

MICHIGAN FINANCIAL REVIEW COMMISSION ACT (EXCERPT)
Act 181 of 2014

141.1638 Waiver; resolution; conditions; rescission; reversal.

Sec. 8.

(1) Notwithstanding section 6, for its qualified city or qualified school district, a commission shall, by resolution, waive the requirements designated in sections 6 and 7 as provided in subsection (2).

(2) The commission shall grant a waiver under this section for its qualified city or qualified school district if it certifies that all of the following conditions are met:

(a) The commission certifies that a qualified city or qualified school district has adopted and adhered to deficit-free budgets for 3 consecutive years that comply with generally accepted accounting principles and are in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(b) The state treasurer and the qualified city's or qualified school district's chief financial officer, if applicable, certify that both of the following are met:

(i) All municipal securities or debt obligations sold by or for the benefit of that qualified city or qualified school district in the general public market during the immediately preceding fiscal year and current fiscal year satisfied the capital and other financial requirements of the qualified city or qualified school district during that period.

(ii) There is a substantial likelihood that municipal securities or debt obligations can be sold by the qualified city or qualified school district in the general public market during the remainder of the current fiscal year and the immediately succeeding fiscal year in amounts sufficient to substantially satisfy all of the capital and other financial requirements of the qualified city or qualified school district during those periods in accordance with the qualified city's or qualified school district's financial plan, as applicable.

(c) For a qualified city, the qualified city's financial plan projects a balanced budget for the current and succeeding 3 fiscal years using generally accepted accounting principles and in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, and section 4t of the home rule city act, 1909 PA 279, MCL 117.4t.

(d) The qualified city or qualified school district has demonstrated to the commission's satisfaction that the qualified city or qualified school district has sufficient ability to borrow in the municipal securities market or qualified school district.

(e) The qualified city or qualified school district did not violate the plan for adjustment in the immediately preceding fiscal year, as applicable, and is not in violation in the current fiscal year.

(f) The state treasurer certifies that the qualified city or qualified school district is in compliance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(g) The commission certifies that the qualified city or qualified school district is in substantial compliance with this act.

(h) For a qualified city, the qualified city has established as part of a system of compensation for employees retirement plans in which the qualified city contributes no more than 7% of an individual's base pay, excluding payment for overtime services, 1-time lump-sum payments, and the cost of fringe benefits, to an employee's retirement account, and, for a qualified school district, the qualified school district has fully satisfied all of its current obligations to the system created under the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437.

(i) The qualified city or qualified school district has implemented a program in which all contracts awarded by the qualified city or qualified school district are posted on the qualified city's or qualified school district's public website within 30 days of the contract award, including the identity of the parties to the contract, the dollar amount of the contract, and a brief description of the goods or services provided by the contract.

(3) The commission shall, by resolution, rescind its waiver under subsection (2) if it certifies that any of the following, where applicable, has occurred or that there is a substantial likelihood that any of the following will imminently occur:

(a) The qualified city or qualified school district fails to pay principal of or interest on any municipal securities when due or payable.

(b) The qualified city or qualified school district incurs a budget deficit in a fiscal year equal to or more than 5% of the total expenditures in that year based on generally accepted accounting principles.

(c) The qualified city or qualified school district issues municipal securities without the authorization of the commission or in violation of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(d) The qualified city or qualified school district violates this act or any mandatory financial controls in a manner that substantially impairs that qualified city's or qualified school district's ability to pay principal of and interest on municipal securities or other debt when due and payable or its ability to adhere to a balanced budget.

(e) The qualified city or qualified school district violates any provision of the plan for adjustment, if applicable.

(f) The state treasurer and the qualified city's or qualified school district's chief financial officer, if applicable, fail to certify that the criteria in subsection (2)(b) are met.

(g) The qualified city's or qualified school district's chief financial officer has resigned, been terminated, or been removed, or the office has otherwise become vacant and a successor has not been appointed within 180 days of that vacancy.

(h) The qualified city or qualified school district has not satisfied the requirements in subsection (2)(h).

(4) If the commission finds that the circumstances under which it rescinded its waiver of the requirements of sections 6 and 7 as provided in subsection (3) no longer exist, the commission shall reverse the rescission as provided in subsection (2).

History: 2014, Act 181, Imd. Eff. June 20, 2014 ;-- Am. 2016, Act 53, Imd. Eff. Mar. 29, 2016