available before delivery of the notes to make full delivery unnecessary to the purposes of the borrowing.

(5) If the county board of commissioners provides by resolution, the notes may also be limited tax full-faith and credit obligations of the county subject to the state constitution of 1963 as to the levying of any taxes not authorized by the voters or by law unless the county has held an election pursuant to section 87d of the general property tax act, 1893 PA 206, MCL 211.87d, if the county's voters have approved the proposition found in section 87d(1) of the general property tax act, 1893 PA 206, MCL 211.87d, permitting the county to pledge the county's unlimited taxing power for the purpose of providing money for the delinquent tax revolving fund. If the proceeds of the taxes pledged are not

sufficient to pay the principal and interest of the notes when due, the county shall impose a general ad valorem tax without limitation as to rate or amount on all taxable property in the county to pay the principal and interest and may reimburse itself from delinquent taxes collected.

(6) If the county board of commissioners provides by resolution, the notes may be secured additionally by a pledge of the county's general fund and are subject to all the following:

(a) The notes shall be designated general obligation limited tax notes.

(b) The notes shall be the full faith and credit obligations of the county issuing them. If the proceeds of the taxes and interest and, when pledged, county property tax administration fees, or note reserve fund are not sufficient to pay the principal and interest, when due, the county shall pay the principal and interest from its general funds or any additional tax which may be levied within its constitutional and statutory debt limits, and the county may subsequently reimburse itself from delinquent taxes collected. The county's obligation to pay from its general funds shall be its first budget obligation and shall be provided for in the borrowing resolution in the following language:

"This note issue, in addition, shall be a general obligation of the county of \_\_\_\_\_, secured by its full faith and credit, which shall include this county's limited tax obligation, within applicable constitutional and statutory limits, and its general funds. The county budget shall provide that if the pledged delinquent taxes and any other pledged amounts are not collected in sufficient amounts to meet the payments of principal and interest due on these notes, the county, before paying any other budgeted amounts, will promptly advance from its general funds sufficient money to pay that principal and interest."

(7) Notwithstanding any other provisions of this section, all the following apply:

(a) Interest on the notes may be payable at any time provided in the order, and may be set, reset, or calculated as provided in the order.

(b) Notes issued under this section may have 1 or more of the following attributes:

(i) Made the subject of a put or agreement to repurchase by the county treasurer.

(ii) Secured by a letter of credit issued by a bank under an agreement entered into by the county treasurer or by any other collateral that the county treasurer's order may authorize.

(iii) Callable as set forth in the order.

(iv) Reissued by the county treasurer once reacquired by the county treasurer under any put or repurchase agreement.

(c) The county treasurer may by order do 1 or more of the following:

(i) Authorize the issuance of renewal notes.

(ii) Refund or refund in advance notes by the issuance of new notes, whether the notes to be refunded have or have not matured.

(iii) Issue notes partly to refund notes and partly for any other purposes authorized by this act.

(iv) Buy and sell any notes issued under this section.

(d) Renewal, refunding, or advance refunding notes shall comply with all of the following:

(i) Shall be sold and the proceeds applied to the purchase redemption or payment of the notes to be renewed or refunded.

(ii) Shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(iii) May be sold or resold at a public or private sale.

(iv) May pledge the delinquent taxes pledged in the issue to be refunded in advance after the original issue is defeased by the advance refunding issue.

(e) Notes may be issued and secured by a second lien on delinquent tax revenues, interest, and property tax administration fees already the subject of a first lien because of the issuance of a prior note issue.

(f) Any notes issued may be secured in whole or in part under a trust or escrow agreement, which agreement may also govern the issuance of renewal notes, refunding notes, and advance refunding notes. The agreement may authorize the trustee or escrow agent to make investments of any type authorized in the agreement.

(8) The notes issued under this section and interest on the notes shall be payable in lawful money of the United States of America and shall be exempt from all taxation by this state or a taxing authority in this state.

(9) The notes issued under this section may be made payable at a bank or trust company, or may be made registrable as to principal or as to principal and interest under the terms and conditions specified in the authorizing resolution or by the county treasurer when awarding the notes.

(10) To the extent authorized under section 87f of the general property tax act, 1893 PA 206, MCL 211.87f, a county treasurer shall have all the powers granted by this act to a public corporation and shall exercise those powers by order.

A copy of that order shall be maintained in the records of the county treasurer, and a second copy shall be filed with the county clerk on December 31 each year for all such orders issued that year.

(11) Notwithstanding 1966 PA 293, MCL 45.501 to 45.521, a county operating under a home rule charter shall not be restricted by the provisions of the home rule charter in connection with the powers granted to the county treasurer to issue notes by this section. The treasurer of a county described in this subsection, notwithstanding any charter provisions to the contrary, shall have all of the powers granted to county treasurers by this section.

(12) If the treasurer so authorizes in the order authorizing the notes, any notes issued may be secured in whole or in part under a trust or escrow agreement. That agreement may authorize the trustee or escrow agent to make investments of any type authorized in the agreement.

(13) Notes issued under this act are exempt from the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Sec. 21a. (1) Delinquent tax revenues shall be fixed before the issuance of the notes and shall be sufficient to provide for all of the following:

(a) The payment of the interest on and the principal of notes payable from the delinquent tax revenues when the notes become due and payable.

(b) The creation of any reserve for the notes as required in the order authorizing the issuance of those notes.

(2) The county treasurer shall covenant and agree in the order authorizing the issuance of the notes and on the face of each note to collect at all times the amounts pledged to repay the notes which shall be sufficient to provide for the amounts described in subsection (1). The amounts pledged that are fixed and established pursuant to the order shall not be subject to revision or change.

(3) Notes issued and sold under this section shall be secured by a statutory lien on the delinquent taxes and, to the extent held in the delinquent tax revolving fund, on all other property and assets and any revenues derived from the delinquent taxes and other property or assets. The lien shall automatically attach without further action or authorization by the county treasurer. The lien on the delinquent taxes and all other property and assets and any revenues derived from the delinquent taxes and other property or assets that are held in the delinquent tax revolving fund shall be valid and binding from the time the notes are executed and delivered. The lien shall automatically attach and be effective, binding, and enforceable against the county, the county treasurer, its successors, transferees, and creditors, and all others asserting rights in the secured property, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act. In addition, the amounts collected which are subject to the lien shall be held in trust for the owners of the notes authorized by this section. Any property eligible to be conveyed and properly conveyed to a land bank fast track authority as tax reverted property, as defined by section 3(q) of the land bank fast track act, 2003 PA 258, MCL 124.753, or to this state or a person, city, village, township, or county pursuant to section 78m or 78r of the general property tax act, 1893 PA 206, MCL 211.78m and 211.78r, shall be released from any lien created under this section.

Sec. 22a. (1) In the authorizing order, the county treasurer shall also provide that the delinquent tax revenues of the delinquent tax system are all subject to a statutory lien and shall be kept separate from and shall not be commingled with any other money in the custody of the county treasurer. The delinquent tax revenues of the delinquent tax system shall be used to provide for the payment of the principal of and the interest upon all notes payable from those revenues, as and when the notes become due and payable. This account shall be designated note and interest redemption account and shall be subject to the statutory lien. In respect to the allocation and use of money in the note and interest redemption account, due recognition shall be given as to priority rights, if any, between different issues or series of outstanding notes. If authorized under a resolution adopted by the board of commissioners and, in a charter or unified county, the chief executive officer of the county in the manner authorized under the charter or by law, the county treasurer may provide by order that a reasonable excess amount shall be set aside in the note and interest redemption account from time to time so as to produce and provide a reserve to meet any possible future deficiencies, which reserve shall also be subject to the statutory lien.

(2) Revenues remaining, after satisfaction of subsection (1), at the end of any operating year shall be part of the surplus in the delinquent tax revolving fund which may be transferred to the county general fund as provided in section 87b(7) of the general property tax act, 1893 PA 206, MCL 211.87b.

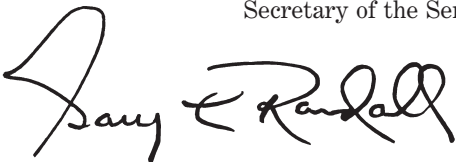
Sec. 24a. Money in the several accounts of the delinquent tax system shall be deposited as designated by the county board of commissioners of the county. Money in the several accounts of the delinquent tax system, except money in the note and interest redemption account and money derived from the proceeds of sale of the notes each of which shall be kept in a separate deposit account, may be kept in 1 deposit account, provided, however, that only delinquent tax revenues of the delinquent tax systems shall be held in or credited to that deposit account and those funds and other property shall not be commingled with any other money of or in the custody of the county treasurer. In that case, the money in the combined deposit accounts shall be allocated on the books and records of the county treasurer to the

various accounts in the manner provided in the authorizing order. The county treasurer of the county may provide that the money in the several accounts of the delinquent tax system be kept in separate depository accounts. The money in the note and interest redemption account shall be accounted for separately.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

.....  
Governor