

REVISED MUNICIPAL FINANCE ACT (EXCERPT)
Act 34 of 2001

PART VII
TAX LEVIES, DEBT RETIREMENT, AND SINKING FUND

141.2701 Annual tax levy; determination; limitation not applicable; adjustment in event of surplus funds; use of money remaining in debt retirement fund; priority; set aside of tax collections allocable to principal and interest payment; failure of officer to perform duties; “tax levy” defined.

Sec. 701. (1) Subject to subsection (3), if a municipality has municipal securities outstanding, or with the approval of its electors has authorized the issuance of municipal securities to be paid from collections of its next tax levy, an officer or official body charged with a duty in connection with the determination of the amount of the next taxes to be raised or with the levying of the next taxes, shall include all of the following in the amount of taxes levied each year:

(a) An amount such that the estimated collections will be sufficient to promptly pay, when due, the interest on all municipal securities and the portion of the principal falling due whether by maturity or by mandatory redemption before the time of the following year's tax collection.

(b) An amount, if there are outstanding mandatory redemption refunding securities, sufficient to provide the sum required to be deposited, by the ordinance or resolution authorizing the issue, into the sinking fund for that purpose before the time of the following year's tax collection.

(c) An amount, if there are outstanding mandatory redemption municipal securities other than refunding securities not required to be redeemed in annual amounts before the maturity of the outstanding mandatory redemption municipal securities, that if deposited annually into a sinking fund will, with the existing sinking fund pertaining to the municipal securities and the increment of the municipal securities, be sufficient to pay the municipal securities at maturity.

(d) An amount necessary to pay debt service charges or obligations on municipal securities or agreements described in section 317(5) falling due in the immediately preceding fiscal year, to the extent that the tax levy in the preceding fiscal year was inadequate to pay, when due, the debt service charges or obligations on municipal securities or agreements described in section 317(5). The municipality shall do 1 or more of the following with the proceeds of the tax levy:

(i) Deposit in the debt retirement fund established for the municipal securities and used to pay debt service charges or obligations on municipal securities or agreements described in section 317(5).

(ii) Use to pay debt service on short-term municipal securities issued under section 403(5).

(iii) Use to reimburse the municipality for any advances of funds used for the purposes described in subparagraph (i) or (ii).

(2) Subsection (1) does not limit the amount required to be levied in a year for the purposes prescribed in that subsection, by the terms of an ordinance or resolution authorizing the issuance of the municipal securities.

(3) If the municipal securities were authorized or issued before December 23, 1978, or were approved by the electors of a municipality, the municipality shall levy the full amount of taxes required by this section 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. If the municipal securities were authorized or issued by a municipality after December 22, 1978, and were not approved by the electors of the municipality, the municipality shall set aside each year from the levy and collection of ad valorem taxes as required by this section as a first budget obligation for the payment of the municipal securities. However, the ad valorem taxes shall be subject to applicable charter, statutory, or constitutional rate limitations.

(4) If there is surplus money on hand for the payment of principal or interest at the time of making an annual tax levy, and provision has not been made in the authorizing resolution for the disposition of that money, the annual levy for principal or interest shall be adjusted to reflect available funds.

(5) Money remaining in a debt retirement fund from the levy of a tax or an account within a debt retirement fund from the levy of a tax after the retirement of all municipal securities payable from that fund shall be used in the following order of priority:

(a) To pay other outstanding unlimited tax full faith and credit municipal securities.

(b) To pay other outstanding limited tax full faith and credit municipal securities.

(c) To be deposited in the general fund of the municipality.

(6) As taxes are collected, there shall be set aside that portion of the collections that is allocable to the payment of the principal and interest on the municipal securities. The portion set aside shall be divided pro

rata among the various sinking funds and debt retirement funds in accordance with the amount levied for that purpose. Tax collections paid into a debt retirement fund, if the fund is for the payment of more than 1 issue of municipal securities, shall be allocated on the books and records of the municipality between the various issues in accordance with the amounts levied for that purpose.

(7) An officer who willfully fails to perform duties required by this section is personally liable to the municipality or to a holder of a municipal security for loss or damage arising from his or her failure.

(8) As used in this section, "tax levy" includes special assessments.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 500, Imd. Eff. July 3, 2002.

141.2705 Debt retirement funds; accounting; use; pooled or combined for deposit or investment; certification of debt retirement.

Sec. 705. (1) Debt retirement funds, except in the case of a common debt retirement fund maintained by a school district pursuant to section 1223 of the revised school code, 1976 PA 451, MCL 380.1223, shall be accounted for separately and, debt retirement funds, except as provided in section 701(5), shall be used only to retire the municipal securities of the municipality for which the debt retirement fund was created. Debt retirement funds created for the following categories of debt evidenced by a municipal security may be pooled or combined for deposit or investment purposes only with other debt retirement funds created for the same category of debt evidenced by a municipal security:

- (a) Voted debt.
- (b) Nonvoted debt, other than special assessment debt.
- (c) Special assessment debt.

(2) When any municipality completes the retirement of a debt evidenced by a municipal security or accumulates sufficient funds in the debt retirement fund for the retirement of the debts evidenced by a municipal security, the governing body of the municipality shall certify that the debt evidenced by a municipal security is retired or that the debt retirement fund is of sufficient amount to retire the debt evidenced by a municipal security to the county treasurer of the county in which the municipality is located, and the county treasurer shall no longer be required to recognize a levy for the debt or municipal security issue.

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

141.2707 Sinking fund; use; deposit; accounting.

Sec. 707. Any municipality issuing a mandatory redemption refunding security under the provisions of part VI shall provide a sinking fund or funds for the retirement of the refunding security, and there shall be deposited in each sinking fund annually an amount sufficient to pay the principal of that refunding security at or before maturity. All sinking fund money for the retirement of a refunding security shall be accounted for separately and shall be used only for the payment or purchase of the refunding security.

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

CHAPTER VIII

141.2801 Effective date.

Sec. 801. This act takes effect March 1, 2002.

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

141.2802 Outstanding municipal security; default; powers of department; plan; implementation.

Sec. 802. (1) If a municipality fails to pay any installment of principal or interest on an outstanding municipal security on or before its due date, the state treasurer, for a municipality other than a school district, or the superintendent of public instruction, for a school district, may take that action it considers advisable to investigate the municipality's fiscal affairs, may consult with the governing body of the municipality, and may negotiate with the municipality's creditors in order to assist the municipality in developing a plan for financing, adjusting, or compromising the outstanding municipal security for which a payment of an installment of principal or interest had not been paid. As a component of a plan for financing the outstanding municipal security that has been defaulted upon, the department may agree and shall have the power to withhold all or part of state payments under an appropriation made to the municipality, the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, or the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, that the municipality is entitled to receive and to use these withheld amounts to pay unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding municipal security.

Rendered Saturday, December 7, 2024

Page 2

Michigan Compiled Laws Complete Through PA 160 of 2024

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(2) When a plan is developed that the department finds to be fair and equitable and reasonably within the ability of the municipality to meet, the department shall enter an order finding that it is fair, equitable, and within the ability of the municipality to meet. The department shall then advise the governing body to take the necessary steps to implement the plan. If the governing body declines or refuses to do so within 90 days after receiving the department's advice, the department shall be vested with all powers of the municipality, its governing body, and its officers that are necessary to implement the plan. When the department is vested with the authority to implement the plan, the members of the governing body and all officers and employees of the municipality shall be under an affirmative duty to do all things the department determines to be necessary to implement the plan. The department may institute appropriate proceedings in the courts of this state, including those for writs of mandamus and injunctions, to enforce the department's implementation of the plan and compliance with the plan by the governing body and other officers and employees of the municipality.

History: Add. 2002, Act 541, Imd. Eff. July 26, 2002.

141.2803 Repeal of MCL 131.1 to 132.4, 133.1 to 133.9, 133.12 to 133.15, and 134.1 to 139.3; effective date of repeal of MCL 133.10 to 133.11.

Sec. 803. (1) The following are repealed effective March 1, 2002:

(a) Chapters I, II, IV, V, VI, VII, VIII, and IX of the municipal finance act, 1943 PA 202, MCL 131.1 to 132.4 and 134.1 to 139.3.

(b) Sections 1 to 9 and sections 12 to 15 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.1 to 133.9 and 133.12 to 133.15.

(2) The municipal finance act, 1943 PA 202, 133.10 to 133.11, is repealed effective April 30, 2002.

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

141.2805 Repeal of administrative rules of municipal finance division; effective date.

Sec. 805. The administrative rules of the municipal finance division are repealed effective March 1, 2002.

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

141.2807 Exceptions from prior approval of debts or securities; effect of orders; applicability of terms.

Sec. 807. All orders granting exceptions from prior approval of debts or securities issued by the department shall continue in force and effect until the expiration date expressly contained in the order. The terms of the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, and the administrative rules of the municipal finance division shall apply with respect to any security issued pursuant to an order of the department that was issued before May 1, 2002.

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

141.2809 Effect of orders approving issuance of securities.

Sec. 809. All orders approving the issuance of securities issued by the department shall continue in force and effect until October 31, 2002. The terms of former 1943 PA 202 and the administrative rules of the municipal finance division shall apply with respect to any security issued pursuant to an order of the department that was issued before May 1, 2002.

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

141.2811 Effect of MCL 141.2303.

Sec. 811. Except as provided by sections 807 and 809, section 303 replaces and reenacts sections 10 and 11 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.10 and 133.11.

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

141.2813 Effect of MCL 141.2317.

Sec. 813. Except as provided by sections 807 and 809, section 317 replaces and reenacts section 15 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.15.

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

141.2815 Repealed. 2002, Act 541, Imd. Eff. July 26, 2002.

Compiler's note: The repealed section pertained to exemption of certain security from act.

141.2817 Effect of MCL 141.2305.

Sec. 817. Except as provided by sections 807 and 809, section 305 replaces and reenacts section 1a of chapter III of the municipal finance act, 1943 PA 202, MCL 133.1a.

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

141.2819 Validation of previously issued securities.

Sec. 819. Any securities previously issued under or in accordance with the authority contained in the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, are hereby validated.

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

141.2821 Issuance of municipal security beginning March 1, 2002 and ending April 30, 2002; qualified status.

Sec. 821. (1) Beginning March 1, 2002 and ending April 30, 2002, a municipality planning to issue a municipal security may do either of the following:

(a) Seek approval or exception from prior approval of the municipal security from the department in accordance with sections 10 and 11 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.10 and 133.11.

(b) Seek qualified status in accordance with section 303, by filing a qualifying statement referencing the most recent audit report of the municipality previously filed with the department prior to the effective date of this act, or if not previously timely filed, by attaching a copy of the audit report for the most recently completed fiscal year for which an audit has been completed.

(2) If a municipality elects to seek qualified status as described in subsection (1) during the period between March 1, 2002 and May 1, 2002, the department shall determine within 30 business days of receipt of the qualifying statement whether the municipality complies with the requirements of section 303(3). If the department determines that the municipality complies with the provisions of section 303(3) or if the department fails to notify the municipality of its determination under this subsection within 30 business days of receipt of the qualifying statement, the municipality may proceed to issue municipal securities in accordance with this act without further approval from the department until 30 business days after the next qualifying statement is due or received by the department, whichever occurs first.

(3) If a municipality is not granted qualified status pursuant to subsection (2), or if a municipality does not file a qualifying statement as described in subsection (1), the municipality shall comply with section 303(7) for each municipal security issued until the municipality obtains qualified status based on the audit report and qualifying statement next duly filed by the municipality in accordance with section 303.

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