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House Bill 4331 (Substitute H-1 as passed by the House)  
House Bill 4332 (as passed by the House)  
Sponsor: Representative Bradford C. Jacobsen (H.B. 4331)  
Representative Daniela R. Garcia (H.B. 4332)  
House Committee: Financial Liability Reform  
Senate Committee: Local Government

Date Completed: 5-19-15

### **CONTENT**

**House Bill 4331 (H-1) would amend the Emergency Municipal Loan Act to do the following:**

- **Require the Department of Treasury to require the direct assignment for repayment of a loan, in certain amounts from certain municipal or school district revenue, if a municipality or district did not make any scheduled repayment on a loan entered into after the bill's effective date.**
- **Increase the cap on loans made under the Act to municipalities and school districts between October 1, 2011, and September 30, 2018.**
- **Prohibit the loan board from authorizing a loan to a school district of the first class.**
- **Revise the conditions for the restructuring of loan payments.**
- **Revise loan eligibility requirements for a school district by allowing a loan if it would assist the district in resolving a financial emergency or fiscal stress within the district.**
- **In the case of a loan for which the annual interest rate was not a single fixed rate, establish a minimum rate of 2.5% and a maximum interest-only repayment period of 60 months.**

**House Bill 4332 would amend Public Act 105 of 1855, which regulates the disposition of surplus funds in the State treasury, to refer to loans to municipalities and school districts in amounts authorized under the Emergency Municipal Loan Act rather than up to specific amounts currently allowed under that Act.**

House Bill 4331 (H-1) is tie-barred to House Bills 4325 and 4326, which passed the House and were referred to the Senate Education Committee. (House Bill 4325 would amend the Revised School Code to require certain school districts, intermediate school districts, and public school academies to report budgetary assumptions and to define the conditions under which the Department of Treasury may require a district or academy to submit periodic financial status reports. House Bill 4326 would amend the Local Financial Stability and Choice Act to provide that the State Treasurer, rather than the State Superintendent, would be the State financial authority for a school district with a deficit elimination plan, and require the State financial authority to conduct a preliminary review to determine the existence of probable financial stress within a district under certain circumstances.)

## **House Bill 4331 (H-1)**

### **Assignment for Repayment of Loan**

The Emergency Municipal Loan Act created a local emergency financial assistance loan board with the Department of Treasury. The board has powers necessary to carry out and effectuate the Act, and powers vested in the board under other laws, including the power to subject a loan to the terms and conditions the board considers necessary to ensure compliance with the Uniform Budgeting and Accounting Act and to ensure timely repayment of the loan, including requiring the direct assignment for repayment of a loan of 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. (Section 1211 provides for mills levied for school operating purposes.)

If a municipality did not make any scheduled repayment on a loan entered into after the bill's effective date, the Department would have to 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 school district, other revenue or money pledged by the district under Section 1211.

The Act defines "municipality" as a county, city, village, or township. For the period of October 1, 2011, to September 30, 2018, the term also includes a school district.

### **Cap on Loans to Municipalities & School Districts**

Under the Act, for the period beginning on October 1, 2011, and ending on September 30, 2018, the board may authorize loans to municipalities other than school districts that total up to \$35.0 million and loans to school districts that total up to \$50.0 million. Loans to a single municipality or school district may not total more than \$20.0 million.

The bill would increase the maximum amount of authorized loans during that period to \$48.0 million for municipalities other than school districts and \$70.0 million for school districts. The bill would retain the \$20.0 million cap on loans to a single municipality or school district.

In addition, 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. (Part 6 specifies that a school district that has a pupil membership of at least 100,000 enrolled on the most recent pupil membership count day is a first class school district.)

### **Restructured Loan Payments**

The Act allows the board to restructure loan payments, but not the outstanding principal balance or interest, on a loan to a municipality if certain conditions apply. The bill would delete the following from those conditions:

- For a school district, in a State fiscal year after the one in which the loan was authorized, the foundation allowance for the school district under the State School Aid Act is less than the foundation allowance for the district in the State fiscal year in which the loan was authorized.
- For a municipality other than a school district, in a State fiscal year after the one in which the loan was authorized, statutory revenue sharing combined with any economic vitality incentive program money payable to the municipality is less than those amounts in the State fiscal year in which the loan was authorized.

### Eligibility for Loan

If the governing body of a municipality desires to request a loan, it must submit an application to the board by resolution. The municipality must certify and substantiate certain information and conditions to be eligible for consideration for a loan authorization by the board.

The eligibility requirements for a school district include a determination by the Department of Treasury that the district's membership, at the time the loan application is made, has declined by a total of 15% or more over the preceding three State fiscal years. Under the bill, the Department would have to determine that the school district met that requirement or that the loan would assist the school district in resolving a financial emergency or fiscal stress within the district.

### Interest Rate

A loan made under the Act must bear an annual rate or rates of interest, if any, as established by the board. Except for loans sold or transferred under Section 6a of the Act (which authorizes the State Treasurer to sell or transfer loans), if the interest rate for a loan is a single fixed rate, the annual rate of interest for the term of that loan may not be less than the municipal 10-year rate as determined by the State Treasurer. The board may consider a higher interest rate based on both the market interest rates and the risk of the municipality requesting the loan.

In addition, under the bill, except for loans sold or transferred under Section 6a, if the interest rate for a loan were not a single fixed rate, both of the following would apply:

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

### **House Bill 4332**

Public Act 105 of 1855 requires the State Treasurer to make a loan from surplus funds to an eligible municipality, as that term is defined in the Emergency Municipal Loan Act, if the loan is approved under that Act. Public Act 105 also establishes caps on the total amount of loans made from surplus funds. For the period beginning on October 1, 2011, and ending on September 30, 2018, loans made from surplus funds may include both of the following:

- Loans to municipalities other than school districts totaling up to \$35.0 million.
- Loans to school districts that total up to \$50.0 million.

Under the bill, that provision would refer to amounts authorized under the Emergency Municipal Loan Act, rather than those specific amounts.

MCL 141.932 et al. (H.B. 4331)  
21.141 (H.B. 4332)

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bills would have minimal to no impact on the Department of Treasury and a small positive impact on local units.

The bills would allow more local units of government to qualify for loans. This could increase the number of applications that were processed by the Department, which would result in additional administrative costs. At this time, expected costs are negligible, and would not require additional appropriations.

By increasing flexibility to apply for loans as well as the total amount of those loans, the bills would enable more local units to benefit. The current cash balance as of the end of April 2015 is \$3.26 billion, which would support the proposed increases in the legislation. By giving the Department greater ability to recover loans and place penalties on local units for failure to make payments, and establishing a minimum interest rate when the rate is not fixed, House Bill 4331 (H-1) would increase the likelihood that the cash balance would remain positive and would not require additional appropriations in either the short or long term.

Fiscal Analyst: Cory Savino

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.