



Rep. David McSweeney

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LRB098 07872 HLH 42902 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.

7 In governmental units with 500,000 or more inhabitants, if
8 ~~If~~ no petition is filed with the clerk or secretary within 30
9 days of publication of the authorizing ordinance and notice,
10 the alternate bonds shall be authorized to be issued. But if
11 within this 30 days period, a petition is filed with such clerk
12 or secretary signed by electors numbering the greater of (i)
13 7.5% of the registered voters in the governmental unit or (ii)
14 200 of those registered voters or 15% of those registered
15 voters, whichever is less, asking that the issuance of such
16 alternate bonds be submitted to referendum, the clerk or
17 secretary shall certify such question for submission at an
18 election held in accordance with the general election law.

19 In governmental units with fewer than 500,000 inhabitants,
20 if no petition is filed with the clerk or secretary within 45
21 days of publication of the authorizing ordinance and notice,
22 the alternate bonds shall be authorized to be issued. But if,
23 within this 45-day period, a petition is filed with such clerk
24 or secretary signed by the necessary number of electors, asking
25 that the issuance of such alternate bonds be submitted to
26 referendum, the clerk or secretary shall certify such question

1 for submission at an election held in accordance with the
2 general election law. In governmental units with fewer than
3 500,000 inhabitants, the necessary number of electors for a
4 governmental unit with more than 4,000 registered voters is the
5 lesser of (i) 5% of the registered voters or (ii) 5,000
6 registered voters. The necessary number of electors for a
7 governmental unit with 4,000 or fewer registered voters is the
8 lesser of (i) 15% of the registered voters or (ii) 200
9 registered voters.

10 The question on the ballot shall include a statement of any
11 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 be

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

24 (c-1) In the case of alternate bonds issued as variable
25 rate bonds (including refunding bonds), debt service shall be
26 projected based on the rate for the most recent date shown in

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

23 (d) The determination of the sufficiency of enterprise
24 revenues or a revenue source, as applicable, shall be supported
25 by reference to the most recent audit of the governmental unit,
26 which shall be for a fiscal year ending not earlier than 18

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

22 (e) The enterprise revenues or revenue source, as
23 applicable, shall be in fact pledged to the payment of the
24 alternate bonds; and the governing body shall covenant, to the
25 extent it is empowered to do so, to provide for, collect and
26 apply such enterprise revenues or revenue source, as

1 applicable, to the payment of the alternate bonds and the
2 provision of not less than an additional .25 (or .10 for
3 governmental revenue sources) times debt service. The pledge
4 and establishment of rates or charges for enterprise revenues,
5 or the imposition of taxes in a given rate or amount, as
6 provided in this Section for alternate bonds, shall constitute
7 a continuing obligation of the governmental unit with respect
8 to such establishment or imposition and a continuing
9 appropriation of the amounts received. All covenants relating
10 to alternate bonds and the conditions and obligations imposed
11 by this Section are enforceable by any bondholder of alternate
12 bonds affected, any taxpayer of the governmental unit, and the
13 People of the State of Illinois acting through the Attorney
14 General or any designee, and in the event that any such action
15 results in an order finding that the governmental unit has not
16 properly set rates or charges or imposed taxes to the extent it
17 is empowered to do so or collected and applied enterprise
18 revenues or any revenue source, as applicable, as required by
19 this Act, the plaintiff in any such action shall be awarded
20 reasonable attorney's fees. The intent is that such enterprise
21 revenues or revenue source, as applicable, shall be sufficient
22 and shall be applied to the payment of debt service on such
23 alternate bonds so that taxes need not be levied, or if levied
24 need not be extended, for such payment. Nothing in this Section
25 shall inhibit or restrict the authority of a governing body to
26 determine the lien priority of any bonds, including alternate

1 bonds, which may be issued with respect to any enterprise
2 revenues or revenue source.

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

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

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

26 The changes made by this amendatory Act of 1990 do not

1 affect the validity of bonds authorized before September 1,
2 1990.

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

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".