



Sen. Pamela J. Althoff

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LRB098 07872 HLH 46106 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 Except as provided in the following paragraph, if ~~if~~ no
8 petition is filed with the clerk or secretary within 30 days of
9 publication of the authorizing ordinance and notice, the
10 alternate bonds shall be authorized to be issued. But if within
11 this 30 days period, a petition is filed with such clerk or
12 secretary signed by electors numbering ~~the greater of (i) 7.5%~~
13 ~~of the registered voters in the governmental unit or (ii) 200~~
14 ~~of those registered voters or 15% of those registered voters,~~
15 ~~whichever is less,~~ asking that the issuance of such alternate
16 bonds be submitted to referendum, the clerk or secretary shall
17 certify such question for submission at an election held in
18 accordance with the general election law.

19 Notwithstanding the previous paragraph, in governmental
20 units with fewer than 500,000 inhabitants that propose to issue
21 alternate bonds payable solely from enterprise revenues as
22 defined under Section 3 of this Act, except for such alternate
23 bonds that finance or refinance projects concerning public
24 utilities, public streets and roads or public safety
25 facilities, and related infrastructure and equipment, if no
26 petition is filed with the clerk or secretary within 45 days of

1 publication of the authorizing ordinance and notice, the
2 alternate bonds shall be authorized to be issued. But if,
3 within this 45-day period, a petition is filed with such clerk
4 or secretary signed by the necessary number of electors, asking
5 that the issuance of such alternate bonds be submitted to
6 referendum, the clerk or secretary shall certify such question
7 for submission at an election held in accordance with the
8 general election law. For purposes of this paragraph, the
9 necessary number of electors for a governmental unit with more
10 than 4,000 registered voters is the lesser of (i) 5% of the
11 registered voters or (ii) 5,000 registered voters; and the
12 necessary number of electors for a governmental unit with 4,000
13 or fewer registered voters is the lesser of (i) 15% of the
14 registered voters or (ii) 200 registered voters.
15 Notwithstanding any of the above, any double-barrelled bond
16 authorization submitted by a school district that is a
17 beneficiary of a county-wide supplemental sales and use tax
18 approved by front door referendum for educational purposes
19 shall be exempted from the 45-day petition period created under
20 this Section.

21 The question on the ballot shall include a statement of any
22 revenue source that will be used to pay debt service on the
23 alternate bonds. The alternate bonds shall be authorized to be
24 issued if a majority of the votes cast on the question at such
25 election are in favor thereof provided that notice of the bond
26 referendum, if held before July 1, 1999, has been given in

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

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

1 service of all alternate bonds payable from such revenue
2 sources previously issued and outstanding and alternate bonds
3 proposed to be issued. The 1.25 figure in the preceding
4 sentence shall be reduced to 1.10 if the revenue source is a
5 governmental revenue source. The conditions enumerated in this
6 subsection (c) need not be met for that amount of debt service
7 provided for by the setting aside of proceeds of bonds or other
8 moneys at the time of the delivery 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 an independent accountant or
18 feasibility analyst, the latter having a national reputation
19 for expertise in such matters, who is not otherwise involved in
20 the project being financed or refinanced with the proceeds of
21 the alternate bonds, demonstrating the sufficiency of such
22 revenues and explaining, if appropriate, by what means the
23 revenues will be greater than as shown in the audit. Whenever
24 such sufficiency is demonstrated by reference to a schedule of
25 higher rates or charges for enterprise revenues or a higher tax
26 imposition for a revenue source, such higher rates, charges or

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

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

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

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

26 Alternate bonds may be issued to refund or advance refund

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

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

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

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

16 Section 99. Effective date. This Act takes effect January
17 1, 2014."