

AN ACT concerning local government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Local Government Debt Reform Act is amended by changing Section 15 as follows:

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

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

Such conditions are:

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

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

Except as provided in the following paragraph, if ~~if~~ no

petition is filed with the clerk or secretary within 30 days of publication of the authorizing ordinance and notice, the alternate bonds shall be authorized to be issued. But if within this 30 days period, a petition is filed with such clerk or secretary signed by electors numbering the greater of (i) 7.5% of the registered voters in the governmental unit or (ii) 200 of those registered voters or 15% of those registered voters, whichever is less, asking that the issuance of such alternate bonds be submitted to referendum, the clerk or secretary shall certify such question for submission at an election held in accordance with the general election law.

Notwithstanding the previous paragraph, in governmental units with fewer than 500,000 inhabitants that propose to issue alternate bonds payable solely from enterprise revenues as defined under Section 3 of this Act, except for such alternate bonds that finance or refinance projects concerning public utilities, public streets and roads or public safety facilities, and related infrastructure and equipment, if no petition is filed with the clerk or secretary within 45 days of publication of the authorizing ordinance and notice, the alternate bonds shall be authorized to be issued. But if, within this 45-day period, a petition is filed with such clerk or secretary signed by the necessary number of electors, asking that the issuance of such alternate bonds be submitted to referendum, the clerk or secretary shall certify such question for submission at an election held in accordance with the

general election law. For purposes of this paragraph, the necessary number of electors for a governmental unit with more than 4,000 registered voters is the lesser of (i) 5% of the registered voters or (ii) 5,000 registered voters; and the necessary number of electors for a governmental unit with 4,000 or fewer registered voters is the lesser of (i) 15% of the registered voters or (ii) 200 registered voters.

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

(c) To the extent payable from enterprise revenues, such revenues shall have been determined by the governing body to be sufficient to provide for or pay in each year to final maturity of such alternate bonds all of the following: (1) costs of

operation and maintenance of the utility or enterprise, but not including depreciation, (2) debt service on all outstanding revenue bonds payable from such enterprise revenues, (3) all amounts required to meet any fund or account requirements with respect to such outstanding revenue bonds, (4) other contractual or tort liability obligations, if any, payable from such enterprise revenues, and (5) in each year, an amount not less than 1.25 times debt service of all (i) alternate bonds payable from such enterprise revenues previously issued and outstanding and (ii) alternate bonds proposed to be issued. To the extent payable from one or more revenue sources, such sources shall have been determined by the governing body to provide in each year, an amount not less than 1.25 times debt service of all alternate bonds payable from such revenue sources previously issued and outstanding and alternate bonds proposed to be issued. The 1.25 figure in the preceding sentence shall be reduced to 1.10 if the revenue source is a governmental revenue source. The conditions enumerated in this subsection (c) need not be met for that amount of debt service provided for by the setting aside of proceeds of bonds or other moneys at the time of the delivery of such bonds.

(c-1) In the case of alternate bonds issued as variable rate bonds (including refunding bonds), debt service shall be projected based on the rate for the most recent date shown in the 20 G.O. Bond Index of average municipal bond yields as published in the most recent edition of The Bond Buyer

published in New York, New York (or any successor publication or index, or if such publication or index is no longer published, then any index of long-term municipal tax-exempt bond yields selected by the governmental unit), as of the date of determination referred to in subsection (c) of this Section. Any interest or fees that may be payable to the provider of a letter of credit, line of credit, surety bond, bond insurance, or other credit enhancement relating to such alternate bonds and any fees that may be payable to any remarketing agent need not be taken into account for purposes of such projection. If the governmental unit enters into an agreement in connection with such alternate bonds at the time of issuance thereof pursuant to which the governmental unit agrees for a specified period of time to pay an amount calculated at an agreed-upon rate or index based on a notional amount and the other party agrees to pay the governmental unit an amount calculated at an agreed-upon rate or index based on such notional amount, interest shall be projected for such specified period of time on the basis of the agreed-upon rate payable by the governmental unit.

(d) The determination of the sufficiency of enterprise revenues or a revenue source, as applicable, shall be supported by reference to the most recent audit of the governmental unit, which shall be for a fiscal year ending not earlier than 18 months previous to the time of issuance of the alternate bonds. If such audit does not adequately show such enterprise revenues

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

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

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

revenues or revenue source.

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

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

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

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

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1990.

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

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