



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB0983

Introduced 1/29/2013, by Rep. David McSweeney - Jack D. Franks

#### SYNOPSIS AS INTRODUCED:

30 ILCS 350/15

from Ch. 17, par. 6915

30 ILCS 500/10-20

Amends the Local Government Debt Reform Act. Provides that determinations of sufficiency of enterprise revenues or revenue sources shall be conducted by the chief procurement officer for procurements of construction and construction-related services under the jurisdiction of the Capital Development Board. Provides that enterprise revenues shall be sufficient to pay 150% (instead of 100%) of the debt service on all outstanding revenue bonds payable from those enterprise revenues. Provides that a petition to initiate a backdoor referendum concerning the issuance of alternate bonds may be filed within 90 (instead of 30) days of publication of the authorizing ordinance and notice. Provides that it must be signed by 5% of the registered voters in the governmental unit or 500 of those registered voters, whichever is less. Provides that, if alternate bonds are payable from a combination of enterprise revenues and property taxes, and if, in any fiscal year of the governmental unit, the total amount of enterprise revenues collected exceeds the debt service payable on those bonds, then, within 90 days after the last day of the fiscal year, the surplus revenues shall be refunded to property owners within the governmental unit according to each property owner's pro rata share of property taxes paid in that fiscal year. Effective immediately.

LRB098 07872 HLH 37956 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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 or  
9 whenever there exists for a governmental unit a revenue source,  
10 the procedures set forth in this Section may be used by a  
11 governing body. General obligation bonds may be issued in lieu  
12 of such revenue bonds as authorized, and general obligation  
13 bonds may be issued payable from any revenue source. Such  
14 general obligation bonds may be referred to as "alternate  
15 bonds". Alternate bonds may be issued without any referendum or  
16 backdoor referendum except as provided in this Section, upon  
17 the terms provided in Section 10 of this Act without reference  
18 to other provisions of law, but only upon the conditions  
19 provided in this Section. Alternate bonds shall not be regarded  
20 as or included in any computation of indebtedness for the  
21 purpose of any statutory provision or limitation except as  
22 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 source  
6 is limited in its purposes or applications, then the alternate  
7 bonds shall be issued only for such limited purposes or  
8 applications. Alternate bonds may be issued payable from either  
9 enterprise revenues or revenue sources, or both.

10 (a-5) If those alternate bonds are payable from a  
11 combination of enterprise revenues and property taxes, and if,  
12 in any fiscal year of the governmental unit, the total amount  
13 of enterprise revenues collected exceeds the debt service  
14 payable on those bonds, then, within 90 days after the last day  
15 of the fiscal year, the surplus revenues shall be refunded to  
16 property owners within the governmental unit according to each  
17 property owner's pro rata share of property taxes paid in that  
18 fiscal year.

19 (b) Alternate bonds shall be subject to backdoor  
20 referendum. The provisions of Section 5 of this Act shall apply  
21 to such backdoor referendum, together with the provisions  
22 hereof. The authorizing ordinance shall be published in a  
23 newspaper of general circulation in the governmental unit.  
24 Along with or as part of the authorizing ordinance, there shall  
25 be published a notice of (1) the specific number of voters  
26 required to sign a petition requesting that the issuance of the

1 alternate bonds be submitted to referendum, (2) the time when  
2 such petition must be filed, (3) the date of the prospective  
3 referendum, and (4), with respect to authorizing ordinances  
4 adopted on or after January 1, 1991, a statement that  
5 identifies any revenue source that will be used to pay debt  
6 service on the alternate bonds. The clerk or secretary of the  
7 governmental unit shall make a petition form available to  
8 anyone requesting one. If no petition is filed with the clerk  
9 or secretary within 90 ~~30~~ days of publication of the  
10 authorizing ordinance and notice, the alternate bonds shall be  
11 authorized to be issued. But if within this 90-day ~~30-days~~  
12 period, a petition is filed with such clerk or secretary signed  
13 by electors numbering the lesser ~~greater~~ of (i) 5% ~~7.5%~~ of the  
14 registered voters in the governmental unit or (ii) 500 ~~200~~  
15 those registered voters ~~or 15% of those registered voters,~~  
16 ~~whichever is less,~~ asking that the issuance of such alternate  
17 bonds be submitted to referendum, the clerk or secretary shall  
18 certify such question for submission at an election held in  
19 accordance with the general election law. The question on the  
20 ballot shall include a statement of any revenue source that  
21 will be used to pay debt service on the alternate bonds. The  
22 alternate bonds shall be authorized to be issued if a majority  
23 of the votes cast on the question at such election are in favor  
24 thereof provided that notice of the bond referendum, if held  
25 before July 1, 1999, has been given in accordance with the  
26 provisions of Section 12-5 of the Election Code in effect at

1 the time of the bond referendum, at least 10 and not more than  
2 45 days before the date of the election, notwithstanding the  
3 time for publication otherwise imposed by Section 12-5. Notices  
4 required in connection with the submission of public questions  
5 on or after July 1, 1999 shall be as set forth in Section 12-5  
6 of the Election Code. Backdoor referendum proceedings for bonds  
7 and alternate bonds to be issued in lieu of such bonds may be  
8 conducted at the same time.

9 (c) To the extent payable from enterprise revenues, such  
10 revenues shall have been determined by the governing body to be  
11 sufficient to provide for or pay in each year to final maturity  
12 of such alternate bonds all of the following: (1) costs of  
13 operation and maintenance of the utility or enterprise, but not  
14 including depreciation, (2) 150% of the debt service on all  
15 outstanding revenue bonds payable from such enterprise  
16 revenues, (3) all amounts required to meet any fund or account  
17 requirements with respect to such outstanding revenue bonds,  
18 (4) other contractual or tort liability obligations, if any,  
19 payable from such enterprise revenues, and (5) in each year, an  
20 amount not less than 1.25 times debt service of all (i)  
21 alternate bonds payable from such enterprise revenues  
22 previously issued and outstanding and (ii) alternate bonds  
23 proposed to be issued. To the extent payable from one or more  
24 revenue sources, such sources shall have been determined by the  
25 governing body to provide in each year, an amount not less than  
26 1.25 times debt service of all alternate bonds payable from

1 such revenue sources previously issued and outstanding and  
2 alternate bonds proposed to be issued. The 1.25 figure in the  
3 preceding sentence shall be reduced to 1.10 if the revenue  
4 source is a governmental revenue source. The conditions  
5 enumerated in this subsection (c) need not be met for that  
6 amount of debt service provided for by the setting aside of  
7 proceeds of bonds or other moneys at the time of the delivery  
8 of such bonds.

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

1 period of time to pay an amount calculated at an agreed-upon  
2 rate or index based on a notional amount and the other party  
3 agrees to pay the governmental unit an amount calculated at an  
4 agreed-upon rate or index based on such notional amount,  
5 interest shall be projected for such specified period of time  
6 on the basis of the agreed-upon rate payable by the  
7 governmental unit.

8 (d) The determination of the sufficiency of enterprise  
9 revenues or a revenue source, as applicable, shall be supported  
10 by reference to the most recent audit of the governmental unit,  
11 which shall be for a fiscal year ending not earlier than 18  
12 months previous to the time of issuance of the alternate bonds.  
13 If such audit does not adequately show such enterprise revenues  
14 or revenue source, as applicable, or if such enterprise  
15 revenues or revenue source, as applicable, are shown to be  
16 insufficient, then the determination of sufficiency shall be  
17 supported by the report of the chief procurement officer  
18 appointed under paragraph (1) of subsection (a) of Section  
19 10-20 of the Illinois Procurement Code. ~~an independent~~  
20 ~~accountant or feasibility analyst, the latter having a national~~  
21 ~~reputation for expertise in such matters, demonstrating the~~  
22 ~~sufficiency of such revenues and explaining, if appropriate, by~~  
23 ~~what means the revenues will be greater than as shown in the~~  
24 ~~audit.~~ Whenever such sufficiency is demonstrated by reference  
25 to a schedule of higher rates or charges for enterprise  
26 revenues or a higher tax imposition for a revenue source, such

1 higher rates, charges or taxes shall have been properly imposed  
2 by an ordinance adopted prior to the time of delivery of  
3 alternate bonds. The reference to and acceptance of an audit or  
4 report, as the case may be, and the determination of the  
5 governing body as to sufficiency of enterprise revenues or a  
6 revenue source shall be conclusive evidence that the conditions  
7 of this Section have been met and that the alternate bonds are  
8 valid.

9 (e) The enterprise revenues or revenue source, as  
10 applicable, shall be in fact pledged to the payment of the  
11 alternate bonds; and the governing body shall covenant, to the  
12 extent it is empowered to do so, to provide for, collect and  
13 apply such enterprise revenues or revenue source, as  
14 applicable, to the payment of the alternate bonds and the  
15 provision of not less than an additional .25 (or .10 for  
16 governmental revenue sources) times debt service. The pledge  
17 and establishment of rates or charges for enterprise revenues,  
18 or the imposition of taxes in a given rate or amount, as  
19 provided in this Section for alternate bonds, shall constitute  
20 a continuing obligation of the governmental unit with respect  
21 to such establishment or imposition and a continuing  
22 appropriation of the amounts received. All covenants relating  
23 to alternate bonds and the conditions and obligations imposed  
24 by this Section are enforceable by any bondholder of alternate  
25 bonds affected, any taxpayer of the governmental unit, and the  
26 People of the State of Illinois acting through the Attorney



1 General or any designee, and in the event that any such action  
2 results in an order finding that the governmental unit has not  
3 properly set rates or charges or imposed taxes to the extent it  
4 is empowered to do so or collected and applied enterprise  
5 revenues or any revenue source, as applicable, as required by  
6 this Act, the plaintiff in any such action shall be awarded  
7 reasonable attorney's fees. The intent is that such enterprise  
8 revenues or revenue source, as applicable, shall be sufficient  
9 and shall be applied to the payment of debt service on such  
10 alternate bonds so that taxes need not be levied, or if levied  
11 need not be extended, for such payment. Nothing in this Section  
12 shall inhibit or restrict the authority of a governing body to  
13 determine the lien priority of any bonds, including alternate  
14 bonds, which may be issued with respect to any enterprise  
15 revenues or revenue source.

16 In the event that alternate bonds shall have been issued  
17 and taxes, other than a designated revenue source, shall have  
18 been extended pursuant to the general obligation, full faith  
19 and credit promise supporting such alternate bonds, then the  
20 amount of such alternate bonds then outstanding shall be  
21 included in the computation of indebtedness of the governmental  
22 unit for purposes of all statutory provisions or limitations  
23 until such time as an audit of the governmental unit shall show  
24 that the alternate bonds have been paid from the enterprise  
25 revenues or revenue source, as applicable, pledged thereto for  
26 a complete fiscal year.

1           Alternate bonds may be issued to refund or advance refund  
2 alternate bonds without meeting any of the conditions set forth  
3 in this Section, except that the term of the refunding bonds  
4 shall not be longer than the term of the refunded bonds and  
5 that the debt service payable in any year on the refunding  
6 bonds shall not exceed the debt service payable in such year on  
7 the refunded bonds.

8           Once issued, alternate bonds shall be and forever remain  
9 until paid or defeased the general obligation of the  
10 governmental unit, for the payment of which its full faith and  
11 credit are pledged, and shall be payable from the levy of taxes  
12 as is provided in this Act for general obligation bonds.

13           The changes made by this amendatory Act of 1990 do not  
14 affect the validity of bonds authorized before September 1,  
15 1990.

16           (Source: P.A. 97-542, eff. 8-23-11.)

17           Section 10. The Illinois Procurement Code is amended by  
18 changing Section 10-20 as follows:

19           (30 ILCS 500/10-20)

20           Sec. 10-20. Independent chief procurement officers.

21           (a) Appointment. Within 60 days after the effective date of  
22 this amendatory Act of the 96th General Assembly, the Executive  
23 Ethics Commission, with the advice and consent of the Senate  
24 shall appoint or approve 4 chief procurement officers, one for

1 each of the following categories:

2 (1) for procurements for construction and  
3 construction-related services committed by law to the  
4 jurisdiction or responsibility of the Capital Development  
5 Board; the chief procurement officer appointed under this  
6 paragraph (1) is also responsible for conducting  
7 determinations of sufficiency of enterprise revenues or  
8 revenue sources, as provided in subsection (d) of Section  
9 15 of the Local Government Debt Reform Act;

10 (2) for procurements for all construction,  
11 construction-related services, operation of any facility,  
12 and the provision of any service or activity committed by  
13 law to the jurisdiction or responsibility of the Illinois  
14 Department of Transportation, including the direct or  
15 reimbursable expenditure of all federal funds for which the  
16 Department of Transportation is responsible or accountable  
17 for the use thereof in accordance with federal law,  
18 regulation, or procedure, the chief procurement officer  
19 recommended for approval under this item appointed by the  
20 Secretary of Transportation after consent by the Executive  
21 Ethics Commission;

22 (3) for all procurements made by a public institution  
23 of higher education; and

24 (4) for all other procurement needs of State agencies.

25 A chief procurement officer shall be responsible to the  
26 Executive Ethics Commission but must be located within the

1 agency that the officer provides with procurement services. The  
2 chief procurement officer for higher education shall have an  
3 office located within the Board of Higher Education, unless  
4 otherwise designated by the Executive Ethics Commission. The  
5 chief procurement officer for all other procurement needs of  
6 the State shall have an office located within the Department of  
7 Central Management Services, unless otherwise designated by  
8 the Executive Ethics Commission.

9 (b) Terms and independence. Each chief procurement officer  
10 appointed under this Section shall serve for a term of 5 years  
11 beginning on the date of the officer's appointment. The chief  
12 procurement officer may be removed for cause after a hearing by  
13 the Executive Ethics Commission. The Governor or the director  
14 of a State agency directly responsible to the Governor may  
15 institute a complaint against the officer by filing such  
16 complaint with the Commission. The Commission shall have a  
17 hearing based on the complaint. The officer and the complainant  
18 shall receive reasonable notice of the hearing and shall be  
19 permitted to present their respective arguments on the  
20 complaint. After the hearing, the Commission shall make a  
21 finding on the complaint and may take disciplinary action,  
22 including but not limited to removal of the officer.

23 The salary of a chief procurement officer shall be  
24 established by the Executive Ethics Commission and may not be  
25 diminished during the officer's term. The salary may not exceed  
26 the salary of the director of a State agency for which the

1 officer serves as chief procurement officer.

2 (c) Qualifications. In addition to any other requirement or  
3 qualification required by State law, each chief procurement  
4 officer must within 12 months of employment be a Certified  
5 Professional Public Buyer or a Certified Public Purchasing  
6 Officer, pursuant to certification by the Universal Public  
7 Purchasing Certification Council, and must reside in Illinois.

8 (d) Fiduciary duty. Each chief procurement officer owes a  
9 fiduciary duty to the State.

10 (e) Vacancy. In case of a vacancy in one or more of the  
11 offices of a chief procurement officer under this Section  
12 during the recess of the Senate, the Executive Ethics  
13 Commission shall make a temporary appointment until the next  
14 meeting of the Senate, when the Executive Ethics Commission  
15 shall nominate some person to fill the office, and any person  
16 so nominated who is confirmed by the Senate shall hold office  
17 during the remainder of the term and until his or her successor  
18 is appointed and qualified. If the Senate is not in session at  
19 the time this amendatory Act of the 96th General Assembly takes  
20 effect, the Executive Ethics Commission shall make a temporary  
21 appointment as in the case of a vacancy.

22 (f) Acting chief procurement officers. Prior to August 31,  
23 2010, the Executive Ethics Commission may, until an initial  
24 chief procurement officer is appointed and qualified,  
25 designate some person as an acting chief procurement officer to  
26 execute the powers and discharge the duties vested by law in

1 that chief procurement officer. An acting chief procurement  
2 officer shall serve no later than the appointment of the  
3 initial chief procurement officer pursuant to subsection (a) of  
4 this Section. Nothing in this subsection shall prohibit the  
5 Executive Ethics Commission from appointing an acting chief  
6 procurement officer as a chief procurement officer.

7 (g) Transition schedule. Notwithstanding any other  
8 provision of this Act or this amendatory Act of the 96th  
9 General Assembly, the chief procurement officers on the  
10 effective date of Public Act 96-793 shall continue to serve as  
11 chief procurement officers until August 31, 2010 and shall  
12 retain their powers and duties pertaining to procurements,  
13 provided the chief procurement officer appointed or approved by  
14 the Executive Ethics Commission shall approve any rules  
15 promulgated to implement this Code or the provisions of this  
16 amendatory Act of the 96th General Assembly. The chief  
17 procurement officers appointed or approved by the Executive  
18 Ethics Commission shall assume the position of chief  
19 procurement officer upon appointment and work in collaboration  
20 with the current chief procurement officer and staff. On  
21 September 1, 2010, the chief procurement officers appointed by  
22 the Executive Ethics Commission shall assume the powers and  
23 duties of the chief procurement officers.

24 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793  
25 for the effective date of P.A. 96-795); 96-920, eff. 7-1-10.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.