

# HB2936



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2936

Introduced 2/16/2023, by Rep. Steven Reick

### SYNOPSIS AS INTRODUCED:

30 ILCS 350/15

from Ch. 17, par. 6915

Amends the Local Government Debt Reform Act. Provides that alternate bonds may not be secured by the proceeds of general obligation bonds issued without referendum approval. Effective immediately.

LRB103 24782 HLH 51111 b

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Local Government Debt Reform Act is amended  
5 by changing Section 15 as follows:

6 (30 ILCS 350/15) (from Ch. 17, par. 6915)

7 Sec. 15. Double-barrelled bonds. Whenever revenue bonds  
8 have been authorized to be issued pursuant to applicable law  
9 or whenever there exists for a governmental unit a revenue  
10 source, the procedures set forth in this Section may be used by  
11 a governing body. General obligation bonds may be issued in  
12 lieu of such revenue bonds as authorized, and general  
13 obligation bonds may be issued payable from any revenue  
14 source. Such general obligation bonds may be referred to as  
15 "alternate bonds". Alternate bonds may be issued without any  
16 referendum or backdoor referendum except as provided in this  
17 Section, upon the terms provided in Section 10 of this Act  
18 without reference to other provisions of law, but only upon  
19 the conditions provided in this Section. Alternate bonds shall  
20 not be regarded as or included in any computation of  
21 indebtedness for the purpose of any statutory provision or  
22 limitation except as expressly provided in this Section.

23 Such conditions are:

1           (a) Alternate bonds shall be issued for a lawful corporate  
2 purpose. If issued in lieu of revenue bonds, alternate bonds  
3 shall be issued for the purposes for which such revenue bonds  
4 shall have been authorized. If issued payable from a revenue  
5 source in the manner hereinafter provided, which revenue  
6 source is limited in its purposes or applications, then the  
7 alternate bonds shall be issued only for such limited purposes  
8 or applications. Alternate bonds may be issued payable from  
9 either enterprise revenues or revenue sources, or both.  
10 Alternate bonds may not be secured by the proceeds of general  
11 obligation bonds issued without referendum approval.

12           (b) Alternate bonds shall be subject to backdoor  
13 referendum. The provisions of Section 5 of this Act shall  
14 apply to such backdoor referendum, together with the  
15 provisions hereof. The authorizing ordinance shall be  
16 published in a newspaper of general circulation in the  
17 governmental unit. Along with or as part of the authorizing  
18 ordinance, there shall be published a notice of (1) the  
19 specific number of voters required to sign a petition  
20 requesting that the issuance of the alternate bonds be  
21 submitted to referendum, (2) the time when such petition must  
22 be filed, (3) the date of the prospective referendum, and (4),  
23 with respect to authorizing ordinances adopted on or after  
24 January 1, 1991, a statement that identifies any revenue  
25 source that will be used to pay debt service on the alternate  
26 bonds. The clerk or secretary of the governmental unit shall

1 make a petition form available to anyone requesting one.

2 Except as provided in the following paragraph, if no  
3 petition is filed with the clerk or secretary within 30 days of  
4 publication of the authorizing ordinance and notice, the  
5 alternate bonds shall be authorized to be issued. But if  
6 within this 30 days period, a petition is filed with such clerk  
7 or secretary signed by electors numbering the greater of (i)  
8 7.5% of the registered voters in the governmental unit or (ii)  
9 200 of those registered voters or 15% of those registered  
10 voters, whichever is less, asking that the issuance of such  
11 alternate bonds be submitted to referendum, the clerk or  
12 secretary shall certify such question for submission at an  
13 election held in accordance with the general election law.

14 Notwithstanding the previous paragraph, in governmental  
15 units with fewer than 500,000 inhabitants that propose to  
16 issue alternate bonds payable solely from enterprise revenues  
17 as defined under Section 3 of this Act, except for such  
18 alternate bonds that finance or refinance projects concerning  
19 public utilities, public streets and roads or public safety  
20 facilities, and related infrastructure and equipment, if no  
21 petition is filed with the clerk or secretary within 45 days of  
22 publication of the authorizing ordinance and notice, the  
23 alternate bonds shall be authorized to be issued. But if,  
24 within this 45-day period, a petition is filed with such clerk  
25 or secretary signed by the necessary number of electors,  
26 asking that the issuance of such alternate bonds be submitted

1 to referendum, the clerk or secretary shall certify such  
2 question for submission at an election held in accordance with  
3 the general election law. For purposes of this paragraph, the  
4 necessary number of electors for a governmental unit with more  
5 than 4,000 registered voters is the lesser of (i) 5% of the  
6 registered voters or (ii) 5,000 registered voters; and the  
7 necessary number of electors for a governmental unit with  
8 4,000 or fewer registered voters is the lesser of (i) 15% of  
9 the registered voters or (ii) 200 registered voters.

10 The question on the ballot shall include a statement of  
11 any revenue source that will be used to pay debt service on the  
12 alternate bonds. The alternate bonds shall be authorized to be  
13 issued if a majority of the votes cast on the question at such  
14 election are in favor thereof provided that notice of the bond  
15 referendum, if held before July 1, 1999, has been given in  
16 accordance with the provisions of Section 12-5 of the Election  
17 Code in effect at the time of the bond referendum, at least 10  
18 and not more than 45 days before the date of the election,  
19 notwithstanding the time for publication otherwise imposed by  
20 Section 12-5. Notices required in connection with the  
21 submission of public questions on or after July 1, 1999 shall  
22 be as set forth in Section 12-5 of the Election Code. Backdoor  
23 referendum proceedings for bonds and alternate bonds to be  
24 issued in lieu of such bonds may be conducted at the same time.

25 (c) To the extent payable from enterprise revenues, such  
26 revenues shall have been determined by the governing body to

1 be sufficient to provide for or pay in each year to final  
2 maturity of such alternate bonds all of the following: (1)  
3 costs of operation and maintenance of the utility or  
4 enterprise, but not including depreciation, (2) debt service  
5 on all outstanding revenue bonds payable from such enterprise  
6 revenues, (3) all amounts required to meet any fund or account  
7 requirements with respect to such outstanding revenue bonds,  
8 (4) other contractual or tort liability obligations, if any,  
9 payable from such enterprise revenues, and (5) in each year,  
10 an amount not less than 1.25 times debt service of all (i)  
11 alternate bonds payable from such enterprise revenues  
12 previously issued and outstanding and (ii) alternate bonds  
13 proposed to be issued. To the extent payable from one or more  
14 revenue sources, such sources shall have been determined by  
15 the governing body to provide in each year, an amount not less  
16 than 1.25 times debt service of all alternate bonds payable  
17 from such revenue sources previously issued and outstanding  
18 and alternate bonds proposed to be issued. The 1.25 figure in  
19 the preceding sentence shall be reduced to 1.10 if the revenue  
20 source is a governmental revenue source. The conditions  
21 enumerated in this subsection (c) need not be met for that  
22 amount of debt service provided for by the setting aside of  
23 proceeds of bonds or other moneys at the time of the delivery  
24 of such bonds.

25 (c-1) In the case of alternate bonds issued as variable  
26 rate bonds (including refunding bonds), debt service shall be

1 projected based on the rate for the most recent date shown in  
2 the 20 G.O. Bond Index of average municipal bond yields as  
3 published in the most recent edition of The Bond Buyer  
4 published in New York, New York (or any successor publication  
5 or index, or if such publication or index is no longer  
6 published, then any index of long-term municipal tax-exempt  
7 bond yields selected by the governmental unit), as of the date  
8 of determination referred to in subsection (c) of this  
9 Section. Any interest or fees that may be payable to the  
10 provider of a letter of credit, line of credit, surety bond,  
11 bond insurance, or other credit enhancement relating to such  
12 alternate bonds and any fees that may be payable to any  
13 remarketing agent need not be taken into account for purposes  
14 of such projection. If the governmental unit enters into an  
15 agreement in connection with such alternate bonds at the time  
16 of issuance thereof pursuant to which the governmental unit  
17 agrees for a specified period of time to pay an amount  
18 calculated at an agreed-upon rate or index based on a notional  
19 amount and the other party agrees to pay the governmental unit  
20 an amount calculated at an agreed-upon rate or index based on  
21 such notional amount, interest shall be projected for such  
22 specified period of time on the basis of the agreed-upon rate  
23 payable by the governmental unit.

24 (d) The determination of the sufficiency of enterprise  
25 revenues or a revenue source, as applicable, shall be  
26 supported by reference to the most recent audit of the

1 governmental unit, which shall be for a fiscal year ending not  
2 earlier than 18 months previous to the time of issuance of the  
3 alternate bonds. If such audit does not adequately show such  
4 enterprise revenues or revenue source, as applicable, or if  
5 such enterprise revenues or revenue source, as applicable, are  
6 shown to be insufficient, then the determination of  
7 sufficiency shall be supported by the report of an independent  
8 accountant or feasibility analyst, the latter having a  
9 national reputation for expertise in such matters, who is not  
10 otherwise involved in the project being financed or refinanced  
11 with the proceeds of the alternate bonds, demonstrating the  
12 sufficiency of such revenues and explaining, if appropriate,  
13 by what means the revenues will be greater than as shown in the  
14 audit. Whenever such sufficiency is demonstrated by reference  
15 to a schedule of higher rates or charges for enterprise  
16 revenues or a higher tax imposition for a revenue source, such  
17 higher rates, charges or taxes shall have been properly  
18 imposed by an ordinance adopted prior to the time of delivery  
19 of alternate bonds. The reference to and acceptance of an  
20 audit or report, as the case may be, and the determination of  
21 the governing body as to sufficiency of enterprise revenues or  
22 a revenue source shall be conclusive evidence that the  
23 conditions of this Section have been met and that the  
24 alternate bonds are valid.

25 (e) The enterprise revenues or revenue source, as  
26 applicable, shall be in fact pledged to the payment of the



1 alternate bonds; and the governing body shall covenant, to the  
2 extent it is empowered to do so, to provide for, collect and  
3 apply such enterprise revenues or revenue source, as  
4 applicable, to the payment of the alternate bonds and the  
5 provision of not less than an additional .25 (or .10 for  
6 governmental revenue sources) times debt service. The pledge  
7 and establishment of rates or charges for enterprise revenues,  
8 or the imposition of taxes in a given rate or amount, as  
9 provided in this Section for alternate bonds, shall constitute  
10 a continuing obligation of the governmental unit with respect  
11 to such establishment or imposition and a continuing  
12 appropriation of the amounts received. All covenants relating  
13 to alternate bonds and the conditions and obligations imposed  
14 by this Section are enforceable by any bondholder of alternate  
15 bonds affected, any taxpayer of the governmental unit, and the  
16 People of the State of Illinois acting through the Attorney  
17 General or any designee, and in the event that any such action  
18 results in an order finding that the governmental unit has not  
19 properly set rates or charges or imposed taxes to the extent it  
20 is empowered to do so or collected and applied enterprise  
21 revenues or any revenue source, as applicable, as required by  
22 this Act, the plaintiff in any such action shall be awarded  
23 reasonable attorney's fees. The intent is that such enterprise  
24 revenues or revenue source, as applicable, shall be sufficient  
25 and shall be applied to the payment of debt service on such  
26 alternate bonds so that taxes need not be levied, or if levied

1 need not be extended, for such payment. Nothing in this  
2 Section shall inhibit or restrict the authority of a governing  
3 body to determine the lien priority of any bonds, including  
4 alternate bonds, which may be issued with respect to any  
5 enterprise revenues or revenue source.

6 In the event that alternate bonds shall have been issued  
7 and taxes, other than a designated revenue source, shall have  
8 been extended pursuant to the general obligation, full faith  
9 and credit promise supporting such alternate bonds, then the  
10 amount of such alternate bonds then outstanding shall be  
11 included in the computation of indebtedness of the  
12 governmental unit for purposes of all statutory provisions or  
13 limitations until such time as an audit of the governmental  
14 unit shall show that the alternate bonds have been paid from  
15 the enterprise revenues or revenue source, as applicable,  
16 pledged thereto for a complete fiscal year.

17 Alternate bonds may be issued to refund or advance refund  
18 alternate bonds without meeting any of the conditions set  
19 forth in this Section, except that the term of the refunding  
20 bonds shall not be longer than the term of the refunded bonds  
21 and that the debt service payable in any year on the refunding  
22 bonds shall not exceed the debt service payable in such year on  
23 the refunded bonds.

24 Once issued, alternate bonds shall be and forever remain  
25 until paid or defeased the general obligation of the  
26 governmental unit, for the payment of which its full faith and

1 credit are pledged, and shall be payable from the levy of taxes  
2 as is provided in this Act for general obligation bonds.

3 The changes made by this amendatory Act of 1990 do not  
4 affect the validity of bonds authorized before September 1,  
5 1990.

6 (Source: P.A. 97-542, eff. 8-23-11; 98-203, eff. 1-1-14.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.