

Act No. 498
Public Act of 1988
Approved by the Governor
December 28, 1988
Filed by the Secretary of State
December 29, 1988

**STATE OF MICHIGAN
84TH LEGISLATURE
REGULAR SESSION OF 1988**

Introduced by Senators Shinkle, Posthumus, DeGrow, Carl, Dingell and Pollack

ENROLLED SENATE BILL No. 260

AN ACT to amend section 3b of chapter IV of Act No. 202 of the Public Acts of 1943, entitled as amended "An act relative to the borrowing of money by municipalities, and the issuance of bonds, notes, and certificates of indebtedness; to provide for tax levies and sinking funds; to create the municipal finance commission, and to prescribe its powers and duties; to prescribe powers and duties of the department of treasury and the state treasurer and of the department of education and the superintendent of public instruction; to impose certain duties, requirements, and filing fees upon political subdivisions of this state; to provide for prior approval of the issuance of municipal obligations and for the issuance of municipal obligations without prior approval upon the existence or occurrence of certain conditions; to provide certain powers to the department of treasury and the department of education to aid municipalities in default of the payment of an obligation to develop and implement refinancing plans; to authorize the issuance of obligations to pay premiums or to establish funds to self-insure for losses; to prescribe penalties; and to repeal all acts and parts of acts inconsistent with the provisions of this act," as amended by Act No. 125 of the Public Acts of 1986, being section 134.3b of the Michigan Compiled Laws; and to repeal certain parts of the act.

The People of the State of Michigan enact:

Section 1. Section 3b of chapter IV of Act No. 202 of the Public Acts of 1943, as amended by Act No. 125 of the Public Acts of 1986, being section 134.3b of the Michigan Compiled Laws, is amended to read as follows:

CHAPTER IV

Sec. 3b. (1) A city or township that is the local property tax collecting unit pursuant to the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, for any other municipality or municipalities may, by resolution of its governing body and without a vote of the electors, borrow money and issue its notes in accordance with the provisions of this chapter in anticipation of the collection of its own taxes and in anticipation of the collection of the taxes levied by any or all of the other municipalities for which it acts as the local property tax collecting unit or borrow money and issue its notes solely in anticipation of the collection of the taxes levied by any or all of the other municipalities for which it acts as the local property tax collecting unit.

(2) If the borrowing is made partially in anticipation of the collection of the taxes of the borrowing city or township for the current fiscal year, or the borrowing is made partially in anticipation of the collection of the taxes of the borrowing city or township for the next succeeding fiscal year and the proceeds of the borrowing

will not be used to pay operating expenses, debt service charges, or capital improvement costs of the borrowing city or township in the current fiscal year, then the proceeds of the borrowing shall be used only for the payment of 1 or more of the following:

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

(d) Amounts to other municipalities, for which the borrowing city or township is the local property tax collecting unit, equal to all or part of the taxes levied by the other municipalities to be collected if the taxes to be collected by the borrowing city or township for any municipality receiving a portion of the note proceeds of the borrowing are directly or indirectly pledged by the borrowing city or township to the repayment of the notes.

(3) If the borrowing is made partially in anticipation of the collection of the taxes of the borrowing city or township for a next succeeding fiscal year, the resolution authorizing the loan and borrowing shall contain an irrevocable provision for the levying of a tax in the next succeeding fiscal year for the purpose for which the loan is to be made and the repayment of the loan from the receipt of the taxes.

(4) If the borrowing is made wholly in anticipation of the collection of the taxes levied by 1 or more other municipalities for which the borrowing city or township is the local property tax collecting unit, the proceeds of the borrowing shall be used only to pay amounts to the other municipalities equal to the percentage of the taxes to be collected for each of the other municipalities by the borrowing city or township that is directly or indirectly pledged to the repayment of the notes.

(5) From the proceeds of notes issued wholly or partially in anticipation of the collection of taxes for 1 or more other municipalities the borrowing city or township shall, within 20 days after the receipt of the note proceeds, pay to each of the other municipalities an amount equal to the percentage of the taxes to be collected for each other municipality that is directly or indirectly pledged to repayment of the notes. In addition, within 20 days after the receipt of the note proceeds, from the first taxes collected by the borrowing city or township as the local property tax collecting unit for each other municipality, there shall be paid to each other municipality an amount that, when added to each other municipality's share of the note proceeds and any other amounts it has received from the borrowing city or township, provides each other municipality with a total amount equal to 100% of the amount that the borrowing city or township has agreed to pay to each other municipality by that date. The remaining taxes collected by the borrowing city or township, up to the amount of each municipality's share of the note proceeds, shall be due and payable to the borrowing city or township, shall be set aside in the special fund created pursuant to subsection (6), and shall be used solely to repay or to provide for the repayment of the principal of and interest on the notes. The primary obligation to pay to the borrowing city or township the amount of uncollected taxes of another municipality and the interest on those taxes shall rest with that other municipality receiving note proceeds from the borrowing city or township. If the taxes and the interest on those taxes that are due and payable to the borrowing city or township are not collected or otherwise received for any reason by the borrowing city or township at least 20 days prior to the final maturity of the notes issued by the borrowing city or township, the borrowing city or township shall so notify each affected municipality which shall, on or before 10 days prior to the final maturity of the notes, pay or make arrangements satisfactory to the borrowing city or township for the payment to the borrowing city or township of an amount equal to the amount of the unreceived taxes and interest on those taxes. A municipality receiving note proceeds or other payments equal to all or a portion of its tax levy from the borrowing city or township is not, other than the obligation to pay to the borrowing city or township an amount equal to the amount of unreceived taxes and interest on those taxes, liable directly or indirectly for the payment of principal outstanding and interest accrued on the notes issued by the borrowing city or township.

(6) If the borrowing is made partially in anticipation of the collection of its own taxes, within 20 days after receipt of the note proceeds, the borrowing city or township shall pay to its general fund or other appropriate funds an amount equal to the percentage of the taxes levied by the borrowing city or township that is directly or indirectly pledged to the repayment of the notes. In addition, within 20 days after the receipt of the note proceeds, from the first taxes levied and collected by the borrowing city or township, the borrowing city or township shall pay to the general fund or other appropriate funds an amount that, when added to the borrowing city's or township's share of the note proceeds, provides the borrowing city or township with a total amount equal to 100% of the amount that the borrowing city or township has agreed to pay by that date. From the remaining taxes collected by the borrowing city or township, the borrowing city or township shall set aside in a special fund a portion of the tax collections that is not less than the borrowing city's or township's share of the note proceeds until the amount set aside in that special fund when combined with the amount set aside pursuant to subsection (5) is sufficient for the payment of principal and interest on the notes when due.

(7) A city or township intending to borrow money and issue notes pursuant to this section may issue the notes after the consent of the other municipality or municipalities for which it is the local property tax collecting unit if it provides written notice of that intention by certified mail to the governing body of each of the affected

municipalities prior to the date of the levy of taxes by the affected municipalities and the governing body of the affected municipality adopts a resolution to consent to the borrowing.

(8) A city or township may borrow money and issue notes under this section in anticipation of the city's or township's collection of taxes levied by another municipality only if requested to do so by the other municipality for which the city or township is the local property tax collecting unit.

(9) A city or township borrowing money and issuing notes under this section may enter into an agreement with a municipality for which the city or township is the local property tax collecting unit in which agreement the municipality agrees to pay the borrowing city or township all or a portion of the interest expense on the notes and other amounts as specified in the agreement. An agreement entered into under this subsection shall be approved by resolution of the governing body of the municipality agreeing to make the payment and shall provide that the obligation to pay is a full faith and credit limited tax obligation of that municipality subject to applicable statutory and constitutional limitations.

(10) Notes shall not be issued pursuant to this section without a credit enhancement satisfactory to the state treasurer including, without limitation, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase or repurchase obligations, commercial paper dealer agreements, and any other transactions, contracts, or agreements intended to assure the timely payment of the notes, including any credit enhancement authorized by section 12(1)(a) of chapter III. If requested by a city or township, the state treasurer may waive the credit enhancement requirement of this subsection.

(11) Any municipality that receives proceeds from notes issued pursuant to this section in an amount equal to less than 100% of its tax levy is authorized to issue notes for the balance of its tax levy pursuant to this chapter.

(12) Notes issued by a city or township pursuant to this section shall be authorized by a resolution that shall provide that the notes are full faith and credit limited tax general obligations of the city or township issuing the notes subject to applicable statutory and constitutional limitations.

(13) Notwithstanding any other provision of this chapter, a note issued under this section shall mature not later than 36 months after its date of issuance as determined by the governing body of the municipality.

(14) All interest received from investment of money acquired through borrowing under this section shall remain as bond and note interest in the redemption fund until all principal and interest on the obligations are paid.

Section 2. Section 10 of chapter V of Act No. 202 of the Public Acts of 1943, being section 135.10 of the Michigan Compiled Laws, is repealed.

This act is ordered to take immediate effect.

.....
Secretary of the Senate.

.....
Clerk of the House of Representatives.

Approved.....

.....
Governor.