

Legislative Analysis



EMERGENCY MUNICIPAL LOAN ACT REVISIONS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4331 as enacted
Public Act 115 of 2015
Sponsor: Rep. Bradford C. Jacobsen

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4332 as enacted
Public Act 116 of 2015
Sponsor: Rep. Daniela R. Garcia

House Committee: Financial Liability Reform
Senate Committee: Local Government
Complete to 7-9-15

SUMMARY:

House Bill 4331 would amend the Emergency Municipal Loan Act (MCL 141.931 to 141.942) to increase the cap on the total loan amount available to municipalities and school districts for the period beginning October 1, 2011, and ending September 30, 2018. The emergency loan cap for counties, cities, villages, and townships would increase from \$35.0 million to \$48.0 million. The emergency loan cap for school districts would increase from \$50.0 million to \$70.0 million.

The bill would prohibit the board from authorizing a loan to a school district organized as a school district of the first class under Part 6 of the Revised School Code.

The bill would modify the eligibility conditions for a school district requesting a loan from the Emergency Financial Assistance Loan Board (Board). Under current law, a school district must show that at the time of the loan application the school district's pupil membership over the preceding three-state-fiscal-year period declined by a total 15.0% or more. The bill would add an alternative option allowing the Treasury to determine that the loan would assist the school district in resolving a financial emergency or fiscal stress within the school district.

Currently, the Board may only restructure payments of an outstanding loan for a school district if the foundation allowance is less than the foundation allowance in the fiscal year that the loan was issued. For a municipality other than a school district, the Board may only restructure payments of an outstanding loan if the combined total of statutory revenue sharing and Economic Vitality Incentive Program (EVIP) payments are less than the combined total of statutory revenue sharing and EVIP payments in the fiscal year the loan was issued. House Bill 4331 would eliminate these requirements. The remaining statutory requirements for restructuring payments would be retained.

The bill would revise the interest rate terms on a loan issued under the Municipal Loan Act to require that an interest rate that is not a single fixed rate have all of the following to apply:

- The annual interest rate shall not be less than 2.5%, but the board may consider a higher interest rate based on market interest rates and the risk of the municipality requesting the loan.
- If an interest-only repayment period exists, the period shall not be more than 60 months.

The bill would revise the requirement that a municipality or school district receiving a loan must employ or contract with a professional administrator or person with expertise in municipal finance and administration to direct or participate directly in the management of the municipality's or school district's operations; the bill would clarify that if a municipality is in receivership under the Local Stability and Choice Act, the emergency manager may perform the functions of the full-time professional administrator.

For a loan entered into after the effective date of the bill, if a municipality did not make any scheduled repayment, the bill would require the department to require direct assignment for repayment of the loan, in an 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 school district, other revenue or money that may be pledged by a school district under Section 1211 of the Revised School Code.

House Bill 4332 would amend Public Act 105 of 1855 to remove references to the specified amount of State surplus funds that may be loaned to municipalities (\$35.0 million) and school districts (\$50.0 million) under the Emergency Municipal Loan Act and replace them with a reference to the limitations on emergency municipal loans identified under the Emergency Municipal Loan Act.

Current law allows a total of \$35.0 million to be loaned to municipalities other than school districts and \$50.0 million to be loaned to school districts between October 1, 2011, and September 30, 2018. As outlined above, House Bill 4331 would increase the limits to \$48.0 million for municipalities other than school districts and \$70.0 million for school districts.

FISCAL IMPACT:

The bills would require no additional appropriations for state or local government.

House Bill 4331 would increase the Emergency Municipal Loan Act statutory cap on emergency loans from \$35.0 million to \$48.0 million for counties, cities, villages, and townships and from \$50.0 million to \$70.0 million for school districts for the period October 1, 2011, through September 30, 2018. Under current statutory limits, approximately \$22.0 million is available for loans to counties, cities, villages, and townships and approximately \$1.5 million is available for school districts until September 30, 2018. Counties, cities, villages, townships, and school districts would realize increased

emergency loan borrowing possibilities through September 30, 2018, under the provisions of the bill.

Pursuant to 1855 PA 105, emergency loans are made from the State's common cash pool. According to the Department of Treasury, sufficient funds exist in the common cash pool to cover the increased emergency loan capacity under the bills without impairing the State's cash flow. Projected State manageable common cash for FY 2014-15 is expected to range from \$1.9 billion to \$5.0 billion depending on normal monthly fluctuations.

Loan terms (repayment period, fixed/variable interest rates, interest-only period, tax intercept agreement) are determined by the Board on a case-by-case basis. An emergency loan is required to bear either a variable or fixed interest rate as determined by the board, subject to certain requirements. All but one of the emergency loans provided after October 1, 2011, carried a fixed interest rate. Rates on loans ranged from 1.80% over four years to 3.45% over thirty years. Statute requires the annual fixed interest rate to be not less than the municipal 10-year rate as determined by the Treasurer. The Board may institute a higher interest rate based on market conditions and the risk of the municipality requesting the loan. Any fiscal impact to the state would depend on the spread between the interest received on the emergency loan and interest received on alternative common cash pool investments.

Current statutory provisions also protect the state from nonpayment of a loan. In the case of nonpayment, the Board retains the ability to withhold payments due to the county, city, village, township, or school district to cover repayment of the loan. Moreover, for loans entered into after the effective date of the bill, the department would be required to directly assign an amount equal to the minimum of the interest due on the loan and up to 5% of the loan from payments due to a municipality or school district if the municipality or school district did not make any scheduled payment on the loan.

Currently, to be eligible for an emergency loan, a school district must show that at the time the loan application is made, the school district's membership has declined over the preceding three-state-fiscal-year period by a total 15.0% or more. By expanding a school district's emergency loan eligibility options to include a Treasury determination that the loan will assist the school district in resolving a financial emergency or fiscal stress, the bill would provide a school district with greater flexibility in qualifying for an emergency loan.

The removal of the requirements that a school district realize a reduction in its foundation allowance from the year of loan issuance, and that a county, city, village, or township realize a reduction in its revenue sharing/EVIP payment from the year of loan issuance in order for the Board to restructure payments, would provide more flexibility to local units of government seeking payment restructuring on emergency loans.

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