

HOUSE BILL No. 5726

June 5, 2012, Introduced by Reps. Opsommer, MacGregor, Shaughnessy, Jacobsen, Price and Franz and referred to the Committee on Appropriations.

A bill to amend 2001 PA 34, entitled
"Revised municipal finance act,"
by amending sections 103, 305, and 503 (MCL 141.2103, 141.2305, and
141.2503) and by adding section 518.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 103. As used in this act:

2 (a) "Assessed value", "assessed valuation", "valuation as
3 assessed", and "valuation as shown by the last preceding tax
4 assessment roll", or similar terms, used in this act, any statute,
5 or charter as a basis for computing limitations upon the taxing or
6 borrowing power of any municipality, mean the state equalized
7 valuation as determined under the general property tax act, 1893 PA
8 206, MCL 211.1 to ~~211.157~~ 211.155.

9 (b) "Chief administrative officer" means that term as defined
10 in section 2b of the uniform budgeting and accounting act, 1968 PA

1 2, MCL 141.422b.

2 (c) "Debt" means all borrowed money, loans, and other
3 indebtedness, including principal and interest, evidenced by bonds,
4 obligations, refunding obligations, notes, contracts, securities,
5 refunding securities, municipal securities, or certificates of
6 indebtedness that are lawfully issued or assumed, in whole or in
7 part, by a municipality, or will be evidenced by a judgment or
8 decree against the municipality.

9 (d) "Debt retirement fund" means a segregated account or group
10 of accounts used to account for the payment of, interest on, or
11 principal and interest on a municipal security.

12 (e) "Deficit" means a situation for any fund of a municipality
13 in which, at the end of a fiscal year, total expenditures,
14 including an accrued deficit, exceeded total revenues for the
15 fiscal year, including any surplus carried forward.

16 (F) "DEFINED BENEFIT PLAN" MEANS A RETIREMENT PROGRAM OTHER
17 THAN A DEFINED CONTRIBUTION PLAN.

18 (G) "DEFINED CONTRIBUTION PLAN" MEANS A RETIREMENT PROGRAM
19 THAT PROVIDES FOR AN INDIVIDUAL ACCOUNT FOR EACH PARTICIPANT AND
20 FOR BENEFITS BASED SOLELY UPON THE AMOUNT CONTRIBUTED TO THE
21 PARTICIPANT'S ACCOUNT, AND ANY INCOME, EXPENSES, GAINS, AND LOSSES
22 CREDITED OR CHARGED TO THE ACCOUNT, AND ANY FORFEITURES OF ACCOUNTS
23 OF OTHER PARTICIPANTS THAT MAY BE ALLOCATED TO THE PARTICIPANT'S
24 ACCOUNT.

25 (H) ~~(f)~~ "Department" means the department of treasury.

26 (I) ~~(g)~~ "Fiscal year" means a 12-month period fixed by
27 statute, charter, or ordinance, or if not so fixed, then as

1 determined by the department.

2 **(J)** ~~(h)~~—"Governing body" means the county board of
 3 commissioners of a county; the township board of a township; the
 4 council, common council, or commission of a city; the council,
 5 commission, or board of trustees of a village; the board of
 6 education or district board of a school district; the board of an
 7 intermediate school district; the board of trustees of a community
 8 college district; the county drain commissioner or drainage board
 9 of a drainage district; the board of the district library; the
 10 legislative body of a metropolitan district; the port commission of
 11 a port district; and, in the case of another governmental authority
 12 or agency, that official or official body having general governing
 13 powers over the authority or agency.

14 **(K)** ~~(i)~~—"Municipal security" means a security that when issued
 15 was not exempt from this act or ~~the municipal finance act, FORMER~~
 16 1943 PA 202, ~~MCL 131.1 to 139.3,~~ by the provisions of this act or
 17 by the provisions of ~~the municipal finance act, FORMER~~ 1943 PA 202,
 18 ~~MCL 131.1 to 139.3,~~ or by the provisions of the law authorizing its
 19 issuance and that is payable from or secured by any of the
 20 following:

21 (i) Ad valorem real and personal property taxes.

22 (ii) Special assessments.

23 (iii) The limited or unlimited full faith and credit pledge of
 24 the municipality.

25 (iv) Other sources of revenue described in this act for debt or
 26 securities authorized by this act.

27 **(L)** ~~(j)~~—"Municipality" means a county, township, city, village,

1 school district, intermediate school district, community college
 2 district, metropolitan district, port district, drainage district,
 3 district library, or another governmental authority or agency in
 4 this state that has the power to issue a security. Municipality
 5 does not include this state or any authority, agency, fund,
 6 commission, board, or department of this state.

7 (M) ~~(k)~~ "Outstanding security" means a security that has been
 8 issued, but not defeased or repaid, including a security that when
 9 issued was exempt from this act or ~~the municipal finance act,~~
 10 **FORMER** 1943 PA 202, ~~MCL 131.1 to 139.3,~~ by the provisions of this
 11 act or by the provisions of ~~the municipal finance act,~~ **FORMER** 1943
 12 PA 202, ~~MCL 131.1 to 139.3,~~ or by the provisions of the law
 13 authorizing its issuance.

14 (N) ~~(l)~~ "Qualified status" means a municipality that has filed
 15 a qualifying statement under section 303 and has been determined by
 16 the department to be qualified to issue municipal securities
 17 without further approval by the department.

18 (O) ~~(m)~~ "Refunding security" means a municipal security issued
 19 to refund an outstanding security.

20 (P) "RETIREMENT PROGRAM" MEANS A PROGRAM OF RIGHTS AND
 21 OBLIGATIONS THAT A MUNICIPALITY ESTABLISHES, MAINTAINS, OR
 22 PARTICIPATES IN AND WHICH, BY ITS EXPRESS TERMS OR AS A RESULT OF
 23 SURROUNDING CIRCUMSTANCES, DOES 1 OR MORE OF THE FOLLOWING:

24 (i) PROVIDES RETIREMENT INCOME TO PARTICIPANTS.

25 (ii) RESULTS IN A DEFERRAL OF INCOME FOR PERIODS EXTENDING TO
 26 THE TERMINATION OF COVERED EMPLOYMENT OR BEYOND.

27 (Q) ~~(n)~~ "Security" means an evidence of debt such as a bond,

1 note, contract, obligation, refunding obligation, certificate of
2 indebtedness, or other similar instrument issued by a municipality,
3 which pledges payment of the debt by the municipality from an
4 identified source of revenue.

5 (R) ~~(e)~~—"Sinking fund" means a fund for the payment of
6 principal only of a mandatory redemption security.

7 (S) ~~(p)~~—"Taxable value" means the taxable value of the
8 property as determined under section 27a of the general property
9 tax act, 1893 PA 206, MCL 211.27a.

10 (T) "UNFUNDED PENSION LIABILITY" MEANS THE AMOUNT A DEFINED
11 BENEFIT PLAN'S LIABILITIES EXCEED ITS ASSETS ACCORDING TO THE MOST
12 RECENT GOVERNMENTAL ACCOUNTING STANDARDS BOARD'S APPLICABLE
13 STANDARDS.

14 Sec. 305. (1) A municipal security authorized by law to be
15 issued by a municipality may, notwithstanding the provisions of a
16 charter, bear no interest as provided in this section or a rate of
17 interest not to exceed a maximum rate established by the governing
18 body of the issuing municipality as set forth in its resolution or
19 ordinance authorizing the issuance of the municipal security, which
20 rate shall not exceed 18% per annum or a per annum rate determined
21 by the department at the request of the municipality, whichever is
22 higher. In making its determination, the department shall establish
23 a rate that shall bear a reasonable relationship to 80% of the
24 adjusted prime rate determined by the department under section 23
25 of 1941 PA 122, MCL 205.23. Except as otherwise provided in this
26 section, the rate determined by the department shall be conclusive
27 as to the maximum rate of interest permitted for a municipal

1 security issued under this act.

2 (2) Except as provided in subsection (3), a municipal security
3 issued under this act shall not be sold at a discount exceeding 10%
4 of the principal amount of the municipal security. The amortization
5 of the discount shall be considered interest and shall be within
6 the interest rate limitation set forth in subsection (1).

7 (3) A municipal security may be sold at a discount exceeding
8 10% of the principal amount of the municipal security only if 1 or
9 more of the following conditions apply, as determined by the
10 department:

11 (a) The sale will result in the more even distribution for the
12 municipality of total debt service on proposed and outstanding
13 municipal securities.

14 (b) The sale will result in an interest cost savings when
15 compared to the best available alternative that does not include a
16 municipal security being sold at a discount exceeding 10% of the
17 principal amount.

18 (c) The issuance is based on the availability of specific
19 revenues previously pledged for another purpose and lawfully
20 available for this purpose.

21 (d) The municipal security is issued to this state or the
22 federal government to secure a loan or agreement.

23 **(E) THE MUNICIPAL SECURITY IS ISSUED PURSUANT TO SECTION 518.**

24 (4) A municipal security issued in accordance with subsection
25 (3)(a), (b), or (c) shall be rated investment grade by a nationally
26 recognized rating agency or have insurance for payment of the
27 principal and interest on the municipal security to the holders of

1 the municipal security.

2 (5) Notwithstanding any other provision of this section, a
3 municipal security meeting the requirements of subsection (3) that
4 is a refunding security shall not have a maturity that exceeds the
5 maturity of the existing municipal security.

6 (6) Not more than 25% of the total principal amount of any
7 authorized issue of a municipal security shall meet the
8 qualifications under subsection (3)(a), (b), and (c).

9 (7) A municipal security may bear no interest if sold in
10 accordance with a federal program by which the holder of the
11 municipal security, as a result of holding the municipal security,
12 may declare a credit against a federal tax.

13 (8) A municipal security may bear no interest and appreciate
14 as to principal amount if it meets the requirements of subsections
15 (3), (4), and (6). The accreted principal amount of a municipal
16 security shall be considered interest and shall be within the
17 interest rate limitations provided in subsection (1).

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

27 (2) In the resolution authorizing the issuance of a municipal

1 security, the governing body of the municipality may provide that
2 the municipality may purchase municipal securities in the open
3 market at a price not greater than that payable on the next
4 redemption date in order to satisfy all or part of the next
5 succeeding scheduled mandatory redemption.

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

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

17 (5) A municipal security issued by a school district that is
18 sold in accordance with a federal program in which the holder of
19 the municipal security, as a result of holding the municipal
20 security, may declare a credit against a federal tax is exempt from
21 the provisions of subsection (1) if the school district deposits in
22 trust payments to provide for the repayment of the municipal
23 security and the first required payment shall occur not later than
24 5 years after the date of issuance and each required payment in any
25 year after 4 years from the date of issuance shall not be less than
26 $\frac{1}{5}$ of the total required payment in any subsequent year.

27 (6) A MUNICIPAL SECURITY ISSUED BY A MUNICIPALITY PURSUANT TO

1 SECTION 518 SHALL NOT BE SUBJECT TO THE MATURITY AND MANDATORY
2 REDEMPTION REQUIREMENTS OF SUBSECTION (1) .

3 SEC. 518. (1) IN CONNECTION WITH THE CESSATION OF ACCRUALS TO
4 A DEFINED BENEFIT PLAN AND THE IMPLEMENTATION OF A DEFINED
5 CONTRIBUTION PLAN, OR TO FUND COSTS OF A MUNICIPALITY THAT HAS
6 ALREADY CEASED ACCRUALS TO A DEFINED BENEFIT PLAN, A MUNICIPALITY
7 MAY BY ORDINANCE OR RESOLUTION OF ITS GOVERNING BODY, AND WITHOUT A
8 VOTE OF ITS ELECTORS, ISSUE A MUNICIPAL SECURITY UNDER THIS SECTION
9 TO PAY ALL OR PART OF THE COSTS OF THE UNFUNDED PENSION LIABILITY
10 FOR THAT RETIREMENT PROGRAM PROVIDED THAT THE AMOUNT OF TAXES
11 NECESSARY TO PAY THE PRINCIPAL AND INTEREST ON THAT MUNICIPAL
12 SECURITY, TOGETHER WITH THE TAXES LEVIED FOR THE SAME YEAR, SHALL
13 NOT EXCEED THE LIMIT AUTHORIZED BY LAW.

14 (2) BEFORE A MUNICIPALITY ISSUES A MUNICIPAL SECURITY UNDER
15 THIS SECTION, THE MUNICIPALITY SHALL PUBLISH A NOTICE OF INTENT TO
16 ISSUE THE MUNICIPAL SECURITY. THE NOTICE OF INTENT AND THE RIGHTS
17 OF REFERENDUM SHALL MEET THE REQUIREMENTS OF SECTION 517(2) .

18 (3) A MUNICIPALITY BY RESOLUTION AND WITH A VOTE OF ITS
19 ELECTORS MAY ISSUE A MUNICIPAL SECURITY UNDER THIS SECTION PLEDGING
20 ITS UNLIMITED TAX FULL FAITH AND CREDIT PAYABLE FROM THE LEVY OF
21 TAXES WITHOUT LIMITATION AS TO RATE OR AMOUNT.

22 (4) BEFORE A MUNICIPALITY ISSUES A MUNICIPAL SECURITY UNDER
23 THIS SECTION, THE MUNICIPALITY SHALL PREPARE AND MAKE AVAILABLE TO
24 THE PUBLIC A COMPREHENSIVE FINANCIAL PLAN THAT INCLUDES ALL OF THE
25 FOLLOWING:

26 (A) AN ANALYSIS OF THE CURRENT AND FUTURE OBLIGATIONS OF THE
27 MUNICIPALITY WITH RESPECT TO EACH RETIREMENT PROGRAM OF THE

1 MUNICIPALITY.

2 (B) EVIDENCE THAT THE ISSUANCE OF THE MUNICIPAL SECURITY
3 TOGETHER WITH OTHER FUNDS LAWFULLY AVAILABLE WILL BE SUFFICIENT TO
4 ELIMINATE THE UNFUNDED PENSION LIABILITY.

5 (C) A DEBT SERVICE AMORTIZATION SCHEDULE AND A DESCRIPTION OF
6 ACTIONS REQUIRED TO SATISFY THE DEBT SERVICE AMORTIZATION SCHEDULE.

7 (D) A CERTIFICATION BY THE PERSON PREPARING THE PLAN THAT THE
8 COMPREHENSIVE FINANCIAL PLAN IS COMPLETE AND ACCURATE.

9 (5) MUNICIPAL SECURITIES ISSUED UNDER THIS SECTION BY A
10 MUNICIPALITY AND THE INTEREST ON AND INCOME FROM THE MUNICIPAL
11 SECURITIES ARE EXEMPT FROM TAXATION BY THIS STATE OR A POLITICAL
12 SUBDIVISION OF THIS STATE.

13 (6) A MUNICIPALITY ISSUING MUNICIPAL SECURITIES UNDER THIS
14 SECTION MAY ENTER INTO INDENTURES OR OTHER AGREEMENTS WITH TRUSTEES
15 AND ESCROW AGENTS FOR THE ISSUANCE, ADMINISTRATION, OR PAYMENT OF
16 THE MUNICIPAL SECURITIES.

17 (7) BEFORE A MUNICIPALITY ISSUES A MUNICIPAL SECURITY UNDER
18 THIS SECTION, THE MUNICIPALITY SHALL OBTAIN THE APPROVAL OF THE
19 DEPARTMENT. THE DEPARTMENT SHALL REVIEW THE PROPOSED ISSUANCE OF
20 MUNICIPAL SECURITIES AND IF IT VERIFIES THAT THE MUNICIPALITY MEETS
21 THE REQUIREMENTS OF THIS SECTION, THE DEPARTMENT SHALL APPROVE THE
22 ISSUANCE OF MUNICIPAL SECURITIES UNDER THIS SECTION. IF THE
23 DEPARTMENT DOES NOT RESPOND WITHIN 30 DAYS, THE MUNICIPAL
24 SECURITIES TO BE ISSUED UNDER THIS SECTION ARE DEEMED TO HAVE BEEN
25 APPROVED.