

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 822

A bill to amend 1980 PA 243, entitled
"Emergency municipal loan act,"
by amending sections 2, 3, 4, and 6 (MCL 141.932, 141.933, 141.934,
and 141.936), as amended by 2015 PA 115; and to repeal acts and
parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) There is created a local emergency financial
2 assistance loan board within the department of treasury. This board
3 ~~shall consist~~ **CONSISTS** of the state treasurer, the director of the
4 department of licensing and regulatory affairs, and the director of
5 the department of technology, management, and budget. Except for
6 budgeting, procurement, and related functions of the board that
7 shall be performed under the direction and supervision of the state
8 treasurer, the board shall exercise its prescribed statutory

1 powers, duties, and functions independently of the department of
2 treasury.

3 (2) The board has the powers necessary to carry out and
4 effectuate the purposes and provisions of this act, and powers
5 vested in the board under other laws of this state, including, but
6 not limited to, all of the following powers:

7 (a) To act by an order issued in the name of the board and
8 signed by the members of the board. The signature of the designee
9 of a member, when the designee is acting for his or her principal,
10 has the same force and effect as the signature of the member.

11 (b) To authorize and make loans; to renegotiate the terms of
12 outstanding loans; and to make, execute, and deliver contracts and
13 other instruments necessary or convenient to the exercise of its
14 powers.

15 (c) To aid, advise, and consult with a municipality with
16 respect to fiscal questions arising from and relating to its
17 proposed or outstanding loans.

18 (d) To promulgate rules under the administrative procedures
19 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that it considers
20 necessary.

21 (e) To examine the books and records of a municipality
22 applying for or receiving a loan under this act for the purpose of
23 ascertaining if the municipality is complying, in relation to a
24 loan under this act, with the requirements of the board, the laws
25 of this state, and the charter, ordinances, and resolutions of the
26 municipality. Additionally, for effectuating this purpose, the
27 board may require sworn statements from any officer or employee of

1 the municipality and may require the municipality to furnish a
2 statement of its financial condition. The board has full power, in
3 furtherance of its investigations, to examine witnesses on oath, to
4 compel the attendance of witnesses, to compel the giving of
5 testimony, and to compel the production of books, papers, and
6 records. Witnesses may be summoned by the board by its process upon
7 the payment of the same fees as are allowed to witnesses attending
8 in the circuit court for the county in which a hearing is held. A
9 person duly subpoenaed under this section who fails to attend or
10 testify at the place named in the subpoena served for that purpose
11 is guilty of a misdemeanor.

12 (f) To serve notice upon a municipality of an order relating
13 to the municipality issued by the board. A municipality has prima
14 facie notice of and is bound by an order of the board if notice has
15 been served upon it by registered mail addressed to any officer of
16 the municipality upon whom legal process may be served.

17 (g) To enforce compliance with its orders; with the terms of
18 outstanding loans; with any provision of this act; or, in relation
19 to a loan under this act, with any law of this state or with the
20 charter, ordinances, or resolutions of a municipality that received
21 a loan under this act. As 1 method to enforce compliance, the board
22 may institute appropriate proceedings in the courts of this state,
23 including proceedings for writs of mandamus and injunctions.

24 (h) To subject a loan to the terms and conditions the board
25 considers necessary to ensure compliance with the uniform budgeting
26 and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, and to
27 ensure timely repayment of the loan, including, but not limited to,

1 requiring the direct assignment for repayment of a loan of any
2 state money appropriated to the municipality or, for a municipality
3 that is a school district, other revenue or money that may be
4 pledged by a school district under section 1211 of the revised
5 school code, 1976 PA 451, MCL 380.1211, or other law. For a loan
6 entered into after ~~the effective date of the amendatory act that~~
7 ~~added this sentence,~~ **JULY 7, 2015**, if a municipality does not make
8 any scheduled repayment on a loan, the department of treasury shall
9 require the direct assignment for repayment of the loan, in the
10 amount equal to the minimum of the interest due on the loan and up
11 to 5% of the loan, from any state money appropriated to the
12 municipality or, for a municipality that is a school district,
13 other revenue or money that may be pledged by a school district
14 under section 1211 of the revised school code, 1976 PA 451, MCL
15 380.1211, or other law.

16 (i) To provide loan terms specifying conditions and events of
17 default and remedies available upon default by a municipality.

18 (j) To impose loan terms upon the disbursement of a loan
19 authorized to be made under section 3(2)(b) or (3).

20 (3) The board shall review each application for a loan from a
21 municipality to determine if the municipality satisfies the
22 requirements of this act. Except for loans authorized under section
23 3(2) or (3), upon determining those applications that satisfy the
24 application eligibility requirements of section 4, ~~and, for~~
25 ~~subsequent annual loans, section 8,~~ the board may authorize an
26 annual loan to 1 or more of those eligible applicants upon
27 declaring that a local fiscal emergency exists in the municipality.

1 For loans authorized under section 3(2) or (3), the board may
2 authorize a loan upon determining that the municipality has
3 satisfied the requirements of this act applicable to loans under
4 section 3(2) or (3).

5 (4) All actions of the board shall be approved by all members
6 of the board. All meetings of the board shall be conducted at a
7 public meeting held in compliance with the open meetings act, 1976
8 PA 267, MCL 15.261 to 15.275.

9 (5) Subject to the requirements of this act, the board has the
10 sole authority to determine all of the following:

11 (a) The amount of a loan.

12 (b) The rate or rates of interest on a loan.

13 (c) Any other condition related to a loan including, but not
14 limited to, requiring that the proceeds of a loan be used for
15 specified purposes.

16 (6) The department of treasury shall provide staff services to
17 the board to carry out this act.

18 (7) A municipality may do 1 or more of the following:

19 (a) Borrow money under this act, and issue evidences of
20 indebtedness for repayment of obligations, including, but not
21 limited to, money advanced or previously advanced to a school
22 district or approved or previously approved for advancement to a
23 school district under section 15(2) of the state school aid act of
24 1979, 1979 PA 94, MCL 388.1615, or money borrowed by the school
25 district under section 1225 of the revised school code, 1976 PA
26 451, MCL 380.1225.

27 (b) Enter into a loan agreement with the board.

1 (c) Issue its notes evidencing the loan.

2 (d) Assign and convey any revenues allocated to it for
3 repayment of the loan.

4 (e) Take any other action necessary to receive, secure, or
5 repay a loan under this act.

6 Sec. 3. (1) For state fiscal years ending before October 1,
7 2011, the board may authorize loans under this act to
8 municipalities that total up to \$5,000,000.00 in a state fiscal
9 year. For state fiscal years beginning after September 30, 2018,
10 the board may authorize loans under this act to municipalities that
11 total up to \$10,000,000.00 in a state fiscal year, but a loan to a
12 single municipality shall not exceed \$4,000,000.00 in a state
13 fiscal year. For the period beginning on October 1, 2011 and ending
14 on September 30, 2018, the board may do all of the following:

15 (a) Authorize loans to municipalities other than school
16 districts that total up to \$48,000,000.00 during the period. Loans
17 to a single municipality under this subdivision shall not total
18 more than \$20,000,000.00.

19 (b) ~~Authorize~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS**
20 **SUBDIVISION, AUTHORIZE** loans to municipalities that are school
21 districts that total up to \$70,000,000.00 during the period. ~~Loans~~
22 **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, LOANS** to a single
23 school district under this subdivision shall not total more than
24 \$20,000,000.00. ~~The board shall not authorize a loan to a school~~
25 ~~district organized as a school district of the first class under~~
26 ~~part 6 of the revised school code, 1976 PA 451, MCL 380.401 to~~
27 ~~380.485.~~ **IN ADDITION, THE BOARD MAY AUTHORIZE A LOAN OF UP TO**

1 \$150,000,000.00 FOR TRANSITIONAL OPERATING COSTS TO A SCHOOL
2 DISTRICT THAT IS OR BECOMES A QUALIFYING SCHOOL DISTRICT AS
3 DESCRIBED IN SECTION 12B OF THE REVISED SCHOOL CODE, 1976 PA 451,
4 MCL 380.12B, OF WHICH NOT MORE THAN \$25,000,000.00 MAY BE
5 AUTHORIZED AND USED FOR DEFERRED FACILITIES MAINTENANCE. AS USED IN
6 THIS SUBDIVISION, "TRANSITIONAL OPERATING COSTS" INCLUDES, BUT IS
7 NOT LIMITED TO, ACADEMIC AND INSTRUCTIONAL SUPPORT; PROFESSIONAL
8 TRANSITION COSTS SUCH AS INFORMATION TECHNOLOGY, LEGAL ACCOUNTING,
9 HUMAN RESOURCES, AND FINANCIAL SERVICES; PAYMENTS TO VENDORS; COSTS
10 RELATING TO CHANGES IN TIMING OF GRANT FUNDING OR REIMBURSEMENTS;
11 CASH FLOW NEEDS; INSURANCE; ACADEMIC PROGRAM EXPENDITURES; DEFERRED
12 FACILITIES MAINTENANCE; SPACE CONSOLIDATION; AND FACILITIES
13 RATIONALIZATION.

14 (2) The board may authorize loans under this act to a county
15 within the following limitations:

16 (a) In the 1998-99 state fiscal year, the board may authorize
17 loans under this act to a county with a population greater than
18 1,500,000.

19 (b) For a state fiscal year in which the block grant
20 appropriated to a county with a population of more than 1,500,000
21 that is organized under 1966 PA 293, MCL 45.501 to 45.521, and that
22 is a county juvenile agency is less than the amount required to be
23 distributed to that county in that year under the social welfare
24 act, 1939 PA 280, MCL 400.1 to 400.119b, the board may authorize a
25 loan to that county in an amount not greater than the difference
26 between the amount of the block grant and the amount required to be
27 distributed to that county for that fiscal year under the social

1 welfare act, 1939 PA 280, MCL 400.1 to 400.119b. The board is not
2 required to authorize loans under this subdivision to a county for
3 more than 1 state fiscal year.

4 (3) If in a state fiscal year the block grant appropriated to
5 a county other than a county described in subsection (2) that is a
6 county juvenile agency is less than the amount required to be
7 distributed to that county in that year under the social welfare
8 act, 1939 PA 280, MCL 400.1 to 400.119b, the board may authorize a
9 loan to that county in an amount not greater than the difference
10 between the amount of the block grant and the amount required to be
11 distributed to that county under the social welfare act, 1939 PA
12 280, MCL 400.1 to 400.119b, in that state fiscal year.

13 (4) Sections 6(2) ~~, AND 7, and 8~~ and the conditions listed in
14 section 4(1) do not apply to a loan authorized under subsection (2)
15 or (3).

16 (5) The proceeds of a loan made under subsection (2) or (3)
17 shall be maintained in a separate account and shall not be
18 commingled with the county's general fund or any other special fund
19 or account.

20 (6) The state treasurer or his or her designee shall monitor
21 the expenditure of the proceeds of any loan made under subsection
22 (2) or (3).

23 (7) The proceeds of a loan made under subsection (2) or (3)
24 are subject to the county juvenile agency act, 1998 PA 518, MCL
25 45.621 to 45.631.

26 (8) Except as otherwise provided in this subsection, revenue
27 for loans made under this act shall be provided from the surplus

1 funds of this state under authorization granted under section 1 of
2 1855 PA 105, MCL 21.141, **OR FROM THE REPAYMENT PROCEEDS OF OTHER**
3 **LOANS ISSUED UNDER THIS ACT OR SOLD OR TRANSFERRED UNDER SECTION**
4 **6A.** Alternatively, for a school district, revenue for a loan made
5 under this act may be provided from money advanced to the school
6 district by this state from money appropriated from the state
7 school aid fund established under section 11 of article IX of the
8 state constitution of 1963 and payable to the school district under
9 the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to
10 388.1896.

11 (9) After September 30, 2012, the board may restructure
12 payments, but not the outstanding principal balance or interest, on
13 a loan to a municipality under subsection (1) if all of the
14 following apply:

15 (a) The municipality is in compliance with the terms of the
16 loan and any other requirements applicable to the municipality
17 under this act.

18 (b) The municipality is in compliance with any requirements
19 relating to a deficit elimination plan under state law.

20 (c) The municipality is in compliance with any applicable
21 **NEUTRAL EVALUATION PROCESS, SETTLEMENT AGREEMENT,** consent
22 agreement, or order of an emergency manager under the local
23 financial stability and choice act, 2012 PA 436, MCL 141.1541 to
24 141.1575, or a successor statute.

25 (d) For a municipality that is a school district, the school
26 district is in compliance with all requirements for receipt of the
27 foundation allowance and any other requirements applicable to the

1 school district under the state school aid act of 1979, 1979 PA 94,
2 MCL 388.1601 to 388.1896.

3 (e) For a municipality other than a school district, the
4 municipality is in compliance with ~~all conditions for economic~~
5 ~~vitality incentive program money or~~ statutory revenue sharing or
6 other requirements applicable to the municipality under the Glenn
7 Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901
8 to 141.921.

9 (f) The restructuring of payments complies with applicable
10 law.

11 (g) The loan has not been sold or transferred under section
12 6a.

13 (10) As used in this section, "county juvenile agency" means
14 that term as defined in section 2 of the county juvenile agency
15 act, 1998 PA 518, MCL 45.622.

16 Sec. 4. (1) If the governing body of a municipality desires to
17 request a loan, it shall provide by resolution for the submission
18 of an application to the board for a loan made under this act. The
19 municipality shall certify and substantiate all of the following
20 information and conditions to be eligible for consideration for a
21 loan authorization by the board:

22 (a) A deficit for the municipality's general fund is projected
23 for the current fiscal year.

24 (b) That 1 or both of the following have occurred within the
25 18 months immediately preceding the loan request:

26 (i) The municipality has issued tax anticipation notes or
27 revenue sharing notes under the revised municipal finance act, 2001

1 PA 34, MCL 141.2101 to 141.2821, or for a school district, issued
2 notes under section 1225, **1356, OR 1356A** of the revised school
3 code, 1976 PA 451, MCL 380.1225, **380.1356, AND 380.1356A**.

4 (ii) The department of treasury has acted upon a request by
5 the municipality to issue tax anticipation notes or revenue sharing
6 notes under the revised municipal finance act, 2001 PA 34, MCL
7 141.2101 to 141.2821.

8 (c) The municipality meets 1 or more of the following
9 conditions:

10 (i) Its income tax revenue growth rate is .90 or less, or the
11 municipality has 2 or more emergency loans outstanding at the time
12 its application is submitted and its income tax revenue growth rate
13 is 1.3 or less.

14 (ii) Its local tax base growth rate is 75% or less of the
15 statewide tax base growth rate.

16 (iii) The state equalized valuation of real and personal
17 property within the municipality at the time the loan application
18 is made is less than the state equalized valuation of real and
19 personal property within the municipality in the immediately
20 preceding year.

21 (iv) The municipality is levying the maximum number of mills
22 it is authorized to levy as approved by the voters and has either
23 of the following:

24 (A) One or more delinquent special assessments.

25 (B) Outstanding bonds, notes, or other evidences of
26 indebtedness that were issued in anticipation of a contract
27 obligation with, or an assessment obligation against, another

1 municipality that has 1 or more delinquent special assessments that
2 were levied to satisfy, in whole or in part, the contract or
3 assessment obligation.

4 (v) For a school district, the department of treasury
5 determines that 1 or more of the following apply:

6 (A) The school district's membership under section 6 of the
7 state school aid act of 1979, 1979 PA 94, MCL 388.1606, at the time
8 the loan application is made has declined over the preceding 3-
9 state-fiscal-year period by a total of 15% or more.

10 (B) The loan will assist the school district in resolving a
11 financial emergency or fiscal stress within the school district.

12 (vi) The municipality is in receivership, **IS IN THE NEUTRAL**
13 **EVALUATION PROCESS**, or is subject to a consent agreement under the
14 local financial stability and choice act, 2012 PA 436, MCL 141.1541
15 to 141.1575, or a successor statute, and loan authorization by the
16 board is necessary to implement a financial and operating plan, a
17 consent agreement, **A SETTLEMENT AGREEMENT**, or a continuing
18 operations plan or recovery plan for the municipality under the
19 local financial stability and choice act, 2012 PA 436, MCL 141.1541
20 to 141.1575, or a successor statute.

21 (d) The municipality submits a 5-year plan, that has been
22 approved by the governing body of the municipality, and that will
23 balance future expenditures with anticipated revenues.

24 (2) If the board determines it necessary, the board may
25 inspect, copy, or audit the books and records of a municipality.

26 (3) Subsection (1) does not apply to a loan authorized under
27 section 3(2) or (3).

1 Sec. 6. (1) A loan made under this act shall bear an annual
2 rate or rates of interest, if any, as established by the board
3 under section 2(5). The board may establish interest for a loan
4 under this act either at a rate or rates that are fixed for the
5 term of the loan or, if the formula is approved by the board at the
6 time the loan is made or renegotiated as authorized in section 2,
7 at a rate calculated upon a formula that varies the rate annually.
8 The board may provide that the interest rate or rates for a loan
9 under this act may adjust to an interest rate or rates determined
10 at the time of the sale or transfer by the state treasurer to be
11 sufficient to facilitate the sale of the loans under section 6a.
12 Except for loans sold or transferred under section 6a, if the
13 interest rate for a loan under this act is a single fixed rate, the
14 annual rate of interest for the term of a loan shall not be less
15 than the municipal 10-year rate as determined by the state
16 treasurer. The board may consider a higher interest rate based on
17 both the market interest rates and the risk of the municipality
18 requesting the loan. Except for loans sold or transferred under
19 section 6a, if the interest rate for a loan under this section is
20 not a single fixed rate, ~~all~~**BOTH** of the following apply to the
21 loan:

22 (a) The annual rate of interest for the loan shall not be less
23 than 2.5%, but the board may consider a higher interest rate based
24 on both the market interest rates and the risk of the municipality
25 requesting the loan.

26 (b) If the loan includes an interest-only repayment period,
27 the interest-only repayment period shall not be more than 60

1 months.

2 (2) Interest payments are due and payable as determined by the
3 board or the state treasurer under section 6a. Repayment of all of
4 the principal shall be made not more than 30 years from the date of
5 issuance determined by the board or state treasurer under section
6 6a, except as provided in subsection (5). This subsection, ~~sections~~
7 **SECTION 7, and 8,** and the conditions listed in section 4(1) do not
8 apply to a loan authorized under section 3(2) or (3).

9 (3) The loan agreement between the board and a county for a
10 loan authorized under section 3(2) or (3) shall establish the
11 schedule for payment of the principal of and interest on the loan,
12 the nature of the obligation of the county to repay a loan made
13 under this act, and any security for that loan. Payments of
14 principal and interest for a loan authorized by section 3(2) shall
15 be limited to revenues allocated to the county under the health and
16 safety fund act, 1987 PA 264, MCL 141.471 to 141.479, minus those
17 revenues authorized by the board in the loan agreement for use in
18 the payment of other county obligations.

19 (4) Unless other state appropriations to a municipality are
20 pledged or assigned in an amount sufficient for the municipality to
21 make a required principal or interest payment, if the
22 municipality's payment of required principal or interest is
23 delinquent, the state treasurer may withhold the amount of all
24 delinquent payments that are due on a loan issued under this act
25 from state payments to the municipality under the Glenn Steil state
26 revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921,
27 **OR FROM THE MUNICIPALITY'S PORTION OF THE REVENUE GENERATED BY THE**

1 LOCAL COMMUNITY STABILIZATION SHARE TAX LEVIED UNDER THE USE TAX
2 ACT, 1937 PA 94, MCL 205.91 TO 205.111, AND PAYABLE BY THE
3 DEPARTMENT OF TREASURY TO THE LOCAL COMMUNITY STABILIZATION
4 AUTHORITY CREATED UNDER THE LOCAL COMMUNITY STABILIZATION AUTHORITY
5 ACT, 2014 PA 86, MCL 123.1341 TO 123.1362, FOR DISTRIBUTION TO THE
6 MUNICIPALITY OR OTHER GOVERNMENTAL ENTITIES, OR BOTH.

7 (5) Except for loans sold or transferred under section 6a or
8 as otherwise determined by the board, notwithstanding the payment
9 schedules and methods established by this section or by the terms
10 of a loan agreement, a municipality may initiate repayment of all
11 or part of a loan made under this act at an earlier date or may
12 make repayment in fewer installment payments, or both. The board
13 shall not condition either eligibility for consideration for a loan
14 or the grant of a loan under this act on repayment schedules and
15 terms other than those required by subsections (1), (2), (3), and
16 (4). In addition, failure of a municipality to make repayments
17 under terms or a schedule it has instituted under this subsection
18 does not disqualify the municipality from eligibility for
19 consideration for loans in subsequent fiscal years.

20 (6) A loan issued under this act shall be a general obligation
21 of the municipality except that a loan issued under section 3(2)
22 shall not be a general obligation of the municipality and shall be
23 repaid solely from specific revenues pledged for repayment of the
24 loan.

25 Enacting section 1. Sections 5 and 8 of the emergency
26 municipal loan act, 1980 PA 243, MCL 141.935 and 141.938, are
27 repealed.

1 Enacting section 2. This amendatory act does not take effect
2 unless House Bill No. 5384 of the 98th Legislature is enacted into
3 law.