



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 821 (as passed by the Senate)
Senate Bill 822 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Goeff Hansen
Committee: Government Operations

Date Completed: 3-31-16

CONTENT

Senate Bill 822 (S-2) would amend the Emergency Municipal Loan Act to do the following:

- Permit the Local Emergency Financial Assistance Loan Board to authorize up to \$148.0 million in loans to municipalities (including school districts).
- Permit the Board to authorize a loan of up to \$300.0 million to a qualifying school district (Detroit Public Schools).
- Delete provisions that permit the Board to authorize up to \$48.0 million in loans to municipalities other than school districts, and up to \$70.0 million in loans to school districts, between October 1, 2011, and September 20, 2018; and that cap the amount of loans to a single municipality or district during that period.
- Delete provisions that permit the Board to authorize up to \$10.0 million in loans to municipalities other than school districts after that time period.
- Delete language that prohibits a loan to a first-class school district.
- Allow the repayment proceeds of other loans issued under the Act, or sold or transferred under the Act, to be used as revenue for loans.
- Include as one condition of eligibility for a loan, the issuance of tax anticipation notes by a school district that had an operating deficit or outstanding State aid anticipation notes.
- Allow the State Treasurer, if a municipality's loan payment were delinquent, to withhold a portion of its revenue generated by the local community stabilization share tax (the local portion of the use tax).
- In provisions concerning loan eligibility criteria and loan restructuring, include references to a municipality in a neutral evaluation process or settlement agreement.

Senate Bill 821 would amend Public Act 105 of 1855, which regulates the disposition of surplus State funds, to reflect the proposed deletion of specific dollar limits under Senate Bill 822 (S-2), in a provision that allows loans to be made from surplus funds to municipalities other than school districts and to school districts, under the Emergency Municipal Loan Act.

Each bill would take effect 90 days after enactment.

The bills are tie-barred to each other. Senate Bill 822 (S-2) also is tie-barred to Senate Bill 710. (Senate Bill 710 would amend the Revised School Code to provide for the transfer of a "qualifying school district" (Detroit Public Schools) to a proposed "community district" with the same geographic boundaries, and provide that the territory of the qualifying school district

would continue as a separate taxing unit for the purpose of repaying outstanding debt until the debt was retired.)

Senate Bill 822 (S-2)

Maximum Loan Amounts

The Emergency Municipal Loan Act creates the Local Emergency Financial Assistance Loan Board in the Department of Treasury and permits the Board to authorize loans to municipalities that meet eligibility criteria. The Act defines "municipality" as a county, city, village, or township. The term also includes a school district for the period of October 1, 2011, to September 30, 2018. The bill would delete that time frame, and include a school district in the definition of "municipality".

The maximum amount of loans that the Board may authorize during a fiscal year depends on whether a loan is made during or after that period, and whether the loan is made to a municipality other than a school district or to a municipality that is a school district.

Between October 1, 2011, and September 30, 2018, the following apply:

- The Board may authorize loans to municipalities other than school districts that total up to \$48.0 million.
- The Board may authorize loans to school districts that total up to \$70.0 million.
- Loans to a single municipality that is not a school district or loans to a single school district may not exceed \$20.0 million.
- The Board may not authorize a loan to a first-class school district.

For State fiscal years beginning after September 30, 2018, the Board may authorize loans to municipalities (which will no longer include school districts) that total up to \$10.0 million in a fiscal year, and a loan to single municipality may not exceed \$4.0 million in a fiscal year.

The bill would delete all of these dollar amounts and dates. Instead, the bill would permit the Board to authorize loans totaling up to \$148.0 million to municipalities. The bill also would permit the Board to authorize a loan of up to \$300.0 million to a school district that was or became a qualifying school district as described in Section 12b of the Revised School Code. (Senate Bill 710 would add that section to provide for the transfer of a qualifying school district to a community district.)

Revenue for Loans

Currently, revenue for loans under the Act must be provided from the surplus funds of the State under authorization granted under Public Act 105 of 1855, although revenue for a loan to a school district may be provided from money advanced to the district by the State from the State School Aid Fund.

Under the bill, revenue for loans also could be provided from the repayment proceeds of other loans under the Emergency Municipal Loan Act or sold or transferred under Section 6a of the Act. (That section allows the State Treasurer to sell or transfer a loan under the Act and enter into a repurchase agreement with the purchaser or transferee.)

Loan Eligibility Criteria

In order to request a loan, the governing body of a municipality must apply to the Board and substantiate various conditions, including that one or both of the following have occurred within the 18 months preceding the loan request:

- The Department of Treasury has acted upon a request by the municipality to issue tax anticipation notes or revenue sharing notes under the Revised Municipal Finance Act.
- The municipality has issued tax anticipation notes or revenue sharing notes under that Act or a school district has issued notes under Section 1225 of the Revised School Code.

Under the bill, the second condition also would be met if a school district had issued notes under Section 1356 of the Revised School Code.

(Section 1225 allows a school board or intermediate school board to borrow money and issue notes of the district to secure funds for school operations. The board must pledge money it will receive from State school aid for payment of the notes.)

Section 1356 allowed a school district with an operating or projected operating deficit in excess of \$100 per membership pupil to issue notes or bonds for the purpose of funding the deficit. Since January 1, 1994, however, a school district has not been allowed to exercise this authority except to fund an operating deficit resulting from a State Tax Tribunal order or a court order. Senate Bill 710 would amend this section to permit a district that had an operating or projected operating deficit or outstanding State aid anticipation notes issued under Section 1225, with the approval of the State Treasurer, to borrow money and issue notes or bonds for the purpose of eliminating the deficit or refunding or refinancing the State aid anticipation notes.)

Delinquent Loan Payment

If a municipality's payment of required principal or interest is delinquent, the State Treasurer may withhold the amount of all delinquent payments from State revenue sharing payments to the municipality, unless other State appropriations to the municipality are pledged or assigned in an amount sufficient for it to make a required payment.

The bill also would allow the State Treasurer to withhold the amount of delinquent payments from the municipality's portion of the revenue generated by the local community stabilization share tax levied under the Use Tax Act, and payable by the Department of Treasury to the Local Community Stabilization Authority, for distribution to the municipality or other governmental entities, or both. (The local community stabilization share tax is the portion of the use tax that is allocated to local units of government.)

Neutral Evaluation Process; Settlement Agreement

The eligibility criteria for a loan require a municipality to meet one or more of the conditions on a list set forth in the Emergency Municipal Loan Act. One of these conditions is that the municipality is in receivership, or is subject to a consent agreement under the Local Financial Stability and Choice Act, and loan authorization by the Local Emergency Financial Assistance Loan Board is necessary to implement a financial and operating plan, a consent agreement, or a continuing operating plan or recovery plan for the municipality under that Act. Under the bill, this would apply if the municipality were in receivership, were in the neutral evaluation process, or were subject to a consent agreement under that Act, and loan authorization were necessary to implement a financial and operating plan, a consent agreement, a settlement agreement, or a continuing operating plan or recovery plan.

The Emergency Municipal Loan Act allows the Board to restructure payments on a loan to a municipality if a number of conditions are met. These include a requirement that the municipality is in compliance with any applicable consent agreement or order of an emergency manager under the Local Financial Stability and Choice Act. Under the bill, a municipality would have to be in compliance with any applicable consent agreement, neutral evaluation process, settlement agreement, or order of an emergency manager.

Repeals

The bill would repeal Section 5 of the Emergency Municipal Loan Act, which allowed the Board, until September 30, 2011, to authorize loans to any one municipality of up to \$3.0 million in any one fiscal year of the municipality. This section also provides that a municipality is not eligible to receive loans in more than five fiscal years in any 10-year period.

The bill also would repeal Section 8, which imposes additional eligibility requirements on a municipality for it to be considered for a fiscal year loan after it has qualified for and received a loan. The additional requirements include submitting a progress report to the Board detailing the steps taken to achieve a long-range plan and measures taken to improve fiscal management, and satisfying the Board that reasonable progress has been made to resolve any Federal discrimination suit pending against the municipality.

Senate Bill 821

Public Act 105 of 1955 authorizes the State Treasurer to make a loan from surplus funds to an eligible municipality if the loan is approved under the Emergency Municipal Loan Act. For State fiscal years beginning after September 30, 2018, the total amount of loans made from surplus funds in any one State fiscal year may not exceed \$10.0 million plus the amount authorized under Section 3(2) of that Act, and no loan to a single municipality may exceed \$4.0 million in a State fiscal year. (Section 3(2) permits a loan to a charter county with a population of more than 1.5 million that is county juvenile agency.)

For the period beginning on October 1, 2011, and ending on September 30, 2018, loans made from surplus funds may include both of the following:

- Loans to municipalities other than school districts in amounts authorized under Section 3(1)(a) of the Emergency Municipal Loan Act (which limits total loans to \$48.0 million during that period, and caps loans to a single municipality at \$20.0 million).
- Loans to school districts in amounts authorized under Section 3(1)(b) (which limits total loans to \$70.0 million during that period, and caps loans to a single district at \$20.0 million).

Under the bill, instead, for the period beginning on October 1, 2011, and ending on September 30, 2018, loans made from surplus funds could include loans to municipalities in amounts described under Section 3(1). (Under Senate Bill 822 (S-2), that section would allow loans to municipalities of up to \$148.0 million and would allow a loan of up to \$300.0 million to a qualifying school district.)

MCL 21.141 (S.B. 821)
141.932 et al. (S.B. 822)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 822 (S-2)

State: The State could see increased stability in repayments of emergency loans due to proposed language that would allow the withholding of a municipality's portion of the revenue generated by the local community stabilization share tax levied under the Use Tax Act (i.e., reimbursement for the loss of personal property tax revenue), in addition to the existing language that allows the withholding of a municipality's revenue sharing payments.

Local: The potential fiscal impact on municipalities, including school districts, is indeterminate. The bill would replace the existing loan caps with a cap on the sum of all loans to municipalities (except for a loan to Detroit Public Schools) of \$148.0 million, and make that dollar amount

a permanent loan cap, without a sunset date. The bill also would provide additional circumstances under which a municipality would be eligible for a loan, including being part of a neutral evaluation process or settlement agreement, which likely would provide additional fiscal flexibility to municipalities in these circumstances.

In addition, the bill would remove language that prohibits Detroit Public Schools (DPS) from receiving an emergency loan, and further would allow for a loan of up to \$300.0 million to a qualifying district (DPS), which would not be counted against the \$148.0 million loan cap for other municipalities. Presumably, allowing DPS to receive an emergency loan would provide additional fiscal flexibility to the district to restructure its debt.

Under current law, out of the \$48.0 million authorized for loans to municipalities other than school districts between October 1, 2011, and September 30, 2018, just over \$28.0 million remains available for loans, and out of the \$70.0 million authorized for loans to school districts between October 1, 2011 and September 30, 2018, just over \$10.0 million remains available for loans. The total emergency loan balance for all municipalities and school districts, including all loans outstanding from any time period, was roughly \$137.7 million as of December 31, 2015.

Senate Bill 821

The bill would have no fiscal impact on State or local government independently of Senate Bill 822 (S-2). Senate Bill 821 simply would remove references to school districts separate from municipalities, since Senate Bill 822 (S-2) would merge the entities for emergency loan purposes and remove the loan caps.

Fiscal Analyst: Kathryn Summers

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.