

**SUBSTITUTE FOR
HOUSE BILL NO. 4331**

A bill to amend 1980 PA 243, entitled
"Emergency municipal loan act,"
by amending sections 3, 4, 6, and 7 (MCL 141.933, 141.934, 141.936,
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

1 on September 30, 2018, the board may do all of the following:

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

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

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

15 (a) In the 1998-99 state fiscal year, the board may authorize
16 loans under this act to a county with a population greater than
17 1,500,000.

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

1 required to authorize loans under this subdivision to a county for
2 more than 1 state fiscal year.

3 (3) If in a state fiscal year the block grant appropriated to
4 a county other than a county described in subsection (2) that is a
5 county juvenile agency is less than the amount required to be
6 distributed to that county in that year under the social welfare
7 act, 1939 PA 280, MCL 400.1 to 400.119b, the board may authorize a
8 loan to that county in an amount not greater than the difference
9 between the amount of the block grant and the amount required to be
10 distributed to that county under the social welfare act, 1939 PA
11 280, MCL 400.1 to 400.119b, in that state fiscal year.

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

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

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

22 (7) The proceeds of a loan made under subsection (2) or (3)
23 are subject to ~~the requirements of the~~ county juvenile agency act,
24 1998 PA 518, MCL 45.621 to 45.631.

25 (8) Except as otherwise provided in this subsection, revenue
26 for loans made under this act shall be provided from the surplus
27 funds of this state under authorization granted under section 1 of

1 1855 PA 105, MCL 21.141. Alternatively, for a school district,
2 revenue for a loan made under this act may be provided from money
3 advanced to the school district by this state from money
4 appropriated from the state school aid fund established under
5 section 11 of article IX of the state constitution of 1963 and
6 payable to the school district under the state school aid act of
7 1979, 1979 PA 94, MCL 388.1601 to 388.1896.

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

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

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

1 ~~the loan was authorized.~~

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

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

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

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

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

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

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

1 (10) As used in this section, "county juvenile agency" means
2 that term as defined in section 2 of the county juvenile agency
3 act, 1998 PA 518, MCL 45.622.

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

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

12 (b) That 1 or both of the following have occurred within the
13 18 months immediately preceding the loan request:

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

19 (ii) The department of treasury has acted upon a request by
20 the municipality to issue tax anticipation notes or revenue sharing
21 notes under the revised municipal finance act, 2001 PA 34, MCL
22 141.2101 to 141.2821.

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

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

1 is 1.3 or less.

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

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

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

12 (A) One or more delinquent special assessments.

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

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

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

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

1 (vi) The municipality is in receivership or is subject to a
2 consent agreement under the ~~local government and school district~~
3 ~~fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531,~~
4 **LOCAL FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436, MCL 141.1541**
5 **TO 141.1575**, or a successor statute, and loan authorization by the
6 board is necessary to implement a financial and operating plan, a
7 consent agreement, or a continuing operations plan or recovery plan
8 for the municipality under the ~~local government and school district~~
9 ~~fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531,~~
10 **LOCAL FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436, MCL 141.1541**
11 **TO 141.1575**, or a successor statute.

12 ~~(vii) The municipality is a municipality for which a financial~~
13 ~~emergency has been confirmed to exist and responsibilities for the~~
14 ~~municipality are vested in an emergency financial manager under~~
15 ~~former 1990 PA 72 or is a municipality for which a consent~~
16 ~~agreement, including a plan to address a serious financial problem,~~
17 ~~is in place for the municipality under former 1990 PA 72. This~~
18 ~~subparagraph applies only if the local government and school~~
19 ~~district fiscal accountability act, 2011 PA 4, MCL 141.1501 to~~
20 ~~141.1531, is repealed or otherwise not effective and former 1990 PA~~
21 ~~72 is again in effect or applicable.~~

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

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

27 (3) Subsection (1) does not apply to a loan authorized under

1 section 3(2) or (3).

2 Sec. 6. (1) A loan made under this act shall bear an annual
3 rate or rates of interest, if any, as established by the board
4 under section 2(5). The board may establish interest for a loan
5 under this act either at a rate or rates that are fixed for the
6 term of the loan or, if the formula is approved by the board at the
7 time the loan is made or renegotiated as authorized in section 2,
8 at a rate calculated upon a formula that varies the rate annually.
9 The board may provide that the interest rate or rates for a loan
10 under this act may adjust to an interest rate or rates determined
11 at the time of the sale or transfer by the state treasurer to be
12 sufficient to facilitate the sale of the loans under section 6a.
13 Except for loans sold or transferred under section 6a, if the
14 interest rate for a loan under this act is a single fixed rate, the
15 annual rate of interest for the term of a loan shall not be less
16 than the municipal 10-year rate as determined by the state
17 treasurer. The board may consider a higher interest rate based on
18 both the market interest rates and the risk of the municipality
19 requesting the loan. **EXCEPT FOR LOANS SOLD OR TRANSFERRED UNDER**
20 **SECTION 6A, IF THE INTEREST RATE FOR A LOAN UNDER THIS SECTION IS**
21 **NOT A SINGLE FIXED RATE, ALL OF THE FOLLOWING APPLY TO THE LOAN:**

22 **(A) THE ANNUAL RATE OF INTEREST FOR THE LOAN SHALL NOT BE LESS**
23 **THAN 2.5%, BUT THE BOARD MAY CONSIDER A HIGHER INTEREST RATE BASED**
24 **ON BOTH THE MARKET INTEREST RATES AND THE RISK OF THE MUNICIPALITY**
25 **REQUESTING THE LOAN.**

26 **(B) IF THE LOAN INCLUDES AN INTEREST-ONLY REPAYMENT PERIOD,**
27 **THE INTEREST-ONLY REPAYMENT PERIOD SHALL NOT BE MORE THAN 60**

1 MONTHS.

2 (2) Interest payments are due and payable as determined by the
3 board or the state treasurer under section 6a. Repayment of all of
4 the principal shall be made not more than 30 years from the date of
5 issuance determined by the board or state treasurer under section
6 6a, except as provided in subsection (5). This subsection, sections
7 7 and 8, and the conditions listed in section 4(1) do not apply to
8 a loan authorized under section 3(2) or (3).

9 (3) The loan agreement between the board and a county for a
10 loan authorized under section 3(2) or (3) shall establish the
11 schedule for payment of the principal of and interest on the loan,
12 the nature of the obligation of the county to repay a loan made
13 under this act, and any security for that loan. Payments of
14 principal and interest for a loan authorized by section 3(2) shall
15 be limited to revenues allocated to the county under the health and
16 safety fund act, 1987 PA 264, MCL 141.471 to 141.479, minus those
17 revenues authorized by the board in the loan agreement for use in
18 the payment of other county obligations.

19 (4) Unless other state appropriations to a municipality are
20 pledged or assigned in an amount sufficient for the municipality to
21 make a required principal or interest payment, if the
22 municipality's payment of required principal or interest is
23 delinquent, the state treasurer may withhold the amount of all
24 delinquent payments that are due on a loan issued under this act
25 from state payments to the municipality under the Glenn Steil state
26 revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921.

27 (5) Except for loans sold or transferred under section 6a or

1 as otherwise determined by the board, notwithstanding the payment
2 schedules and methods established by this section or by the terms
3 of a loan agreement, a municipality may initiate repayment of all
4 or part of a loan made under this act at an earlier date or may
5 make repayment in fewer installment payments, or both. The board
6 shall not condition either eligibility for consideration for a loan
7 or the grant of a loan under this act on repayment schedules and
8 terms other than those required by subsections (1), (2), (3), and
9 (4). In addition, failure of a municipality to make repayments
10 under terms or a schedule it has instituted under this subsection
11 does not disqualify the municipality from eligibility for
12 consideration for loans in subsequent fiscal years.

13 (6) A loan issued under this act shall be a general obligation
14 of the municipality except that a loan issued under section 3(2)
15 shall not be a general obligation of the municipality and shall be
16 repaid solely from specific revenues pledged for repayment of the
17 loan.

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

20 (a) Except as otherwise provided in this subdivision, employ a
21 full-time professional administrator or contract with a person with
22 expertise in municipal finance and administration to direct or
23 participate directly in the management of the municipality's
24 operations until otherwise ordered by the board. If the
25 municipality is in receivership under the ~~local government and~~
26 ~~school district fiscal accountability act, 2011 PA 4, MCL 141.1501~~
27 ~~to 141.1531,~~ **LOCAL FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436,**

1 ~~MCL 141.1541 TO 141.1575, or a successor statute, compensate the~~
2 ~~emergency manager **MAY PERFORM THE FUNCTIONS OF THE FULL-TIME**~~
3 ~~**PROFESSIONAL ADMINISTRATOR UNDER THIS SUBDIVISION.** for the~~
4 ~~municipality and reimburse the emergency manager's actual and~~
5 ~~necessary expenses as provided under section 15(5)(c) of the local~~
6 ~~government and school district fiscal accountability act, 2011 PA~~
7 ~~4, MCL 141.1515, or a successor statute. If the municipality is~~
8 ~~under a consent agreement as provided under the local government~~
9 ~~and school district fiscal accountability act, 2011 PA 4, MCL~~
10 ~~141.1501 to 141.1531, or a successor statute, compensate those~~
11 ~~officials who are required to be compensated under the consent~~
12 ~~agreement with the municipality and reimburse those officials'~~
13 ~~actual and necessary expenses as provided under the consent~~
14 ~~agreement.~~

15 ~~—— (b) If the local government and school district fiscal~~
16 ~~accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, is~~
17 ~~repealed or otherwise not effective and former 1990 PA 72 is again~~
18 ~~in effect or applicable and an emergency financial manager is in~~
19 ~~place for the municipality under former 1990 PA 72, compensate the~~
20 ~~emergency financial manager and reimburse the emergency financial~~
21 ~~manager's actual and necessary expenses. If the local government~~
22 ~~and school district fiscal accountability act, 2011 PA 4, MCL~~
23 ~~141.1501 to 141.1531, is repealed or otherwise not effective and~~
24 ~~former 1990 PA 72 is again in effect or applicable and a consent~~
25 ~~agreement is in place for the municipality under former 1990 PA 72,~~
26 ~~compensate those officials who are required to be compensated under~~
27 ~~the consent agreement with the municipality and reimburse those~~

1 ~~officials' actual and necessary expenses as provided under the~~
2 ~~consent agreement.~~

3 (B) ~~(e)~~—Not more than 6 months after receiving a loan and
4 semiannually after that date for the period the loan is
5 outstanding, submit to the board an evaluation of the performance
6 of the municipality against the 5-year plan submitted under section
7 4(1).

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

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

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

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

17 (iv) A statement of revenues that were estimated to be
18 received and expenditures that were estimated to be made during the
19 current fiscal year and through the end of the last quarter.

20 (v) A balance sheet indicating whether total estimated
21 expenditures for the current fiscal year and for the last quarter
22 exceed the total estimated revenues for the current fiscal year and
23 for the last quarter, respectively.

24 (D) ~~(e)~~—Submit the general appropriations act of the
25 municipality, and any amendments to that act, adopted under the
26 uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to
27 141.440a, or any equivalent report as may be required by the board

1 if the municipality is not required to adopt a general
2 appropriations act.

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

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

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

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

17 (3) As used in this section, "expenditure" and "revenue" mean
18 those terms as defined in sections 2c and 2d of the uniform
19 budgeting and accounting act, 1968 PA 2, MCL 141.422c and 141.422d.

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

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

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

27 (a) House Bill No. 4325.

1 (b) House Bill No. 4326.