

REVISED MUNICIPAL FINANCE ACT (EXCERPT)
Act 34 of 2001

PART V
LONG-TERM MUNICIPAL SECURITIES

141.2501 Maturity time periods.

Sec. 501. (1) Except as otherwise provided for by law, or as otherwise provided in part VI, a municipal security issued by a municipality under this act shall not mature later than the estimated period of usefulness of the property or improvement for which the municipal security is issued.

(2) In addition to the requirements of subsection (1), a municipal security shall not mature later than the following time periods:

(a) A municipal security issued in anticipation of special assessments shall mature no later than 2 years after the time fixed by law for the payment of the last installment of the assessments from which the municipal security is payable.

(b) A municipal security issued to meet an emergency for relief from fire, flood, or other calamity shall mature no later than 5 years after the date of issuance.

(c) A municipal security issued to pay judgments against the municipality, except judgments in condemnation proceedings, and municipal securities issued for the purchase of personal property, other than material for permanent construction, machinery for public utilities, or original furnishings and equipment of new buildings, shall mature no later than 10 years after the date of issuance.

(d) All other municipal securities shall mature no later than 30 years after the date of issuance.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2503 Municipal securities of a single issue; maturity or redemption date; purchase at open market; redemption requirements; municipal securities of school district; municipal security issued by county, city, village, or township pursuant to MCL 141.2518.

Sec. 503. (1) Municipal securities of a single issue may mature serially or be subject to mandatory redemptions, or both, with maturities as fixed by the governing body of the municipality. In any case, the first maturity or mandatory redemption date shall occur not later than 5 years after the date of issuance, and the total principal amount maturing or subject to mandatory redemption in any year after 4 years from the date of issuance shall not be less than 1/5 of the total principal amount maturing or subject to mandatory redemption in any subsequent year.

(2) In the resolution authorizing the issuance of a municipal security, the governing body of the municipality may provide that the municipality may purchase municipal securities in the open market at a price not greater than that payable on the next redemption date in order to satisfy all or part of the next succeeding scheduled mandatory redemption.

(3) The governing body of the municipality may provide that some or all of the principal amounts maturing in any year may be redeemed at the option of the municipality at the times, on the terms and conditions, and at the price as provided by resolution of the governing body, except that a municipality shall not agree to pay a premium exceeding 3% of the principal amount being redeemed.

(4) All outstanding and authorized municipal securities of a school district payable out of taxes may be treated as a single issue for the purpose of fixing maturities. Several series of municipal securities issued under the same authorization may be treated as a single issue for the purpose of fixing maturities.

(5) A municipal security issued by a school district that is sold in accordance with a federal program in which the holder of the municipal security, as a result of holding the municipal security, may declare a credit against a federal tax is exempt from the provisions of subsection (1) if the school district deposits in trust payments to provide for the repayment of the municipal security and the first required payment shall occur not later than 5 years after the date of issuance and each required payment in any year after 4 years from the date of issuance shall not be less than 1/5 of the total required payment in any subsequent year.

(6) A municipal security issued by a county, city, village, or township pursuant to section 518 shall not be subject to the maturity and mandatory redemption requirements of subsection (1).

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2012, Act 329, Imd. Eff. Oct. 9, 2012.

141.2505 Municipal securities secured by special assessments.

Sec. 505. The total amount of municipal securities secured by special assessments and pledging the limited tax full faith and credit of the municipality shall at no time by reason of future issues, other than issues of refunding securities, exceed 12% of the assessed value of the taxable property in the municipality. A

municipality shall not issue municipal securities secured by special assessments in any calendar year in an amount greater than 3% of the assessed value of the municipality unless authorized by majority vote of the electors or by a larger vote as may be provided by statute or charter.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2507 Interest rate charge on special assessments.

Sec. 507. A municipality issuing a municipal security in anticipation of special assessments may, notwithstanding any charter or ordinance provisions to the contrary, charge a rate of interest on the unpaid balance of the special assessments in excess of the charter or ordinance limit on the municipal security, but not in excess of a rate of more than 1% above the average rate of interest borne by the municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2509 Reserve fund; establishment.

Sec. 509. A municipality may pay interest that accrues on a municipal security during the first 3 years after the date of issuance of the municipal security from the proceeds of the sale of the municipal security. In addition, a municipality may establish a reserve fund, in an amount not exceeding 15% of the principal amount of the municipal security issued from the proceeds of the sale of the municipal security which shall be held solely for the payment of principal and interest on the municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2511 Issuance of municipal securities to fund county drain special assessment.

Sec. 511. Any county, township, city, or village, by resolution of its governing body and without a vote of its electors, may issue municipal securities for the purpose of funding any part or all of a county or intercounty drain special assessment made against the county, township, city, or village at large under the provisions of the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630. A municipal security described in this section shall mature serially, the first annual maturity of which shall fall due not more than 2 years from the date of issuance and the last of which shall fall due not more than 10 years from the date of issuance or not more than 1 year after the due date of the last installment of the special assessment, whichever is later. No maturity shall be less than 1/2 of the amount of any subsequent maturity. A municipal security issued in accordance with this section may be issued in 1 or more series and may fund 1 or more drain special assessments. The principal amount of a municipal security that may be issued under this section shall not exceed the principal amount of the special assessments to be funded under this section. If any interest is to mature upon the municipal security prior to the time of the next county, township, city, or village tax collection, then the governing body of the county, township, city, or village shall make provision for the payment of that amount when due. The debt evidenced by a municipal security issued under this section shall not be included within the debt of a township, city, or village for any statutory or charter debt limitation purpose. No installment or installments of a special assessment shall be funded under this section unless payable in advance of the due date or due dates, and if the drainage district has issued municipal securities, an equal amount of the principal amount of the municipal securities must be redeemable within 90 days from the delivery of the municipal securities to the purchaser of those municipal securities. The provisions of this part together with the general provisions of this act shall govern the issuance of a municipal security authorized in this section except where inapplicable or inconsistent with this section. All municipal securities issued under this section shall be legal and valid, notwithstanding any illegality in the special assessments funded by those municipal securities.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2513 Debt incurred; issuance of municipal securities secured by limited tax full faith and credit pledge.

Sec. 513. (1) A municipality by resolution of its governing body or by entry into an intergovernmental contract pursuant to section 5 of 1951 PA 35, MCL 124.5, or pursuant to an amendment to a contract adopted and made effective in accordance with the terms of the contract, and without a vote of its electors, may incur debt that shall not be considered debt of the municipality for statutory, charter, or constitutional debt limits, and may issue municipal securities secured by a limited tax full faith and credit pledge for the purpose of either of the following:

(a) Paying premiums and other charges for coverages provided by a pool established pursuant to 1951 PA 35, MCL 124.1 to 124.13, or evidencing fixed payment securities or securities to make payments under specified contingencies pursuant to an intergovernmental self-insurance pool contract approved by the state treasurer, which contract is authorized under 1951 PA 35, MCL 124.1 to 124.13.

(b) Establishing funds, reserves, or accounts in amounts determined by the municipality to defray losses for which insurance coverage could be provided by an insurer pursuant to the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, but for which the municipality has determined to self-insure.

(2) Notwithstanding any provision of this act to the contrary, the municipal security issued under this section shall be issued for the period of time determined by the governing body of the municipality or pursuant to the contract, but not to exceed 30 years.

(3) A municipal security authorized under subsection (1)(a), other than a municipal security to make payments under specified contingencies, shall not be of a term exceeding the coverage provided in consideration for receipt of the proceeds of the municipal security. A municipal security, other than a municipal security issued to make payments under specified contingencies, may mature annually or be subject to mandatory redemption requirements, with the first annual maturity or mandatory redemption requirement to fall due 10 years or less from the date of issuance. Annual maturity or redemption requirements, or a combination of both, of a municipal security issued under this section other than a municipal security issued to make payments under specified contingencies, after 10 years from the date of issuance shall not be less than 1/10 of the amount of any subsequent annual maturity or redemption requirement, or combination of both. A municipal security issued pursuant to subsection (1)(b) shall be subject to the provisions of this act relating to the municipal security. A municipal security issued or incurred under subsection (1)(a) shall be subject to this section only and not to any other section or part of this act. The self-insurance pool shall submit for approval by the state treasurer a copy of the intergovernmental contract pursuant to which a municipal security is to be issued or incurred under subsection (1)(a) prior to the effectiveness of the municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2515 Water supply or sewage disposal, public building, or other public improvement; delivery of municipal security to defray cost.

Sec. 515. (1) A municipality may deliver a municipal security to this state or the federal government for the purpose of defraying the whole or part of the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing any water supply or sewage disposal system or public building or other public improvement.

(2) Parts IV, V, and VI do not apply to any municipal security delivered to this state or the federal government to the extent the requirements of this state or the federal government relating to any of the terms of the debt conflict with the provisions of this act.

(3) As used in this section:

(a) "Federal government" means the federal government or any agency of the federal government.

(b) "This state" means this state or any department, agency, board, commission, fund, corporation, or authority of this state.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2517 Capital improvement items; issuance of municipal security to pay cost; notice of intent; petition; referendum; special election; limitation on amount.

Sec. 517. (1) A county, city, village, or township may by resolution of its governing body, and without a vote of its electors, issue a municipal security under this section to pay the cost of any capital improvement items, 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) If a county, city, village, or township issues a municipal security under this section, before issuance, the county, city, village, or township shall publish a notice of intent to issue the municipal security. The notice of intent shall be directed to the electors of the county, city, village, or township, shall be published in a newspaper that has general circulation in the county, city, village, or township, and shall state the maximum amount of municipal securities to be issued, the purpose of the municipal securities, the source of payment, the right of referendum on the issuance of the municipal securities, and any other information the county, city, village, or township determines necessary to adequately inform the electors of the nature of the issue. The notice of intent shall not be less than 1/4 page in size in the newspaper. If, within 45 days after the publication of the notice of intent, a petition, signed by not less than 10% or 15,000 of the registered electors, whichever is less, residing within the county, city, village, or township, is filed with the governing body of the county, city, village, or township, requesting a referendum upon the question of the issuance of the municipal securities, then the municipality shall not issue the municipal securities until authorized by the vote of a majority of the electors of the county, city, village, or township qualified to vote and voting on the question at a general or special election. A special election called for this purpose shall not be included in a statutory or charter limitation as to the number of special elections to be called within a period of time. Signatures on the

petition shall be verified by a person under oath as the actual signatures of the persons whose names are signed to the petition, and the governing body of the county, city, village, or township shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in the county, city, village, or township shall be determined by the governing body of the county, city, village, or township.

(3) Municipal securities issued under subsection (1) by a county, city, village, or township shall not exceed 5% of the state equalized valuation of the property assessed in that county, city, village, or township.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 541, Imd. Eff. July 26, 2002.

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.