Michigan Emergency Services Authorities Authorized to Incur Debt for Capital Projects and Equipment

Article By:

Steven D. Mann

Ronald C. Liscombe

Jeffrey S. Aronoff

Thomas D. Colis

Patrick F. McGow

On June 15, 2022, Michigan Governor Gretchen Whitmer signed legislation amending Act 57, Public Acts of Michigan, 1988 (“Act 57"), to authorize an emergency services authority, established under Act 57 by municipalities to provide emergency services, to incur debt for the purposes of purchasing real or personal property or financing the costs of buildings and facilities. The legislation cures an omission that had limited Act 57 authorities from efficiently financing needed emergency response capital assets.

Specifically, Act 102, Public Acts of Michigan, 2022 (“Act 102”), authorizes an authority to enter into a contract or agreement for the purchase of real or personal property to be financed over a period not-to-exceed 15 years. This installment purchase method of financing is similar to that authorized for cities, townships and villages under Act 99, Public Acts of Michigan, 1933, as amended, although Act 102 authorizes the emergency services authority to pledge the real or personal property acquired as collateral in support of the contract.

In addition, Act 102 authorizes an emergency services authority to issue its bonds or notes to finance the costs of acquiring, constructing, furnishing and equipping buildings and facilities, including the acquisition of property.

Bonds issued by an emergency services authority may be limited tax bonds or unlimited tax bonds. Limited tax bonds are bonds that are payable from existing revenues of the authority and may be issued without a vote of electors. Unlimited tax bonds must be submitted to a vote of the electors of the authority. If approved by the electors, unlimited tax bonds are then payable from a special debt millage levied annually by the authority for the duration of the bond issue.

Bonds or notes issued by an authority are a debt of the authority only, and do not constitute debt of any of the incorporating municipalities. However, if an incorporating municipality withdraws from an authority, the municipality shall be liable for its proportion of the debts and liabilities of an authority incurred while the municipality was part of an authority. Taxes levied or imposed for the payment of unlimited tax bonds approved by electors before adoption of the resolution to withdraw must continue to be levied within the municipality as if the municipality did not withdraw from the authority until such bonds are paid in full.

An authority is limited to borrowing money or issuing its bonds or notes in a sum that, together with the total outstanding bonded indebtedness of the authority, does not exceed 5% of the state equalized value of all of the taxable property within the jurisdictional limits of the authority.

National Law Review, Volume XII, Number 179