

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 406

A bill to prescribe the procedures, terms, and conditions for the qualification or approval of school bonds and other bonds; to authorize this state to make loans to certain school districts for the payment of certain bonds and to authorize schools to borrow from this state for that purpose; to prescribe the terms and conditions of certain loans to school districts; to prescribe the powers and duties of certain state agencies and certain state and local officials; to provide for certain fees; to prescribe certain penalties; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "school bond qualification, approval, and loan act".

3           Sec. 2. The purpose of this act is to implement section 16 of  
4 article IX of the state constitution of 1963 and to provide for  
5 loans to school districts.

6           Sec. 3. As used in this act:

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1 (a) "Computed millage" means the number of mills in any year,  
2 not less than 7 mills and not more than 13 mills, determined on the  
3 date of issuance of the order qualifying the bonds or on a later  
4 date if requested by the school district and approved by the state  
5 treasurer, that, if levied by the school district, will generate  
6 sufficient annual proceeds to pay principal and interest on all the  
7 school district's qualified bonds plus principal and interest on  
8 all loans related to those qualified bonds no later than the date  
9 specified in the note and repayment agreement entered into by the  
10 school district under this act.

11 (b) "Qualified bond" means a bond that is qualified under this  
12 act for state loans as provided in section 16 of article IX of the  
13 state constitution of 1963. A qualified bond includes the interest  
14 amount required for payment of a school district's net interest  
15 obligation under an interest rate exchange or swap, hedge, or other  
16 agreement entered into pursuant to the revised municipal finance  
17 act, 2001 PA 34, MCL 141.2101 to 141.2821, but does not include a  
18 termination payment or similar payment related to the termination  
19 or cancellation of an interest rate exchange or swap, hedge, or  
20 other similar agreement. [A qualified bond may include a bond issued to  
refund loans owed to the state under this act.]

21 (c) "Qualified loan" means a loan made under this act or 1961  
22 PA 108, MCL 388.951 to 388.963, from this state to a school  
23 district to pay debt service on a qualified bond.

24 (d) "Revolving loan fund" means the school loan revolving fund  
25 created under section 16c of the shared credit rating act, 1985 PA  
26 227, MCL 141.1066c.

27 (e) "School district" means a general powers school district

1 organized under the revised school code, 1976 PA 451, MCL 380.1 to  
2 380.1852, or a school district of the first class as described in  
3 the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, having  
4 the power to levy ad valorem property taxes.

5 (f) "State treasurer" means the state treasurer or his or her  
6 duly authorized designee.

7 (g) "Superintendent of public instruction" means the  
8 superintendent of public instruction appointed under section 3 of  
9 article VIII of the state constitution of 1963.

10 (h) "Taxable value" means the value determined under section  
11 27a of the general property tax act, 1893 PA 206, MCL 211.1 to  
12 211.157.

13 Sec. 4. (1) A school district may issue and market bonds as  
14 qualified bonds if the state treasurer has issued an order granting  
15 qualification under this act.

16 (2) Except with regard to qualification of new bonds, nothing  
17 in this act shall be construed to alter the terms and conditions  
18 applicable to outstanding qualified bonds issued in accordance with  
19 1961 PA 108, MCL 388.951 to 388.963, and the loans associated with  
20 those qualified bonds. Unless otherwise amended as permitted by  
21 this act, outstanding qualified loans incurred in association with  
22 outstanding qualified bonds described in this subsection shall  
23 continue to bear interest and be due and payable as provided in the  
24 repayment agreements entered into between the school district and  
25 the state before the effective date of this act.

26 (3) The state treasurer may qualify bonds for which the state  
27 treasurer has received an application for prequalification on or

1 before May 25, 2005 without regard to the requirements of section  
2 5(2)(f) if the electors of the school district approve the bonds at  
3 an election held during 2005.

4 Sec. 5. (1) A school district may apply to the state treasurer  
5 for preliminary qualification of a proposed school bond issue by  
6 filing an application in the form and containing the information  
7 required by this act.

8 (2) An application for preliminary qualification of a school  
9 bond shall contain all of the following information:

10 (a) The proposed ballot language to be submitted to the  
11 electors.

12 (b) A description of the project or projects proposed to be  
13 financed.

14 (c) A pro forma debt service projection showing the estimated  
15 mills the school district will levy to provide revenue the school  
16 district will use to pay the qualified bonds. For the purpose of  
17 the pro forma debt service projection, the school district may  
18 assume for the first 5 years following the date of the application  
19 the average growth in taxable value for the 5 years preceding the  
20 date of the application and the lesser of that average growth rate  
21 or 3% for the remaining term of the proposed bonds.

22 (d) Evidence that the rate of utilization of each project to  
23 be financed will be at least 85% for new buildings and 60% for  
24 renovated facilities. If the projected enrollment of the district  
25 would not otherwise support utilization at the rates described in  
26 this subsection, the school district may include an explanation of  
27 the actions the school district intends to take to address the

1 underutilization, including, if applicable, actions to close school  
2 buildings or other actions designed to assure continued assured use  
3 of the facilities being financed.

4 (e) Evidence that the cost per square foot of the project or  
5 projects will be reasonable in light of economic conditions  
6 applicable to the geographic area in which the school district is  
7 located.

8 (f) Evidence that the school district will repay all  
9 outstanding qualified loans at the times described in section 9.

10 (g) The weighted average age of all school buildings in the  
11 school district based on square footage.

12 (h) The overall utilization rate of all school buildings in  
13 the school district, excluding special education purposes.

14 (i) The taxable value per pupil.

15 (j) The total bonded debt outstanding of the school district  
16 and the total taxable value of property in the school district for  
17 the school district fiscal year in which the application is filed.

18 (k) A statement describing any environmental or usability  
19 problems to be addressed by the project or projects.

20 (l) An architect's analysis of the overall condition of the  
21 facilities to be renovated or replaced as a part of the project or  
22 projects.

23 (m) An amortization schedule demonstrating that the weighted  
24 average maturity of the qualified bond issue does not exceed 120%  
25 of the average reasonably expected useful life of the facilities,  
26 excluding land and site improvements, being financed or refinanced  
27 with the proceeds of the qualified bonds, determined as of the

1 later of the date on which the qualified bonds will be issued or  
2 the date on which each facility is expected to be placed in  
3 service.

4 Sec. 6. The state treasurer shall prequalify bonds of a school  
5 district if the state treasurer determines all of the following:

6 (a) The issuance of additional qualified bonds will not  
7 prevent the school district from repaying its outstanding qualified  
8 loans on the earlier of the dates described in section 9.

9 (b) The form of the ballot conforms with the requirements of  
10 this act.

11 Sec. 7. (1) The state treasurer shall qualify bonds of a  
12 school district if the state treasurer determines all of the  
13 following:

14 (a) A majority of the school district electors have approved  
15 the bonds.

16 (b) The terms of the bond issue comply with applicable  
17 provisions of the revised school code, 1976 PA 451, MCL 380.1 to  
18 380.1852.

19 (c) The school district is in compliance with the revised  
20 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

21 (d) The weighted average maturity of the qualified bond issue  
22 does not exceed 120% of the average reasonably expected useful life  
23 of the facilities, excluding land and site improvements, being  
24 financed or refinanced with the proceeds of the bonds, determined  
25 as of the later of the date on which the qualified bonds will be  
26 issued or the date on which each facility is expected to be placed  
27 in service.

1 (e) The school district has filed any information necessary to  
2 update the contents of the original application to reflect changes  
3 in any of the information approved in the preliminary qualification  
4 process.

5 (f) The school district has paid a qualification fee of not  
6 less than \$3,000.00 or the amount determined by the state  
7 treasurer, which shall be approximately equal to the amount  
8 required to pay the estimated administrative expenses incurred  
9 under this act for the fiscal year in which the state treasurer  
10 imposes the fee.

11 (2) An order qualifying bonds shall specify the principal and  
12 interest payment dates for all the bonds, the maximum principal  
13 amount of and maximum interest rate on the bonds, the computed  
14 millage, if any, the final repayment date for any loans made with  
15 respect to those bonds, and other matters as the state treasurer  
16 shall determine or as are required by this act.

17 (3) If the application for prequalification demonstrates that  
18 the school district will borrow from this state in accordance with  
19 this act, the state treasurer and the school district shall enter  
20 into a loan agreement setting forth the terms and conditions of any  
21 qualified loans to be made to the school district under this act.

22 (4) If a school district does not issue its qualified bonds  
23 within 180 days after the date of the order qualifying bonds, the  
24 school district may reapply for qualification by filing an  
25 application and information necessary to update the contents of the  
26 original application for prequalification or qualification.

27 (5) The state treasurer shall qualify refunding bonds issued

1 to refund qualified bonds if the state treasurer finds that the  
2 refunding bonds comply with the provisions of the revised municipal  
3 finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

4       Sec. 8. A ballot submitted to the school electors of a school  
5 district after November 8, 2005 requesting authorization to issue  
6 unlimited tax general obligations that will be guaranteed by this  
7 state in accordance with section 16 of article IX of the state  
8 constitution of 1963 shall inform the electors that if the school  
9 district borrows from this state to pay debt service on the bonds,  
10 the school district may be required to continue to levy mills  
11 beyond the term of the bonds to repay this state.

12       Sec. 9. (1) Except as otherwise provided in this act, a school  
13 district may borrow from the state an amount not greater than the  
14 difference between the proceeds of the school district's computed  
15 millage and the amount necessary to pay principal and interest on  
16 its qualified bonds, including any necessary allowances for  
17 estimated tax delinquencies.

18       (2) For school districts having qualified loans outstanding as  
19 of the effective date of this act, the state treasurer shall review  
20 information relating to each school district regarding the taxable  
21 value of the school district and the actual debt service of  
22 outstanding qualified bonds as of the effective date of this act  
23 and shall issue an order establishing the payment date for all  
24 those outstanding qualified loans and any additional qualified  
25 loans expected to be incurred by those school districts related to  
26 qualified bonds issued before the effective date of this act. The  
27 payment date shall be not later than 72 months after the date on

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1 which the qualified bonds most recently issued by the school  
2 district are due and payable.

3 (3) For qualified loans related to qualified bonds issued  
4 after the effective date of this act, the qualified loans shall be  
5 due not later than 72 months after the date on which the qualified  
6 bonds for which the school borrowed from this state are due and  
7 payable. [This section does not preclude early repayment of qualified  
bonds or qualified loans.]

8 (4) Except with regard to qualified loans described in  
9 subsection (2), each loan made or considered made to a school  
10 district under this act shall be for debt service on only a  
11 specific qualified bond issue. The state treasurer shall maintain  
12 separate accounts for each school district on the books and  
13 accounts of this state noting the qualified bond, the related  
14 qualified loans, the final payment date of the bonds, the final  
15 payment date of the qualified loans, and the interest rate accrued  
16 on the loans.

17 (5) For qualified loans relating to qualified bonds issued  
18 after the effective date of this act, a school district shall  
19 continue to levy the computed mills until it has completely repaid  
20 all principal and interest on its qualified loans.

21 (6) For qualified loans relating to qualified bonds issued  
22 before the effective date of this act, a school district shall  
23 continue to comply with the levy and repayment requirements imposed  
24 before the effective date of this act. Not less than 90 days after  
25 the effective date of this act, the state treasurer and the school  
26 district shall enter into amended and restated repayment agreements  
27 to incorporate the levy and repayment requirements applicable to

1 qualified loans issued before the effective date of this act.

2 (7) Upon the request of a school district made before June 1  
3 of any year, the state treasurer annually may waive all or a  
4 portion of the millage required to be levied by a school district  
5 to pay principal and interest on its qualified bonds or qualified  
6 loans under this section if the state treasurer finds all of the  
7 following:

8 (a) The school board of the school district has applied to the  
9 state treasurer for permission to levy less than the millage  
10 required to be levied to pay the principal and interest on its  
11 qualified bonds or qualified loans under subsection (1).

12 (b) The application specifies the number of mills the school  
13 district requests permission to levy.

14 (c) The waiver will be financially beneficial to this state,  
15 the school district, or both.

16 (d) The waiver will not reduce the millage levied by the  
17 school district to pay principal and interest on qualified bonds or  
18 qualified loans under this act to less than 7 mills.

19 (e) The board of the school district, by resolution, has  
20 agreed to comply with all conditions that the state treasurer  
21 considers necessary.

22 (8) Except as otherwise provided in this act, loans shall bear  
23 interest at the greater of 3% or the average annual cost of funds  
24 computed annually on the basis of all state general obligations  
25 issued under section 16 of article IX of the state constitution of  
26 1963.

27 Sec. 10. The state treasurer shall keep all certificates of

1 qualification or approval in a permanent file and shall deliver  
2 copies of the certificates to the school district.

3       Sec. 11. The state treasurer shall promulgate rules to  
4 implement this act pursuant to the administrative procedures act of  
5 1969, 1969 PA 306, MCL 24.201 to 24.328.

6       Sec. 12. If a school district does not apply for  
7 prequalification or qualification or approval of a bond issue  
8 before the issuance of those bonds, the state treasurer shall not  
9 approve or qualify those bonds as qualified bonds under this act.

10       Sec. 13. (1) If a school district owes a balance due to the  
11 revolving loan fund or has been identified as a potential borrower,  
12 the school district shall file an annual loan activity application  
13 with the state treasurer no less than 60 days before certifying its  
14 annual tax levy. The annual loan activity application shall be  
15 submitted in a format prescribed by the state treasurer and shall  
16 provide the taxable value, debt service, and any other information  
17 necessary to determine the proper required millage levy required  
18 under this act. The application shall contain a resolution passed  
19 by the local school board authorizing a designated school district  
20 official to complete all necessary documents to obtain a loan from  
21 the revolving loan fund or for making repayment to the revolving  
22 loan fund for the year.

23       (2) If a school district is eligible to borrow for debt  
24 service on qualified bonds, the school district shall file a draw  
25 request with the state treasurer not less than 30 days before each  
26 date on which the school district owes the debt service. The draw  
27 request shall include all of the following:

1 (a) A statement of the debt service owed in the next 6 months.

2 (b) A copy of the most recent bank statement showing the  
3 amount on hand in the debt service accounts for all qualified  
4 bonds.

5 (c) A statement of any revenue received for payment of the  
6 debt service since the date of the bank statement.

7 (d) A statement of any withdrawals made from the debt service  
8 account since the date of the bank statement.

9 (3) Not more than 7 days before the date established by the  
10 state treasurer for making qualified loans, the school district  
11 shall confirm in writing the final qualified loan amount to be  
12 drawn on a certificate in the form prescribed by the state  
13 treasurer.

14 (4) Upon receipt of a qualified loan confirmation described in  
15 subsection (3), the state treasurer shall determine the amount of  
16 the draw, which shall be the difference between the funds on hand  
17 in all debt service accounts and the amount of the debt service,  
18 and shall make a qualified loan in that amount to the school  
19 district no later than 6 days before the date the debt service is  
20 due.

21 (5) When a school district's computed millage is sufficient to  
22 pay principal and interest on its qualified bonds, a school  
23 district shall file a loan activity statement with the state  
24 treasurer no later than 30 days before the date set for payment of  
25 the qualified bonds setting forth all of the following:

26 (a) A statement of the debt service owed in the next 6 months.

27 (b) A copy of the most recent bank statement showing the

1 amount on hand in the debt service account for the qualified bonds.

2 (c) A statement of any revenue received for payment of the  
3 debt service since the date of the bank statement.

4 (d) A statement of any withdrawals made from the debt service  
5 account since the date of the bank statement.

6 (6) Within 30 days after receipt of the loan activity  
7 statement under subsection (5), the state treasurer shall send an  
8 invoice to the school district for the amount of repayment the  
9 school district owes on its outstanding qualified loans, which  
10 shall be the difference between the debt service payable or paid to  
11 bondholders and the funds on hand at the school district, less a  
12 reasonable amount of funds on hand, as determined by the state  
13 treasurer, to cover minimum balance requirements or potential tax  
14 disputes. The school district shall remit the amount specified in  
15 the invoice within 30 days after the dated date of the invoice.

16 Sec. 14. (1) If any paying agent for a school district's  
17 qualified bonds notifies the state treasurer that the school  
18 district has failed to deposit sufficient funds to pay principal  
19 and interest due on the qualified bonds when due, or if a  
20 bondholder notifies the state treasurer that the school district  
21 has failed to pay principal or interest on qualified bonds when  
22 due, whether or not the school district has filed a draw request  
23 with the state treasurer, the state treasurer shall promptly pay  
24 the principal or interest on the qualified bond when due.

25 (2) If the state treasurer pays any amount described in this  
26 section, the state treasurer shall bill the school district for the  
27 amount paid and the school district shall immediately remit the

1 amount to the state treasurer. If the school district would have  
2 been eligible to borrow the debt service in accordance with the  
3 terms of this act, the school district shall enter into a loan  
4 agreement establishing the terms of the qualified loan as provided  
5 in this act. If the state treasurer directs the Michigan municipal  
6 bond authority to pay any amount described in this section, the  
7 state treasurer shall cause the Michigan municipal bond authority  
8 to bill the school district for the amount paid and the school  
9 district shall immediately remit the amount to the Michigan  
10 municipal bond authority.

11       Sec. 15. (1) If a school district that owes this state loan  
12 repayments relating to qualified bonds fails to levy at least the  
13 computed millage upon its taxable value for debt retirement  
14 purposes for qualified bonds and for repayment of a qualified loan  
15 made under this act while any part of the qualified loan is unpaid  
16 or defaults in its agreement to repay a qualified loan or any  
17 installment of a qualified loan, the school district shall increase  
18 its debt levy in the next succeeding year to obtain the amount  
19 necessary to repay this state the amount of the default plus a late  
20 charge of 3% and shall pay that amount to this state together with  
21 any other amounts owed during the next tax year. The school  
22 district may use other funds to repay this state including a  
23 transfer of general funds of the school district, if approved by  
24 the state treasurer. The state treasurer shall not disburse state  
25 school aid to the school district until the school district has  
26 made satisfactory arrangements with the state treasurer for the  
27 payment of the amount in default.

1           (2) If a school district fails to process any report,  
2 application, confirmation, or repayment as required under this act,  
3 the state treasurer may withhold a school district's state aid  
4 funds until the school district complies with the requirements  
5 under this act.

6           Sec. 16. The state treasurer shall deposit all fees collected  
7 under this act into a separate fund established within the state  
8 treasury, and shall use the proceeds of the fees solely for the  
9 purpose of administering and enforcing this act. The unexpended and  
10 unobligated balance of this fund at the end of each state fiscal  
11 year shall be carried forward over to the succeeding state fiscal  
12 year and shall not lapse to the general fund but shall be available  
13 for reappropriation for the next state fiscal year.

14           Sec. 17. A person who knowingly makes a false statement or  
15 conceals material information for the purpose of obtaining  
16 qualification of a bond issue under this act or for the purpose of  
17 obtaining a qualified loan under this act, or who knowingly uses  
18 all or part of the proceeds of a qualified loan obtained under this  
19 act for any purpose not authorized by this act, is guilty of a  
20 felony punishable by imprisonment for not more than 4 years or a  
21 fine of not more than \$5,000.00, or both.

22           Sec. 18. If a school district has completed the projects  
23 approved by the school electors of the school district to be funded  
24 from proceeds of qualified bonds, a school district may use any  
25 remaining proceeds of the qualified bonds as follows:

26           (a) To pay for enhancements to the projects approved by the  
27 school electors as described in the ballot proposing the qualified

1 bonds.

2 (b) To pay debt service on the qualified bonds.

3 (c) To repay this state.

4 Sec. 19. The state treasurer may designate in writing a person  
5 or persons to take any actions required to be taken by the state  
6 treasurer under this act. The signature of any designee shall have  
7 the same force and effect as the signature of the state treasurer  
8 for all purposes of this act.

9 Enacting section 1. 1961 PA 108, MCL 388.951 to 388.963, is  
10 repealed.

11 Enacting section 2. This act does not take effect unless all  
12 of the following bills of the 93rd Legislature are enacted into  
13 law:

14 (a) Senate Bill No. 407.

15 (b) Senate Bill No. 408.

16 (c) Senate Bill No. 410.

17 (d) Senate Bill No. 411.