

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1129

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**.

1 (b) "Chief administrative officer" means that term as defined
2 in section 2b of the uniform budgeting and accounting act, 1968 PA
3 2, MCL 141.422b.

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

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

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

18 **(F) "DEFINED BENEFIT PLAN" MEANS A RETIREMENT PROGRAM OTHER**
19 **THAN A DEFINED CONTRIBUTION PLAN.**

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

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

1 (I) ~~(g)~~—"Fiscal year" means a 12-month period fixed by
2 statute, charter, or ordinance, or if not so fixed, then as
3 determined by the department.

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

16 (K) "HEALTH CARE TRUST FUND" MEANS A TRUST OR FUND CREATED IN
17 ACCORDANCE WITH THE PUBLIC EMPLOYEE HEALTH CARE FUND INVESTMENT
18 ACT, 1999 PA 149, MCL 38.1211 TO 38.1216, OR OTHER STATE OR FEDERAL
19 STATUTE, AND USED EXCLUSIVELY TO PROVIDE FUNDING FOR POSTEMPLOYMENT
20 HEALTH CARE BENEFITS FOR PUBLIC EMPLOYEE RETIREES OF A COUNTY,
21 CITY, VILLAGE, OR TOWNSHIP. A HEALTH CARE TRUST FUND ALSO INCLUDES
22 THE RETIREE HEALTH FUND VEHICLE ADMINISTERED BY THE MUNICIPAL
23 EMPLOYEES RETIREMENT SYSTEM DESCRIBED IN THE MUNICIPAL EMPLOYEES
24 RETIREMENT ACT OF 1984, 1984 PA 427, MCL 38.1501 TO 38.1555, FOR A
25 COUNTY, CITY, VILLAGE, OR TOWNSHIP THAT HAS ADOPTED THE MUNICIPAL
26 EMPLOYEE RETIREMENT SYSTEM TO PROVIDE FUNDING FOR POSTEMPLOYMENT
27 HEALTH CARE BENEFITS FOR PUBLIC EMPLOYEE RETIREES.

1 **(I)** ~~(i)~~—"Municipal security" means a security that when issued
2 was not exempt from this act or ~~the municipal finance act, FORMER~~
3 1943 PA 202, ~~MCL 131.1 to 139.3,~~ by the provisions of this act or
4 by ~~the provisions of the municipal finance act, FORMER~~ 1943 PA 202
5 ~~, MCL 131.1 to 139.3,~~ or by the provisions of the law authorizing
6 its issuance and that is payable from or secured by any of the
7 following:

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

9 (ii) Special assessments.

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

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

14 **(M)** ~~(j)~~—"Municipality" means a county, township, city,
15 village, school district, intermediate school district, community
16 college district, metropolitan district, port district, drainage
17 district, district library, or another governmental authority or
18 agency in this state that has the power to issue a security.
19 Municipality does not include this state or any authority, agency,
20 fund, commission, board, or department of this state.

21 **(N)** ~~(k)~~—"Outstanding security" means a security that has been
22 issued, but not defeased or repaid, including a security that when
23 issued was exempt from this act or ~~the municipal finance act,~~
24 **FORMER** 1943 PA 202, ~~MCL 131.1 to 139.3,~~ by the provisions of this
25 act or by ~~the provisions of the municipal finance act, FORMER~~ 1943
26 PA 202, ~~MCL 131.1 to 139.3,~~ or by the provisions of the law
27 authorizing its issuance.

1 (O) ~~(l)~~—"Qualified status" means a municipality that has filed
2 a qualifying statement under section 303 and has been determined by
3 the department to be qualified to issue municipal securities
4 without further approval by the department.

5 (P) ~~(m)~~—"Refunding security" means a municipal security issued
6 to refund an outstanding security.

7 (Q) "RETIREMENT PROGRAM" MEANS A PROGRAM OF RIGHTS AND
8 OBLIGATIONS WHICH A COUNTY, CITY, VILLAGE, OR TOWNSHIP ESTABLISHES,
9 MAINTAINS, OR PARTICIPATES IN AND WHICH, BY ITS EXPRESS TERMS OR AS
10 A RESULT OF SURROUNDING CIRCUMSTANCES, DOES 1 OR MORE OF THE
11 FOLLOWING:

12 (i) PROVIDES RETIREMENT INCOME TO PARTICIPANTS.

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

15 (R) ~~(n)~~—"Security" means an evidence of debt such as a bond,
16 note, contract, obligation, refunding obligation, certificate of
17 indebtedness, or other similar instrument issued by a municipality,
18 which pledges payment of the debt by the municipality from an
19 identified source of revenue.

20 (S) ~~(o)~~—"Sinking fund" means a fund for the payment of
21 principal only of a mandatory redemption security.

22 (T) ~~(p)~~—"Taxable value" means the taxable value of the
23 property as determined under section 27a of the general property
24 tax act, 1893 PA 206, MCL 211.27a.

25 (U) "UNFUNDED ACCRUED HEALTH CARE LIABILITY" MEANS THE
26 DIFFERENCE BETWEEN THE ASSETS AND LIABILITIES OF A HEALTH CARE
27 TRUST FUND AS DETERMINED BY AN ACTUARIAL STUDY ACCORDING TO THE

1 MOST RECENT GOVERNMENTAL ACCOUNTING STANDARDS BOARD'S APPLICABLE
2 STANDARDS.

3 (V) "UNFUNDED PENSION LIABILITY" MEANS THE AMOUNT A DEFINED
4 BENEFIT PLAN'S LIABILITIES EXCEED ITS ASSETS ACCORDING TO THE MOST
5 RECENT GOVERNMENTAL ACCOUNTING STANDARDS BOARD'S APPLICABLE
6 STANDARDS.

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

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

27 (3) A municipal security may be sold at a discount exceeding

1 10% of the principal amount of the municipal security only if 1 or
2 more of the following conditions apply, as determined by the
3 department:

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

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

11 (c) The issuance is based on the availability of specific
12 revenues previously pledged for another purpose and lawfully
13 available for this purpose.

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

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

17 (4) A municipal security issued in accordance with subsection
18 (3)(a), (b), or (c) shall be rated investment grade by a nationally
19 recognized rating agency or have insurance for payment of the
20 principal and interest on the municipal security to the holders of
21 the municipal security.

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

26 (6) Not more than 25% of the total principal amount of any
27 authorized issue of a municipal security shall meet the

1 qualifications under subsection (3) (a), (b), and (c).

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

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

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

20 (2) In the resolution authorizing the issuance of a municipal
21 security, the governing body of the municipality may provide that
22 the municipality may purchase municipal securities in the open
23 market at a price not greater than that payable on the next
24 redemption date in order to satisfy all or part of the next
25 succeeding scheduled mandatory redemption.

26 (3) The governing body of the municipality may provide that
27 some or all of the principal amounts maturing in any year may be

1 redeemed at the option of the municipality at the times, on the
2 terms and conditions, and at the price as provided by resolution of
3 the governing body, except that a municipality shall not agree to
4 pay a premium exceeding 3% of the principal amount being redeemed.

5 (4) All outstanding and authorized municipal securities of a
6 school district payable out of taxes may be treated as a single
7 issue for the purpose of fixing maturities. Several series of
8 municipal securities issued under the same authorization may be
9 treated as a single issue for the purpose of fixing maturities.

10 (5) A municipal security issued by a school district that is
11 sold in accordance with a federal program in which the holder of
12 the municipal security, as a result of holding the municipal
13 security, may declare a credit against a federal tax is exempt from
14 the provisions of subsection (1) if the school district deposits in
15 trust payments to provide for the repayment of the municipal
16 security and the first required payment shall occur not later than
17 5 years after the date of issuance and each required payment in any
18 year after 4 years from the date of issuance shall not be less than
19 1/5 of the total required payment in any subsequent year.

20 (6) A MUNICIPAL SECURITY ISSUED BY A COUNTY, CITY, VILLAGE, OR
21 TOWNSHIP PURSUANT TO SECTION 518 SHALL NOT BE SUBJECT TO THE
22 MATURITY AND MANDATORY REDEMPTION REQUIREMENTS OF SUBSECTION (1).

23 SEC. 518. (1) THROUGH DECEMBER 31, 2014, IN CONNECTION WITH
24 THE PARTIAL OR COMPLETE CESSATION OF ACCRUALS TO A DEFINED BENEFIT
25 PLAN OR THE CLOSURE OF THE DEFINED BENEFIT PLAN TO NEW OR EXISTING
26 EMPLOYEES, AND THE IMPLEMENTATION OF A DEFINED CONTRIBUTION PLAN,
27 OR TO FUND COSTS OF A COUNTY, CITY, VILLAGE, OR TOWNSHIP THAT HAS

1 ALREADY CEASED ACCRUALS TO A DEFINED BENEFIT PLAN, A COUNTY, CITY,
2 VILLAGE, OR TOWNSHIP MAY BY ORDINANCE OR RESOLUTION OF ITS
3 GOVERNING BODY, AND WITHOUT A VOTE OF ITS ELECTORS, ISSUE A
4 MUNICIPAL SECURITY UNDER THIS SECTION TO PAY ALL OR PART OF THE
5 COSTS OF THE UNFUNDED PENSION LIABILITY FOR THAT RETIREMENT PROGRAM
6 PROVIDED THAT THE AMOUNT OF TAXES NECESSARY TO PAY THE PRINCIPAL
7 AND INTEREST ON THAT MUNICIPAL SECURITY, TOGETHER WITH THE TAXES
8 LEVIED FOR THE SAME YEAR, SHALL NOT EXCEED THE LIMIT AUTHORIZED BY
9 LAW.

10 (2) THROUGH DECEMBER 31, 2014, A COUNTY, CITY, VILLAGE, OR
11 TOWNSHIP MAY BY ORDINANCE OR RESOLUTION OF ITS GOVERNING BODY, AND
12 WITHOUT A VOTE OF ITS ELECTORS, ISSUE A MUNICIPAL SECURITY UNDER
13 THIS SECTION TO PAY THE COSTS OF THE UNFUNDED ACCRUED HEALTH CARE
14 LIABILITY PROVIDED THAT THE AMOUNT OF TAXES NECESSARY TO PAY THE
15 PRINCIPAL AND INTEREST ON THAT MUNICIPAL SECURITY, TOGETHER WITH
16 THE TAXES LEVIED FOR THE SAME YEAR, SHALL NOT EXCEED THE LIMIT
17 AUTHORIZED BY LAW OR TO REFUND IN WHOLE OR IN PART A CONTRACT
18 OBLIGATION ISSUED FOR THE SAME PURPOSE. POSTEMPLOYMENT HEALTH CARE
19 OR BENEFITS MAY BE FUNDED BY THE COUNTY, CITY, VILLAGE, OR
20 TOWNSHIP. THE FUNDING OF POSTEMPLOYMENT HEALTH CARE BENEFITS BY A
21 COUNTY, CITY, VILLAGE, OR TOWNSHIP AS PROVIDED IN THIS ACT SHALL
22 NOT CONSTITUTE A CONTRACT TO PAY THE POSTEMPLOYMENT HEALTH CARE
23 BENEFITS.

24 (3) BEFORE A COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUES A
25 MUNICIPAL SECURITY UNDER THIS SECTION, THE COUNTY, CITY, VILLAGE,
26 OR TOWNSHIP SHALL PUBLISH A NOTICE OF INTENT TO ISSUE THE MUNICIPAL
27 SECURITY. THE NOTICE OF INTENT AND THE RIGHTS OF REFERENDUM SHALL

1 MEET THE REQUIREMENTS OF SECTION 517(2).

2 (4) BEFORE A COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUES A
3 MUNICIPAL SECURITY UNDER THIS SECTION, THE COUNTY, CITY, VILLAGE,
4 OR TOWNSHIP SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC A
5 COMPREHENSIVE FINANCIAL PLAN THAT INCLUDES ALL OF THE FOLLOWING:

6 (A) AN ANALYSIS OF THE CURRENT AND FUTURE OBLIGATIONS OF THE
7 COUNTY, CITY, VILLAGE, OR TOWNSHIP WITH RESPECT TO EACH RETIREMENT
8 PROGRAM AND EACH POSTEMPLOYMENT HEALTH CARE BENEFIT PROGRAM OF THE
9 COUNTY, CITY, VILLAGE, OR TOWNSHIP.

10 (B) EVIDENCE THAT THE ISSUANCE OF THE MUNICIPAL SECURITY
11 TOGETHER WITH OTHER FUNDS LAWFULLY AVAILABLE WILL BE SUFFICIENT TO
12 ELIMINATE THE UNFUNDED PENSION LIABILITY OR THE UNFUNDED ACCRUED
13 HEALTH CARE LIABILITY.

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

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

18 (E) IF THE PROCEEDS OF THE BORROWING ARE TO BE DEPOSITED IN A
19 HEALTH CARE TRUST FUND, A PLAN IN PLACE FROM THE COUNTY, CITY,
20 VILLAGE, OR TOWNSHIP TO MITIGATE THE INCREASE IN HEALTH CARE COSTS
21 AND MAY INCLUDE A WELLNESS PROGRAM THAT PROMOTES THE MAINTENANCE OR
22 IMPROVEMENT OF HEALTHY BEHAVIORS.

23 (5) MUNICIPAL SECURITIES ISSUED UNDER THIS SECTION BY A
24 COUNTY, CITY, VILLAGE, OR TOWNSHIP AND THE INTEREST ON AND INCOME
25 FROM THE MUNICIPAL SECURITIES ARE EXEMPT FROM TAXATION BY THIS
26 STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

27 (6) THE PROCEEDS OF A MUNICIPAL SECURITY ISSUED UNDER THIS

1 SECTION MAY BE USED TO PAY THE COSTS OF ISSUANCE OF THE MUNICIPAL
2 SECURITY. EXCEPT FOR A REFUNDING, THE PROCEEDS OF A MUNICIPAL
3 SECURITY ISSUED UNDER THIS SECTION TO COVER UNFUNDED HEALTH CARE
4 LIABILITY SHALL BE DEPOSITED IN A HEALTH CARE TRUST FUND, A TRUST
5 CREATED BY THE ISSUER WHICH HAS AS ITS BENEFICIARY A HEALTH CARE
6 TRUST FUND, OR, FOR A COUNTY, CITY, VILLAGE, OR TOWNSHIP, A
7 RESTRICTED FUND WITHIN A TRUST THAT WOULD ONLY BE USED TO RETIRE
8 THE MUNICIPAL SECURITIES ISSUED UNDER SUBSECTION (1) OR (3). A
9 COUNTY, CITY, VILLAGE, OR TOWNSHIP SHALL HAVE THE POWER TO CREATE A
10 TRUST TO CARRY OUT THE PURPOSES OF THIS SUBSECTION. THE TRUST
11 CREATED UNDER THIS SUBSECTION SHALL INVEST ITS FUNDS IN THE SAME
12 MANNER AS FUNDS INVESTED BY A HEALTH CARE TRUST FUND. THE TRUST
13 CREATED UNDER THIS SUBSECTION SHALL COMPLY WITH ALL OF THE
14 FOLLOWING:

15 (A) REPORT ITS FINANCIAL CONDITION ACCORDING TO GENERALLY
16 ACCEPTED ACCOUNTING PRINCIPLES.

17 (B) BE TAX-EXEMPT UNDER THE INTERNAL REVENUE CODE.

18 (7) A COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUING MUNICIPAL
19 SECURITIES UNDER THIS SECTION MAY ENTER INTO INDENTURES OR OTHER
20 AGREEMENTS WITH TRUSTEES AND ESCROW AGENTS FOR THE ISSUANCE,
21 ADMINISTRATION, OR PAYMENT OF THE MUNICIPAL SECURITIES.

22 (8) BEFORE A COUNTY, CITY, VILLAGE, OR TOWNSHIP ISSUES A
23 MUNICIPAL SECURITY UNDER THIS SECTION, THE COUNTY, CITY, VILLAGE,
24 OR TOWNSHIP SHALL OBTAIN THE APPROVAL OF THE DEPARTMENT.

25 (9) IF A COUNTY, CITY, VILLAGE, OR TOWNSHIP HAS ISSUED A
26 MUNICIPAL SECURITY UNDER THIS SECTION, THAT COUNTY, CITY, VILLAGE,
27 OR TOWNSHIP SHALL NOT CHANGE THE BENEFIT STRUCTURE OF THE DEFINED

1 BENEFIT PLAN IF THE DEFINED BENEFIT PLAN IS UNDERGOING THE PARTIAL
2 CESSATION OF ACCRUALS. HOWEVER, A COUNTY, CITY, VILLAGE, OR
3 TOWNSHIP MAY REDUCE BENEFITS OF THE DEFINED BENEFIT PLAN FOR YEARS
4 OF SERVICE THAT ACCRUE AFTER THE ISSUANCE OF MUNICIPAL SECURITIES
5 UNDER THIS SECTION.

6 (10) A COUNTY, CITY, VILLAGE, OR TOWNSHIP SHALL NOT ISSUE A
7 MUNICIPAL SECURITY UNDER SUBSECTION (1) OR (2) UNLESS THE COUNTY,
8 CITY, VILLAGE, OR TOWNSHIP HAS BEEN ASSIGNED A CREDIT RATING WITHIN
9 THE CATEGORY OF AA OR HIGHER OR THE EQUIVALENT BY AT LEAST 1
10 NATIONALLY RECOGNIZED RATING AGENCY.

11 (11) A COUNTY, CITY, VILLAGE, OR TOWNSHIP THAT ISSUES A
12 MUNICIPAL SECURITY UNDER SUBSECTION (1) SHALL COVENANT WITH THE
13 HOLDERS OF THE MUNICIPAL SECURITY AND THIS STATE THAT IT WILL NOT,
14 AFTER THE ISSUANCE OF THE MUNICIPAL SECURITY AND WHILE THE
15 MUNICIPAL SECURITY IS OUTSTANDING, RESCIND WHATEVER ACTION IT HAS
16 TAKEN TO MAKE A PARTIAL OR COMPLETE CESSATION OF ACCRUALS TO A
17 DEFINED BENEFIT PLAN OR THE CLOSURE OF THE DEFINED BENEFIT PLAN FOR
18 NEW OR EXISTING EMPLOYEES.