

SENATE BILL No. 1171

February 24, 2010, Introduced by Senators WHITMER, BASHAM, CHERRY, ANDERSON, BRATER, SANBORN, JACOBS, GLEASON, BARCIA and HUNTER and referred to the Committee on Finance.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending sections 87c and 87d (MCL 211.87c and 211.87d), section 87c as amended by 2002 PA 165 and section 87d as amended by 1982 PA 503.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 87c. (1) A county that has created a fund pursuant to
2 section 87b by resolution of its board of commissioners and without
3 a vote of its electors may borrow money and issue its revolving
4 fund notes to establish or continue, in whole or in part, the
5 delinquent tax revolving fund and to pay the expenses of the
6 borrowing.

7 (2) If a fund is created and a county determines to borrow
8 pursuant to this section, the county treasurer shall be the agent

1 for the county in connection with all transactions relative to the
2 fund.

3 ~~—— (3) If provided by separate resolution of the county board of~~
4 ~~commissioners for any year in which a county determines to borrow~~
5 ~~for the purposes provided in this section and subject to subsection~~
6 ~~(15), there shall be payable from the surplus in the fund an amount~~
7 ~~equal to 20% of the following amount to the county treasurer for~~
8 ~~services as agent for the county and the remainder of the following~~
9 ~~amount to the county treasurer's office for delinquent tax~~
10 ~~administration expenses.~~

11 ~~—— (a) For any delinquent tax on which the interest rate before~~
12 ~~sale exceeds 1% per month, 1/27 of the interest collected per~~
13 ~~month.~~

14 ~~—— (b) For any delinquent tax on which the interest rate before~~
15 ~~sale is 1% per month or less, 3/64 of the interest collected each~~
16 ~~month.~~

17 ~~—— (4) The amount payable under subsection (3) to the county~~
18 ~~treasurer for services as agent for the county shall not exceed 20%~~
19 ~~of the county treasurer's annual salary, and any excess over this~~
20 ~~limitation shall be payable to the county treasurer's office for~~
21 ~~delinquent tax administration expenses. In addition, the total sum~~
22 ~~payable under subsection (3) shall not exceed 5% of the total~~
23 ~~budget of the treasurer's office for that year.~~

24 (3) ~~(5)~~—In the resolution authorizing the borrowing and
25 issuance of notes, the delinquent taxes from which the borrowing is
26 to be repaid shall be pledged to the payment of the principal and
27 interest of the notes, and the proceeds of the collection of the

1 delinquent taxes pledged and the interest on the proceeds shall be
2 placed in a segregated fund or account and shall not be used for
3 any other purpose until the notes are paid in full, including
4 interest. The segregated fund or account shall be established as a
5 part of the delinquent tax revolving fund and shall be accounted
6 for separately on the books of the county treasurer.

7 (4) ~~(6)~~—The proceeds of the notes shall be placed in and used
8 as the whole or part of the fund established pursuant to section
9 87b, after the expenses of borrowing have been deducted.

10 (5) ~~(7)~~—The notes issued pursuant to this section shall comply
11 with all of the following:

12 (a) Be in an aggregate principal amount not exceeding the
13 aggregate amount of the delinquent taxes pledged, exclusive of
14 interest.

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

16 (c) Be in those denominations, and mature on the date not
17 exceeding 6 years after their date of issue, as the board of
18 commissioners by its resolution determines.

19 (d) May be issued at an original issue discount not to exceed
20 2% of the face value of the note issued.

21 (6) ~~(8)~~—The resolution authorizing issuance of the notes may
22 provide that all or part of the notes shall be subject to
23 prepayment and, if subject to prepayment, shall provide the amount
24 of call premium payable, if any, the number of days' notice of
25 prepayment that shall be given, and whether the notice shall be
26 written or published, or both. Otherwise, the notes shall not be
27 subject to prepayment.

1 (7) ~~(9)~~—The sale and award of notes shall be conducted and
2 made by the treasurer of the county issuing them at a public or
3 private sale. If a public sale is held, the notes shall be
4 advertised for sale once not less than 5 days before sale in a
5 publication printed in the English language and circulated in this
6 state that carries as a part of its regular service notices of the
7 sales of municipal bonds and that has been designated in the
8 resolution as a publication complying with these qualifications.
9 The notice of sale shall be in the form designated by the county
10 treasurer. The notes may be sold subject to the option of the
11 county treasurer and the county treasurer may withhold a part of
12 the issue from delivery if, in his or her opinion, sufficient funds
13 are available before delivery of the notes to make full delivery
14 unnecessary to the purposes of the borrowing.

15 (8) ~~(10)~~—The notes are full faith and credit obligations of
16 the county issuing them and, subject to section 87d, if the
17 proceeds of the taxes pledged are not sufficient to pay the
18 principal and interest of the notes when due, the county shall
19 impose a general ad valorem tax without limitation as to rate or
20 amount on all taxable property in the county to pay the principal
21 and interest and may reimburse itself from delinquent taxes
22 collected.

23 (9) ~~(11)~~—If the resolution provides and subject to section
24 87d, the notes may be designated general obligation tax notes.

25 (10) ~~(12)~~—Notwithstanding any other provisions of this section
26 and section 87d, all the following apply:

27 (a) Interest on the notes may be payable at any time provided

1 in the resolution, and may be set, reset, or calculated as provided
2 in the resolution.

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

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

7 (ii) Secured by a letter of credit issued by a bank under an
8 agreement entered into by the county treasurer or by any other
9 collateral that the resolution may authorize.

10 (iii) Callable as set forth in the resolution.

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

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

15 (i) Authorize the issuance of renewal notes.

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

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

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

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

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

25 (ii) Shall not be subject to the revised municipal finance act,
26 2001 PA 34, MCL 141.2101 to 141.2821.

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

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

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

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

13 (11) ~~(13)~~ The notes issued under this section and interest on
14 the notes shall be payable in lawful money of the United States of
15 America and shall be exempt from all taxation by this state or a
16 taxing authority in this state.

17 (12) ~~(14)~~ The notes issued under this section may be made
18 payable at a bank or trust company, or may be made registrable as
19 to principal or as to principal and interest under the terms and
20 conditions specified in the authorizing resolution or by the county
21 treasurer when awarding the notes.

22 ~~—— (15) A county treasurer elected or appointed to office after~~
23 ~~October 1, 1999 is not eligible for the payment under subsection~~
24 ~~(3) for services as agent for the county unless that county~~
25 ~~treasurer held office on October 1, 1999 and has not vacated that~~
26 ~~office after October 1, 1999.~~

27 (13) ~~(16)~~ Notwithstanding 1966 PA 293, MCL 45.501 to 45.521, a

1 county operating under a home rule charter shall not be restricted
 2 by the provisions of the home rule charter in connection with the
 3 powers granted to the county to issue notes by sections 87b and 87d
 4 and this section. The treasurer of a county described in this
 5 subsection, notwithstanding any charter provisions to the contrary,
 6 shall have all of the powers granted to county treasurers by
 7 sections 87b and 87d and this section.

8 ~~—— (17) Notwithstanding the provisions of 1947 PA 261, MCL 45.451~~
 9 ~~to 45.457, the provisions of this section shall control the~~
 10 ~~entitlement of the county treasurer to the fee provided for in this~~
 11 ~~section.~~

12 (14) ~~(18)~~ If the treasurer authorizes on the order authorizing
 13 the notes, any notes issued may be secured in whole or in part
 14 under a trust or escrow agreement. That agreement may authorize the
 15 trustee or escrow agent to make investments of any type authorized
 16 in the agreement.

17 (15) ~~(19)~~ Notes issued under this act are exempt from the
 18 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
 19 141.2821.

20 Sec. 87d. (1) Notwithstanding section ~~87c(10)~~, **87C(8)**, a
 21 county ~~which~~ **THAT** determines to borrow pursuant to section 87c may
 22 submit to its voters the question of issuing revolving fund notes
 23 at any general or special election, which question shall provide
 24 for the establishment of the revolving fund for **A PERIOD** not to
 25 exceed 10 years and shall be in substantially the following form:

26 "Shall the county of _____ establish or continue for
 27 _____ years a delinquent tax revolving fund and, in connection

1 with that fund, borrow an amount not to exceed the delinquent taxes
2 pledged for repayment of the borrowing or borrowings, as may be
3 made each year, and issue its general obligation unlimited tax
4 notes, pledging the county's full faith and credit for the purpose
5 of providing money for the delinquent tax revolving fund?"

6 (2) If a majority of the electors voting on the question vote
7 in favor of the question, the county may proceed to issue the notes
8 as provided for in this act, which notes may be designated general
9 obligation unlimited tax notes.

10 (3) If a majority of the electors voting on the question vote
11 against the question, or if the question is not submitted, the
12 county may also issue the notes but only in accordance with
13 subsection (6).

14 (4) In addition, this section shall validate a question
15 submitted to the electors before ~~the effective date of this section~~
16 **DECEMBER 21, 1978** in which the electors were asked to approve the
17 issuance of general obligation tax notes secured by delinquent
18 taxes, regardless of how the question may have been phrased. The
19 defeat of the question shall require that the notes be issued as
20 nonvoted until a future question is approved by the electors.

21 (5) A county may submit to its electors the question
22 authorized by this section once each calendar year.

23 (6) ~~If~~ **ALL OF THE FOLLOWING APPLY IF** nonvoted notes are issued
24 pursuant to section 87c:

25 (a) The resolution authorizing the borrowing and issuance of
26 the notes shall establish the pledged delinquent taxes, the
27 interest ~~thereon~~, **ON THOSE TAXES**, and any amounts received in the

1 future from taxing units in the county because of the
2 uncollectibility of any delinquent taxes as funds pledged to note
3 repayment, which amounts shall be placed in a segregated fund and
4 used for no other purpose except to repay the notes and the
5 interest ~~thereon.~~ **ON THOSE NOTES.** The resolution shall provide that
6 the expenses of borrowing shall be repaid from the county property
7 tax administration fees on the pledged delinquent taxes and the
8 balance of the county property tax administration fees may be added
9 to the funds pledged to note repayment, if the resolution provides.

10 (b) The notes shall be designated general obligation limited
11 tax notes.

12 (c) The resolution may establish a special fund to secure the
13 notes referred to as a note reserve fund and shall pay into the
14 note reserve fund any proceeds of sale of the notes to the extent
15 provided in the resolution authorizing issuance of the notes. All
16 money in the note reserve fund, except as ~~hereafter~~ **OTHERWISE**
17 provided **IN THIS SUBSECTION**, shall be added to the funds pledged to
18 note repayment and shall be used solely for payment of principal
19 and interest on the notes for which the fund was established ~~—or~~
20 the purchase of notes for which the fund was established. Money in
21 the note reserve fund shall first be withdrawn for payment of
22 principal and interest on notes before other county general funds
23 are used to make the payments. All income or interest earned by, or
24 increment to, the note reserve fund due to its investment or
25 reinvestment shall be deposited in the delinquent tax revolving
26 fund ~~—~~when the notes for which the fund was established are
27 retired. The resolution shall provide that when the note reserve

1 fund is sufficient to retire the notes and accrued interest
2 ~~thereon,~~ **ON THE NOTES,** it may be ~~so~~-used **FOR THAT PURPOSE.**

3 (d) A resolution ~~which~~ **THAT** establishes a note reserve fund
4 may provide for an additional borrowing of an amount not to exceed
5 the amount of the reserve ~~,~~ and the county shall have the power to
6 borrow that additional amount.

7 (e) The notes shall be the full faith and credit obligations
8 of the county issuing them. If the proceeds of the taxes and
9 interest and, when pledged, county property tax administration fees
10 ~~,~~ or note reserve fund are not sufficient to pay the principal and
11 interest ~~,~~ when due, the county shall pay the ~~same~~ **PRINCIPAL AND**
12 **INTEREST** from its general funds or any additional tax ~~which~~ **THAT**
13 may be levied within its constitutional and statutory debt limits ~~,~~
14 and the county may ~~thereafter~~ reimburse itself from delinquent
15 taxes collected. The county's obligation to pay from its general
16 funds shall be its first budget obligation and shall be provided
17 for in the borrowing resolution in the following language:

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

1 (7) ~~If~~ **ALL OF THE FOLLOWING SHALL APPLY IF** coupon notes are
2 issued ~~—~~ pursuant to section 87c or this section:

3 (a) Interest shall be payable semiannually or annually.

4 (b) The coupons shall specify the source from which the notes
5 shall be payable, which may be by reference to the note itself.

6 (c) The coupons shall contain the facsimile signature of the
7 county treasurer.