

**Statement before Banking and Financial Services Committee
Michigan House of Representatives
Regarding “Financial Flexibility” Legislation
HBs 5550-5554
327 Anderson House Office Building
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Good morning, Mr. Chairman and members of the Committee. My name is Michael McGee. I am a public finance lawyer and managing director with the law firm of Miller, Canfield, Paddock and Stone. I am here to speak in favor of the bills from the perspective of a finance lawyer who represents cities, villages, townships, counties and authorities across the State, including some appearing here today.

I. The Growing Problem

About a year ago, I testified to this Committee that throughout the nation, as well as in Michigan, property values were undergoing dramatic declines. I wish I could say this morning that things have gotten much better since then. As we all know, they haven't. In the year since, we have seen continuing residential property value weakness, and now have begun to see dramatic declines in commercial and industrial property values as well. These declining values are causing, and will continue to cause, an equally dramatic decline in property tax revenues. What we anticipated 24 months ago is coming to pass, with many

Michigan municipalities experiencing actual reductions in year-to-year property tax revenues. Coupled with the constraints on revenue sharing on account of similar declines in State tax revenues, Michigan municipalities are facing a degree of fiscal stress that we haven't seen since the 1930s.

You have heard all this, I know, in your budget discussions. But it bears repeating: This is not a one-time event. It is a long-term, systemic change to local government finance. Nor is the stress limited to a few local governments. In my experience, it is universal. Indeed, as one indicator, I believe more communities are under emergency financial management in Michigan today than has ever been true at one time before. This is the new normal.

Prior to the downturn, many municipalities financed essential infrastructure improvements, often made for new economic development to support business and attract jobs, through bond issues guaranteed by the municipality's general fund. Common improvements were new streets to entice businesses to locate or expand in a particular community, or new sewer and water lines or other utilities to support business expansion or location (of which Standish is an example), and similar improvements.

The bonds issued to pay for these improvements frequently were secured by anticipated property tax payments. The revenue streams securing the bonds often were in the form of property tax capture, so-called "TIF" capture, which uses

the future value of new private investment to pay for the basic infrastructure needed to attract the new investment in the first place. Property tax values typically were forecast by financial advisors for each community assuming some modest growth, or at least stable values. Given the unprecedented downturn in values, however, even conservative assumptions have proven to be too optimistic. Thus, municipalities are having to use their general funds to make up the difference to meet bond payments.

II. Solution

So what is the solution? The purpose of these bills is simply to give local governments some of the same financial flexibility to restructure their debt as the private sector has. We are often told that government should be run like a private business. Well, private business restructures its debt frequently. In extreme cases, such as bankruptcy, the private sector doesn't just restructure its debt – it eliminates it. In less dramatic cases, you have heard for example the term “short sales,” which in effect are lender restructurings of mortgage debt. The fact is that debt restructuring is a basic finance tool in the private sector today.

Nothing nearly that dramatic is proposed by these bills. Instead, the bills would enable the least disruptive type of restructuring – merely permitting repayment periods to be extended out further into the future. If the municipality can extend the duration of the loan, its annual debt service payments will be

reduced. This will allow the municipality to better match its debt payments with current tax revenues. The idea is simple: try as best one can to match debt payments to revenues, improving current cash flow.

The bills are necessary because under current state law, a local government's legal ability to refinance (or "refund") existing bonds is limited to certain unique situations, which generally do not include simple revenue declines. These proposed amendments would provide a two-year window – through the end of 2012 – to refinance existing debt where presently a refinancing is not legally authorized.

III. Description of Amendments

A. Two Amendments to The Revised Municipal Finance Act, Act No. 34, Michigan Public Acts of 2001, as amended

i. Refinancing Amendment-HB 5550

This amendment to the Revised Municipal Finance Act provides that local governments can refund (or refinance) existing municipal debt without present value savings through December 31, 2012 if that debt is backed by a limited full faith and credit pledge of the local government. Bonds which have been voter-approved would not be eligible.

ii. Capital Appreciation Bonds Amendment-HB 5551

This amendment provides flexibility to allow municipal governments to issue certain bonds that do not have immediate interest payments to further assure that governments would be able to structure transactions so that their debts would be within the confines of actual property tax revenues.

**B. Tax Increment Finance Acts-HB 5552 (DDA) HB 5553 (TIFA),
HB 5554 (LDFA)**

These proposed amendments provide for a similar refunding window as is provided by the proposed amendment to the Revised Municipal Finance Act. These amendments would allow local governments to refinance obligations secured by property tax revenue captured from the local governments and the state without present value savings, but do not allow new projects to be undertaken other than as is already provided by law.

IV. Conclusion

In sum, these proposed amendments would provide Michigan local governments with modest additional financial flexibility in a difficult time, and offer one additional tool by which local governments could adjust in an orderly way to the new financial reality. Thank you, Mr. Chairman.