Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4495 (Substitute H-1 as passed by the House)
Sponsor: Representative Anthony G. Forlini
House Committee: Financial Liability Reform
Senate Committee: Finance

Date Completed: 9-21-15

CONTENT

The bill would amend the Revised Municipal Finance Act to provide for a statutory first lien on taxes that are subject to an unlimited tax pledge made by a municipality and levied for the payment of certain municipal securities; and to require a portion of the taxes collected to be held in trust for the owners of the municipal securities.

Section 701 of the Act requires certain amounts to be included in a municipality's tax levy each year, if the municipality has municipal securities outstanding, or with voter approval has authorized the issuance of municipal securities to be paid from collections of its next tax levy. If the municipal securities were authorized or issued before December 23, 1978, or were approved by the voters, the municipality must levy the full amount of the taxes required by Section 701 for the payment of the municipal securities without limitation as to rate or amount and in addition to other taxes that the municipality may be authorized to levy.

The bill specifies that an unlimited tax pledge by that municipality described in the Unlimited Tax Election Act would constitute, without further action or agreement, a statutory first lien on all taxes subject to the unlimited tax pledge. This provision would apply to an unlimited tax pledge made before or after the bill's enactment. (The Unlimited Tax Election Act is described below.)

Under Section 701, as taxes are collected, the portion of the collected taxes that is allocable to the payment of the principal and interest on the municipal securities must be set aside. The bill would require the portion set aside to be held in trust for the owners of the municipal securities, with respect to securities that were an unlimited tax pledge by the municipality under the Unlimited Tax Election Act. This requirement would not alter any existing legal or equitable right or requirement to impose a trust on that portion of tax collections set aside for any other municipal security.

The bill would take effect 90 days after its date of enactment.

MCL 141.2701

BACKGROUND

The Unlimited Tax Election Act provides that, if a public corporation is authorized by statute or charter to issue or incur tax obligations that, under Article 9, Section 6 of the State Constitution, may be secured by unlimited tax pledges of the public corporation if approved by the voters, the legislative body of the public corporation may submit to its electors the question of making one or more unlimited tax pledges in support of one or more tax obligations.

If the voters approve the question, the public corporation may make one or more binding unlimited tax pledges for the payment of one or more tax obligations referred to on the ballot. The public corporation may levy, for payment of those obligations, ad valorem taxes on all taxable property within its boundaries without regard to a charter, statutory, or constitutional tax limitation, and in addition to other taxes that the public corporation may be authorized to levy. The tax levied may not exceed the rate or amount sufficient for payment of the obligations.

The Act defines "public corporation" as a county, city, village, township, charter township, port authority, metropolitan district, or authority of the State, or a combination of those entities when authorized by law to act jointly. "Tax obligation" means a bond, note, contract obligation, assessment, or other evidence of indebtedness payable primarily or secondarily from ad valorem taxes as a general or full faith and credit obligation of a public corporation.

(Under Article 9, Section 6 of the Constitution, the total amount of ad valorem taxes imposed on real and personal property in any year may not exceed a specified number of mills on each dollar of assessed valuation. These limitations do not apply to taxes imposed for the payment of principal and interest on bonds approved by the electors or other voter-approved evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which voter-approved bonds are issued; or, subject to other provisions of the Constitution, to taxes imposed for any other purpose by a city, village, charter county, charter township, charter authority or other authority, whose tax limitations are provided by charter or general law.)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would tend to reduce the debt service costs of local governments that issue debt with an unlimited tax pledge under the Revised Municipal Finance Act. Bond rating agencies have stated that higher bond ratings would be available for debt secured with the requirements that dedicated tax revenue be held in trust for the owners of the municipal security and that there be a statutory first lien on taxes subject to the unlimited tax pledge. An improved bond rating would result in lower interest costs for the issuing local government, which would result in lower local taxes levied for the retirement of the debt. The degree of the cost reduction would depend on a local government's determination to issue such a debt, the financial situation and bond rating of the local government, the amount of debt issued, and the structure of interest rates at the time the debt was issued. The bill would have no fiscal impact on State government.

Fiscal Analyst: Elizabeth Pratt