



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

## BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bill 4973 (as passed by the House)  
Sponsor: Representative Lyn Bankes  
House Committee: Urban Policy  
Senate Committee: Finance

Date Completed: 5-13-96

### **CONTENT**

The bill would amend Public Act 18 of the Extra Session of 1933 to make a number of changes regarding the operations of municipal housing commissions. Currently, the Act allows a city, village, county, or township, or a municipal housing commission created by the local unit, to provide for public housing and eliminate housing conditions that are detrimental to public health and safety. The bill would allow a local housing commission, if authorized by the local unit of government that created it, to issue bonds and notes; expand the existing powers of a commission, including the ability to form nonprofit corporations; provide an exemption from all State and local taxes for a commission's property, income, and operations; provide for an annual service fee in lieu of taxes; specify the membership of a commission; and make various changes to the Act's provisions regarding bonding for local housing projects operated by a commission or a local unit of government.

#### **Allow Commission to Borrow, Issue Bonds**

Currently, under the Act, a housing commission created by a local unit is not considered a "borrower" (a local unit of government) and cannot issue notes and bonds; further, all deeds, contracts, leases, and purchases entered into by a commission must be done in the name of and approved by the governing body of the city or village. The bill provides that a commission could be a borrower and issue notes and bonds if authorized by an ordinance passed by the local unit that created the commission. If a commission were a borrower, it could loan any amount of the borrowed money to the local unit, which could execute any deed, mortgage, lease, contract, or other agreement with respect to property for which bonds or notes were issued. If the commission made a loan to the local unit, the local unit would have all powers granted under the Act to a borrower for purposes of securing repayment of the loan.

Further, all deeds, mortgages, contracts, leases, purchases, or other agreements regarding real property would have to be executed in the name of the commission or the local unit, as specified by ordinance or resolution of the local unit's governing body. "Contracts or leases regarding real property" would mean contracts to purchase or lease from a third party or other transactions under which rights or possession of real property were acquired, but would not include contracts, management agreements, or leases of that property with tenants or facility managers; contracts or leases with tenants or facility managers would have to be executed by and in the name of the commission. The governing body of a local unit could transfer property taken under its power of eminent domain to the commission for use by the commission for a purpose authorized under the Act. The transfer would have to be considered necessary for public purposes and for the benefit

of the public. If an ordinance or resolution of the governing body provided for the execution of agreements regarding real property in the name of the commission, or if a commission were empowered by the local unit to act as a borrower, the commission could sue and be sued with respect to those agreements it executed for obligations it issued. This provision would not affect a limitation provided by the Act or by the terms of an agreement upon the funds available or the pledge made for the payment of a claim against the commission.

### Commission Powers

Currently, the Act prescribes the powers of a housing commission, including the power to determine areas of a local unit where housing facilities are needed or where existing housing needs to be eliminated; to purchase, sell, and mortgage property; to control and supervise parks; and to establish and revise rents. The bill further provides that a commission would be a public body corporate, and could do the following:

- Sue and be sued in any court of the State.
- Form or incorporate nonprofit corporations for any purpose not inconsistent with the purposes for which the commission was formed.
- Serve as a shareholder or member of a qualified nonprofit corporation.
- Authorize, approve, execute, and file with the Michigan Department of Commerce those documents that were appropriate to form and continue one or more qualified nonprofit corporations.
- Solicit, accept, and enter into agreements relating to grants from any public or private source, including State or Federal agencies, and carry out any State or Federal program related to the purposes for which the commission was created.

### Tax Exemption

The bill provides that the property, income, and operations of a commission, and property of a "qualified nonprofit entity" that was located in the commission's local unit, would be exempt from all taxation by the State or any political subdivision. The governing body of a local unit could adopt an ordinance to require a commission to pay an annual service fee in lieu of all taxes with respect to projects or facilities of the commission or qualified nonprofit entities. The fee could not exceed 10% of the annual shelter rent obtained from the projects or facilities.

Each local unit, as of the bill's effective date, that received payment in lieu of taxes with respect to a project or facility of the commission or a qualified nonprofit entity would have to agree to accept a payment in an amount equal to that portion of the payment otherwise due, multiplied by the percentage by which the millage rate of all taxing units levying ad valorem property taxes in the local unit in which the project or facility was located for the year in which the payment in lieu of taxes was due bore to the millage rate levied in the local unit in 1993. This provision would not require an increase of any payment in lieu of taxes previously agreed to by the local unit.

"Qualified nonprofit entity" would mean a Michigan nonprofit corporation or a Michigan limited partnership having a Michigan nonprofit corporation as its sole general partner, if the nonprofit corporation were owned by a commission; a majority of the members of the board of directors of the nonprofit corporation were elected and removable by the commission; or the commission were the sole member of a nonprofit corporation.

### Commission Membership

Under the Act, a commission consists of five members appointed by the chief administrative officer of a city or village or by a resolution adopted by the governing body of the local unit. (In a city with a population of 1 million or more, the commission consists of nine members appointed as provided in the Act.) The bill provides that in a city, village, township, or county, or any combination thereof,

of less than 1 million in population, one member of the commission would have to be a tenant of public or subsidized housing. If, on the bill's effective date, a commission were managing an occupied project and had no tenant member, a tenant member would have to be appointed for at least one of the next three vacancies after that date, or within two years after that date, whichever came first. If, on the bill's effective date, a commission did not yet exist or did not yet manage an occupied project, a tenant member would have to be appointed for at least one of the next two vacancies after the first project of the commission was occupied, or within two years after the first project was occupied, whichever came first. Beginning on the bill's effective date, the chief executive officer of the housing commission would have to send written notice of a commission vacancy to the president of each resident organization. The notice would have to be included in the rent notice to each tenant. For a commission with authority for fewer than 250 units, if no tenant applied for membership on the commission within 60 days after notice was sent, the appointing official could appoint a person otherwise qualified to serve as a member if the chief executive officer had proof of the written notice.

The bill would allow the governing body of a local unit to remove a commission member before the expiration of his or her term for misfeasance, malfeasance, or nonfeasance of duty.

A member of the governing body of a local unit could not be appointed as a member of a commission. The offices of a member of the governing body of the local unit and of a member of the commission would be considered incompatible. The appointing authority, however, could appoint one member of the governing body of the local unit to serve as a nonvoting ex officio member of the commission.

### Bonding

Currently, the Act contains several provisions that prescribe the reasons for and methods of the issuance of bonds by a local unit for the purposes specified. The bill would allow a commission authorized by a local unit to issue bonds in the same manner as a local unit, and would make several changes to the existing language regarding bonds.

The bill provides that bonds could be issued as serial bonds, term bonds, or both with maturities and payment or redemption dates fixed by the authorizing resolution or ordinance. Unless the bonds appreciated in principal amount or were sold at a discount of more than 10%, the first maturity or required redemption of the term bonds could not be over five years from the issuance date. Bonds sold under the Act, unless otherwise specified, would have to be sold in a manner authorized for obligations under the Municipal Finance Act.

The bill would allow a borrower issuing notes or bonds under the Act to do the following:

- Authorize and enter into an insurance contract, agreement for lines of credit, letter of credit, commitment to purchase obligations, remarketing agreement, reimbursement agreement, tender agreement, or any other transaction to provide security to assure timely payment of any bond or note.
- Pledge and create a statutory lien on one or more of the following for timely payment of the bonds or notes or for payment of any of the obligations described above: the proceeds of additional security provided to assure timely payment of the bonds or notes; proceeds of bonds or notes; revenue derived from the operation of a housing project or combined projects; and rents fixed by a commission to include an amount sufficient to pay principal and interest on bonds issued for a project.

The bill would allow a borrower issuing notes or bonds under the Act to authorize payment of the cost of issuance from the proceeds of the bonds or notes or other funds available including, but not limited to, fees for placement, fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, tender agreements, purchase or sales

agreements or commitments, or other agreement to provide security to assure timely payment of obligations.

In addition, the bill would allow a borrower issuing notes or bonds under the Act to authorize or provide for an officer or employee of the borrower, but only within limitations contained in the authorizing ordinance or resolution, to do one or more of the following:

- Sell, deliver, and receive payment for bonds or notes.
- Refund bonds by the delivery of new bonds or notes, whether or not the bonds or notes to be refunded had matured or were subject to redemption prior to maturity on the date of delivery.
- Deliver notes or bonds, partly to refund notes or bonds and partly for any authorized purpose.
- Buy notes or bonds issued and resell those notes or bonds.
- Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment rates, redemption rights at the option of the borrower or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

Currently, a commission is required to fix rents for dwellings in projects at a rate no higher than it finds necessary in order to produce revenues for the payment of principal and interest on bonds and notes issued for the projects; and to meet the cost of administration, operation, and maintenance of the projects, including the cost of insurance on the projects or on the bonds issued for them. The bill would further allow rent rates to be fixed to provide for the creation and funding of a reserve for replacements and capital improvements related to the projects; and to make payments in lieu of taxes at a rate of up to 10% (rather than at least 5%) of the annual rent obtained from a project .

The bill provides that after bonds issued for a project had been retired, the rentals fixed by a commission could include an amount no greater than the maximum annual principal and interest that had been due on bonds issued for the project. The commission could use these rental receipts for any purpose for which bonds or notes were issued or to secure bonds or notes issued by the borrower for other projects of the commission.

MCL 125.651 et al.

Legislative Analyst: G. Towne

### **FISCAL IMPACT**

Local units that required a housing commission to pay an annual service fee in lieu of taxes would be partially reimbursed for tax revenues lost from profit entities. The fiscal impact would depend on the degree to which local units granted powers to the housing commissions and the level of participation by profit entities. Additionally, housing commissions would be given broad powers to issue bonds, which could be the responsibility of the local unit if these bonds were not paid by the housing commissions.

Fiscal Analyst: R. Ross

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