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HURON MORTGAGE LOAN

House Bill 4301 as enrolled/vetoed
Second Analysis (9-13-93)

Sponsor: Rep. Tom Alley
House Committee: Education
Senate Committee: Education

THE APPARENT PROBLEM:

The Huron School District has recently encountered an unexpected financial setback that affects its current budget, according to testimony by the superintendent before the House Education Committee. The district had sold a parcel of property (using basically a three-step payment process) with the expectation that the proceeds would go to the district's general fund. The buyer, however, after making an initial payment, defaulted on the later payments, and the district has taken the property back. At the same time, proceeds anticipated from the sale of a house being built by a building trades program will also not be forthcoming because the house will not be sold until next budget year. The district has elected to repair its revenue gap by mortgaging the property it thought it had sold, but it needs to be sure that such a transaction is allowed by the School Code.

THE CONTENT OF THE BILL:

The bill would amend the School Code to provide that the board of a fourth class school district that met certain requirements could mortgage real property owned by the board that was not being used for school purposes to secure a loan of up to $700,000 from a financial institution.

The provision would apply to a fourth class district that: was a constituent district of an intermediate school district with a population of 1.5 million or more; had a membership of less than 2,000 students in the 1992-93 school year; and received membership aid under the State School Aid Act during the 1992-93 state fiscal year.

The term of the loan could be for any number of years up to and including 10 years, but the board would have to repay the entire unpaid principal of the loan secured by the mortgage not later than one year after the date of the closing of the loan. The board could repay the loan from the school district's general fund. The bill would require that if the district sold the mortgaged property, the proceeds from the sale would have to be used to repay the entire unpaid principal of the loan.

The bill's provisions would be repealed effective September 1, 1993.

MCL 380.143a

FISCAL IMPLICATIONS:

The Senate Fiscal Agency reports that the bill would result in no costs to the state. According to the agency, the school district would pay $31,655 in interest for the first year on a $700,000 loan, assuming payment twice a year at 6 percent per year. (Analysis dated 5-18-93)

ARGUMENTS:

For:

The bill would allow the Huron School District to obtain a mortgage of up to $700,000 on property for which a sale has fallen through in order to repair a hole in its current budget created when the buyer defaulted on the agreement.

Against:

In his veto message Governor Engler said the following:

"The concept of using public property as security for a loan is foreign to Michigan and one which, if it is to be endorsed as the public policy of this state, should be undertaken with due caution and serious concern about the precedent such a measure establishes for the future. It is my view that creating a policy which cedes to a third party the right to sell a public asset if the debt is improperly managed should be strenuously avoided." The governor also noted that the bill contained a technical defect, in that its provisions would be repealed as of September 1, 1993, "making the requirement contained within, that the loan be repaid within one year, nonexistent at the time repayment would otherwise be required."