

Legislative Analysis



ISSUANCE OF REVENUE BONDS BY MUNICIPAL JOINT ENDEAVORS

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House Bill 5229 (H-4) as reported from committee
Sponsor: Rep. Jason M. Sheppard
1st Committee: Transportation
2nd Committee: Ways and Means
Complete to 12-10-19

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5229 would amend the Municipal Partnership Act, which authorizes and provides standards for municipal joint endeavors, to allow revenue bonds to be issued under a joint revenue contract, to provide certain requirements for those bonds, to exempt a millage levied by a joint endeavor from counting against the constitutional or statutory millage limitations of its participants, and to exempt a tax levied by a joint endeavor for transportation purposes from capture by other governmental entities for other purposes.

Currently under the act, a municipal joint endeavor may levy a tax of not more than five mills on all taxable property in the areas served by it for the purpose of providing revenue to the joint endeavor.

The bill would provide that if a joint authority levied a tax for public transit services, the contract providing for the joint endeavor would have to include the method by which the public transit services of the joint endeavor will be provided throughout the service area of the joint endeavor.

The bill would also provide that a tax levied by a joint endeavor for transportation purposes could not be used for any purpose related to an international bridge.

If a joint endeavor levied a millage, the number of mills levied by the joint endeavor would be subject to the limitations applicable to and any reductions required by sections 6 and 25 to 31 of Article IX of the State Constitution. The number of mills would count toward the constitutional or statutory tax rate limitation applicable to mills levied by the joint endeavor, but would not count toward the constitutional or statutory tax rate limitation for any participant.

If a joint endeavor contract allowed a tax levy to be used to repay revenue bonds (see below), the ballot proposal for the levy would have to state that revenue from the levy could be used for that purpose.

Additionally, a tax levied by a joint endeavor for transportation purposes and any specific tax attributable to that tax could not be attributed or transmitted to, retained or captured by, any other governmental entity for purposes not authorized by the act or the contract providing for the joint endeavor.

Revenue Bonds under a Joint Endeavor Contract

The bill would allow a contract for a joint endeavor under the act to provide for the joint endeavor, a participant, or a public agency that is a party to the contract to do one or more of the following:

- Borrow money and issue revenue bonds on behalf of the joint endeavor to purchase, acquire, construct, improve, enlarge, extend, or repair one or more public improvements for purposes consistent with the purpose of the joint endeavor and for related project costs.
- Pledge revenue received or to be received under the contract, including revenue from a tax levied by the joint endeavor for the repayment of the revenue bonds.
- Provide for the repayment of the revenue bonds on terms and conditions specified in the resolution authorizing the bonds, the principal and interest of which could be payable only from proceeds specified in the resolution.
- Provide for the creation of a lien on the revenue pledged in favor of the bond holders on terms and conditions specified in the resolution authorizing the bonds.

Resolution to Authorize Revenue Bonds

The resolution authorizing the revenue bonds would have to do both of the following:

- Include a statement that the bonds are revenue bonds and briefly describing the public improvements to be purchased, acquired, constructed, improved, enlarged, extended, or repaired.
- Delegate for a period of time to a designated officer, employee, or agent the power to issue, sell, and deliver revenue bonds within the limits on the bonds established in the resolution relating to form, maximum interest rate, maturity date, purchase price, denomination, redemption rates and premiums (if any), nature of the security, selection of an applicable interest rate index, or other terms and conditions prescribed with respect to the issuance of the revenue bonds.

The resolution authorizing the revenue bonds could do one or more of the following:

- Specify other details or matters necessary or advisable to provide for the prompt and orderly retirement of the bonds and the interest on the bonds at maturity.
- Provide for the deposit of revenues pledged for the payment of the bonds into a separate account for paying principal and interest on the bonds, project costs, and any other bonds issued that are secured by those revenues.
- Authorize the refunding the revenue bonds, in whole or in part, for refunding or restructuring by issuing new revenue bonds if the refunding would be expedient, whether or not the bonds to be refunded have matured, including any identification of parameters under which the refunding bonds can be issued.

Revenue Bond Requirements

The following would apply to the revenue bonds:

- They could not mature more than 30 years after the date of original issuance.
- If the contract for a joint endeavor provided for the creation of a lien, the lien would be a statutory lien on the revenues pledged to pay the principal of, interest on, and project costs of the revenue bonds, to and in favor of the holders of the bonds and any interest coupons. The statutory lien would be a first lien on that revenue, except

that if a prior lien existed, the new lien would be subject to the prior lien. The statutory lien would be effected and perfected without delivery, recording, or notice. The pledged revenue would remain subject to the statutory lien until payment in full of the principal of, interest on, and project costs of the revenue bonds unless the authorizing resolution provided for earlier discharge of the lien by substitution of other security. The statutory lien would not allow the holder of a bond or coupon to compel the sale of a public improvement.

- The revenue bonds could be sold to the Michigan Finance Authority created under Executive Order 2010-2.
- The revenue bonds would be subject to the Revised Municipal Act and would not be subject to the Revenue Bond Act of 1933.

MCL 124.117

FISCAL IMPACT:

Because the provisions of the bill are discretionary in nature and any future participants to joint ventures established and operated under the provisions of the bill are unknown, a fiscal impact cannot be established. The provisions prohibiting any joint venture millage levy from being counted toward the constitutional or statutory number of mills limitation would authorize a participating local government to levy more mills than under current law. It should be noted that the electors of the participating local government would need to authorize any additional millage.

POSITIONS:

Representatives of the following entities testified in support of the bill (12-3-19):

Wayne County
Oakland County
Washtenaw County
City of Detroit
DTE Energy
Quicken Loans
Detroit Regional Chamber
Saginaw Transit Authority

The following entities indicated support for the bill:

Wayne County Community College (12-3-19)
Ilitch Holdings (12-3-19)
Regional Transit Authority of Southeast Michigan (12-3-19)
Ford Motor Company (12-3-19)
Beaumont Health (12-3-19)
HNTB Corporation (12-3-19)
Michigan Realtors (12-3-19)
Southeast Michigan Council of Governments (12-4-19)
Henry Ford Health System (12-3-19)

Michigan Association of Counties (12-4-19)
Michigan Municipal League (12-10-19)
Michigan Chamber of Commerce (12-10-19)
United Way of Southeast Michigan (12-10-19)

The Michigan Public Transit Association indicated a neutral position on the bill. (12-3-19)

The following entities indicated opposition to the bill (12-4-19):

Americans for Prosperity
Michigan Freedom Fund

Legislative Analyst: E. Best
Fiscal Analyst: Ben Gielczyk

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.