

**SUBSTITUTE FOR
SENATE BILL NO. 822**

A bill to amend 1980 PA 243, entitled
"Emergency municipal loan act,"
by amending sections 1, 2, 3, 4, and 6 (MCL 141.931, 141.932,
141.933, 141.934, and 141.936), section 1 as amended by 2012 PA 284
and sections 2, 3, 4, and 6 as amended by 2015 PA 115; and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Board" means the local emergency financial assistance
3 loan board created under section 2.

4 (b) "Fiscal year" means, unless otherwise provided in this
5 act, the fiscal year of the municipality applying for a loan under
6 this act.

7 (c) "Income tax collections" means the total collection of a

1 municipality under the city income tax act, 1964 PA 284, MCL
2 141.501 to 141.787, in any calendar year.

3 (d) "Income tax revenue growth rate" means the quotient of the
4 following:

5 (i) The numerator is the income tax collections of the
6 municipality for the calendar year immediately preceding the
7 municipality's application for a loan under this act.

8 (ii) The denominator is the income tax collections for the
9 municipality for the calendar year preceding the calendar year used
10 in determining the numerator.

11 (e) "Municipality" means a county, city, village, ~~or township,~~
12 **OR SCHOOL DISTRICT** in this state. ~~For the period beginning on~~
13 ~~October 1, 2011 and ending on September 30, 2018, municipality also~~
14 ~~includes a school district in this state.~~

15 (f) "Local tax base growth rate" for a municipality means the
16 state equalized valuation of the real and personal property of the
17 municipality for the most recent year for which data is available
18 divided by the state equalized valuation of real and personal
19 property of the municipality for the fifth year preceding the most
20 recent year for which data is available.

21 (g) "Statewide tax base growth rate" means the total state
22 equalized valuation for real and personal property for the most
23 recent year for which data is available divided by the total state
24 equalized valuation for the fifth year preceding the most recent
25 year for which data is available.

26 (h) "State equalized valuation of real and personal property
27 of the municipality" means the valuation determined under 1911 PA

1 44, MCL 209.1 to 209.8, of real and personal property within the
2 municipality plus an amount equal to the state equalized valuation
3 equivalent of certain revenues of the municipality as determined
4 under this subdivision. The state equalized valuation equivalent
5 shall be calculated by dividing the sum of the following amounts by
6 the municipality's millage rate for the fiscal year:

7 (i) The amount levied by the municipality for its own use
8 during the municipality's fiscal year from the specific tax levied
9 under 1974 PA 198, MCL 207.551 to 207.572.

10 (ii) The amount levied by the municipality for its own use
11 during the municipality's fiscal year from the specific tax levied
12 under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to
13 207.668.

14 Sec. 2. (1) There is created a local emergency financial
15 assistance loan board within the department of treasury. This board
16 ~~shall consist~~ **CONSISTS** of the state treasurer, the director of the
17 department of licensing and regulatory affairs, and the director of
18 the department of technology, management, and budget. Except for
19 budgeting, procurement, and related functions of the board that
20 shall be performed under the direction and supervision of the state
21 treasurer, the board shall exercise its prescribed statutory
22 powers, duties, and functions independently of the department of
23 treasury.

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

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

5 (b) To authorize and make loans; to renegotiate the terms of
6 outstanding loans; and to make, execute, and deliver contracts and
7 other instruments necessary or convenient to the exercise of its
8 powers.

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

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

15 (e) To examine the books and records of a municipality
16 applying for or receiving a loan under this act for the purpose of
17 ascertaining if the municipality is complying, in relation to a
18 loan under this act, with the requirements of the board, the laws
19 of this state, and the charter, ordinances, and resolutions of the
20 municipality. Additionally, for effectuating this purpose, the
21 board may require sworn statements from any officer or employee of
22 the municipality and may require the municipality to furnish a
23 statement of its financial condition. The board has full power, in
24 furtherance of its investigations, to examine witnesses on oath, to
25 compel the attendance of witnesses, to compel the giving of
26 testimony, and to compel the production of books, papers, and
27 records. Witnesses may be summoned by the board by its process upon

1 the payment of the same fees as are allowed to witnesses attending
2 in the circuit court for the county in which a hearing is held. A
3 person duly subpoenaed under this section who fails to attend or
4 testify at the place named in the subpoena served for that purpose
5 is guilty of a misdemeanor.

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

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

18 (h) To subject a loan to the terms and conditions the board
19 considers necessary to ensure compliance with the uniform budgeting
20 and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, and to
21 ensure timely repayment of the loan, including, but not limited to,
22 requiring the direct assignment for repayment of a loan of any
23 state money appropriated to the municipality or, for a municipality
24 that is a school district, other revenue or money that may be
25 pledged by a school district under section 1211 of the revised
26 school code, 1976 PA 451, MCL 380.1211, or other law. For a loan
27 entered into after ~~the effective date of the amendatory act that~~

~~added this sentence, JULY 7, 2015,~~ if a municipality does not make any scheduled repayment on a loan, the department of treasury shall require the direct assignment for repayment of the loan, in the amount equal to the minimum of the interest due on the loan and up to 5% of the loan, from any state money appropriated to the municipality or, for a municipality that is a school district, other revenue or money that may be pledged by a school district under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, or other law.

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

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

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

(4) All actions of the board shall be approved by all members of the board. All meetings of the board shall be conducted at a

1 public meeting held in compliance with the open meetings act, 1976
2 PA 267, MCL 15.261 to 15.275.

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

5 (a) The amount of a loan.

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

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

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

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

13 (a) Borrow money under this act, and issue evidences of
14 indebtedness for repayment of obligations, including, but not
15 limited to, money advanced or previously advanced to a school
16 district or approved or previously approved for advancement to a
17 school district under section 15(2) of the state school aid act of
18 1979, 1979 PA 94, MCL 388.1615, or money borrowed by the school
19 district under section 1225 of the revised school code, 1976 PA
20 451, MCL 380.1225.

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

22 (c) Issue its notes evidencing the loan.

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

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

27 Sec. 3. (1) ~~For state fiscal years ending before October 1,~~

~~2011, the~~ **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 loans to municipalities that are school districts that total up to \$70,000,000.00 during the period. 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 380.485.~~ **\$148,000,000.00. THE BOARD ALSO MAY AUTHORIZE A LOAN OF UP TO \$300,000,000.00 TO A SCHOOL DISTRICT THAT IS OR BECOMES A QUALIFYING SCHOOL DISTRICT AS DESCRIBED IN SECTION 12B OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.12B.**

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

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

1 (b) For a state fiscal year in which the block grant
2 appropriated to a county with a population of more than 1,500,000
3 that is organized under 1966 PA 293, MCL 45.501 to 45.521, and that
4 is a county juvenile agency is less than the amount required to be
5 distributed to that county in that year under the social welfare
6 act, 1939 PA 280, MCL 400.1 to 400.119b, the board may authorize a
7 loan to that county in an amount not greater than the difference
8 between the amount of the block grant and the amount required to be
9 distributed to that county for that fiscal year under the social
10 welfare act, 1939 PA 280, MCL 400.1 to 400.119b. The board is not
11 required to authorize loans under this subdivision to a county for
12 more than 1 state fiscal year.

13 (3) If in a state fiscal year the block grant appropriated to
14 a county other than a county described in subsection (2) that is a
15 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 under the social welfare act, 1939 PA
21 280, MCL 400.1 to 400.119b, in that state fiscal year.

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

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

1 or account.

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

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

8 (8) Except as otherwise provided in this subsection, revenue
9 for loans made under this act shall be provided from the surplus
10 funds of this state under authorization granted under section 1 of
11 1855 PA 105, MCL 21.141, **OR FROM THE REPAYMENT PROCEEDS OF OTHER**
12 **LOANS ISSUED UNDER THIS ACT OR SOLD OR TRANSFERRED UNDER SECTION**
13 **6A.** Alternatively, for a school district, revenue for a loan made
14 under this act may be provided from money advanced to the school
15 district by this state from money appropriated from the state
16 school aid fund established under section 11 of article IX of the
17 state constitution of 1963 and payable to the school district under
18 the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to
19 388.1896.

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

24 (a) The municipality is in compliance with the terms of the
25 loan and any other requirements applicable to the municipality
26 under this act.

27 (b) The municipality is in compliance with any requirements

1 relating to a deficit elimination plan under state law.

2 (c) The municipality is in compliance with any applicable
3 **NEUTRAL EVALUATION PROCESS, SETTLEMENT AGREEMENT**, consent
4 agreement, or order of an emergency manager under the local
5 financial stability and choice act, 2012 PA 436, MCL 141.1541 to
6 141.1575, or a successor statute.

7 (d) For a municipality that is a school district, the school
8 district is in compliance with all requirements for receipt of the
9 foundation allowance and any other requirements applicable to the
10 school district under the state school aid act of 1979, 1979 PA 94,
11 MCL 388.1601 to 388.1896.

12 (e) For a municipality other than a school district, the
13 municipality is in compliance with ~~all conditions for economic~~
14 ~~vitality incentive program money or~~ statutory revenue sharing or
15 other requirements applicable to the municipality under the Glenn
16 Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901
17 to 141.921.

18 (f) The restructuring of payments complies with applicable
19 law.

20 (g) The loan has not been sold or transferred under section
21 6a.

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

25 Sec. 4. (1) If the governing body of a municipality desires to
26 request a loan, it shall provide by resolution for the submission
27 of an application to the board for a loan made under this act. The

1 municipality shall certify and substantiate all of the following
2 information and conditions to be eligible for consideration for a
3 loan authorization by the board:

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

6 (b) That 1 or both of the following have occurred within the
7 18 months immediately preceding the loan request:

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

13 (ii) The department of treasury has acted upon a request by
14 the municipality to issue tax anticipation notes or revenue sharing
15 notes under the revised municipal finance act, 2001 PA 34, MCL
16 141.2101 to 141.2821.

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

19 (i) Its income tax revenue growth rate is .90 or less, or the
20 municipality has 2 or more emergency loans outstanding at the time
21 its application is submitted and its income tax revenue growth rate
22 is 1.3 or less.

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

25 (iii) The state equalized valuation of real and personal
26 property within the municipality at the time the loan application
27 is made is less than the state equalized valuation of real and

1 personal property within the municipality in the immediately
2 preceding year.

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

6 (A) One or more delinquent special assessments.

7 (B) Outstanding bonds, notes, or other evidences of
8 indebtedness that were issued in anticipation of a contract
9 obligation with, or an assessment obligation against, another
10 municipality that has 1 or more delinquent special assessments that
11 were levied to satisfy, in whole or in part, the contract or
12 assessment obligation.

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

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

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

21 (vi) The municipality is in receivership, **IS IN THE NEUTRAL**
22 **EVALUATION PROCESS**, or is subject to a consent agreement under the
23 local financial stability and choice act, 2012 PA 436, MCL 141.1541
24 to 141.1575, or a successor statute, and loan authorization by the
25 board is necessary to implement a financial and operating plan, a
26 consent agreement, **A SETTLEMENT AGREEMENT**, or a continuing
27 operations plan or recovery plan for the municipality under the

1 local financial stability and choice act, 2012 PA 436, MCL 141.1541
2 to 141.1575, or a successor statute.

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

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

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

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

1 section 6a, if the interest rate for a loan under this section is
2 not a single fixed rate, ~~all~~**BOTH** of the following apply to the
3 loan:

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

8 (b) If the loan includes an interest-only repayment period,
9 the interest-only repayment period shall not be more than 60
10 months.

11 (2) Interest payments are due and payable as determined by the
12 board or the state treasurer under section 6a. Repayment of all of
13 the principal shall be made not more than 30 years from the date of
14 issuance determined by the board or state treasurer under section
15 6a, except as provided in subsection (5). This subsection, ~~sections~~
16 **SECTION 7, and 8,** and the conditions listed in section 4(1) do not
17 apply to a loan authorized under section 3(2) or (3).

18 (3) The loan agreement between the board and a county for a
19 loan authorized under section 3(2) or (3) shall establish the
20 schedule for payment of the principal of and interest on the loan,
21 the nature of the obligation of the county to repay a loan made
22 under this act, and any security for that loan. Payments of
23 principal and interest for a loan authorized by section 3(2) shall
24 be limited to revenues allocated to the county under the health and
25 safety fund act, 1987 PA 264, MCL 141.471 to 141.479, minus those
26 revenues authorized by the board in the loan agreement for use in
27 the payment of other county obligations.

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

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

1 consideration for loans in subsequent fiscal years.

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

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

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

12 Enacting section 3. This amendatory act does not take effect
13 unless all of the following bills of the 98th Legislature are
14 enacted into law:

15 (a) Senate Bill No. 710.

16 (b) Senate Bill No. 821.