Legislative Analysis

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CREATE SCHOOL BOND LOAN REVOLVING FUND AND JOBS TODAY BOND PROGRAM

House Bill 4660
Sponsor: Rep. Hoon-Yung Hopgood

House Bill 4661
Sponsor: Rep. Mary Waters

House Bill 4662
Sponsor: Rep. Fred Miller

House Bill 4663
Sponsor: Rep. Jeff Mayes

House Bill 4664
Sponsor: Rep. Brenda Clack

House Bill 4646
Sponsor: Rep. George Cushingberry, Jr.

Committee: Commerce

Complete to 5-6-05

A SUMMARY OF HOUSE BILLS 4660-4664 AS INTRODUCED 4-26-05 AND HOUSE BILL 4646 AS INTRODUCED 4-21-05

The package of bills would, generally speaking, do the following.

** Repeal Public Act 108 of 1961 and replace it with a new **School Bond Qualification, Approval, and Loan Act** with the same basic purpose of implementing Article IX, Section 16 of the State Constitution and providing for **loans to school districts to pay debt service on bonds the districts have issued**. The new act would contain, among other things, more extensive application and approval criteria.

** Create a **School Loan Revolving Fund** to be operated by the Michigan Municipal Bond Authority and require that money repaid by school districts on loans made by the SLRF would be deposited back into the fund (rather than go into the General Fund, as is the case currently with the existing program). The state treasurer could assign repayments of loans made prior to the effectiveness of the new revolving fund system to the SLRF.

** Specify that the state treasurer could prequalify new bonds of a school district <u>only</u> upon determining that the issuance of new bonds would not prevent the district from **repaying its outstanding qualified loans on schedule**. The new act would authorize the state treasurer to establish payment dates for school districts with qualified loans outstanding as of the new act's effective date (as well as for bonds issued later).

** Create a **Jobs Today Bond Program**, under which the state treasurer could authorize school districts to issue up to $500 million in bonds in fiscal years (FY) 2004-05, 2005-06, and 2006-07 for the purposes of remodeling, renovating, or replacing outmoded or dangerous classroom buildings; demolishing buildings that have been closed or are scheduled to be closed; and creating qualified "small high schools" in school districts. Small high schools would be buildings or discrete portions of buildings containing between 400 and 500 students in districts with at least 800 students in grades 9-12. State loans to support Jobs Today bonds would be interest-free. Districts could borrow the entire debt service for the first five years.

** Allow up to $180 million of the Jobs Today bonds to be used for the **small high school program**. To participate, a local school district would have to adopt a strategic plan to improve the district-wide graduation rate and/or student achievement in both English language arts and mathematics, in order to reach proficiency goals under the state's No Child Left Behind Accountability Plan. The district also would have to be committed to adopting a proven model for the curriculum and operational structure for the high school approved by the state superintendent of public instruction, and would need sufficient funds for planning and startup costs for the school.

** Designate the remaining $320 million or more to the purposes of **upgrading outmoded or dangerous classroom buildings and demolishing classroom buildings closed or scheduled for closing**.

** Authorize **three kinds of bonds** for which state loans from the revolving fund would be available: 1) **qualified bonds** of the kind districts issue currently, which require the levying of between 7 and 13 debt mills in order to receive state loan support and require voter approval; 2) newly authorized **qualified Jobs Today bonds**, which would have variable debt millage requirements (as discussed later) and require voter approval; and 3) newly authorized **revolving fund secured Jobs Today bonds**. A revolving fund secured bond is defined as a limited tax general obligation bond. Such a bond would be considered sponsored or supported by the state. These bonds are repaid out of a district's operating budget rather than from debt millage. They do not require a vote of school electors but are subject to referendum. In order to receive state loan support, each kind of bond would need to be approved by the state treasurer.

** Require ballot questions on unlimited tax general obligations that will be guaranteed by the state to inform voters that the district borrowing from the state may be required to continue to levy mills beyond the term of the bonds in order to repay the state.

<u>House Bill 4660</u> would create the new act and contains most of the major new provisions, including the Jobs Today Bond Program.

<u>House Bill 4661</u> would amend the Shared Credit Rating Act to create the new revolving fund.

<u>House Bill 4662</u> would amend Public Act 112 of 1961 to specify that loan repayments would go back to the new revolving fund.

<u>House Bill 4646</u> would amend the Revised School Code to include "revolving fund secured bonds" in several provisions of the code; namely to specify that such limited tax

obligation bonds would not require a vote of school electors, would not be included in certain calculations of the district's outstanding bonded indebtedness, and would not be included in the 15 percent debt limitation.

House Bill 4663 would amend the State School Aid Act to allow the state treasurer to withhold all or part of a payment to a local or intermediate school district that they would otherwise receive under the new school bond act.

House Bill 4664 would amend the Code of Criminal Procedure to establish a sentencing guideline for the crimes of making a false statement or concealing information to obtain qualification of a school bond and improperly using bond proceeds; the offense would be a Class F felony against the public trust with a maximum term of imprisonment of four years.

FISCAL IMPACT:

The school aid act appropriates the funding for debt service for the school bond loan program. The debt service for FY 2004-05 is $41.1 million and the estimate for FY 2005-06 is $44.5 million. The Executive Budget proposal for the school aid budget uses a portion of the new school bond revolving funding to pay the debt service for FY 2004-05 and FY 2005-06, thus saving school aid funds of $85.6 million.

The bill would require that repayments from the school districts would be deposited into the SLRF instead of the General Fund. However, this would not have a fiscal impact on the GF/GP revenue used for budget purposes because these deposits are not included in the consensus figures and are not available for general purpose expenditures. In addition, the SLRF would incur issuance costs (underwriter, bond counsel, rating agencies) to change from the current school bond loan program to a revolving fund.

Under the Jobs Today component, the SLRF would incur all interest costs of the loans taken out by the school districts from the revolving fund to enable them to put in place $500 million worth of projects. In addition, school districts would be able to borrow debt service payments on these loans for the first five years. School districts would begin to repay the state loans after the debt millage levy generated more revenue than the debt service required.

ADDITIONAL INFORMATION:

Jobs Today Bond Program

The maximum amount of such bonds that a district could issue would be $10 million for remodeling, renovating, and replacing outmoded or dangerous classroom buildings; $10 million for the demolition of buildings; and $15 million for small high schools in a district with under 20,000 students and $30 million for small high schools in a district with 20,000 or more students. A district with under 20,000 students that issued bonds for combined purposes would be limited to $25 million, and larger districts would be limited to $40 million for combined purposes. (However, more bonds could be qualified per district if the demand for bonds did not reach the maximum amount available after the first 180 days.)

If more applications for prequalification and preapproval exceed the maximum amount of bonds available, the treasurer would use a point system to determine whose applications would be approved. Points would be assigned in seven categories:

- Readiness to issue bonds before September 30, 2005.
- Average age of classroom buildings.
- Overall condition of facilities based on the number of factors present (out of 42), including inadequacy of internal water supply; presence of asbestos; health law violations; poor indoor air quality causing health-related problems; loose and peeling paint; fire safety problems, including inadequate alarms, exits, inadequate interior and exterior doors, kitchen cooking facilities; hazardous steps and walks; location close to traffic, industry, business, or natural hazard so as to endanger students and staff; walls that are leaning or in danger of falling; unsafe masonry; crumbling or settling foundation; rotting, sagging, or buckling floors; sagging, rotted, or unsound roof; structural steel corrosion; cracks in concrete; and blocked or closed air intake openings.
- Overall utilization rate of classroom facilities, with greater weight applied to schools having a higher utilization rate after projects are completed.
- Taxable value per pupil, with greater weight applied to lower taxable value per pupil.
- Severity of environmental or usability problems, as certified by an independent architect or engineer, with greater weight applied to lead, toxic mold and asbestos management; energy conservation; and meeting the physical needs of disabled students.
- Technological needs of facilities, with greater weight applied to the lack of adequate technology infrastructure and security protection, as certified by an independent architect or engineer.

<u>Application process.</u>

The application to be filed with the state treasurer for qualification of Jobs Today bonds would have to contain 16 elements, as specified in the new act, including the description of projects; a copy of the ballot question to be submitted to school electors; the taxable value per pupil for the immediately preceding five years; evidence that the rate of utilization of the project will be at least 85 percent for new buildings and 60 percent for renovated buildings, and that the rate of utilization in the case of a small high school will be at least 85 percent after the third full school year of operation; evidence of the reasonableness of square-foot costs; the age and condition of technology infrastructure; the status of the planning and design process; the weighted average age of all classroom buildings; the overall utilization rate of district classroom buildings; the weighted average age and overall condition of buildings to be replaced, renovated, or demolished; any environmental or usability problems to be addressed; a statement of whether the district will send the land after a building is demolished; and, for revolving fund secured bonds, a pro forma debt service projection showing the estimated annual percentage of operation funds required for payment of the bonds. Additionally, for small high school projects, the application would require evidence of meeting eligibility requirements (listed elsewhere).

Millage requirements.

A school district could borrow the entire debt service on its qualified jobs today bonds for the first five years following the issuance of bonds, regardless of the number of debt mills levied by the district for any other voted bonds.

If the district's jobs today bonds mature less than 20 years from the date of issuance, the district would have to levy the lesser of two mills or sufficient additional mills in each bond year to assure the district will pay the state within five years after the term of the bonds and would have to continue to levy that number of mills until it had paid the bonds in full and repaid revolving fund loans.

For jobs today bonds maturing 20 years or more from date of issuance, beginning with the first levy date immediately preceding the sixth bond year, a district would have to continue to levy at least the number of debt mills it was levying on the date it applied for prequalification of the jobs today bonds. If the district did not levy debt mills at the time of application, it would have to levy the lesser of two mills or the number of mills necessary to pay debt service on the bonds in the sixth bond year following issuance, and continue to levy those mills under the bonds and revolving loans were paid.

For jobs today bonds maturing 20 years or more for the date of issuance, a district could borrow from the revolving fund the difference between the proceeds from its debt levy and the amount of debt service. When the proceeds from the debt levy were sufficient to pay debt service on jobs today bonds, the district would pay the revolving fund the difference between the debt levy and the amount of debt service.

Revolving Fund Secured Bonds.

A school district could borrow the entire debt service on its revolving fund secured bonds for the first five years following the issuance of the bonds. For such bonds maturing less than 20 years from the date of issuance, the district would repay the state each year one-fifth of the principal, beginning the bond year after the term of the bonds, to ensure that the district will repay the state within five years after the term of the bonds.

For such bonds maturing 20 years or more from the date of issuance, beginning with the first bond payment in the sixth bond year and continuing through the tenth bond year, the district would pay debt service on its revolving fund secured bonds. Beginning with the eleventh bond year following issuance, the district would pay debt service plus an amount equal to one-tenth of the principal of the qualified loans outstanding.

Points System for Awarding Jobs Today Bonds

1) Readiness: 15 points for a district's readiness to issue bonds before September 30, 2005

2) Average age of classroom buildings:

- 10 years or less, 0 points.
- Over 10 but under 21, ¾ of a point for each year over 10 years.
- Over 20 years but under 31, 1.25 points for each year over 20
- Over 30 years, 25 points

3) Overall condition of facilities, based on 42 factors:

- More than 10 but less than 21, 10 points
- More than 20 but less than 31, 25 points
- More than 30, 50 points

Factors include: inadequacy of internal water supply; presence of asbestos; health law violation; poor indoor air quality causing health-related problems; loose and peeling paint; fire safety problems, including inadequate alarms, exits, inadequate interior and exterior doors, kitchen cooking facilities; hazardous steps and walks; location close to traffic, industry, business, or natural hazard so as to endanger students and staff; walls that are leaning or in danger of falling; unsafe masonry; crumbling or settling foundation; rotting, sagging, or buckling floors; sagging, rotted, or unsound roof; structural steel corrosion; cracks in concrete; and blocked or closed air intake openings.

4) Overall utilization rate of classroom facilities, with greater weight applied to schools having a higher utilization rate after projects are completed:

- Less than 51 percent utilization rate, 0 points
- Greater than 50 percent but less than 61 percent, 5 points
- Greater than 60 percent but less than 76 percent, 10 points
- Greater than 75 percent but less than 91 percent, 15 points
- Greater than 90 percent, 20 points

5) Taxable value per pupil, with greater weight applied to lower taxable value per pupil:

- Less than $110,500, 35 points
- Less than $135,800, 28 points
- Less than $172,500, 21 points
- Less than $246,000, 14 points
- Less than $500,000, 7 points
- Greater than $500,000, 0 points

6) Severity of environmental or usability problems, as certified by an independent architect or engineer, with greater weight applied to lead, toxic mold and asbestos abatement; energy conservation; and meeting the physical needs of disabled students:

- If the project is at a classroom facility that does not meet accessibility requirements, 5 points would be granted.
- If the project is at a classroom containing friable asbestos, toxic mold, or unprotected lead, 5 points.
- If the project is to improve energy efficiency, 5 points.

7) Technological needs of facilities, with greater weight applied to the lack of adequate technology infrastructure and security protection as certified by an independent architect or professional engineer:

- Lack of technology infrastructure, 5 points
- Lack of sufficient computers, 1 point
- Lack of security systems, 10 points
- Lack of adequate public address system, 1 point

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