



Rep. David McSweeney

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LRB098 07872 HLH 42397 a

1 AMENDMENT TO HOUSE BILL 983

2 AMENDMENT NO. _____. Amend House Bill 983 by replacing
3 everything after the enacting clause with the following:

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

1 the terms provided in Section 10 of this Act without reference
2 to other provisions of law, but only upon the conditions
3 provided in this Section. Alternate bonds shall not be regarded
4 as or included in any computation of indebtedness for the
5 purpose of any statutory provision or limitation except as
6 expressly provided in this Section.

7 Such conditions are:

8 (a) Alternate bonds shall be issued for a lawful corporate
9 purpose. If issued in lieu of revenue bonds, alternate bonds
10 shall be issued for the purposes for which such revenue bonds
11 shall have been authorized. If issued payable from a revenue
12 source in the manner hereinafter provided, which revenue source
13 is limited in its purposes or applications, then the alternate
14 bonds shall be issued only for such limited purposes or
15 applications. Alternate bonds may be issued payable from either
16 enterprise revenues or revenue sources, or both.

17 (b) Alternate bonds shall be subject to backdoor
18 referendum. The provisions of Section 5 of this Act shall apply
19 to such backdoor referendum, together with the provisions
20 hereof. The authorizing ordinance shall be published in a
21 newspaper of general circulation in the governmental unit.
22 Along with or as part of the authorizing ordinance, there shall
23 be published a notice of (1) the specific number of voters
24 required to sign a petition requesting that the issuance of the
25 alternate bonds be submitted to referendum, (2) the time when
26 such petition must be filed, (3) the date of the prospective

1 referendum, and (4), with respect to authorizing ordinances
2 adopted on or after January 1, 1991, a statement that
3 identifies any revenue source that will be used to pay debt
4 service on the alternate bonds. The clerk or secretary of the
5 governmental unit shall make a petition form available to
6 anyone requesting one. If no petition is filed with the clerk
7 or secretary within 45 ~~30~~ days of publication of the
8 authorizing ordinance and notice, the alternate bonds shall be
9 authorized to be issued. But if within this 45-day ~~30-days~~
10 period, a petition is filed with such clerk or secretary signed
11 by the necessary number of electors ~~numbering the greater of~~
12 ~~(i) 7.5% of the registered voters in the governmental unit or~~
13 ~~(ii) 200 of those registered voters or 15% of those registered~~
14 ~~voters, whichever is less,~~ asking that the issuance of such
15 alternate bonds be submitted to referendum, the clerk or
16 secretary shall certify such question for submission at an
17 election held in accordance with the general election law. The
18 necessary number of electors for a governmental unit with more
19 than 4,000 registered voters is the lesser of (i) 5% of the
20 registered voters or (ii) 5,000 registered voters. The
21 necessary number of electors for a governmental unit with 4,000
22 or fewer registered voters is the lesser of (i) 15% of the
23 registered voters or (ii) 200 registered voters. The question
24 on the ballot shall include a statement of any revenue source
25 that will be used to pay debt service on the alternate bonds.
26 The alternate bonds shall be authorized to be issued if a

1 majority of the votes cast on the question at such election are
2 in favor thereof provided that notice of the bond referendum,
3 if held before July 1, 1999, has been given in accordance with
4 the provisions of Section 12-5 of the Election Code in effect
5 at the time of the bond referendum, at least 10 and not more
6 than 45 days before the date of the election, notwithstanding
7 the time for publication otherwise imposed by Section 12-5.
8 Notices required in connection with the submission of public
9 questions on or after July 1, 1999 shall be as set forth in
10 Section 12-5 of the Election Code. Backdoor referendum
11 proceedings for bonds and alternate bonds to be issued in lieu
12 of such bonds may be conducted at the same time.

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

1 the extent payable from one or more revenue sources, such
2 sources shall have been determined by the governing body to
3 provide in each year, an amount not less than 1.25 times debt
4 service of all alternate bonds payable from such revenue
5 sources previously issued and outstanding and alternate bonds
6 proposed to be issued. The 1.25 figure in the preceding
7 sentence shall be reduced to 1.10 if the revenue source is a
8 governmental revenue source. The conditions enumerated in this
9 subsection (c) need not be met for that amount of debt service
10 provided for by the setting aside of proceeds of bonds or other
11 moneys at the time of the delivery of such bonds.

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

1 the governmental unit enters into an agreement in connection
2 with such alternate bonds at the time of issuance thereof
3 pursuant to which the governmental unit agrees for a specified
4 period of time to pay an amount calculated at an agreed-upon
5 rate or index based on a notional amount and the other party
6 agrees to pay the governmental unit an amount calculated at an
7 agreed-upon rate or index based on such notional amount,
8 interest shall be projected for such specified period of time
9 on the basis of the agreed-upon rate payable by the
10 governmental unit.

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

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

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

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

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

1 a complete fiscal year.

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

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

14 The changes made by this amendatory Act of 1990 do not
15 affect the validity of bonds authorized before September 1,
16 1990.

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."