

HOUSE BILL No. 4331

March 11, 2015, Introduced by Rep. Jacobsen and referred to the Committee on Financial Liability Reform.

A bill to amend 1980 PA 243, entitled
"Emergency municipal loan act,"
by amending sections 3, 4, and 7 (MCL 141.933, 141.934, and
141.937), as amended by 2012 PA 284.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) For state fiscal years ending before October 1,
2 2011, the board may authorize loans under this act to
3 municipalities that total up to \$5,000,000.00 in a state fiscal
4 year. For state fiscal years beginning after September 30, 2018,
5 the board may authorize loans under this act to municipalities that
6 total up to \$10,000,000.00 in a state fiscal year, but a loan to a
7 single municipality shall not exceed \$4,000,000.00 in a state
8 fiscal year. For the period beginning on October 1, 2011 and ending
9 on September 30, 2018, the board may do all of the following:

1 (a) Authorize loans to municipalities other than school
2 districts that total up to ~~\$35,000,000.00~~ **\$85,000,000.00** during the
3 period. Loans to a single municipality under this subdivision shall
4 not total more than \$20,000,000.00. ~~The board shall not authorize a~~
5 ~~loan to a municipality under this subdivision until 30 days after~~
6 ~~the effective date of the amendatory act that added this~~
7 ~~subdivision.~~

8 (b) Authorize loans to municipalities that are school
9 districts that total up to ~~\$50,000,000.00~~ **\$100,000,000.00** during
10 the period. Loans to a single school district under this
11 subdivision shall not total more than \$20,000,000.00.

12 (2) The board may authorize loans under this act to a county
13 within the following limitations:

14 (a) In the 1998-99 state fiscal year, the board may authorize
15 loans under this act to a county with a population greater than
16 1,500,000.

17 (b) For a state fiscal year in which the block grant
18 appropriated to a county with a population of more than 1,500,000
19 that is organized under 1966 PA 293, MCL 45.501 to 45.521, and that
20 is a county juvenile agency is less than the amount required to be
21 distributed to that county in that year under the social welfare
22 act, 1939 PA 280, MCL 400.1 to 400.119b, the board may authorize a
23 loan to that county in an amount not greater than the difference
24 between the amount of the block grant and the amount required to be
25 distributed to that county for that fiscal year under the social
26 welfare act, 1939 PA 280, MCL 400.1 to 400.119b. The board is not
27 required to authorize loans under this subdivision to a county for

1 more than 1 state fiscal year.

2 (3) If in a state fiscal year the block grant appropriated to
3 a county other than a county described in subsection (2) that is a
4 county juvenile agency is less than the amount required to be
5 distributed to that county in that year under the social welfare
6 act, 1939 PA 280, MCL 400.1 to 400.119b, the board may authorize a
7 loan to that county in an amount not greater than the difference
8 between the amount of the block grant and the amount required to be
9 distributed to that county under the social welfare act, 1939 PA
10 280, MCL 400.1 to 400.119b, in that state fiscal year.

11 (4) Sections 6(2), 7, and 8 and the conditions listed in
12 section 4(1) do not apply to a loan authorized under subsection (2)
13 or (3).

14 (5) The proceeds of a loan made under subsection (2) or (3)
15 shall be maintained in a separate account and shall not be
16 commingled with the county's general fund or any other special fund
17 or account.

18 (6) The state treasurer or his or her designee shall monitor
19 the expenditure of the proceeds of any loan made under subsection
20 (2) or (3).

21 (7) The proceeds of a loan made under subsection (2) or (3)
22 are subject to ~~the requirements of the~~ county juvenile agency act,
23 1998 PA 518, MCL 45.621 to 45.631.

24 (8) Except as otherwise provided in this subsection, revenue
25 for loans made under this act shall be provided from the surplus
26 funds of this state under authorization granted under section 1 of
27 1855 PA 105, MCL 21.141. Alternatively, for a school district,

1 revenue for a loan made under this act may be provided from money
2 advanced to the school district by this state from money
3 appropriated from the state school aid fund established under
4 section 11 of article IX of the state constitution of 1963 and
5 payable to the school district under the state school aid act of
6 1979, 1979 PA 94, MCL 388.1601 to 388.1896.

7 (9) After September 30, 2012, the board may restructure
8 payments, but not the outstanding principal balance or interest, on
9 a loan to a municipality under subsection (1) if all of the
10 following apply:

11 ~~—— (a) For a municipality that is a school district, in a state~~
12 ~~fiscal year after the state fiscal year in which the loan to the~~
13 ~~school district was authorized by the board, the foundation~~
14 ~~allowance for the school district under the state school aid act of~~
15 ~~1979, 1979 PA 94, MCL 388.1601 to 388.1896, is less than the~~
16 ~~foundation allowance for the school district in the state fiscal~~
17 ~~year in which the loan was authorized.~~

18 ~~—— (b) For a municipality other than a school district, in a~~
19 ~~state fiscal year after the state fiscal year in which the loan to~~
20 ~~the municipality was authorized by the board, statutory revenue~~
21 ~~sharing for the municipality under the Glenn Steil state revenue~~
22 ~~sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, combined~~
23 ~~with any economic vitality incentive program money payable to the~~
24 ~~municipality is less than the statutory revenue sharing for the~~
25 ~~municipality combined with any economic vitality incentive program~~
26 ~~money payable to the municipality in the state fiscal year in which~~
27 ~~the loan was authorized.~~

1 (A) ~~(e)~~—The municipality is in compliance with the terms of
2 the loan and any other requirements applicable to the municipality
3 under this act.

4 (B) ~~(d)~~—The municipality is in compliance with any
5 requirements relating to a deficit elimination plan under state
6 law.

7 (C) ~~(e)~~—The municipality is in compliance with any applicable
8 consent agreement or order of an emergency manager under the ~~local~~
9 ~~government and school district fiscal accountability act, 2011 PA~~
10 ~~4, MCL 141.1501 to 141.1531.~~ **LOCAL FINANCIAL STABILITY AND CHOICE**
11 **ACT, 2012 PA 436, MCL 141.1541 TO 141.1575, OR A SUCCESSOR STATUTE.**

12 (D) ~~(f)~~—For a municipality that is a school district, the
13 school district is in compliance with all requirements for receipt
14 of the foundation allowance and any other requirements applicable
15 to the school district under the state school aid act of 1979, 1979
16 PA 94, MCL 388.1601 to 388.1896.

17 (E) ~~(g)~~—For a municipality other than a school district, the
18 municipality is in compliance with all conditions for economic
19 vitality incentive program money or statutory revenue sharing or
20 other requirements applicable to the municipality under the Glenn
21 Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901
22 to 141.921.

23 (F) ~~(h)~~—The restructuring of payments complies with applicable
24 law.

25 (G) ~~(i)~~—The loan has not been sold or transferred under
26 section 6a.

27 (10) As used in this section, "county juvenile agency" means

1 that term as defined in section 2 of the county juvenile agency
2 act, 1998 PA 518, MCL 45.622.

3 Sec. 4. (1) If the governing body of a municipality desires to
4 request a loan, it shall provide by resolution for the submission
5 of an application to the board for a loan made under this act. The
6 municipality shall certify and substantiate all of the following
7 information and conditions to be eligible for consideration for a
8 loan authorization by the board:

9 (a) A deficit for the municipality's general fund is projected
10 for the current fiscal year.

11 (b) That 1 or both of the following have occurred within the
12 18 months immediately preceding the loan request:

13 (i) The municipality has issued tax anticipation notes or
14 revenue sharing notes under the revised municipal finance act, 2001
15 PA 34, MCL 141.2101 to 141.2821, or for a school district, issued
16 notes under section 1225 of the revised school code, 1976 PA 451,
17 MCL 380.1225.

18 (ii) The department of treasury has acted upon a request by the
19 municipality to issue tax anticipation notes or revenue sharing
20 notes under the revised municipal finance act, 2001 PA 34, MCL
21 141.2101 to 141.2821.

22 (c) The municipality meets 1 or more of the following
23 conditions:

24 (i) Its income tax revenue growth rate is .90 or less, or the
25 municipality has 2 or more emergency loans outstanding at the time
26 its application is submitted and its income tax revenue growth rate
27 is 1.3 or less.

1 (ii) Its local tax base growth rate is 75% or less of the
2 statewide tax base growth rate.

3 (iii) The state equalized valuation of real and personal
4 property within the municipality at the time the loan application
5 is made is less than the state equalized valuation of real and
6 personal property within the municipality in the immediately
7 preceding year.

8 (iv) The municipality is levying the maximum number of mills it
9 is authorized to levy as approved by the voters and has either of
10 the following:

11 (A) One or more delinquent special assessments.

12 (B) Outstanding bonds, notes, or other evidences of
13 indebtedness that were issued in anticipation of a contract
14 obligation with, or an assessment obligation against, another
15 municipality that has 1 or more delinquent special assessments that
16 were levied to satisfy, in whole or in part, the contract or
17 assessment obligation.

18 (v) For a school district, the **DEPARTMENT OF TREASURY**
19 **DETERMINES THAT 1 OR MORE OF THE FOLLOWING APPLY:**

20 **(A) THE** school district's membership under section 6 of the
21 state school aid act of 1979, 1979 PA 94, MCL 388.1606, at the time
22 the loan application is made has declined over ~~a~~**THE** preceding 3-
23 state-fiscal-year period by a total of 15% or more. ~~, as determined~~
24 ~~by the department of treasury.~~

25 **(B) THE LOAN WILL ASSIST THE SCHOOL DISTRICT IN RESOLVING A**
26 **FINANCIAL EMERGENCY OR FISCAL STRESS WITHIN THE SCHOOL DISTRICT.**

27 (vi) The municipality is in receivership or is subject to a

consent agreement under the ~~local government and school district~~
~~fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531,~~
LOCAL FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436, MCL 141.1541
TO 141.1575, or a successor statute, and loan authorization by the
board is necessary to implement a financial and operating plan, a
consent agreement, or a continuing operations plan or recovery plan
for the municipality under the ~~local government and school district~~
~~fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531,~~
LOCAL FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436, MCL 141.1541
TO 141.1575, or a successor statute.

~~—— (vii) The municipality is a municipality for which a financial~~
~~emergency has been confirmed to exist and responsibilities for the~~
~~municipality are vested in an emergency financial manager under~~
~~former 1990 PA 72 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~~
~~subparagraph applies only if the local government and school~~
~~district fiscal accountability act, 2011 PA 4, MCL 141.1501 to~~
~~141.1531, is repealed or otherwise not effective and former 1990 PA~~
~~72 is again in effect or applicable.~~

(d) The municipality submits a 5-year plan, that has been
approved by the governing body of the municipality, and that will
balance future expenditures with anticipated revenues.

(2) If the board determines it necessary, the board may
inspect, copy, or audit the books and records of a municipality.

(3) Subsection (1) does not apply to a loan authorized under
section 3(2) or (3).

1 Sec. 7. (1) A municipality that receives a loan under this act
2 shall perform all of the following:

3 (a) Except as otherwise provided in this subdivision, employ a
4 full-time professional administrator or contract with a person with
5 expertise in municipal finance and administration to direct or
6 participate directly in the management of the municipality's
7 operations until otherwise ordered by the board. If the
8 municipality is in receivership under the ~~local government and~~
9 ~~school district fiscal accountability act, 2011 PA 4, MCL 141.1501~~
10 ~~to 141.1531, LOCAL FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436,~~
11 ~~MCL 141.1541 TO 141.1575, or a successor statute, compensate the~~
12 ~~emergency manager~~ **MAY PERFORM THE FUNCTIONS OF THE FULL-TIME**
13 **PROFESSIONAL ADMINISTRATOR UNDER THIS SUBDIVISION.** ~~for the~~
14 ~~municipality and reimburse the emergency manager's actual and~~
15 ~~necessary expenses as provided under section 15(5)(c) of the local~~
16 ~~government and school district fiscal accountability act, 2011 PA~~
17 ~~4, MCL 141.1515, or a successor statute. If the municipality is~~
18 ~~under a consent agreement as provided under the local government~~
19 ~~and school district fiscal accountability act, 2011 PA 4, MCL~~
20 ~~141.1501 to 141.1531, or a successor statute, compensate those~~
21 ~~officials who are required to be compensated under the consent~~
22 ~~agreement with the municipality and reimburse those officials'~~
23 ~~actual and necessary expenses as provided under the consent~~
24 ~~agreement.~~

25 ~~—— (b) If the local government and school district fiscal~~
26 ~~accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, is~~
27 ~~repealed or otherwise not effective and former 1990 PA 72 is again~~

~~in effect or applicable and an emergency financial manager is in place for the municipality under former 1990 PA 72, compensate the emergency financial manager and reimburse the emergency financial manager's actual and necessary expenses. If the local government and school district fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, is repealed or otherwise not effective and former 1990 PA 72 is again in effect or applicable and a consent agreement is in place for the municipality under former 1990 PA 72, compensate those officials who are required to be compensated under the consent agreement with the municipality and reimburse those officials' actual and necessary expenses as provided under the consent agreement.~~

(B) ~~(e)~~ Not more than 6 months after receiving a loan and semiannually after that date for the period the loan is outstanding, submit to the board an evaluation of the performance of the municipality against the 5-year plan submitted under section 4(1).

(C) ~~(d)~~ Submit all of the following to the board on a quarterly basis:

(i) A statement of actual revenues received in the last quarter and in the current fiscal year to date.

(ii) A statement of total revenues estimated to be received by the municipality in the current fiscal year.

(iii) A statement of expenditures made and encumbrances entered into by the municipality in the last quarter and in the current fiscal year to date.

(iv) A statement of revenues that were estimated to be received

1 and expenditures that were estimated to be made during the current
2 fiscal year and through the end of the last quarter.

3 (v) A balance sheet indicating whether total estimated
4 expenditures for the current fiscal year and for the last quarter
5 exceed the total estimated revenues for the current fiscal year and
6 for the last quarter, respectively.

7 (D) ~~(e)~~—Submit the general appropriations act of the
8 municipality, and any amendments to that act, adopted under the
9 uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to
10 141.440a, or any equivalent report as may be required by the board
11 if the municipality is not required to adopt a general
12 appropriations act.

13 (E) ~~(f)~~—Submit any budget change in the current fiscal year or
14 any amendment to the general appropriations act of the municipality
15 for the current fiscal year to the board before adoption.

16 (F) ~~(g)~~—Submit any budget for the ensuing fiscal year or the
17 general appropriations act of the municipality for the ensuing
18 fiscal year to the board before adoption.

19 (G) ~~(h)~~—Certify that the municipality has fully complied with
20 all statutory requirements concerning use of the uniform chart of
21 accounts and audits.

22 (2) If the state treasurer determines that a municipality is
23 not in compliance with all of the requirements under subsection (1)
24 and with the 5-year plan submitted under section 4(1), the state
25 treasurer may modify the terms of the loan to require a higher
26 interest rate or to accelerate the repayment of the loan.

27 (3) As used in this section, "expenditure" and "revenue" mean

1 those terms as defined in sections 2c and 2d of the uniform
2 budgeting and accounting act, 1968 PA 2, MCL 141.422c and 141.422d.

3 (4) Subsection (1) does not apply to a loan authorized under
4 section 3(2) or (3).

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.

7 Enacting section 2. This amendatory act does not take effect
8 unless all of the following bills of the 98th Legislature are
9 enacted into law:

10 (a) Senate Bill No.____ or House Bill No. 4326 (request no.
11 00281'15).

12 (b) Senate Bill No.____ or House Bill No. 4325 (request no.
13 00285'15).