REVISED MUNICIPAL FINANCE ACT (EXCERPT)
Act 34 of 2001

141.2518 Payment of unfunded pension liability or unfunded accrued health care liability; issuance of municipal security; comprehensive financial plan; requirements.

Sec. 518. (1) Through December 31, 2023, in connection with the partial or complete cessation of accruals to a defined benefit plan or the closure of the defined benefit plan to new or existing employees, and the implementation of a defined contribution plan, or to fund costs of a county, city, village, or township that has already ceased accruals to a defined benefit plan, a county, city, village, or township may by ordinance or resolution of its governing body, and without a vote of its electors, issue a municipal security under this section to pay an amount not to exceed the difference between 95% of the actuarial value of liabilities and 100% of the actuarial or market value of assets for that retirement program provided that the amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, shall not exceed the limit authorized by law.

(2) Through December 31, 2023, in connection with the closure of a postemployment health care plan to new employees, or to fund the costs of a county, city, village, or township that has already closed its postemployment health care plan to new employees a county, city, village, or township may by ordinance or resolution of its governing body, and without a vote of its electors, issue a municipal security under this section to pay an amount not to exceed the difference between 60% of the actuarial value of liabilities and 100% of the actuarial or market value of assets of the costs of the unfunded accrued health care liability provided that the amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, shall not exceed the limit authorized by law or to refund in whole or in part a contract obligation issued for the same purpose. Postemployment health care or benefits may be funded by the county, city, village, or township. The funding of postemployment health care benefits by a county, city, village, or township as provided in this act shall not constitute a contract to pay the postemployment health care benefits.

(3) Before a county, city, village, or township issues a municipal security under this section, for defined benefit retirement plans or postemployment health care plans, with 100 or more combined active and retired members, within 1 year prior to the issuance of the municipal security, the county, city, village, or township shall have conducted an internal or external review to verify eligible participants in the plan and that they are receiving appropriate pension or other postemployment benefits consistent with their respective plan.

(4) Before a county, city, village, or township issues a municipal security under this section, the county, city, village, or township shall publish a notice of intent to issue the municipal security. The notice of intent and the rights of referendum shall meet the requirements of section 517(2).

(5) Before a county, city, village, or township issues a municipal security under this section, the county, city, village, or township shall prepare and make available to the public a comprehensive financial plan. The comprehensive financial plan shall be posted in a prominent and conspicuous location on the county's, city's, village's, or township's website, if the county, city, village, or township maintains a website, and at the office of the clerk no later than the date the notice of intent was published in accordance with section 517(2). The comprehensive financial plan shall be approved by ordinance or resolution of its governing body on or before the notice of intent was published in accordance with section 517(2). The comprehensive financial plan shall include all of the following:

(a) An analysis of the current and future obligations of the county, city, village, or township with respect to each retirement program and each postemployment health care benefit program of the county, city, village, or township. This analysis shall include the retirement program or postemployment health care benefit program expected to be funded with a municipal security issued under this section and all other retirement programs or postemployment health care benefit programs not being funded with a municipal security issued under this section.

(b) Evidence that the issuance of the municipal security together with other funds lawfully available will be sufficient to eliminate the unfunded pension liability or the unfunded accrued health care liability.

(c) A debt limit calculation that shall be in accordance with statutory, charter, and constitutional debt limits.

(d) The debt service schedule for a municipal security issued under this section shall not materially deviate from level or descending annual debt service, or shall not materially deviate from a level annual or descending debt service when taking into account other municipal securities of the county, city, village, or township unless otherwise approved by the department for a period not to exceed 5 years from the date of issuance. The proceeds from the municipal security shall not fund capitalized interest on the municipal security or any required unfunded actuarial liability payments not made prior to the issuance of the municipal security.

(e) The projected net present value savings between the actuarially determined amortization payments at the plan's investment rate of return and the municipal security's debt service requirements at the time of issuance, calculated using a method approved by the department, shall be at least 15% of the par amount of a proposed municipal security issued pursuant to subsection (1), or shall be at least 20% of the par amount of a proposed municipal security issued pursuant to subsection (2) unless the department determines that otherwise the plan in its entirety is in the financial best interest of the county, city, village, or township.

(f) A comparison of the current investment rate of return assumption of the defined benefit plan or postemployment health care plan and the actual annualized investment rates of returns for the past year, 5 years, and 10 years of those plans.

(g) The following acknowledgement: Since the actuarial value of the defined benefit plan or postemployment health care plan's assets and liabilities are subject to change, the county, city, village, or township acknowledges that it is possible the unfunded accrued pension liability or unfunded accrued health care liability may increase after the issuance of the municipal security, thereby requiring the county, city, village, or township to make additional actuarially determined amortization payments to the defined benefit plan or postemployment health care plan beyond the principal and interest payments due on the municipal security.

(h) A certification that the county's, city's, village's, or township's most recent audit report indicates the sum of all the county's, city's, village's, or township's defined benefit plans' actual contributions for the most recent 3 fiscal years are 100% or greater than the sum of all the county's, city's, village's, or township's defined benefit plans' actuarially determined contributions for the most recent 3 fiscal years. As used in this subdivision, "actuarially determined contributions" means that term as used in accordance with generally accepted accounting principles, rules, or regulations.

(i) A certification that the county, city, village, or township is compliant on any reporting requirements in accordance with the protecting local government retirement and benefits act, 2017 PA 202, MCL 38.2801 to 38.2812.

(j) A certification by the person preparing the plan that the comprehensive financial plan is complete and accurate.

(k) If the proceeds of the borrowing are to be deposited in a health care trust fund, a plan in place from the county, city, village, or township to mitigate the increase in health care costs and may include a wellness program that promotes the maintenance or improvement of healthy behaviors.

(6) Municipal securities issued under this section by a county, city, village, or township and the interest on and income from the municipal securities are exempt from taxation by this state or a political subdivision of this state.

(7) The proceeds of a municipal security issued under this section may be used to pay the costs of issuance of the municipal security. Except for a refunding, the proceeds of a municipal security issued under this section to cover unfunded pension liability or accrued unfunded health care liability, or both, shall be deposited in a pension trust fund, a health care trust fund, a trust created by a county, city, village, or township which has as its beneficiary a health care trust fund, a trust created by a county, city, village, or township which has as its beneficiary a pension trust fund, or, for a county, city, village, or township, a restricted fund within a trust that would only be used to retire the municipal securities issued under subsection (1) or (2). A county, city, village, or township shall have the power to create a trust to carry out the purposes of this subsection. A trust created under this subsection shall invest its funds in the investment instruments and subject to the investment limitations governing the investment of assets of public employee retirement systems under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141. A trust or fund receiving proceeds of a municipal security under this subsection must comply with all of the following:

(a) Report its financial condition according to generally accepted accounting principles.

(b) Be tax-exempt under the internal revenue code of 1986.

(8) A county, city, village, or township issuing municipal securities under this section may enter into indentures or other agreements with trustees and escrow agents for the issuance, administration, or payment of the municipal securities.

(9) Before a county, city, village, or township issues a municipal security under this section, the county, city, village, or township shall obtain the approval of the department.

(10) If a county, city, village, or township has issued a municipal security under this section, that county, city, village, or township shall not change the benefit structure of the defined benefit plan if the defined benefit plan is undergoing the partial cessation of accruals. However, a county, city, village, or township may reduce benefits of the defined benefit plan for years of service that accrue after the issuance of municipal

securities under this section.

(11) A county, city, village, or township shall not issue a municipal security under subsection (1) or (2) unless the county, city, village, or township has been assigned a credit rating within the category of A or higher or the equivalent by at least 1 nationally recognized rating agency.

(12) A county, city, village, or township that issues a municipal security under subsection (1) or (2) shall covenant with the holders of the municipal security and this state that it will not, after the issuance of the municipal security and while the municipal security is outstanding, rescind whatever action it has taken to make a partial or complete cessation of accruals to a defined benefit plan or the closure of the defined benefit plan or postemployment health care plan for new or existing employees for which the municipal security was issued.

(13) If a county, city, village, or township has issued a municipal security under subsection (1) or (2), the county, city, village, or township may issue a refunding security to refund that municipal security under this section after December 31, 2023 if that refunding security does not have a final maturity later than the final maturity of the municipal security being refunded and if the municipality that issued the municipal security has been assigned a credit rating within the category of A or higher or the equivalent by at least 1 nationally recognized rating agency in connection with the refunding security.

(14) Unless otherwise approved by the department, a municipal security issued under this section shall mature by no later than the date the final amortized payment for the unfunded pension liability or the unfunded accrued health care liability would have been made had the county, city, village, or township not elected to issue a municipal security under this section.

History: Add. 2012, Act 329, Imd. Eff. Oct. 9, 2012;—Am. 2014, Act 297, Imd. Eff. Sept. 30, 2014;—Am. 2015, Act 46, Imd. Eff. June 9, 2015;—Am. 2018, Act 575, Imd. Eff. Dec. 28, 2018.