

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

1 treasurer, the board shall exercise its prescribed statutory  
2 powers, duties, and functions independently of the department of  
3 treasury.

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

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

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

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

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

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

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

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

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

25 (h) To subject a loan to the terms and conditions the board  
26 considers necessary to ensure compliance with the uniform budgeting  
27 and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, and to

1 ensure timely repayment of the loan, including, but not limited to,  
2 requiring the direct assignment for repayment of a loan of any  
3 state money appropriated to the municipality or, for a municipality  
4 that is a school district, other revenue or money that may be  
5 pledged by a school district under section 1211 of the revised  
6 school code, 1976 PA 451, MCL 380.1211, or other law. For a loan  
7 entered into after ~~the effective date of the amendatory act that~~  
8 ~~added this sentence,~~ **JULY 7, 2015**, if a municipality does not make  
9 any scheduled repayment on a loan, the department of treasury shall  
10 require the direct assignment for repayment of the loan, in the  
11 amount equal to the minimum of the interest due on the loan and up  
12 to 5% of the loan, from any state money appropriated to the  
13 municipality or, for a municipality that is a school district,  
14 other revenue or money that may be pledged by a school district  
15 under section 1211 of the revised school code, 1976 PA 451, MCL  
16 380.1211, or other law.

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

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

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

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

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

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

12 (a) The amount of a loan.

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

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

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

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

20 (a) Borrow money under this act, and issue evidences of  
21 indebtedness for repayment of obligations, including, but not  
22 limited to, money advanced or previously advanced to a school  
23 district or approved or previously approved for advancement to a  
24 school district under section 15(2) of the state school aid act of  
25 1979, 1979 PA 94, MCL 388.1615, or money borrowed by the school  
26 district under section 1225 of the revised school code, 1976 PA  
27 451, MCL 380.1225.

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

(c) Issue its notes evidencing the loan.

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

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

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

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

(b) ~~Authorize~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, AUTHORIZE** loans to municipalities that are school districts that total up to \$70,000,000.00 during the period. ~~Loans~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, LOANS** to a single school district under this subdivision shall not total more than \$20,000,000.00. ~~The board shall not authorize a loan to a school district organized as a school district of the first class under part 6 of the revised school code, 1976 PA 451, MCL 380.401 to~~

1 ~~380.485~~-IN ADDITION, THE BOARD MAY ALSO AUTHORIZE A LOAN OF UP TO  
2 \$33,000,000.00 TO A SCHOOL DISTRICT THAT IS OR BECOMES A QUALIFYING  
3 SCHOOL DISTRICT AS DESCRIBED IN SECTION 12B OF THE REVISED SCHOOL  
4 CODE, 1976 PA 451, MCL 380.12B. A LOAN AUTHORIZED TO A QUALIFYING  
5 SCHOOL DISTRICT UNDER THIS SUBDIVISION SHALL NOT EXCEED A TERM OF  
6 10 YEARS.

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

9 (a) In the 1998-99 state fiscal year, the board may authorize  
10 loans under this act to a county with a population greater than  
11 1,500,000.

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

24 (3) If in a state fiscal year the block grant appropriated to  
25 a county other than a county described in subsection (2) that is a  
26 county juvenile agency is less than the amount required to be  
27 distributed to that county in that year under the social welfare

1 act, 1939 PA 280, MCL 400.1 to 400.119b, the board may authorize a  
2 loan to that county in an amount not greater than the difference  
3 between the amount of the block grant and the amount required to be  
4 distributed to that county under the social welfare act, 1939 PA  
5 280, MCL 400.1 to 400.119b, in that state fiscal year.

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

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

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

16 (7) The proceeds of a loan made under subsection (2) or (3)  
17 are subject to the county juvenile agency act, 1998 PA 518, MCL  
18 45.621 to 45.631.

19 (8) Except as otherwise provided in this subsection, revenue  
20 for loans made under this act shall be provided from the surplus  
21 funds of this state under authorization granted under section 1 of  
22 1855 PA 105, MCL 21.141, **OR FROM THE REPAYMENT PROCEEDS OF OTHER**  
23 **LOANS ISSUED UNDER THIS ACT OR SOLD OR TRANSFERRED UNDER SECTION**  
24 **6A.** Alternatively, for a school district, revenue for a loan made  
25 under this act may be provided from money advanced to the school  
26 district by this state from money appropriated from the state  
27 school aid fund established under section 11 of article IX of the



1 state constitution of 1963 and payable to the school district under  
2 the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to  
3 388.1896.

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

8 (a) The municipality is in compliance with the terms of the  
9 loan and any other requirements applicable to the municipality  
10 under this act.

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

13 (c) The municipality is in compliance with any applicable  
14 **NEUTRAL EVALUATION PROCESS, SETTLEMENT AGREEMENT**, consent  
15 agreement, or order of an emergency manager under the local  
16 financial stability and choice act, 2012 PA 436, MCL 141.1541 to  
17 141.1575, or a successor statute.

18 (d) For a municipality that is a school district, the school  
19 district is in compliance with all requirements for receipt of the  
20 foundation allowance and any other requirements applicable to the  
21 school district under the state school aid act of 1979, 1979 PA 94,  
22 MCL 388.1601 to 388.1896.

23 (e) For a municipality other than a school district, the  
24 municipality is in compliance with ~~all conditions for economic~~  
25 ~~vitality incentive program money or~~ statutory revenue sharing or  
26 other requirements applicable to the municipality under the Glenn  
27 Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901

1 to 141.921.

2 (f) The restructuring of payments complies with applicable  
3 law.

4 (g) The loan has not been sold or transferred under section  
5 6a.

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

9 Sec. 4. (1) If the governing body of a municipality desires to  
10 request a loan, it shall provide by resolution for the submission  
11 of an application to the board for a loan made under this act. The  
12 municipality shall certify and substantiate all of the following  
13 information and conditions to be eligible for consideration for a  
14 loan authorization by the board:

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

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

19 (i) The municipality has issued tax anticipation notes or  
20 revenue sharing notes under the revised municipal finance act, 2001  
21 PA 34, MCL 141.2101 to 141.2821, or for a school district, issued  
22 notes under section 1225, **1356, OR 1356A** of the revised school  
23 code, 1976 PA 451, MCL 380.1225, **380.1356, AND 380.1356A**.

24 (ii) The department of treasury has acted upon a request by  
25 the municipality to issue tax anticipation notes or revenue sharing  
26 notes under the revised municipal finance act, 2001 PA 34, MCL  
27 141.2101 to 141.2821.

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

3 (i) Its income tax revenue growth rate is .90 or less, or the  
4 municipality has 2 or more emergency loans outstanding at the time  
5 its application is submitted and its income tax revenue growth rate  
6 is 1.3 or less.

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

9 (iii) The state equalized valuation of real and personal  
10 property within the municipality at the time the loan application  
11 is made is less than the state equalized valuation of real and  
12 personal property within the municipality in the immediately  
13 preceding year.

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

17 (A) One or more delinquent special assessments.

18 (B) Outstanding bonds, notes, or other evidences of  
19 indebtedness that were issued in anticipation of a contract  
20 obligation with, or an assessment obligation against, another  
21 municipality that has 1 or more delinquent special assessments that  
22 were levied to satisfy, in whole or in part, the contract or  
23 assessment obligation.

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

26 (A) The school district's membership under section 6 of the  
27 state school aid act of 1979, 1979 PA 94, MCL 388.1606, at the time

1 the loan application is made has declined over the preceding 3-  
2 state-fiscal-year period by a total of 15% or more.

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

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

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

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

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

21 Sec. 6. (1) A loan made under this act shall bear an annual  
22 rate or rates of interest, if any, as established by the board  
23 under section 2(5). The board may establish interest for a loan  
24 under this act either at a rate or rates that are fixed for the  
25 term of the loan or, if the formula is approved by the board at the  
26 time the loan is made or renegotiated as authorized in section 2,  
27 at a rate calculated upon a formula that varies the rate annually.

1 The board may provide that the interest rate or rates for a loan  
2 under this act may adjust to an interest rate or rates determined  
3 at the time of the sale or transfer by the state treasurer to be  
4 sufficient to facilitate the sale of the loans under section 6a.  
5 Except for loans sold or transferred under section 6a, if the  
6 interest rate for a loan under this act is a single fixed rate, the  
7 annual rate of interest for the term of a loan shall not be less  
8 than the municipal 10-year rate as determined by the state  
9 treasurer. The board may consider a higher interest rate based on  
10 both the market interest rates and the risk of the municipality  
11 requesting the loan. Except for loans sold or transferred under  
12 section 6a, if the interest rate for a loan under this section is  
13 not a single fixed rate, ~~all~~**BOTH** of the following apply to the  
14 loan:

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

19 (b) If the loan includes an interest-only repayment period,  
20 the interest-only repayment period shall not be more than 60  
21 months.

22 (2) Interest payments are due and payable as determined by the  
23 board or the state treasurer under section 6a. Repayment of all of  
24 the principal shall be made not more than 30 years from the date of  
25 issuance determined by the board or state treasurer under section  
26 6a, except as provided in subsection (5). This subsection, ~~sections~~  
27 **SECTION 7, and 8,** and the conditions listed in section 4(1) do not

1 apply to a loan authorized under section 3(2) or (3).

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

12 (4) Unless other state appropriations to a municipality are  
13 pledged or assigned in an amount sufficient for the municipality to  
14 make a required principal or interest payment, if the  
15 municipality's payment of required principal or interest is  
16 delinquent, the state treasurer may withhold the amount of all  
17 delinquent payments that are due on a loan issued under this act  
18 from state payments to the municipality under the Glenn Steil state  
19 revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921,  
20 **OR FROM THE MUNICIPALITY'S PORTION OF THE REVENUE GENERATED BY THE**  
21 **LOCAL COMMUNITY STABILIZATION SHARE TAX LEVIED UNDER THE USE TAX**  
22 **ACT, 1937 PA 94, MCL 205.91 TO 205.111, AND PAYABLE BY THE**  
23 **DEPARTMENT OF TREASURY TO THE LOCAL COMMUNITY STABILIZATION**  
24 **AUTHORITY CREATED UNDER THE LOCAL COMMUNITY STABILIZATION AUTHORITY**  
25 **ACT, 2014 PA 86, MCL 123.1341 TO 123.1362, FOR DISTRIBUTION TO THE**  
26 **MUNICIPALITY OR OTHER GOVERNMENTAL ENTITIES, OR BOTH.**

27 (5) Except for loans sold or transferred under section 6a or

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

13 (6) A loan issued under this act shall be a general obligation  
14 of the municipality except that a loan issued under section 3(2)  
15 shall not be a general obligation of the municipality and shall be  
16 repaid solely from specific revenues pledged for repayment of the  
17 loan.

18 Enacting section 1. Sections 5 and 8 of the emergency  
19 municipal loan act, 1980 PA 243, MCL 141.935 and 141.938, are  
20 repealed.

21 Enacting section 2. This amendatory act takes effect 90 days  
22 after the date it is enacted into law.

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