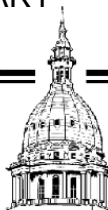




Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4503 (Substitute H-1)
Sponsor: Representative Robert Breckenridge
House Committee: Local Government
Senate Committee: Local, Urban and State Affairs

Date Completed: 11-29-95

SUMMARY OF HOUSE BILL 4503 (Substitute H-1) as passed by the House:

The bill would amend Public Act 354 of 1972, which authorizes the replacement or payment without presentation of lost, destroyed or wrongfully taken bonds, to permit a paying agent to exercise on behalf of the governing body of a public corporation the powers granted to it to replace an obligation.

Currently, a public corporation, by resolution of its governing body or the State Treasurer, may replace an unmatured or matured obligation that has been lost, apparently destroyed, or wrongfully taken, when certain items have been furnished, including an indemnity bond to indemnify the public corporation and a paying agent against any loss they may suffer because of issuing a replacement obligation or paying an obligation without presentation of the obligation. The bill would require that an indemnity bond be issued by a company rated in one of the three highest rating categories and one of the top 10 financial size categories by a nationally recognized insurance rating agency, and would require the bond to indemnify the public corporation, the obligor, if any, and the paying agent.

For a paying agent to exercise the powers to replace an obligation, the following conditions would have to be met: the governing body adopted a resolution generally authorizing the paying agent to exercise these powers, and, in each case in which the paying agent wished to exercise these powers, the paying agent notified the governing body in writing and the governing body did not object within 60 days after being notified.

A paying agent would have to notify the governing body of a public corporation of that agent's exercise of powers granted to the governing body under the Act within 30 days after exercising these powers. The bill also specifies that a person holding the same office held by the person who originally executed the obligation would be authorized to execute and seal a replacement obligation without further action of the governing body upon notice from the paying agent that the conditions for issuing a replacement obligation had been met.

If a public corporation were organized under the Economic Development Corporations Act, either the legislative body of the municipality that incorporated the corporation or the public corporation's governing body could adopt the resolution. If the legislative body adopted the resolution, that body, rather than the governing body, would have to be notified and could exercise the power to object.

"Paying agent" would mean either of the following: for an obligation that was not registered as to payment or principal by or on behalf of the public corporation that issued the obligation, any bank or trust company designated by the public corporation to make payment of principal of or interest on the obligation; or, for an obligation that was registered as to payment of principal by or on behalf of the public corporation that issued the obligation, any bank or trust company that was authorized by the public corporation to authenticate the obligation on behalf of the public corporation. "Obligor" would mean either of the following: a person or entity that had borrowed the proceeds of an obligation from a public corporation and was contractually obligated to make loan repayments sufficient to pay principal of and interest on the obligation; or, a person or entity that had leased, rented, or purchased on an installment basis from a public corporation a facility financed with proceeds from an obligation and that was making payments for the use or purchase of the facility in amounts sufficient to pay principal of and interest on the obligation.

"Public corporation" currently is defined as a body corporate organized pursuant to State law to carry out a public governmental or proprietary function, including the State, an agency of the State, or any school district, city, village, township, county, district, commission, authority, university, college, or any combination of these, which is a corporate entity. The bill would include an intermediate school district as a public corporation.

MCL 129.131-129.134

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: K. Lindquist

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.