

a property tax of \$1,198.13 would have resulted. The question you have propounded deals with the 87 cent difference in tax collection generated by the rounding-up of the state equalized valuation.² The county, school district and township are entitled to receive tax proceeds which are the product of their authorized millage, multiplied by the actual state equalized value shown in the tax roll and tax statement; i.e., they are entitled to receive the actual amount billed and paid for county, school and township purposes.

I agree with the proposition that "excess of roll" which results from the rounding out of a total *authorized millage* belongs to the contingent fund of the township. However, the rounding out of *state equalized valuations* must be shared by the taxing authorities in proportion to their percentage of the total tax levy.

FRANK J. KELLEY,
Attorney General.

760420.1 _____

BONDS: Rehabilitation of blighted areas

HOME RULE CITIES: Rehabilitation of blighted areas

A home rule city is authorized to undertake a program to rehabilitate blighted areas and issue general obligation bonds to pay for the cost thereof without vote of the electors.

A home rule city may not spread the cost of repayment of a blighted area rehabilitation bond issue on a portion of the city leaving other portions of the city free from the obligation of the bond issue.

Opinion No. 4970

April 20, 1976.

Honorable Gerrit Hasper
State Representative, 96th District
The Capitol
Lansing, Michigan 48901

I am in receipt of your letter wherein you request my opinion on the following questions:

"(1) Is it legal for the City to spread the costs of a bond issue on areas of the City which cannot benefit?

"(2) Is it legal to tax homeowners for the direct benefit of private business enterprises?

"(3) Is it legal to use unvoted City bond funds to purchase property which the Federal government refuses to purchase under Federal laws and which tax burden was not included in the Ordinance which was voted on by all the voters and not restricted to property owners?

Home rule cities have authority to issue bonds under 1945 PA 344, MCLA 125.71 *et seq*; MSA 5.3501 *et seq*, which is entitled:

² I recognize, of course, that a township may have a state equalized value of \$21,800,000, in which event the total of this difference might amount to \$87,000.

"AN ACT to authorize counties, cities, villages and townships of this state to adopt plans for the rehabilitation of blighted areas; to authorize assistance in carrying out such plans by the acquisition of real property and the disposal of real property in such areas; to prescribe the methods of financing the exercise of these powers, and to declare the effect of this act."

The Legislature of the State of Michigan has determined that the rehabilitation of blighted areas constitutes a public purpose.

"It is hereby found and declared that large areas in the municipalities of the state have become blighted, with the consequent impairment of taxable values upon which, in large part, municipal revenues depend; that such blighted areas are detrimental or inimical to the health, safety, morals, and general welfare of the municipality; that in order to improve and maintain the general character of the municipality, it is necessary to rehabilitate such blighted areas; that the conditions found in blighted areas can not be remedied by the ordinary operations of private enterprise, with due regard to the general welfare of the public, without public participation in the planning, property, acquisition, disposition and financing thereof; that the purposes of this act are to rehabilitate such areas by acquiring and developing properties within such areas for the protection of the health, safety, morals and general welfare of the municipality, to preserve existing values of other properties within or adjacent to such areas, and to preserve the taxable value of the property within such areas; and *the necessity in the public interest for provisions herein enacted is hereby declared as a matter of legislative determination to be a public purpose and a public use.*" MCLA 125.71; MSA 5.3501. [Emphasis supplied.]

Under the referenced act, a city is given the power to bring about the rehabilitation of blighted areas. MCLA 125.73; MSA 5.3503.

To pay for project costs incurred under the referenced act, a city is authorized to issue its general obligation bonds without vote of the electors which bonds shall pledge the full faith and credit of the city. MCLA 125.77b; MSA 5.3507(2).

The act makes no provision for a referendum and, in fact, Section 5, part (g) of the home rule cities act specifically exempts rehabilitation bonds from the requirement of publishing a notice of intent to issue bonds. MCLA 117.5; MSA 5.2084.

Before exercising the powers granted under 1945 PA 344, as amended, the act requires the adoption of a master plan by the local legislative body of the general features of development of the district within which the development area lies and of other districts adjacent to the development area. The act provides that no district area shall be designated unless the local legislative body shall first hold a public hearing and give notice of such hearing. Further, a citizens district council must be established and shall periodically consult with the local officials responsible for the development plan. The development plan shall be adopted by the local

legislative body after consultation with a citizens district council and a subsequent public hearing. The citizens district council is required to notify the local legislative body that it approves or disapproves the development plan. After the above requirements have been met, the local legislative body may determine a blighted area and may proceed to exercise the additional powers of 1945 PA 344, as amended.

Thus, in response to your first question, a city has no authority to spread the costs of a bond issue on "areas of the city which cannot benefit," but a City Council can determine, pursuant to the referenced statutory authority, that the elimination of blighted areas constitutes a benefit to the community as a whole. In addition, a city is specifically authorized to pledge as security for the bonds the full faith and credit of the city.

In response to your second question, an additional consideration is the constitutional prohibitions against the lending of credit to any private corporation. See 1963 Const, art 7, §26 and art 9, §18. Here, the public purpose has already been noted and incidental private benefit is not sufficient to bring the matter within the area proscribed by the Michigan Constitution. In *Sinas v City of Lansing*, 382 Mich 407, aff'd 7 Mich App 464; 170 NW2d 23 (1969), the Michigan Supreme Court said:

"The underlying public purpose of that act is to eliminate urban blight. The elimination of urban blight is an adequate justification for the exercise of the power of eminent domain, even where the acquisition is followed by sale to private individuals. *In re Slum Clearance* (1951), 331 Mich 714."

Regarding your third question, 1945 PA 344, *supra*, does not require these rehabilitation bonds to be voted on by the electors or property owners. MCLA 125.77b; MSA 5.3507(2). Neither is the act tied to any Federal act in the sense that a refusal of the Federal Government to purchase land under Federal laws would prevent the city from doing so.

FRANK J. KELLEY,
Attorney General.

760420.2
COUNTY TREASURER: Appointment of deputy

HOSPITALS: County hospitals

A county treasurer may not appoint the controller of a county public hospital to serve as a deputy county treasurer with custody of the hospital's cash or investments.

Opinion No. 4971

April 20, 1976.

Honorable Dennis D. Cawthorne
State Representative—98th District
State Capitol
Lansing, Michigan 48901

Citing Section 4, 1913 PA 350; MCLA 331.154; MSA 14.1134, which designates the county treasurer as the treasurer of the board of trustees of