

House File 412 - Introduced

HOUSE FILE 412

BY BUSH

A BILL FOR

1 An Act relating to certain bonds issued for urban renewal
2 purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 403.9, subsection 2, Code 2021, is
2 amended to read as follows:

3 2. Bonds issued under **this section** shall not constitute
4 ~~an indebtedness within the meaning of any constitutional or~~
5 ~~statutory debt limitation or restriction, and shall not be~~
6 subject to the provisions of any other law or charter relating
7 to the authorization, issuance, or sale of bonds. Bonds issued
8 under the provisions of **this chapter** are declared to be issued
9 for an essential public and governmental purpose and, together
10 with interest thereon and income therefrom, shall be exempted
11 from all taxes.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 Code section 403.9 states that bonds issued under the
16 authority of that section for purposes of urban renewal
17 shall not constitute indebtedness within the meaning of any
18 constitutional or statutory debt limitation or restriction,
19 presumably including Iowa Constitution, Article XI, section
20 3, which prohibits counties or other political or municipal
21 corporations from becoming indebted in any manner to an
22 aggregate amount exceeding 5 percent of the value of taxable
23 property within the corporation. The Iowa supreme court in
24 *Richards v. City of Muscatine*, 237 N.W.2d 48 (Iowa 1975),
25 ruled that urban renewal bonds issued pursuant to Code
26 section 403.9, although payable with incremental property
27 tax revenues deposited in the special fund, are indebtedness
28 subject to the constitutional limitation because the bonds
29 are payable from the general revenues of the city and not
30 from a special assessment or from the operating revenues of a
31 municipal enterprise that generates income. In *Fults v. City*
32 *of Coralville*, 666 N.W.2d 548 (Iowa 2003), the Iowa supreme
33 court ruled that urban renewal indebtedness subject to an
34 annual appropriation provision is a contingent obligation that
35 does not constitute debt for purposes of the constitutional

1 limitation on indebtedness of a municipality. An annual
2 appropriation provision (also known as a "nonappropriation
3 clause") means that the indebtedness incurred by a municipality
4 is subject to repayment only if the governing body of the
5 municipality annually appropriates the funds necessary
6 for repayment in the coming fiscal year and there is no
7 legally enforceable obligation to continue repayments in the
8 future. The Iowa supreme court stated that debt subject to
9 the constitutional limitation is that which a municipality
10 obligates itself to pay without further action on the part of
11 the city. The Iowa supreme court stated that the repayment of
12 debt that is not certain to take place is not subject to the
13 constitutional debt limitation because the city cannot be held
14 legally responsible for the debt for a year other than one in
15 which funds for repayment have been appropriated. Therefore,
16 the city's obligation is restricted to the fiscal year within
17 which the city council appropriates money for repayment. It is
18 that annual amount appropriated, therefore, that is included
19 in the aggregate amount of debt when computing whether a
20 municipality exceeds the constitutional limitation.

21 This bill strikes that portion of the bonding authority
22 language under Code section 403.9 stating that bonds issued
23 under the authority of that section for purposes of urban
24 renewal shall not constitute indebtedness within the meaning of
25 any constitutional or statutory debt limitation or restriction.