

HOUSE BILL No. 4216

February 9, 2011, Introduced by Reps. Pscholka and McMillin and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to amend 2001 PA 34, entitled
"Revised municipal finance act,"
by amending section 303 (MCL 141.2303), as amended by 2002 PA 541.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

5 (2) Accompanying the audit report described in subsection (1),
6 a municipality shall file a qualifying statement, on a form and in
7 the manner provided by the department, which shall be certified by
8 the chief administrative officer. Within 30 business days of the
9 receipt of the qualifying statement, the department shall determine

1 if the municipality complies with the requirements of subsection
2 (3). If the department determines that the municipality complies
3 with the provisions of subsection (3) or if the department fails to
4 notify the municipality of its determination under this subsection
5 within 30 business days of receipt of the qualifying statement, the
6 municipality may proceed to issue municipal securities under this
7 act without further approval from the department until 30 business
8 days after the next qualifying statement is due or a new
9 determination is made by the department, whichever occurs first.

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

14 (a) The municipality is not operating under the provisions of
15 the ~~local government fiscal responsibility act, 1990 PA 72, MCL~~
16 ~~141.1201 to 141.1291.~~ **LOCAL GOVERNMENT AND SCHOOL DISTRICT FISCAL**
17 **ACCOUNTABILITY ACT.**

18 (b) The municipality did not issue securities in the
19 immediately preceding 5 fiscal years or current fiscal year that
20 were authorized by either the emergency municipal loan act, 1980 PA
21 243, MCL 141.931 to 141.942, other than a security issued for a
22 loan authorized under section 3(2)(a) of the emergency municipal
23 loan act, 1980 PA 243, MCL 141.933, or the fiscal stabilization
24 act, 1981 PA 80, MCL 141.1001 to 141.1011.

25 (c) The municipality was not required by the terms of a court
26 order or judgment to levy a tax in the preceding fiscal year. For
27 purposes of this subdivision, the department may determine that a

1 court order or judgment to levy a tax is not material if it did not
2 have an adverse financial impact on the municipality.

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

7 (e) The debt retirement fund balance for any municipal
8 security that is funded from an unlimited tax levy does not exceed
9 150% of the amount required for principal and interest payments due
10 for that municipal security in the next fiscal year.

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

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

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

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

23 (j) The most recent delinquent property taxes of the
24 municipality, without regard to payments received from the county
25 under the general property tax act, 1893 PA 206, MCL 211.1 to
26 ~~211.157,~~ **211.155**, did not exceed 18% of the amount levied.

27 (k) The municipality did not submit a qualifying statement or

1 an application for any other municipal security in the preceding 12
2 months that was materially false or incorrect.

3 (l) The municipality is not in default on the payment of any
4 debt, excluding industrial development revenue bonds issued under
5 the industrial development revenue bond act of 1963, 1963 PA 62,
6 MCL 125.1251 to 125.1267, economic development corporation bonds
7 issued under the economic development corporations act, 1974 PA
8 338, MCL 125.1601 to 125.1636, bonds issued by a local hospital
9 finance authority for a private hospital under the hospital finance
10 authority act, 1969 PA 38, MCL 331.31 to 331.84, or any other debt
11 for which the municipality is not financially liable.

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

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

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

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

24 (4) If a municipality is notified within 30 business days of
25 the filing of the qualifying statement that it does not comply with
26 1 or more of the requirements of subsection (3), the municipality
27 may correct the noncompliant requirements and request a

1 reconsideration of the determination from the department as
2 provided in subsection (5).

3 (5) A municipality may request a reconsideration of the
4 determination from the department. That request shall indicate the
5 requirements that the department determined the municipality to be
6 not in compliance with and the action taken by the municipality to
7 correct the noncompliance. Within 30 business days of the receipt
8 of the request for reconsideration, the department shall determine
9 if the municipality complies with the requirements of subsection
10 (3) or, if the department fails to notify the municipality of its
11 determination under this subsection within 30 business days of
12 receipt of the request for reconsideration, the municipality will
13 be granted qualified status.

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

20 (7) If a municipality has not been granted qualified status,
21 the municipality must obtain, for each municipal security, the
22 prior written approval of the department to issue a municipal
23 security. To request prior written approval to issue a municipal
24 security, the municipality shall submit an application and
25 supporting documentation to the department on a form and in a
26 manner prescribed by the department, which shall be certified by
27 the chief administrative officer. A filing fee equal to 0.03% of

1 the principal amount of the municipal security to be issued, but
2 not less than \$800.00 and not greater than \$2,000.00 as determined
3 by the department, shall accompany each application. If the
4 qualifying statement required by subsection (2) was received by the
5 department more than 6 months after the end of the municipality's
6 fiscal year, a late fee of \$100.00 shall accompany the first
7 application filed after that date. Within 30 business days of
8 receiving an application, the fee, and supporting documentation
9 from a municipality, the department shall make a determination
10 whether the municipality has met all of the following requirements:

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

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

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

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

24 (8) If the department determines that the requirements in
25 subsection (7) have been met, the department shall approve the
26 issuance of the proposed municipal security. If the department
27 determines that the requirements in subsection (7) have not been

1 met, the department shall issue a notice of deficiency to the
2 municipality that prevents the issuance of the proposed municipal
3 security. The notice of deficiency shall state the specific
4 deficiencies and problems with the proposed issuance. After the
5 deficiencies and problems have been addressed as determined by the
6 department, the department shall approve the issuance of the
7 proposed municipal security.

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

12 Enacting section 1. This amendatory act does not take effect
13 unless Senate Bill No. ____ or House Bill No. 4214 (request no.
14 00011'11) of the 96th Legislature is enacted into law.