

# Legislative Analysis



## EMERGENCY LOANS TO MUNICIPALITIES

Mary Ann Cleary, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

### House Bill 5566 (Substitute H-2)

Sponsor: Rep. Cindy Denby

### House Bill 5567

Sponsor: Rep. Al Pscholka

### House Bill 5569

Sponsor: Rep. Mark Ouimet

### House Bill 5568

Sponsor: Rep. Holly Hughes

### House Bill 5570

Sponsor: Rep. Bill Rogers

Committee: Local, Intergovernmental, and Regional Affairs

Complete to 5-30-12

## A SUMMARY OF HOUSE BILLS 5566-5570 AS REPORTED FROM COMMITTEE 5-29-12

The Emergency Municipal Loan Act establishes the Local Emergency Financial Assistance Loan Board and authorizes the board to issue emergency loans to units of local government that satisfy statutory criteria. House Bill 5566 (H-2) would amend that act in a number of ways as described below. The other bills make complementary or related amendments to other acts.

House Bill 5566 (H-2) would amend the Emergency Municipal Loan Act to do the following.

- School districts would be included in the definition of "municipality." (Currently the term applies only to a county, city, village, or township.)
- The current limit on the total amount of loans in a state fiscal year is \$5 million. The bill would allow up to \$100 million in loans to municipalities between October 1, 2011, and September 30, 2018. After that, the limit would be \$15 million in a state fiscal year.
- The board would be prohibited from authorizing a loan to a municipality until 30 days after the effective date of this amendatory legislation.
- The current limit on a loan to any one municipality in a state fiscal year is \$3 million. The bill would raise that limit to \$20 million for a single municipality for the time period beginning October 1, 2011, and ending September 30, 2018. After that, the limit would be \$5 million.
- Loans to municipalities could not be used to finance any costs associated with a special assessment or special assessment district established after the effective date of this legislation.

- Currently, the board can require, for repayment of a loan, the direct assignment of any state money appropriated to a municipality. The bill would also allow, in the case of a school district, the direct assignment of revenue or money pledged by a school district under Section 1211 of the Revised School Code (local school operating property taxes).
- A school district that borrowed money under the act could repay obligations from money advanced or previously advanced to a school district, or approved or previously approved for advancement to a school district, under the School Aid Act, or money borrowed under Section 1225 of the Revised School Code.
- The act now requires that one or both of the following have occurred within the six months immediately preceding a loan request: (1) the municipality has issued tax anticipation notes or revenue sharing notes under the Revised Municipal Finance Act; and/or (2) the Department of Treasury has acted upon a request to issue these notes. House Bill 5566 (H-2) would extend this provision to school districts' notes issued under Section 1225 of the Revised School Code, and specify that all notes must have been issued by a municipality or school district within the immediately preceding 18 months (rather than six months).
- The act now requires a municipality to certify and substantiate that certain conditions exist when it seeks a loan. The bill would retain these provisions, and also specify the following criteria as conditions for eligibility for a loan.
  - The municipality is levying the maximum number of mills it is authorized to levy as approved by the voters, and has either of the following: (1) one or more delinquent special assessments; (2) outstanding bonds, notes, or other evidence of indebtedness that were issued in anticipation of a contract obligation with, or an assessment obligation against, another municipality that has one or more delinquent special assessments that were levied to satisfy, in whole or in part, the contract or assessment obligation.
  - For a school district, the district's membership at the time of the loan application has declined over a preceding three-state-fiscal year period by a total of 15% or more.
  - The municipality is in receivership or is subject to a consent agreement under the Local Government and School District Fiscal Accountability Act (known as PA 4 of 2011) or a successor statute, and loan authorization by the board is necessary to implement a financial operating plan or recovery plan under that act or successor.
  - The municipality is a municipality for which an financial emergency has been confirmed to exist and responsibilities for the municipality are vested in an emergency financial manager under former Public Act 72 of 1990 or is a municipality for which a consent agreement, including a plan to address a

serious financial problem is in place for the municipality under former 1990 PA 72. This provision applies only if the Public Act 4 of 2011 is repealed or otherwise not effective and former 1990 PA 72 is again in effect or applicable.

- The State Treasurer could sell or transfer a loan under the act and enter into an agreement related to the sale or transfer of the loan. The treasurer could also assign to the purchaser or transferee of a loan all security pledged for the loan by a municipality. A loan sold or transferred must be secured in the same manner as a loan not sold or transferred, including benefiting from the security provided by the withholding of state revenue sharing payments.
- The State Treasurer could enter into an agreement with the purchaser or transferee of a loan to repurchase the loan at a price and time or upon the occurrence of an event provided in the agreement.
- At the time a loan is sold or transferred, the State Treasurer could set the interest rate, or the method of determining the interest rate, on the loan being sold or transferred, including a loan made before the effective date of the bill, at a rate the State Treasurer determines necessary and advisable to accomplish the sale or transfer. A rate could not exceed the maximum rate otherwise authorized by law.
- When a loan is sold or transferred, the State Treasurer could make changes to the terms of the loan, including a loan made before the bill's effective date, as the State Treasurer determines necessary and advisable to permit a purchaser or transferee to sell obligations secured by the loans as tax exempt under federal law, including modifying redemption provisions, principal amortization, and interest and principal payment dates of the loan. The treasurer could also require a municipality to make certain covenants determined necessary or advisable relating to the tax exempt status of the obligations of a purchaser or transferee.
- At any time, the State Treasurer could require a municipality to enter into an agreement with a purchaser or transferee of a loan regarding continuing disclosure obligations under federal law or any other matters the treasurer determines are necessary and advisable. The treasurer could require entry into an agreement with a recipient of a loan issued before the bill's effective date.
- Under House Bill 5566 (H-2), if a loan was sold or transferred, the State Treasurer would be required to notify the Governor, the Senate Majority and Minority Leaders, the Speaker of the House, the House Minority Leader, and the House and Senate Fiscal Agencies.
- A municipality that receives a loan is required to employ a full-time professional administrator to direct or participate directly in the management of the municipality's operations until otherwise ordered by the board. The bill would allow a municipality, as an alternative, to contract with a person with expertise in municipal finance and administration.

- The act requires a municipality that receives a loan to perform a number of functions. The bill would add the following:

--If a municipality is in receivership under the Local Government and School District Fiscal Accountability Act (PA 4), or a successor statute, the municipality must compensate the emergency manager for the municipality and reimburse the emergency manager's actual and necessary expenses as provided under of PA 4, or a successor statute. If the municipality is under a consent agreement, the municipality must compensate those officials who are required to be compensated under the agreement and reimburse expenses as provided under the agreement.

-- If PA 4 is repealed or otherwise not effective and former 1990 PA 72 is again in effect or applicable and an emergency financial manager is in place, the municipality must compensate the emergency financial manager and reimburse expenses. If PA 4 is repealed or otherwise not effective and 1990 PA 72 is again in effect and applicable, the municipality must compensate those officials required to be compensated under the consent agreement and reimburse expenses.

- Municipalities are required to submit information to the board periodically. The bill would retain these provisions without change.
- House Bill 5566 (H-2) is tie-barred to House Bills 5567, 5568, 5569, and 5570, so that it will not go into effect unless those bills are also enacted into law.

House Bill 5567 amends the Revised School Code. It provides that a district may pledge, with the approval of the State Treasurer, the revenue from its school operating millage, for the repayment of an emergency municipal loan, money borrowed under Section 1225 of the Revised School Code, or the repayment of any advances, overpayments, or other obligations of the school district to the state under Section 15 of the State School Aid Act. The bill would specifically include the repayment of an emergency municipal loan in the definition of "school operating purposes."

The bill would also add references to districts that were previously first class school districts in a few instances in the act where it now refers to first class school districts (Detroit Public Schools).

House Bill 5568 would amend the State School Aid Act to permit the state to advance school aid payments to school districts experiencing financial hardships, and to permit school districts to repay an advance or overpayment with the proceeds of an emergency municipal loan.

House Bill 5569 would amend Public Act 105 of 1855, which regulates the state's use of surplus funds. It would raise the total amount of loans that could be made from surplus funds in any one fiscal year from \$5 million to \$100 million and then to \$15 million, as noted in House Bill 5566. It also allows the State Treasurer to sell, assign, transfer, or

repurchase loans made from surplus funds under this section or from proceeds from the sale, assignment, transfer, of a loan under the Emergency Municipal Loan Act.

House Bill 5570 would amend the Shared Credit Rating Act, It adds the definition of "emergency loan board loan" to the act; includes an emergency loan board loan in definition of "municipal obligation"; allows the Board of the Municipal Finance Authority to enter into agreements with the State Treasurer for the purchase, assignment, or transfer of emergency loan board loans and the repurchase, reassignment, or transfer of those loans; and allows the authority to purchase or accept by assignment or transfer municipal obligations that are emergency loan board loans.

#### **FISCAL IMPACT:**

House Bill 5567 - The pledge of school operating taxes by a school district to repay certain debt obligations would have a positive impact on the School Aid budget to the extent that state is better able to receive the repayment of any advance or overpayment or, under the package of bills, emergency municipal loan made to a school district. For School Aid purposes, the state only pays a portion of a district's foundation allowance, paying the amount remaining after subtracting from the total foundation allowance revenue the amount of local revenue the district collects through its school operating millage. The pledge of school operating tax revenue would not impact that state/local funding mix.

House Bill 5568 - The repayment of advances or overpayments by a school district would also have a positive impact on the School Aid budget to the extent that the state is better able to receive the repayment.

Additional fiscal information will be added as it becomes available.

Legislative Analyst: J. Hunault  
Chris Couch  
Fiscal Analyst: Mark Wolf  
Bethany Wicksall

---

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.