

**REVISED MUNICIPAL FINANCE ACT**  
**Act 34 of 2001**

AN ACT relative to the borrowing of money and the issuance of certain debt and securities; to provide for tax levies and sinking funds; to prescribe powers and duties of certain departments, state agencies, officials, and employees; to impose certain duties, requirements, and filing fees upon political subdivisions of this state; to authorize the issuance of certain debt and securities; to prescribe penalties; and to repeal acts and parts of acts.

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

*The People of the State of Michigan enact:*

PART I  
DEFINITIONS

**141.2101 Short title.**

Sec. 101. This act shall be known and may be cited as the "revised municipal finance act".

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

**141.2103 Definitions.**

Sec. 103. As used in this act:

(a) "Assessed value", "assessed valuation", "valuation as assessed", and "valuation as shown by the last preceding tax assessment roll", or similar terms, used in this act, any statute, or charter as a basis for computing limitations upon the taxing or borrowing power of any municipality, mean the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

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

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

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

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

(f) "Defined benefit plan" means a retirement program other than a defined contribution plan.

(g) "Defined contribution plan" means a retirement program that provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participant's account, and any income, expenses, gains, and losses credited or charged to the account, and any forfeitures of accounts of other participants that may be allocated to the participant's account.

(h) "Department" means the department of treasury.

(i) "Fiscal year" means a 12-month period fixed by statute, charter, or ordinance, or if not so fixed, then as determined by the department.

(j) "Governing body" means the county board of commissioners of a county; the township board of a township; the council, common council, or commission of a city; the council, commission, or board of trustees of a village; the board of education or district board of a school district; the board of an intermediate school district; the board of trustees of a community college district; the county drain commissioner or drainage board of a drainage district; the board of the district library; the legislative body of a metropolitan district; the port commission of a port district; and, in the case of another governmental authority or agency, that official or official body having general governing powers over the authority or agency.

(k) "Health care trust fund" means a trust or fund created in accordance with the public employee health care fund investment act, 1999 PA 149, MCL 38.1211 to 38.1216, or other state or federal statute, and used exclusively to provide funding for postemployment health care benefits for public employee retirees of a county, city, village, or township. A health care trust fund also includes the retiree health fund vehicle administered by the municipal employees retirement system described in the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555, for a county, city, village, or township that has adopted the municipal employee retirement system to provide funding for postemployment health care benefits for

public employee retirees.

(l) "Municipal security" means a security that when issued was not exempt from this act or former 1943 PA 202 by the provisions of this act or by former 1943 PA 202 or by the provisions of the law authorizing its issuance and that is payable from or secured by any of the following:

(i) Ad valorem real and personal property taxes.

(ii) Special assessments.

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

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

(m) "Municipality" means a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district, district library, or another governmental authority or agency in this state that has the power to issue a security. Municipality does not include this state or any authority, agency, fund, commission, board, or department of this state.

(n) "Outstanding security" means a security that has been issued, but not defeased or repaid, including a security that when issued was exempt from this act or former 1943 PA 202, by the provisions of this act or by former 1943 PA 202 or by the provisions of the law authorizing its issuance.

(o) "Qualified status" means a municipality that has filed a qualifying statement under section 303 and has been determined by the department to be qualified to issue municipal securities without further approval by the department.

(p) "Refunding security" means a municipal security issued to refund an outstanding security.

(q) "Retirement program" means a program of rights and obligations which a county, city, village, or township establishes, maintains, or participates in and which, by its express terms or as a result of surrounding circumstances, does 1 or more of the following:

(i) Provides retirement income to participants.

(ii) Results in a deferral of income for periods extending to the termination of covered employment or beyond.

(r) "Security" means an evidence of debt such as a bond, note, contract, obligation, refunding obligation, certificate of indebtedness, or other similar instrument issued by a municipality, which pledges payment of the debt by the municipality from an identified source of revenue.

(s) "Sinking fund" means a fund for the payment of principal only of a mandatory redemption security.

(t) "Taxable value" means the taxable value of the property as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(u) "Unfunded accrued health care liability" means the difference between the assets and liabilities of a health care trust fund as determined by an actuarial study according to the most recent governmental accounting standards board's applicable standards.

(v) "Unfunded pension liability" means the amount a defined benefit plan's liabilities exceed its assets according to the most recent governmental accounting standards board's applicable standards.

**History:** 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2012, Act 329, Imd. Eff. Oct. 9, 2012.

#### **141.2105 Municipal security; limitations.**

Sec. 105. A municipal security does not include any of the following:

(a) A contract for the purchase of real or personal property.

(b) A contract for the lease of real or personal property with or without an option to purchase.

(c) A contract, lease, note, or other security given in connection with a contract described in subdivision (a) or (b).

(d) A security that is evidence of an emergency loan under section 1 of 1855 PA 105, MCL 21.141, in conjunction with the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, or qualified agricultural loans under section 2a of 1855 PA 105, MCL 21.142a.

(e) A mortgage secured by real property and its corresponding security to the extent secured by the mortgage.

(f) A contract between 1 or more municipalities under whose terms 1 or more municipalities pledge their revenues or full faith and credit to secure payment of a proposed municipal security issued by 1 of the municipalities.

(g) A loan from the state infrastructure bank as described in section 18m of 1951 PA 51, MCL 247.668m.

**History:** 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 541, Imd. Eff. July 26, 2002;—Am. 2018, Act 508, Eff. Mar. 29, 2019.

## PART II POWERS

#### **141.2201 Powers and duties of department.**

Sec. 201. The department is authorized and directed to protect the credit of this state and its municipalities, and to enforce the provisions of this act, and has the following general powers:

(a) To aid, advise, and consult with any municipality with respect to fiscal questions arising from and relating to its proposed or outstanding securities.

(b) To issue bulletins or adopt rules as necessary to carry out the purposes of this act. A bulletin issued under this subdivision shall include a statement of the department's specific statutory authority for any substantive requirement contained within the bulletin. A rule adopted under this subdivision shall be adopted in accordance with the provisions of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) To examine the books and records of any municipality for the purpose of ascertaining if the municipality is complying with the requirements of the department, the statutes of this state, and its charter, ordinances, and resolutions, in relation to its municipal securities. For those purposes, it may require sworn statements from any officer or employee of the municipality or may require the municipality to furnish it with a statement of its financial condition. The department has full power in furtherance of its investigations to examine witnesses under oath and compel the attendance of witnesses, the giving of testimony, and the production of books, papers, and records. Witnesses may be summoned by the department by its process upon the payment of the same fees as are allowed to witnesses attending in the circuit court of the county in which the hearing is held. Any person duly subpoenaed under this section who neglects to attend or testify at the place named in the subpoena, served for that purpose, is guilty of a misdemeanor.

(d) To enforce compliance with any provision of this act or with any provisions of any law, charter, ordinance, or resolution with respect to debts or securities subject to its jurisdiction, including the levy and collection of taxes and the segregation, safekeeping, investment, and application of money for the payment of debt. The department may institute appropriate proceedings in the courts of this state, including those for a writ of mandamus and injunctive relief.

(e) To render financial advisory, paying agent, registration, and transfer services and materials, including assistance in the preparation and issuance of a municipality's municipal securities; prepare explanatory manuals; conduct training seminars; and, upon request of the municipality, assist a municipality in issuing its municipal securities under this act. The department may impose a fee upon municipalities requesting its services or materials, which fee shall be limited to the cost incurred by the department in providing the service. The paying agent, registration, and transfer services authorized by this subdivision, if requested by a municipality, shall be performed solely by the department with respect to the requesting municipalities.

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

#### **141.2203 Appeal of department determination.**

Sec. 203. If a municipality feels aggrieved by a determination of the department, it may notify the department and appeal the determination of the department as a contested case pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. This section does not permit the issuance, amendment, or modification of any order or determination of the department in respect to the issuance of a municipal security, after the municipal security has been issued, if that action would affect the municipal security interests of the holders of the municipal security adversely.

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

### **PART III GENERAL**

#### **141.2301 Issuance of municipal security.**

Sec. 301. A municipality shall not issue a municipal security except in accordance with this act.

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

#### **141.2303 Annual audit report and qualifying statement; filing by municipality; compliance requirements; determination; correction of noncompliant requirements; reconsideration; order granting exception from prior approval.**

Sec. 303. (1) Each municipality shall file an audit report annually with the department within 6 months from the end of its fiscal year or as otherwise provided in the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(2) Accompanying the audit report described in subsection (1), a municipality shall file a qualifying statement, on a form and in the manner provided by the department, which shall be certified by the chief

administrative officer. Within 30 business days of the receipt of the qualifying statement, the department shall determine if the municipality complies with the requirements of subsection (3). If the department determines that the municipality complies with the provisions of subsection (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 under this act without further approval from the department until 30 business days after the next qualifying statement is due or a new determination is made by the department, whichever occurs first.

(3) To qualify to issue municipal securities without further approval from the department, the municipality shall be in material compliance with all of the following requirements, as determined by the department:

(a) The municipality is not operating under the provisions of the local government and school district fiscal accountability act.

(b) The municipality did not issue securities in the immediately preceding 5 fiscal years or current fiscal year that were authorized by either the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, other than a security issued for a loan authorized under section 3(2)(a) of the emergency municipal loan act, 1980 PA 243, MCL 141.933, or the fiscal stabilization act, 1981 PA 80, MCL 141.1001 to 141.1011.

(c) The municipality was not required by the terms of a court order or judgment to levy a tax in the preceding fiscal year. For purposes of this subdivision, the department may determine that a court order or judgment to levy a tax is not material if it did not have an adverse financial impact on the municipality.

(d) The most recent audit report, as required by the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, was filed with the department within 6 months from the end of the fiscal year of the municipality.

(e) The debt retirement fund balance for any municipal security that is funded from an unlimited tax levy does not exceed 150% of the amount required for principal and interest payments due for that municipal security in the next fiscal year.

(f) The municipality is not currently exceeding its statutory or constitutional debt limits.

(g) The municipality has no outstanding securities that were not authorized by statute.

(h) The municipality is not currently and during the preceding fiscal year was not in violation of any provisions in the covenants for an outstanding security.

(i) The municipality was not delinquent more than 1 time in the preceding fiscal year in transferring employee taxes withheld to the appropriate agency, transferring taxes collected as agent for another taxing entity to that taxing unit, or making all required pension, retirement, or benefit plan contributions.

(j) The most recent delinquent property taxes of the municipality, without regard to payments received from the county under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, did not exceed 18% of the amount levied.

(k) The municipality did not submit a qualifying statement or an application for any other municipal security in the preceding 12 months that was materially false or incorrect.

(l) The municipality is not in default on the payment of any debt, excluding industrial development revenue bonds issued under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, economic development corporation bonds issued under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, bonds issued by a local hospital finance authority for a private hospital under the hospital finance authority act, 1969 PA 38, MCL 331.31 to 331.84, or any other debt for which the municipality is not financially liable.

(m) The municipality did not end the immediately preceding fiscal year with a deficit in any fund, unless the municipality has filed a financial plan to correct that deficit condition that is acceptable to the department.

(n) The municipality has not been found by a court of competent jurisdiction to be in violation of any finance or tax-related state or federal statutes during the preceding fiscal year.

(o) The municipality has not been determined by the department to be in violation of this act during the preceding fiscal year.

(p) The municipality did not issue a refunding security in the preceding fiscal year to avoid a potential default on an outstanding security.

(4) If a municipality is notified within 30 business days of the filing of the qualifying statement that it does not comply with 1 or more of the requirements of subsection (3), the municipality may correct the noncompliant requirements and request a reconsideration of the determination from the department as provided in subsection (5).

(5) A municipality may request a reconsideration of the determination from the department. That request shall indicate the requirements that the department determined the municipality to be not in compliance with and the action taken by the municipality to correct the noncompliance. Within 30 business days of the receipt of the request for reconsideration, the department shall determine if the municipality complies with the

requirements of subsection (3) or, if the department fails to notify the municipality of its determination under this subsection within 30 business days of receipt of the request for reconsideration, the municipality will be granted qualified status.

(6) If a municipality is notified within 30 business days after filing a request for reconsideration that it does not comply with the requirements of subsection (3), the municipality shall not issue municipal securities under this act without the prior written approval of the department to issue a municipal security as provided in subsections (7) and (8).

(7) If a municipality has not been granted qualified status, the municipality must obtain, for each municipal security, the prior written approval of the department to issue a municipal security. To request prior written approval to issue a municipal security, the municipality shall submit an application and supporting documentation to the department on a form and in a manner prescribed by the department, which shall be certified by the chief administrative officer. A filing fee equal to 0.03% of the principal amount of the municipal security to be issued, but not less than \$800.00 and not greater than \$2,000.00 as determined by the department, shall accompany each application. If the qualifying statement required by subsection (2) was received by the department more than 6 months after the end of the municipality's fiscal year, a late fee of \$100.00 shall accompany the first application filed after that date. Within 30 business days of receiving an application, the fee, and supporting documentation from a municipality, the department shall make a determination whether the municipality has met all of the following requirements:

(a) Has indicated the authority to issue the municipal security requested.

(b) Is projected to be able to repay the municipal security when due.

(c) Has filed information with the department indicating compliance with the requirements of subsection (3) or adequately addressed any noncompliance with subsection (3) as determined by the department.

(d) If required by the department, has obtained an investment grade rating for the municipal security or has purchased insurance for payment of the principal and interest on the municipal security to the holders of the municipal security, or has otherwise enhanced the creditworthiness of the municipal security.

(8) If the department determines that the requirements in subsection (7) have been met, the department shall approve the issuance of the proposed municipal security. If the department determines that the requirements in subsection (7) have not been met, the department shall issue a notice of deficiency to the municipality that prevents the issuance of the proposed municipal security. The notice of deficiency shall state the specific deficiencies and problems with the proposed issuance. After the deficiencies and problems have been addressed as determined by the department, the department shall approve the issuance of the proposed municipal security.

(9) A determination by the department that a municipality has been granted qualified status constitutes an order granting exception from prior approval under former 1943 PA 202, of that municipality's securities.

**History:** 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 541, Imd. Eff. July 26, 2002;—Am. 2011, Act 5, Imd. Eff. Mar. 16, 2011.

#### **141.2304 Issuance of municipal security; provisions applicable to contracting municipalities.**

Sec. 304. If a municipality issues a municipal security subject to this act and the principal and interest for that municipal security will be paid by 1 or more municipalities not issuing the municipal security under a contract, then 1 of the following applies:

(a) If all of the municipalities contracting to pay the municipal security have been granted qualified status, then the issuance of the municipal security is subject to section 303(2).

(b) Except as provided in subdivision (c), if 1 or more of the municipalities contracting to pay the municipal security have not been granted qualified status, then the issuance of the municipal security is subject to section 303(7).

(c) If 1 or more of the municipalities contracting to pay the municipal security have not been granted qualified status and the other municipalities representing over 50% of the contractual obligation have been granted qualified status and the municipality that issues the municipal security has been granted qualified status and pledges its full faith and credit on the municipal security, then the issuance of the municipal security is subject to section 303(2).

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

#### **141.2305 Issuance of municipal security; interest rate; sale at discount; rating; maturity; principal as interest.**

Sec. 305. (1) A municipal security authorized by law to be issued by a municipality may, notwithstanding the provisions of a charter, bear no interest as provided in this section or a rate of interest not to exceed a maximum rate established by the governing body of the issuing municipality as set forth in its resolution or ordinance authorizing the issuance of the municipal security, which rate shall not exceed 18% per annum or a

per annum rate determined by the department at the request of the municipality, whichever is higher. In making its determination, the department shall establish a rate that shall bear a reasonable relationship to 80% of the adjusted prime rate determined by the department under section 23 of 1941 PA 122, MCL 205.23. Except as otherwise provided in this section, the rate determined by the department shall be conclusive as to the maximum rate of interest permitted for a municipal security issued under this act.

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

(3) A municipal security may be sold at a discount exceeding 10% of the principal amount of the municipal security only if 1 or more of the following conditions apply, as determined by the department:

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

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

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

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

(e) The municipal security is issued pursuant to section 518.

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

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

(6) Not more than 25% of the total principal amount of any authorized issue of a municipal security shall meet the qualifications under subsection (3)(a), (b), and (c).

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

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

**History:** 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2012, Act 329, Imd. Eff. Oct. 9, 2012.

#### **141.2307 Proposed bulletin; public comment period.**

Sec. 307. Before any bulletin issued by the department can take effect that addresses the filings, approvals, or determinations under section 303, or any modification of an existing bulletin that addresses the filings, approvals, or determinations under section 303, the department shall issue the bulletin or modification as a proposed bulletin with not less than a 30-day public comment period.

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

#### **141.2308 Limited tax full faith and credit pledge; notice.**

Sec. 308. If a municipality issues a municipal security that contains the limited tax full faith and credit pledge of the municipality after October 1, 2002, a notice of at least 1 meeting at which a decision will be made or discussed with respect to the issuance of the municipal security shall contain a statement that the proposed municipal security will contain a limited tax full faith and credit pledge of the municipality. This section does not apply to a refunding security, short-term municipal security issued under part 4, or a municipal security for which the municipality is required to provide a notice of the right of referendum by law or charter.

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

#### **141.2309 Sale of municipal security at competitive or negotiated sale; requirements.**

Sec. 309. (1) A municipality may sell an authorized municipal security at a competitive sale or a negotiated sale as determined in the authorizing resolution. If a municipality determines to sell a municipal security at a negotiated sale, the governing body shall expressly state the method and reasons for choosing a negotiated sale instead of a competitive sale in the resolution or ordinance authorizing the issuance or sale of the municipal security.

(2) If a municipality determines to sell a municipal security at a competitive sale, the municipality shall

publish a notice of sale at least 7 days before the date set for the sale, in a publication printed in the English language and circulated in this state that carries as a part of its regular service the notices of the sale of municipal securities.

(3) A municipality shall award a municipal security sold at a competitive sale to the bidder whose bid meets all specifications and requirements and results in the lowest interest cost to the municipality, unless all bids are rejected.

(4) A municipality may accept bids for the purchase of a municipal security made in person, by mail, by facsimile, by electronic means, or by any other means authorized by the municipality.

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

#### **141.2311 Municipal security; registration; facsimile signatures; transfer of ownership; delivery; validity of signature of former officer.**

Sec. 311. (1) A municipal security may be registrable as to principal alone or as to both principal and interest under terms and conditions determined by the governing body of the issuing municipality.

(2) A municipality may authorize a trustee or other authenticating agent to authenticate any municipal security executed by the facsimile signatures of the officials of the municipality in lieu of manual signatures of the officials of the issuing municipality.

(3) Officials of a municipality may sign and seal a municipal security in facsimile form if so authorized by the governing body of the issuing municipality.

(4) If authorized by the governing body of the issuing municipality, ownership of a municipal security may be transferred by means of a recorded entry in a record maintained by the issuing municipality, trustee, or other agent in lieu of printing and transferring a new municipal security. However, this subsection does not preclude a municipality from the delivery of, and a municipality shall have the authority to deliver, new municipal securities as evidence of the originally issued municipal security.

(5) If an individual acting in an official capacity signs or affixes his or her signature to a municipal security under this act and that individual ceases to be an officer before delivery of the municipal security, the municipal security is valid the same as if the individual had remained in office until delivery of that municipal security.

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

#### **141.2313 Mutilated security; substitution.**

Sec. 313. If a municipal security has become mutilated, then the governing body of the municipality may by resolution provide for the issuance of a new municipal security with like terms, in exchange for and substitution of the mutilated municipal security. In all such cases the holder shall pay the reasonable expenses and charges of such an exchange.

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

#### **141.2315 Issuance of municipal security; determination; payment on demand; contrary ordinance or charter provision.**

Sec. 315. (1) In determining to issue a municipal security, a municipality may do 1 or more of the following:

(a) Authorize and enter into insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase municipal securities, remarketing agreements, reimbursement agreements, and any other transactions to enhance timely payment of any municipal security.

(b) Authorize payment from the proceeds of the municipal security, or from other funds available, of the cost of issuance, including, but not limited to, fees for placement, fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or agreements to enhance timely payment of municipal securities.

(c) Authorize principal and interest to be payable from 1 or more of the following:

(i) Taxes or other revenues of the municipality.

(ii) Proceeds of the municipal security.

(iii) Earnings on proceeds of the municipal security or other funds held for payment of the municipal security.

(iv) Proceeds of any other transaction described in subdivision (a).

(d) Authorize or provide for an officer of the municipality, but only within limitations that shall be contained in the authorizing resolution of the governing body, to do 1 or more of the following:

(i) Sell, deliver, and receive payment for the municipal securities.

(ii) Refund the municipal securities in accordance with part VI of this act.

(iii) Deliver a municipal security partly to refund another security and partly for any other authorized purposes.

(iv) Buy the municipal security so issued at not more than the face value of the municipal security.

(v) Approve fixed interest rates, variable interest rates, or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment date, redemption rights at the option of the municipality or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(2) A municipality may provide that a municipal security additionally secured as provided in subsection (1) may be payable on demand or before maturity at the option of the holder only at the time and in the manner determined by the governing body as provided in the resolution authorizing the municipal security.

(3) The authority granted by this section may be exercised notwithstanding any ordinance or charter provision to the contrary.

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

#### **141.2317 Interest rate exchange or swap, hedge, or similar agreement; definitions.**

Sec. 317. (1) For the purpose of more effectively managing its debt service, a municipality may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of debt or in connection with its then outstanding debt.

(2) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, a municipality may create a reserve fund for the payment of the exchange or swap, hedge, or similar agreement.

(3) An agreement entered into pursuant to this section shall not be included within the total debt of a municipality for any statutory or charter or other debt limitation purpose.

(4) If an interest rate exchange or swap, hedge, or similar agreement described in this section is entered into by a municipality in connection with debt that was not approved by the voters of the municipality, or in connection with a refunding of debt not originally approved by the voters of the municipality, 1 or more of the following apply:

(a) The interest under the agreement constitutes a limited tax full faith and credit pledge from general funds of the municipality.

(b) Subject to any existing contracts, the interest under the agreement shall be payable from any available money or revenue sources, including revenues that shall be specified by the agreement, securing the municipal security in connection with which the agreement is entered into.

(5) If an interest rate exchange or swap, hedge, or similar agreement described in this section is entered into by a municipality in connection with debt that was approved by the voters of the municipality, or in connection with a refunding of debt originally approved by the voters of the municipality, the municipality's interest payment obligation under the agreement shall be considered to be additional interest on the debt, shall constitute an unlimited tax full faith and credit pledge of the municipality, and the municipality shall levy all of the following:

(a) The full amount of taxes required, or in the case of a variable rate obligation the amount reasonably estimated to be required, for the payment of principal and interest on the municipal securities without limitation as to rate or amount and in addition to other taxes that the municipality may be authorized to levy.

(b) The full amount of taxes required, or in the case of a variable rate obligation the amount reasonably estimated to be required, for the payment of the municipality's net interest obligation under an interest rate exchange or swap, hedge, or similar agreement entered into under this section.

(c) The amounts levied under subdivisions (a) and (b) shall be reduced by any surplus funds on hand in the debt retirement fund in excess of a reasonable reserve as determined by the municipality's chief financial officer.

(6) For purposes of this section, "net interest obligation" means the amount of interest payable by a municipality in a given year under an agreement entered into under this section minus any interest payment received by a municipality from the other party to the agreement in the same period under the agreement, but not less than zero. Termination payments shall constitute interest to the extent that the treatment does not cause the interest rate on the debt to exceed the limits established by this act.

(7) A municipality shall not enter into an agreement under this section unless all of the following conditions are met:

(a) The governing body of the municipality has, by resolution or ordinance, expressly approved the agreement and acknowledged the potential risks associated with the agreement.

(b) The counterparty to the agreement has been assigned a rating of "A" or better, or other rating as the department may determine, by a nationally recognized rating agency at the time the agreement is entered into.

(c) The length of the agreement does not extend beyond the final maturity date of the debt issued in



connection with the agreement.

(d) The municipality shall not have waived its right to a jury trial.

(e) The municipality has created a debt management plan.

(f) The municipality has created a swap management plan.

(8) An agreement entered into under this section shall be described in the municipality's annual audit report filed under section 303(1).

(9) As used in this section:

(a) "Debt management plan" means a written debt management plan of the municipality that includes, but is not limited to, the following:

(i) Total amount of debt of the municipality.

(ii) Total amount of variable rate debt of the municipality.

(iii) Analysis of the effect of rising interest rates on variable rate holdings of the municipality.

(iv) Analysis of risk in maintaining variable risk holdings.

(b) "Swap management plan" means a written management plan that includes, but is not limited to, all of the following:

(i) Analysis of the benefits and costs of entering into swap agreements.

(ii) Analysis of the risk associated with entering into swap agreements.

(iii) Analysis of early termination, involuntary termination, default, and cost considerations associated with swap agreements.

(iv) System in place to monitor the status of all outstanding swap agreements.

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

#### **141.2319 Document to be filed by municipality; failure to comply with subsection (1) or (2).**

Sec. 319. (1) Within 15 business days of completing the issuance of any municipal security qualified under section 303(3), the municipality shall file a copy of all of the following with the department in a form and manner prescribed by the department:

(a) A copy of the municipal security.

(b) A proof of publication of the notice of sale, if applicable.

(c) A copy of the award resolution or certificate of award including a detail of the annual interest rate and call features on the municipal security.

(d) A copy of the legal opinion regarding the legality and tax status of the municipal security.

(e) A copy of the notice of rating of the municipal security received from a recognized rating agency, if any.

(f) A copy of the resolution or ordinance authorizing the issuance of the municipal security.

(g) A copy of the official statement, if any.

(h) For a refunding security, documentation indicating compliance with section 611.

(i) A filing fee equaling 0.02% of the principal amount of the municipal security issued, but in an amount not less than \$100.00 and not greater than \$1,000.00, as determined by the department.

(j) If the qualifying statement required by section 303(2) was received by the department more than 6 months after the end of the municipality's fiscal year, a late fee of \$100.00 with the first filing thereafter.

(k) For a municipal security issued under section 305(2), documentation indicating compliance with section 305(2).

(2) Within 15 business days of completing the issuance of any municipal security approved under section 303(7), the municipality shall file all of the following with the department in a form and manner prescribed by the department:

(a) A copy of the municipal security.

(b) A proof of publication of the notice of sale, if applicable.

(c) A copy of the award resolution including a detail of the annual interest rate and call features on the municipal security.

(d) A copy of the legal opinion regarding the legality and tax status of the municipal security.

(e) A copy of the notice of rating of the municipal security received from a recognized rating agency, if any.

(f) A copy of the resolution or ordinance authorizing the issuance of the municipal security.

(g) A copy of the official statement, if any.

(h) For a refunding security, documentation indicating compliance with section 611.

(i) For a municipal security issued under section 305(2), documentation indicating compliance with section 305(2).

(3) The failure to comply with subsection (1) or (2) does not invalidate any of the securities issued or

reported under this act.

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

**141.2321 Filing in electronic format.**

Sec. 321. The department may require that the filings to the department required by this act be filed in an electronic format prescribed by the department.

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

**141.2323 Municipal security issued without department approval; rating.**

Sec. 323. The department may require a rating for a municipal security issued without approval of the department as provided in section 303(3) if the principal amount of the municipal security exceeds \$5,000,000.00.

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

PART IV

SHORT-TERM MUNICIPAL SECURITIES

**141.2401 Short-term municipal securities; issuance; conditions; public airport authority.**

Sec. 401. (1) A municipality may, by resolution of its governing body, and without a vote of the electors, issue short-term municipal securities in anticipation of and payable from taxes to be collected by the municipality for its then next succeeding fiscal year or the taxes for a current fiscal year, or if the taxes for the next succeeding fiscal year and the taxes for the current fiscal year are both levied in the same calendar year, then in anticipation of and payable from the collection of both of the taxes.

(2) By resolution of its governing body and without a vote of the electors, an authority organized under 1957 PA 206, MCL 259.621 to 259.631, or a public airport authority created or incorporated under the public airport authority act, chapter VIA of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.108 to 259.125c, may borrow money and issue short-term municipal securities maturing not more than 1 year from the date of issue in anticipation of the collection of revenues to which it will be entitled to receive within 1 year from the date of the short-term municipal securities' issuance. The amount of the short-term municipal securities issued under this section shall not exceed 50% of the revenues collected in the preceding fiscal year not pledged for the payment of a security other than a short-term municipal security issued under this section as conclusively certified by the governing body of the authority. The resolution shall provide for the pledging of all or a portion of the revenues of the authority not previously pledged for the payment of a security. The resolution may also provide for the pledging of other assets of the authority as additional security for the payment of the short-term municipal security. The resolution also shall provide that from the receipts of the revenues in anticipation of which the authority issued the short-term municipal security, there shall be set aside in a special fund to be used for the payment of principal and interest on the short-term municipal security a portion of each dollar received that is not less than 125% of the percentage that the principal amount of the short-term municipal security bears to the amount certified as the revenues estimated to be collected, until the amount set aside is sufficient for the payment of principal and interest on the short-term municipal security. The amount set aside shall be used only for the payment of the principal and interest on the short-term municipal security until the short-term municipal security is paid as to both principal and interest. Except when in conflict with the requirements of section 9 of 1957 PA 206, MCL 259.629, the short-term municipal securities authorized under this subsection are subject to this act.

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

**141.2403 Resolution authorizing municipal security; tax levy provision; operating expenditures; limitation; set aside of taxes collected; tax installments; capital improvements; debt service charges.**

Sec. 403. (1) If a municipality issues a municipal security in anticipation of the collection of the taxes for the next succeeding fiscal year, the resolution authorizing a municipal security shall contain an irrevocable provision for the levying of a tax in the next succeeding fiscal year for the purpose for which the municipal security is to be made and the repayment of the municipal security from the receipt of taxes.

(2) A municipality may issue the short-term municipal security described in subsection (1) to pay for operating expenditures. As used in this section, "operating expenditures" means 1 or more of the following:

(a) Necessary operating expenditures of the municipality that could not reasonably have been foreseen and adequately provided for in the tax levy for the then current fiscal year.

(b) Payment of an expenditure in the then current fiscal year that cannot be funded because of a delay in or

failure of receipt of budgeted revenue.

(c) Payment of budgeted expenditures in the then current fiscal year that precede budgeted revenues.

(3) The amount of the municipal securities issued under this section to pay operating expenditures shall not exceed 50% of the operating tax levy for the current fiscal year, or if the operating tax levy for the next succeeding fiscal year is determined, then 50% of the levy for the next succeeding fiscal year. The authorizing resolution shall provide that from the first collections of the operating taxes for the next succeeding fiscal year, there shall be set aside in a special fund to be used for the payment of principal and interest on the tax anticipation municipal security, a portion of each dollar that is not less than 125% of the percentage that the principal amount of the municipal security bears to the amount of the operating taxes until the amount set aside is sufficient for the payment. If a municipality collects its taxes in installments and issues a municipal security in anticipation of more than 1 installment, the requirements of the preceding sentence shall apply to each installment of taxes. The collection of the taxes to be set aside shall not be used for any other purpose. If the municipality determines that issuing municipal securities for this purpose will result in a deficiency in the funds available to pay the necessary operating expenditures of the next succeeding fiscal year, the municipality shall levy additional taxes in the future from within constitutional, charter, and statutory limits to prevent a continuation of the deficiency from year to year.

(4) A municipality may issue a short-term municipal security described in subsection (1) to pay for 1 or more capital improvements that can be legally and properly provided for in the budget of the municipality for the fiscal year in which the municipality issues the short-term municipal security. The principal amount of the municipal security issued for this purpose shall not exceed the sum set forth in the authorizing resolution to be levied for the improvement. The authorizing resolution shall provide that from the first collection of taxes for the next succeeding fiscal year, there shall be set aside in a special fund to be used for the payment of principal and interest on the short-term municipal security that percentage of the collection that the tax levied for capital outlay bears to the total levy, and until the amount set aside is sufficient for the payment, collection of the taxes to be set aside shall not be used for any other purpose.

(5) A municipality may issue the short-term municipal security described in subsection (1) to pay debt service charges or obligations on municipal securities or agreements described in section 317(5).

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

**141.2405 Issuance of short-term municipal securities; payments allowed; operating expenditures or debt service charges; limitation; authorizing resolution; set aside of taxes collected; capital improvements; deduction of outstanding principal amount.**

Sec. 405. (1) A municipality may issue short-term municipal securities in anticipation of the collection of the taxes for a current fiscal year for the payment of 1 or more of the following:

- (a) Operating expenditures.
- (b) Debt service charges.
- (c) Capital improvements.

(2) If the municipality issues short-term municipal securities described in subsection (1) to pay operating expenditures or debt service charges, the principal amount of that municipal security issued under this section shall not exceed 75% of the amount of the debt service taxes, if the proceeds of the municipal security are to pay debt service charges, or 75% of the amount of the operating taxes, if the proceeds of the municipal security are to pay operating expenditures, as provided for in the budget of the current fiscal year and that remain to be collected at the time the authorizing resolution is passed. However, if the resolution is passed before the day upon which taxes for the year become due and payable, the principal amount of the municipal security shall not exceed 50% of the tax levy made for debt service or operating expenditures, respectively, for the preceding fiscal year.

(3) The authorizing resolution shall provide that, from the date of the authorizing resolution, from the collection of the taxes remaining to be collected for the current fiscal year there shall be set aside in a special fund, to be used for the payment of principal and interest on the short-term municipal security, a portion of each dollar of taxes remaining to be collected for the current fiscal year not less than 125% of the percentage that the principal amount of the municipal security bears to the amount of the tax levied for debt service or operating expenditures, respectively, that remain to be collected from the date of the authorizing resolution until the amount set aside is sufficient for that payment. The collection of the taxes to be set aside shall not be used for any other purpose.

(4) A municipality may issue short-term municipal securities in anticipation of the collection of taxes for the current fiscal year for the payment of 1 or more capital improvements that are legally and properly provided for in the tax levy of the current fiscal year. The principal amount of the municipal security issued for this purpose shall not exceed the anticipated collection, based on the delinquency in collections of the levy

of the preceding fiscal year, of the sum included in the tax levy for that purpose and remaining unpaid at the time the authorizing resolution is passed. The authorizing resolution shall provide that from the collections of the taxes for the current fiscal year there shall be set aside in a special fund to be used for the payment of principal and interest on the municipal security that percentage of the collections that the tax levied for capital outlay bears to the total levy, and until the amount set aside is sufficient for that payment, collection of the taxes to be set aside shall be used for no other purpose.

(5) The principal amount outstanding of any municipal security issued under section 403 shall be deducted from the total principal amount of any municipal security that may be issued under this section.

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

**141.2407 Anticipation of revenue sharing payments; issuance of short-term municipal securities; payment of operating expenditures; authorizing resolution; set aside of amounts for payment of principal and interest.**

Sec. 407. (1) A municipality may, by resolution of its governing body, and without a vote of the electors, issue short-term municipal securities in anticipation of revenue sharing payments under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, for its next succeeding fiscal year, or for a current fiscal year, in accordance with the provisions of this part.

(2) When a municipality issues municipal securities in anticipation of the receipt of revenue sharing payments under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, for the current or next succeeding fiscal year, the proceeds of the municipal securities shall be used only for the payment of operating expenditures. The principal amount of the municipal securities issued in accordance with this section shall not exceed 50% of the total payments received in the last preceding fiscal year of the municipality, as certified by the department. The authorizing resolution shall provide that from the first receipts of the payments for that fiscal year in anticipation of which the municipality issued the municipal security, there shall be set aside in a special fund to be used for the payment of principal and interest on the municipal security a portion of each dollar that is not less than 125% of the percentage that the principal amount of the municipal security bears to the amount of payments remaining to be collected, until the amount set aside is sufficient for the payment of principal and interest on the municipal security. The amount set aside shall be used only for the payment of the principal and interest on the municipal security until the municipal security is paid as to both principal and interest.

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

**141.2409 Interest rate; limitation; payment.**

Sec. 409. A municipal security issued pursuant to this part shall bear no interest or interest at a rate not to exceed that provided in part III and shall be payable not later than the estimated time of collection of an amount sufficient for its payment out of the taxes or revenues pledged for the municipal security, as determined by the governing body of the municipality.

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

**141.2411 Money deposited in special fund; use.**

Sec. 411. The money in each special fund required by this part shall be deposited in a bank account separate from any other money of the municipality and shall be used for no purpose other than to retire the municipal security for which the special fund was established.

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

**141.2413 Anticipation of long-term municipal security proceeds; issuance of short-term municipal security; authorization of principal, interest, and redemption premiums; limitation on principal amount; use of proceeds.**

Sec. 413. (1) A municipality may by resolution of its governing body, and without a vote of its electors, issue a short-term municipal security in anticipation of the proceeds of a long-term municipal security it proposes to issue, or that will be issued in its behalf. However, if required by law, issuance of the long-term municipal security has been approved by the electors of the municipality or, if required by law, a notice of intent to issue the long-term municipal security or enter into a contract has been published and all rights of referendum relating to the notice have expired. The municipality shall pledge for the payment of the principal, interest, and redemption premiums, if any, on the short-term municipal security from 1 or more of the sources and on the terms described in section 315 and from any of the additional sources identified in subsection (2).

(2) The municipality, in determining to issue a short-term municipal security under this section, may authorize principal, interest, and redemption premiums, if any, on the short-term municipal security to be

payable from and secured by a pledge of the proceeds of the long-term municipal security issued to refund the short-term municipal security.

(3) The principal amount of a short-term municipal security issued in anticipation of the issuance of long-term municipal securities shall not exceed 50% of the principal amount of the proposed long-term municipal security. The municipality shall in the resolution authorizing the short-term municipal security declare the necessity of the short-term municipal security and state its purpose, the principal amount of the short-term municipal security to be issued, and an estimated principal payment schedule for and an estimated or maximum average annual interest rate on the short-term municipal security. The issuance and delivery of the short-term municipal security shall be conclusive as to the existence of the facts entitling the short-term municipal security to be issued in the principal amount of the short-term municipal security and shall not be subject to attack in any proceeding. A short-term municipal security shall mature not more than the earlier of 3 years from the date of issuance or 60 days after the expected date of issuance of the long-term municipal security in anticipation of which it is issued and may bear no interest or interest at a fixed or variable rate or rates of interest per annum, subject to the limitations in section 305.

(4) The proceeds of a short-term municipal security issued under this section shall be used only for the purpose to which the proceeds of the long-term municipal security may be applied, the costs of issuance of the short-term municipal security and to the payment of principal and interest on the short-term municipal security.

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

**141.2415 Anticipation of state or federal grants; issuance of short-term municipal security; pledge of grant proceeds as payment of principal, interest, and redemption premiums; limitation on principal amount; use of municipal security proceeds.**

Sec. 415. (1) A municipality may by resolution of its governing body, and without a vote of its electors, issue a short-term municipal security in anticipation of the receipt of grants from the United States, this state, or any agency or instrumentality of the United States or this state and shall pledge for the payment of the principal, interest, and redemption premiums, if any, on that municipal security from 1 or more of the sources and on the terms described in section 315 and from any of the additional sources identified in subsection (2).

(2) The municipality that issues a short-term municipal security under this section may pledge the proceeds of federal or state grants for the payment of the interest and redemption premiums, if any, on the municipal security.

(3) The principal amount of a municipal security issued under this section shall not exceed 50% of the amount remaining to be received by the municipality that is not still subject to an appropriation from the granting agency under a written contract from that granting agency that has been accepted by resolution by the municipality. The issuance and delivery of the municipal security shall be conclusive evidence of the facts entitling the municipality to issue the municipal security in the principal amount issued and shall not be subject to attack in any proceeding. The pledge of 100% of the funds the municipality expects to receive from the granting agency may be secured by a direct transfer of the committed funds from the granting agency to a trustee or the Michigan municipal bond authority, if the municipal security is sold to the Michigan municipal bond authority, that is authorized to receive the funds by the authorizing resolution adopted by the municipality. The municipal security issued under this section shall mature not more than the earlier of 18 months from the date of issuance or 6 months after the expected date of receipt of grant proceeds and may bear no interest or interest at a fixed or variable rate or rates of interest per annum, subject to the limitations of section 305.

(4) The proceeds of the municipal security issued under this section shall be used only for the purpose to which the proceeds of the grant may be applied, the costs of issuance of the municipal security, and the payment of principal and interest on the municipal security.

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

**PART V  
LONG-TERM MUNICIPAL SECURITIES**

**141.2501 Maturity time periods.**

Sec. 501. (1) Except as otherwise provided for by law, or as otherwise provided in part VI, a municipal security issued by a municipality under this act shall not mature later than the estimated period of usefulness of the property or improvement for which the municipal security is issued.

(2) In addition to the requirements of subsection (1), a municipal security shall not mature later than the following time periods:

(a) A municipal security issued in anticipation of special assessments shall mature no later than 2 years after the time fixed by law for the payment of the last installment of the assessments from which the municipal security is payable.

(b) A municipal security issued to meet an emergency for relief from fire, flood, or other calamity shall mature no later than 5 years after the date of issuance.

(c) A municipal security issued to pay judgments against the municipality, except judgments in condemnation proceedings, and municipal securities issued for the purchase of personal property, other than material for permanent construction, machinery for public utilities, or original furnishings and equipment of new buildings, shall mature no later than 10 years after the date of issuance.

(d) All other municipal securities shall mature no later than 30 years after the date of issuance.

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

#### **141.2503 Municipal securities of a single issue; maturity or redemption date; purchase at open market; redemption requirements; municipal securities of school district; municipal security issued by county, city, village, or township pursuant to MCL 141.2518.**

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

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

(3) The governing body of the municipality may provide that some or all of the principal amounts maturing in any year may be redeemed at the option of the municipality at the times, on the terms and conditions, and at the price as provided by resolution of the governing body, except that a municipality shall not agree to pay a premium exceeding 3% of the principal amount being redeemed.

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

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

(6) A municipal security issued by a county, city, village, or township pursuant to section 518 shall not be subject to the maturity and mandatory redemption requirements of subsection (1).

**History:** 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2012, Act 329, Imd. Eff. Oct. 9, 2012.

#### **141.2505 Municipal securities secured by special assessments.**

Sec. 505. The total amount of municipal securities secured by special assessments and pledging the limited tax full faith and credit of the municipality shall at no time by reason of future issues, other than issues of refunding securities, exceed 12% of the assessed value of the taxable property in the municipality. A municipality shall not issue municipal securities secured by special assessments in any calendar year in an amount greater than 3% of the assessed value of the municipality unless authorized by majority vote of the electors or by a larger vote as may be provided by statute or charter.

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

#### **141.2507 Interest rate charge on special assessments.**

Sec. 507. A municipality issuing a municipal security in anticipation of special assessments may, notwithstanding any charter or ordinance provisions to the contrary, charge a rate of interest on the unpaid balance of the special assessments in excess of the charter or ordinance limit on the municipal security, but not in excess of a rate of more than 1% above the average rate of interest borne by the municipal security.

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

#### **141.2509 Reserve fund; establishment.**

Sec. 509. A municipality may pay interest that accrues on a municipal security during the first 3 years after the date of issuance of the municipal security from the proceeds of the sale of the municipal security. In addition, a municipality may establish a reserve fund, in an amount not exceeding 15% of the principal amount of the municipal security issued from the proceeds of the sale of the municipal security which shall be held solely for the payment of principal and interest on the municipal security.

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

#### **141.2511 Issuance of municipal securities to fund county drain special assessment.**

Sec. 511. Any county, township, city, or village, by resolution of its governing body and without a vote of its electors, may issue municipal securities for the purpose of funding any part or all of a county or intercounty drain special assessment made against the county, township, city, or village at large under the provisions of the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630. A municipal security described in this section shall mature serially, the first annual maturity of which shall fall due not more than 2 years from the date of issuance and the last of which shall fall due not more than 10 years from the date of issuance or not more than 1 year after the due date of the last installment of the special assessment, whichever is later. No maturity shall be less than 1/2 of the amount of any subsequent maturity. A municipal security issued in accordance with this section may be issued in 1 or more series and may fund 1 or more drain special assessments. The principal amount of a municipal security that may be issued under this section shall not exceed the principal amount of the special assessments to be funded under this section. If any interest is to mature upon the municipal security prior to the time of the next county, township, city, or village tax collection, then the governing body of the county, township, city, or village shall make provision for the payment of that amount when due. The debt evidenced by a municipal security issued under this section shall not be included within the debt of a township, city, or village for any statutory or charter debt limitation purpose. No installment or installments of a special assessment shall be funded under this section unless payable in advance of the due date or due dates, and if the drainage district has issued municipal securities, an equal amount of the principal amount of the municipal securities must be redeemable within 90 days from the delivery of the municipal securities to the purchaser of those municipal securities. The provisions of this part together with the general provisions of this act shall govern the issuance of a municipal security authorized in this section except where inapplicable or inconsistent with this section. All municipal securities issued under this section shall be legal and valid, notwithstanding any illegality in the special assessments funded by those municipal securities.

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

#### **141.2513 Debt incurred; issuance of municipal securities secured by limited tax full faith and credit pledge.**

Sec. 513. (1) A municipality by resolution of its governing body or by entry into an intergovernmental contract pursuant to section 5 of 1951 PA 35, MCL 124.5, or pursuant to an amendment to a contract adopted and made effective in accordance with the terms of the contract, and without a vote of its electors, may incur debt that shall not be considered debt of the municipality for statutory, charter, or constitutional debt limits, and may issue municipal securities secured by a limited tax full faith and credit pledge for the purpose of either of the following:

(a) Paying premiums and other charges for coverages provided by a pool established pursuant to 1951 PA 35, MCL 124.1 to 124.13, or evidencing fixed payment securities or securities to make payments under specified contingencies pursuant to an intergovernmental self-insurance pool contract approved by the state treasurer, which contract is authorized under 1951 PA 35, MCL 124.1 to 124.13.

(b) Establishing funds, reserves, or accounts in amounts determined by the municipality to defray losses for which insurance coverage could be provided by an insurer pursuant to the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, but for which the municipality has determined to self-insure.

(2) Notwithstanding any provision of this act to the contrary, the municipal security issued under this section shall be issued for the period of time determined by the governing body of the municipality or pursuant to the contract, but not to exceed 30 years.

(3) A municipal security authorized under subsection (1)(a), other than a municipal security to make payments under specified contingencies, shall not be of a term exceeding the coverage provided in consideration for receipt of the proceeds of the municipal security. A municipal security, other than a municipal security issued to make payments under specified contingencies, may mature annually or be subject to mandatory redemption requirements, with the first annual maturity or mandatory redemption requirement to fall due 10 years or less from the date of issuance. Annual maturity or redemption requirements, or a

combination of both, of a municipal security issued under this section other than a municipal security issued to make payments under specified contingencies, after 10 years from the date of issuance shall not be less than 1/10 of the amount of any subsequent annual maturity or redemption requirement, or combination of both. A municipal security issued pursuant to subsection (1)(b) shall be subject to the provisions of this act relating to the municipal security. A municipal security issued or incurred under subsection (1)(a) shall be subject to this section only and not to any other section or part of this act. The self-insurance pool shall submit for approval by the state treasurer a copy of the intergovernmental contract pursuant to which a municipal security is to be issued or incurred under subsection (1)(a) prior to the effectiveness of the municipal security.

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

**141.2515 Water supply or sewage disposal, public building, or other public improvement; delivery of municipal security to defray cost.**

Sec. 515. (1) A municipality may deliver a municipal security to this state or the federal government for the purpose of defraying the whole or part of the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing any water supply or sewage disposal system or public building or other public improvement.

(2) Parts IV, V, and VI do not apply to any municipal security delivered to this state or the federal government to the extent the requirements of this state or the federal government relating to any of the terms of the debt conflict with the provisions of this act.

(3) As used in this section:

(a) "Federal government" means the federal government or any agency of the federal government.

(b) "This state" means this state or any department, agency, board, commission, fund, corporation, or authority of this state.

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

**141.2517 Capital improvement items; issuance of municipal security to pay cost; notice of intent; petition; referendum; special election; limitation on amount.**

Sec. 517. (1) A county, city, village, or township may by resolution of its governing body, and without a vote of its electors, issue a municipal security under this section to pay the cost of any capital improvement items, provided that the amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, shall not exceed the limit authorized by law.

(2) If a county, city, village, or township issues a municipal security under this section, before issuance, the county, city, village, or township shall publish a notice of intent to issue the municipal security. The notice of intent shall be directed to the electors of the county, city, village, or township, shall be published in a newspaper that has general circulation in the county, city, village, or township, and shall state the maximum amount of municipal securities to be issued, the purpose of the municipal securities, the source of payment, the right of referendum on the issuance of the municipal securities, and any other information the county, city, village, or township determines necessary to adequately inform the electors of the nature of the issue. The notice of intent shall not be less than 1/4 page in size in the newspaper. If, within 45 days after the publication of the notice of intent, a petition, signed by not less than 10% or 15,000 of the registered electors, whichever is less, residing within the county, city, village, or township, is filed with the governing body of the county, city, village, or township, requesting a referendum upon the question of the issuance of the municipal securities, then the municipality shall not issue the municipal securities until authorized by the vote of a majority of the electors of the county, city, village, or township qualified to vote and voting on the question at a general or special election. A special election called for this purpose shall not be included in a statutory or charter limitation as to the number of special elections to be called within a period of time. Signatures on the petition shall be verified by a person under oath as the actual signatures of the persons whose names are signed to the petition, and the governing body of the county, city, village, or township shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in the county, city, village, or township shall be determined by the governing body of the county, city, village, or township.

(3) Municipal securities issued under subsection (1) by a county, city, village, or township shall not exceed 5% of the state equalized valuation of the property assessed in that county, city, village, or township.

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

**141.2518 Payment of unfunded pension liability or unfunded accrued health care liability; issuance of municipal security; comprehensive financial plan; requirements.**

Sec. 518. (1) Through December 31, 2023, in connection with the partial or complete cessation of accruals



to a defined benefit plan or the closure of the defined benefit plan to new or existing employees, and the implementation of a defined contribution plan, or to fund costs of a county, city, village, or township that has already ceased accruals to a defined benefit plan, a county, city, village, or township may by ordinance or resolution of its governing body, and without a vote of its electors, issue a municipal security under this section to pay an amount not to exceed the difference between 95% of the actuarial value of liabilities and 100% of the actuarial or market value of assets for that retirement program provided that the amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, shall not exceed the limit authorized by law.

(2) Through December 31, 2023, in connection with the closure of a postemployment health care plan to new employees, or to fund the costs of a county, city, village, or township that has already closed its postemployment health care plan to new employees a county, city, village, or township may by ordinance or resolution of its governing body, and without a vote of its electors, issue a municipal security under this section to pay an amount not to exceed the difference between 60% of the actuarial value of liabilities and 100% of the actuarial or market value of assets of the costs of the unfunded accrued health care liability provided that the amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, shall not exceed the limit authorized by law or to refund in whole or in part a contract obligation issued for the same purpose. Postemployment health care or benefits may be funded by the county, city, village, or township. The funding of postemployment health care benefits by a county, city, village, or township as provided in this act shall not constitute a contract to pay the postemployment health care benefits.

(3) Before a county, city, village, or township issues a municipal security under this section, for defined benefit retirement plans or postemployment health care plans, with 100 or more combined active and retired members, within 1 year prior to the issuance of the municipal security, the county, city, village, or township shall have conducted an internal or external review to verify eligible participants in the plan and that they are receiving appropriate pension or other postemployment benefits consistent with their respective plan.

(4) Before a county, city, village, or township issues a municipal security under this section, the county, city, village, or township shall publish a notice of intent to issue the municipal security. The notice of intent and the rights of referendum shall meet the requirements of section 517(2).

(5) Before a county, city, village, or township issues a municipal security under this section, the county, city, village, or township shall prepare and make available to the public a comprehensive financial plan. The comprehensive financial plan shall be posted in a prominent and conspicuous location on the county's, city's, village's, or township's website, if the county, city, village, or township maintains a website, and at the office of the clerk no later than the date the notice of intent was published in accordance with section 517(2). The comprehensive financial plan shall be approved by ordinance or resolution of its governing body on or before the notice of intent was published in accordance with section 517(2). The comprehensive financial plan shall include all of the following:

(a) An analysis of the current and future obligations of the county, city, village, or township with respect to each retirement program and each postemployment health care benefit program of the county, city, village, or township. This analysis shall include the retirement program or postemployment health care benefit program expected to be funded with a municipal security issued under this section and all other retirement programs or postemployment health care benefit programs not being funded with a municipal security issued under this section.

(b) Evidence that the issuance of the municipal security together with other funds lawfully available will be sufficient to eliminate the unfunded pension liability or the unfunded accrued health care liability.

(c) A debt limit calculation that shall be in accordance with statutory, charter, and constitutional debt limits.

(d) The debt service schedule for a municipal security issued under this section shall not materially deviate from level or descending annual debt service, or shall not materially deviate from a level annual or descending debt service when taking into account other municipal securities of the county, city, village, or township unless otherwise approved by the department for a period not to exceed 5 years from the date of issuance. The proceeds from the municipal security shall not fund capitalized interest on the municipal security or any required unfunded actuarial liability payments not made prior to the issuance of the municipal security.

(e) The projected net present value savings between the actuarially determined amortization payments at the plan's investment rate of return and the municipal security's debt service requirements at the time of issuance, calculated using a method approved by the department, shall be at least 15% of the par amount of a proposed municipal security issued pursuant to subsection (1), or shall be at least 20% of the par amount of a proposed municipal security issued pursuant to subsection (2) unless the department determines that otherwise

the plan in its entirety is in the financial best interest of the county, city, village, or township.

(f) A comparison of the current investment rate of return assumption of the defined benefit plan or postemployment health care plan and the actual annualized investment rates of returns for the past year, 5 years, and 10 years of those plans.

(g) The following acknowledgement: Since the actuarial value of the defined benefit plan or postemployment health care plan's assets and liabilities are subject to change, the county, city, village, or township acknowledges that it is possible the unfunded accrued pension liability or unfunded accrued health care liability may increase after the issuance of the municipal security, thereby requiring the county, city, village, or township to make additional actuarially determined amortization payments to the defined benefit plan or postemployment health care plan beyond the principal and interest payments due on the municipal security.

(h) A certification that the county's, city's, village's, or township's most recent audit report indicates the sum of all the county's, city's, village's, or township's defined benefit plans' actual contributions for the most recent 3 fiscal years are 100% or greater than the sum of all the county's, city's, village's, or township's defined benefit plans' actuarially determined contributions for the most recent 3 fiscal years. As used in this subdivision, "actuarially determined contributions" means that term as used in accordance with generally accepted accounting principles, rules, or regulations.

(i) A certification that the county, city, village, or township is compliant on any reporting requirements in accordance with the protecting local government retirement and benefits act, 2017 PA 202, MCL 38.2801 to 38.2812.

(j) A certification by the person preparing the plan that the comprehensive financial plan is complete and accurate.

(k) If the proceeds of the borrowing are to be deposited in a health care trust fund, a plan in place from the county, city, village, or township to mitigate the increase in health care costs and may include a wellness program that promotes the maintenance or improvement of healthy behaviors.

(6) Municipal securities issued under this section by a county, city, village, or township and the interest on and income from the municipal securities are exempt from taxation by this state or a political subdivision of this state.

(7) The proceeds of a municipal security issued under this section may be used to pay the costs of issuance of the municipal security. Except for a refunding, the proceeds of a municipal security issued under this section to cover unfunded pension liability or accrued unfunded health care liability, or both, shall be deposited in a pension trust fund, a health care trust fund, a trust created by a county, city, village, or township which has as its beneficiary a health care trust fund, a trust created by a county, city, village, or township which has as its beneficiary a pension trust fund, or, for a county, city, village, or township, a restricted fund within a trust that would only be used to retire the municipal securities issued under subsection (1) or (2). A county, city, village, or township shall have the power to create a trust to carry out the purposes of this subsection. A trust created under this subsection shall invest its funds in the investment instruments and subject to the investment limitations governing the investment of assets of public employee retirement systems under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141. A trust or fund receiving proceeds of a municipal security under this subsection must comply with all of the following:

(a) Report its financial condition according to generally accepted accounting principles.

(b) Be tax-exempt under the internal revenue code of 1986.

(8) A county, city, village, or township issuing municipal securities under this section may enter into indentures or other agreements with trustees and escrow agents for the issuance, administration, or payment of the municipal securities.

(9) Before a county, city, village, or township issues a municipal security under this section, the county, city, village, or township shall obtain the approval of the department.

(10) If a county, city, village, or township has issued a municipal security under this section, that county, city, village, or township shall not change the benefit structure of the defined benefit plan if the defined benefit plan is undergoing the partial cessation of accruals. However, a county, city, village, or township may reduce benefits of the defined benefit plan for years of service that accrue after the issuance of municipal securities under this section.

(11) A county, city, village, or township shall not issue a municipal security under subsection (1) or (2) unless the county, city, village, or township has been assigned a credit rating within the category of A or higher or the equivalent by at least 1 nationally recognized rating agency.

(12) A county, city, village, or township that issues a municipal security under subsection (1) or (2) shall covenant with the holders of the municipal security and this state that it will not, after the issuance of the

municipal security and while the municipal security is outstanding, rescind whatever action it has taken to make a partial or complete cessation of accruals to a defined benefit plan or the closure of the defined benefit plan or postemployment health care plan for new or existing employees for which the municipal security was issued.

(13) If a county, city, village, or township has issued a municipal security under subsection (1) or (2), the county, city, village, or township may issue a refunding security to refund that municipal security under this section after December 31, 2023 if that refunding security does not have a final maturity later than the final maturity of the municipal security being refunded and if the municipality that issued the municipal security has been assigned a credit rating within the category of A or higher or the equivalent by at least 1 nationally recognized rating agency in connection with the refunding security.

(14) Unless otherwise approved by the department, a municipal security issued under this section shall mature by no later than the date the final amortized payment for the unfunded pension liability or the unfunded accrued health care liability would have been made had the county, city, village, or township not elected to issue a municipal security under this section.

**History:** Add. 2012, Act 329, Imd. Eff. Oct. 9, 2012;—Am. 2014, Act 297, Imd. Eff. Sept. 30, 2014;—Am. 2015, Act 46, Imd. Eff. June 9, 2015;—Am. 2018, Act 575, Imd. Eff. Dec. 28, 2018.

## PART VI REFUNDING

### 141.2601 Issuance of refunding securities.

Sec. 601. (1) Subject to this act, a municipality may, by resolution or ordinance adopted by its governing body and without a vote of its electors, refund all or any part of its outstanding securities by issuing refunding securities as described in this part.

(2) A municipality may issue a refunding security whether the outstanding security to be refunded has or has not matured, is or is not redeemable on the date of issuance of the refunding security, exceeds the original estimated period of usefulness but not to exceed the current period of usefulness as determined by the project engineer or architect, or is or is not subject to redemption before maturity.

(3) A refunding security may be issued in a principal amount greater than the principal amount of the outstanding securities to be refunded as necessary to effect the refunding under the refunding plan.

(4) A municipality may use the proceeds of a refunding security to pay interest accrued, or to accrue, to the earliest or any subsequent date of redemption, purchase, or maturity of the outstanding security to be refunded, redemption premium, if any, and any commission, service fee, and other expense necessary to be paid in connection with the outstanding security to be refunded. A municipality may also use the proceeds of a refunding security to pay part of the cost of issuance of the refunding security, interest on the refunding security, a reserve for the payment of principal, interest, and redemption premiums on the refunding security, and other necessary incidental expenses, including, but not limited to, placement fees and fees or charges for insurance, letters of credit, lines of credit, or commitments to purchase the outstanding security to be refunded.

(5) A municipality may invest the proceeds of a refunding security as provided in section 607(2).

(6) To the extent provided by the proceedings authorizing the refunding security, principal, interest, and redemption premiums on the refunding security shall be secured by and payable from any or all of the following sources:

- (a) Taxes or special assessments pledged for payment of a municipal security being refunded.
- (b) The proceeds of the refunding security.
- (c) The reserve, if any, established for the payment of the principal, interest, and redemption premiums on, the refunding security or the outstanding security to be refunded.
- (d) The proceeds of any insurance, letter of credit, or line of credit acquired as security for the refunding security.
- (e) The proceeds of any refunding securities issued to refund the refunding security.
- (f) Revenues pledged for the outstanding security being refunded.
- (g) Investment earnings or profits on any of the sources described in subdivisions (a) to (f).

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

### 141.2603 Assumption of outstanding security by another municipality; refunding.

Sec. 603. (1) Any outstanding security of a municipality that has been assumed in part by another municipality may be refunded by the municipalities as to their respective liabilities.

(2) This act shall not be construed to prohibit a municipality from refunding any of its outstanding

securities even though some other municipality may be required to contribute to the payment of those outstanding securities, and that refunding is hereby expressly authorized. Refunding authorized under this subsection does not relieve any other municipality from a pledge to make a contribution to the payment of an outstanding security.

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

#### **141.2605 Debt as additional to statutory or charter limitation of tax rate or outstanding debt limit.**

Sec. 605. The debt evidenced by a refunding security and the tax levies used to repay the refunding security shall not be deemed to be within any statutory or charter limitation of tax rate or of outstanding debt limit, but shall be deemed to be authorized in addition to any statutory or charter limitation of tax rate or outstanding debt limit.

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

#### **141.2607 Application of refunding security proceeds and available money.**

Sec. 607. (1) Money on hand applicable to the retirement of outstanding securities to be refunded, or from proceeds of revenues pledged for these purposes, or both, shall be applied as provided in the authorizing resolution.

(2) The proceeds of a refunding security and other available money may be applied to payment of the principal, interest, or redemption premiums, if any, on the refunded outstanding securities at maturity or on any prior redemption date or may be deposited in trust for use to purchase and deposit in trust direct obligations of the United States, direct noncallable and nonprepayable obligations that are unconditionally guaranteed by the United States government as to full and timely payment of principal and interest, noncallable and nonprepayable coupons from the above obligations that are stripped pursuant to United States treasury programs, and resolution funding corporation bonds and strips, the principal and interest on which when due, together with other available money, will provide funds sufficient to pay principal, interest, and redemption premiums, if any, on the refunded outstanding securities as the refunded outstanding securities become due, whether by maturity or on a prior redemption date, as provided in the authorizing resolution.

(3) The pledge and covenants of a municipality related to refunded outstanding securities for which the municipality has deposited in trust proceeds of a refunding security and other available money as described in subsection (2) is considered to have been fully and legally performed and defeased.

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

#### **141.2609 Conditions for securing certain outstanding municipal securities.**

Sec. 609. A refunding security issued to refund municipal securities issued under the terms of the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, shall be of the same character as the refunded outstanding municipal security and shall be construed to be a continuation of the refunded outstanding municipal security. A refunding security issued to refund an outstanding municipal security secured by an unlimited tax full faith and credit pledge shall be secured by an unlimited tax full faith and credit pledge. Refunding securities for outstanding securities issued under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, shall be secured by the same pledge as the outstanding securities being refunded. All other refunding securities issued under this part shall be secured by a limited tax full faith and credit pledge of the issuing municipality.

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

#### **141.2611 Refund of outstanding securities by issuance of refunding security; prohibition; exception; procedures; reasonable basis.**

Sec. 611. (1) Except as provided in section 515 or subsection (2), a municipality shall not refund all or any part of its outstanding securities by issuing a refunding security unless the net present value of the principal and interest to be paid on the refunding security, including the cost of issuance, and taking into account an agreement entered into pursuant to section 317, is less than the net present value of the principal and interest to be paid on the outstanding security being refunded as calculated using a method approved by the department. However, when a municipality is issuing refunding securities for outstanding variable interest rate securities, as determined by the department the net present value calculation shall use the appropriate current fixed interest rate and the fixed interest rate that would have been available for the outstanding variable interest rate securities when originally issued if the outstanding variable interest rate securities had been issued as fixed interest rate securities or shall use another procedure determined by the department.

(2) A municipality may, under procedures established by the department, obtain an exception from the

requirements of subsection (1) if the department determines a reasonable basis for that exception exists. As used in this subsection, reasonable basis means 1 or more of the following:

- (a) The refunding is required by a state or federal agency.
- (b) The refunding is necessary to reduce or eliminate requirements of ordinances or covenants applicable to the existing outstanding security.
- (c) The refunding is necessary to avoid a potential default on an outstanding security.
- (d) The refunding of a short-term municipal security issued under section 413.
- (e) A municipality may issue a refunding security to refund all or any part of its outstanding securities before December 31, 2012 if those securities are not secured by the unlimited full faith and credit pledge of the municipality and the refunding is approved by the department. The municipality shall hold a public hearing before submitting a request to the department pursuant to this subdivision. The municipality shall publish notice of the hearing in a newspaper of general circulation in the municipality not less than 30 days before the hearing. After the hearing, the municipality may prepare and submit to the department a request to issue a refunding security pursuant to this subdivision. The department shall not unreasonably withhold approval. The department shall have 90 days from the date it receives a completed request to issue a refunding security pursuant to this subdivision to approve or deny the request. If the department fails to approve or deny the request within 90 days of receiving the completed request, the municipality's request is deemed approved by the department. If the department denies the request, it shall advise the municipality in writing of the reasons for the denial.

**History:** 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 500, Imd. Eff. July 3, 2002;—Am. 2010, Act 321, Imd. Eff. Dec. 21, 2010

#### **141.2613 Refunding securities; effect of 141.2503.**

Sec. 613. Refunding securities are not subject to section 503(1), (2), and (3).

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

### 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.

(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.