



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5976

by Rep. David McSweeney

SYNOPSIS AS INTRODUCED:

30 ILCS 350/3
30 ILCS 350/15

from Ch. 17, par. 6903
from Ch. 17, par. 6915

Amends the Local Government Debt Reform Act. Provides that no alternate bonds shall be issued if the issuance of such bonds would create or continue the accumulation of stacked alternate-bonded debt. Provides that provisions concerning stacked alternate-bonded debt do not apply to any transactions or agreements concerning debt that may be in place before the effective date of this amendatory Act. Defines "stacked alternate-bonded debt". Effective immediately.

LRB100 23543 RJF 42584 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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 Sections 3 and 15 as follows:

6 (30 ILCS 350/3) (from Ch. 17, par. 6903)

7 Sec. 3. Definitions. In this Act words or terms shall have
8 the following meanings unless the context or usage clearly
9 indicates that another meaning is intended.

10 (a) "Alternate bonds" means bonds issued in lieu of revenue
11 bonds or payable from a revenue source as provided in Section
12 15.

13 (b) "Applicable law" means any provision of law, including
14 this Act, authorizing governmental units to issue bonds.

15 (c) "Backdoor referendum" means the submission of a public
16 question to the voters of a governmental unit, initiated by a
17 petition of voters, residents or property owners of such
18 governmental unit, to determine whether an action by the
19 governing body of such governmental unit shall be effective,
20 adopted or rejected.

21 (d) "Bond" means any instrument evidencing the obligation
22 to pay money authorized or issued by or on behalf of a
23 governmental unit under applicable law, including without

1 limitation, bonds, notes, installment or financing contracts,
2 leases, certificates, tax anticipation warrants or notes,
3 vouchers, and any other evidences of indebtedness.

4 (e) "Debt service" on bonds means the amount of principal,
5 interest and premium, if any, when due either at stated
6 maturity or upon mandatory redemption.

7 (f) "Enterprise revenues" means the revenues of a utility
8 or revenue producing enterprise from which revenue bonds may be
9 payable.

10 (g) "General obligation bonds" means bonds of a
11 governmental unit for the payment of which the governmental
12 unit is empowered to levy ad valorem property taxes upon all
13 taxable property in a governmental unit without limitation as
14 to rate or amount.

15 (h) "Governing body" means the legislative body, council,
16 board, commission, trustees, or any other body, by whatever
17 name it is known, having charge of the corporate affairs of a
18 governmental unit.

19 (h-5) "Governmental revenue source" means a revenue source
20 that is either (1) federal or State funds that the governmental
21 unit has received in some amount during each of the 3 fiscal
22 years preceding the issuance of alternate bonds or (2) revenues
23 to be received from another governmental unit under an
24 intergovernmental cooperation agreement.

25 (i) "Governmental unit" means a county, township,
26 municipality, municipal corporation, unit of local government,

1 school district, special district, public corporation, body
2 corporate and politic, forest preserve district, fire
3 protection district, conservation district, park district,
4 sanitary district, and all other local governmental agencies,
5 including any entity created by intergovernmental agreement
6 among any of the foregoing governmental units, but does not
7 include any office, officer, department, division, bureau,
8 board, commission, university, or similar agency of the State.

9 (j) "Ordinance" means an ordinance duly adopted by a
10 governing body or, if appropriate under applicable law, a
11 resolution so adopted.

12 (k) "Revenue bonds" means any bonds of a governmental unit
13 other than general obligation bonds, but "revenue bonds" does
14 include any debt authorized under Section 11-29.3-1 of the
15 Illinois Municipal Code.

16 (l) "Revenue source" means a source of funds, other than
17 enterprise revenues, received or available to be received by a
18 governmental unit and available for any one or more of its
19 corporate purposes.

20 (m) "Limited bonds" means bonds, excluding leases, notes,
21 installment or financing contracts, certificates, tax
22 anticipation warrants or notes, vouchers, and any other
23 evidences of indebtedness, issued under Section 15.01 of this
24 Act.

25 (n) "Stacked alternate-bonded debt" means any debt: (1)
26 that contains 2 or more layers, one of which finances another

1 layer; and (2) in which at least one of the 2 or more layers is
2 financed with alternate revenue.

3 (Source: P.A. 92-879, eff. 1-13-03.)

4 (30 ILCS 350/15) (from Ch. 17, par. 6915)

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

21 Such conditions are:

22 (a) Alternate bonds shall be issued for a lawful corporate
23 purpose. If issued in lieu of revenue bonds, alternate bonds
24 shall be issued for the purposes for which such revenue bonds
25 shall have been authorized. If issued payable from a revenue

1 source in the manner hereinafter provided, which revenue source
2 is limited in its purposes or applications, then the alternate
3 bonds shall be issued only for such limited purposes or
4 applications. Alternate bonds may be issued payable from either
5 enterprise revenues or revenue sources, or both.

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

22 Except as provided in the following paragraph, if no
23 petition is filed with the clerk or secretary within 30 days of
24 publication of the authorizing ordinance and notice, the
25 alternate bonds shall be authorized to be issued. But if within
26 this 30 days period, a petition is filed with such clerk or

1 secretary signed by electors numbering the greater of (i) 7.5%
2 of the registered voters in the governmental unit or (ii) 200
3 of those registered voters or 15% of those registered voters,
4 whichever is less, asking that the issuance of such alternate
5 bonds be submitted to referendum, the clerk or secretary shall
6 certify such question for submission at an election held in
7 accordance with the general election law.

8 Notwithstanding the previous paragraph, in governmental
9 units with fewer than 500,000 inhabitants that propose to issue
10 alternate bonds payable solely from enterprise revenues as
11 defined under Section 3 of this Act, except for such alternate
12 bonds that finance or refinance projects concerning public
13 utilities, public streets and roads or public safety
14 facilities, and related infrastructure and equipment, if no
15 petition is filed with the clerk or secretary within 45 days of
16 publication of the authorizing ordinance and notice, the
17 alternate bonds shall be authorized to be issued. But if,
18 within this 45-day period, a petition is filed with such clerk
19 or secretary signed by the necessary number of electors, asking
20 that the issuance of such alternate bonds be submitted to
21 referendum, the clerk or secretary shall certify such question
22 for submission at an election held in accordance with the
23 general election law. For purposes of this paragraph, the
24 necessary number of electors for a governmental unit with more
25 than 4,000 registered voters is the lesser of (i) 5% of the
26 registered voters or (ii) 5,000 registered voters; and the

1 necessary number of electors for a governmental unit with 4,000
2 or fewer registered voters is the lesser of (i) 15% of the
3 registered voters or (ii) 200 registered voters.

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

19 (c) To the extent payable from enterprise revenues, such
20 revenues shall have been determined by the governing body to be
21 sufficient to provide for or pay in each year to final maturity
22 of such alternate bonds all of the following: (1) costs of
23 operation and maintenance of the utility or enterprise, but not
24 including depreciation, (2) debt service on all outstanding
25 revenue bonds payable from such enterprise revenues, (3) all
26 amounts required to meet any fund or account requirements with

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

18 (c-1) In the case of alternate bonds issued as variable
19 rate bonds (including refunding bonds), debt service shall be
20 projected based on the rate for the most recent date shown in
21 the 20 G.O. Bond Index of average municipal bond yields as
22 published in the most recent edition of The Bond Buyer
23 published in New York, New York (or any successor publication
24 or index, or if such publication or index is no longer
25 published, then any index of long-term municipal tax-exempt
26 bond yields selected by the governmental unit), as of the date

1 of determination referred to in subsection (c) of this Section.
2 Any interest or fees that may be payable to the provider of a
3 letter of credit, line of credit, surety bond, bond insurance,
4 or other credit enhancement relating to such alternate bonds
5 and any fees that may be payable to any remarketing agent need
6 not be taken into account for purposes of such projection. If
7 the governmental unit enters into an agreement in connection
8 with such alternate bonds at the time of issuance thereof
9 pursuant to which the governmental unit agrees for a specified
10 period of time to pay an amount calculated at an agreed-upon
11 rate or index based on a notional amount and the other party
12 agrees to pay the governmental unit an amount calculated at an
13 agreed-upon rate or index based on such notional amount,
14 interest shall be projected for such specified period of time
15 on the basis of the agreed-upon rate payable by the
16 governmental unit.

17 (d) The determination of the sufficiency of enterprise
18 revenues or a revenue source, as applicable, shall be supported
19 by reference to the most recent audit of the governmental unit,
20 which shall be for a fiscal year ending not earlier than 18
21 months previous to the time of issuance of the alternate bonds.
22 If such audit does not adequately show such enterprise revenues
23 or revenue source, as applicable, or if such enterprise
24 revenues or revenue source, as applicable, are shown to be
25 insufficient, then the determination of sufficiency shall be
26 supported by the report of an independent accountant or

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

17 (e) The enterprise revenues or revenue source, as
18 applicable, shall be in fact pledged to the payment of the
19 alternate bonds; and the governing body shall covenant, to the
20 extent it is empowered to do so, to provide for, collect and
21 apply such enterprise revenues or revenue source, as
22 applicable, to the payment of the alternate bonds and the
23 provision of not less than an additional .25 (or .10 for
24 governmental revenue sources) times debt service. The pledge
25 and establishment of rates or charges for enterprise revenues,
26 or the imposition of taxes in a given rate or amount, as

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

24 In the event that alternate bonds shall have been issued
25 and taxes, other than a designated revenue source, shall have
26 been extended pursuant to the general obligation, full faith

1 and credit promise supporting such alternate bonds, then the
2 amount of such alternate bonds then outstanding shall be
3 included in the computation of indebtedness of the governmental
4 unit for purposes of all statutory provisions or limitations
5 until such time as an audit of the governmental unit shall show
6 that the alternate bonds have been paid from the enterprise
7 revenues or revenue source, as applicable, pledged thereto for
8 a complete fiscal year.

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

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

21 The changes made by this amendatory Act of 1990 do not
22 affect the validity of bonds authorized before September 1,
23 1990.

24 (f) Notwithstanding any provision of law to the contrary,
25 no alternate bonds shall be issued if the issuance of such
26 bonds would create or continue the accumulation of stacked

1 alternate-bonded debt as defined under Section 3. The
2 provisions of this subsection (f) do not apply to any
3 transactions or agreements concerning debt that may be in place
4 before the effective date of this amendatory Act of the 100th
5 General Assembly.

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.