

SENATE BILL No. 1077

September 17, 2014, Introduced by Senator PAPPAGEORGE and referred to the Committee on Appropriations.

A bill to amend 2005 PA 92, entitled "School bond qualification, approval, and loan act," by amending sections 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, and 16 (MCL 388.1923, 388.1924, 388.1925, 388.1926, 388.1927, 388.1928, 388.1929, 388.1931, 388.1932, 388.1934, and 388.1936), sections 3, 4, 5, 6, 7, 8, 9, 11, and 16 as amended by 2012 PA 437.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Computed millage" means the number of mills in any year,
3 ~~not less than 7 mills and not more than~~ **UP TO** 13 mills, determined
4 on the date of issuance of ~~the~~ **AN** order qualifying ~~the~~ bonds or ~~on~~
5 a later date if requested by the school district and approved by
6 ~~the state treasurer,~~ **OTHERWISE AS DESCRIBED IN THIS ACT** that, if

1 levied by the school district, will generate sufficient annual
2 proceeds to pay principal and interest on all the school district's
3 qualified bonds plus principal and interest on all qualified loans
4 related to those qualified bonds no later than the final mandatory
5 repayment date. Based on changes of circumstances, including, but
6 not limited to, additional bond qualification, refundings, changes
7 in qualified loan interest rates, changes in taxable values, and
8 assumptions contained in any then currently effective **RULES,**
9 **BULLETINS, OR** guidelines issued by the state treasurer pursuant to
10 section 5(2)(c), the school district shall not less than annually,
11 beginning on October 1, 2013, using methods prescribed in this act,
12 recalculate the computed millage necessary to generate sufficient
13 annual levy proceeds to pay principal and interest on all of the
14 school district's qualified bonds and principal and interest on all
15 qualified loans related to those qualified bonds not later than the
16 final mandatory repayment date. If the school district determines
17 that the recalculated computed millage is lower than its current
18 millage levy rate, the school district shall promptly notify the
19 state treasurer in writing of the recalculated computed millage.
20 Immediately thereafter, the school district shall decrease its
21 millage levy rate to the recalculated computed millage, but not
22 below the computed millage established pursuant to the most recent
23 order qualifying bonds for that school district, or to the minimum
24 levy prescribed by law for receipt of qualified loans, whichever
25 rate is higher. If the school district determines that the
26 recalculated computed millage is higher than its current millage
27 levy rate, the school district shall promptly notify the state

1 treasurer in writing of the recalculated computed millage.
2 Immediately thereafter, the school district shall increase its
3 millage levy rate to the recalculated computed millage, subject to
4 1 of the following exceptions, and subject to any maximum millage
5 levy rate otherwise prescribed for by law:

6 (i) For each school district's first recalculated computed
7 millage required as of October 1, 2013, increase its millage levy
8 by a percentage amount equal to the equivalent percentage of
9 taxable value change for that school district over the immediately
10 preceding 5 years, but not higher than the recalculated computed
11 millage.

12 (ii) For each school district's subsequent recalculated
13 computed millage beginning October 1, 2014 and each year
14 thereafter, increase its millage levy by a percentage amount equal
15 to the percentage of taxable value decline for the immediately
16 preceding year ending September 30, but not to a rate higher than
17 the recalculated computed millage.

18 (iii) If it is determined that a district's current computed
19 millage is sufficient to pay all qualified loans by the mandatory
20 final loan repayment date, no ~~recalculation of~~ **CHANGE TO** the
21 **DISTRICT'S** computed millage is required.

22 (b) "Final mandatory repayment date" means the final mandatory
23 repayment date determined by the state treasurer under section 9.

24 (c) "Michigan finance authority" means the Michigan finance
25 authority created under Executive Reorganization Order No. 2010-2,
26 MCL 12.194.

27 (d) "Qualified bond" means a bond that is qualified under this

1 act for state loans as provided in section 16 of article IX of the
2 state constitution of 1963. A qualified bond includes the interest
3 amount required for payment of a school district's net interest
4 obligation under an interest rate exchange or swap, hedge, or other
5 agreement entered into pursuant to the revised municipal finance
6 act, 2001 PA 34, MCL 141.2101 to 141.2821, but does not include a
7 termination payment or similar payment related to the termination
8 or cancellation of an interest rate exchange or swap, hedge, or
9 other similar agreement. A qualified bond may include a bond issued
10 to refund loans owed to the state under this act.

11 (e) "Qualified loan" means a loan made under this act or
12 former 1961 PA 108 from this state to a school district to pay debt
13 service on a qualified bond.

14 (f) "Revolving loan fund" means the school loan revolving fund
15 created under section 16c of the shared credit rating act, 1985 PA
16 227, MCL 141.1066c.

17 (g) "School district" means a general powers school district
18 organized under the revised school code, 1976 PA 451, MCL 380.1 to
19 380.1852, or a school district of the first class as described in
20 the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, having
21 the power to levy ad valorem property taxes.

22 (h) "State treasurer" means the state treasurer or his or her
23 duly authorized designee.

24 (i) "Taxable value" means the value determined under section
25 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

26 Sec. 4. (1) A school district may issue and market bonds as
27 qualified bonds if the state treasurer has issued an order granting

1 qualification under this act.

2 (2) Except with regard to qualification of new bonds, nothing
3 in this act shall be construed to alter the terms and conditions
4 applicable to outstanding qualified bonds issued in accordance with
5 former 1961 PA 108. Unless otherwise amended as permitted by this
6 act, outstanding qualified loans incurred in association with
7 outstanding qualified bonds described in this subsection shall bear
8 interest as provided in section 9(8) but otherwise shall be due and
9 payable as provided in the repayment agreements entered into
10 between the school district and the state before the effective date
11 of this act.

12 (3) The state treasurer may qualify bonds for which the state
13 treasurer has received an application for ~~prequalification~~
14 **PRELIMINARY QUALIFICATION** on or before May 25, 2005 without regard
15 to the requirements of section 5(2)(f) if the electors of the
16 school district approve the bonds at an election held during 2005.

17 Sec. 5. (1) A school district may apply to the state treasurer
18 for preliminary qualification of a proposed school bond issue by
19 filing an application in the form and containing the information
20 required by this act.

21 (2) An application for preliminary qualification of a school
22 bond shall contain all of the following information:

23 (a) The proposed ballot language to be submitted to the
24 electors.

25 (b) A description of the project or projects proposed to be
26 financed.

27 (c) A pro forma debt service projection showing the estimated

1 ~~mills~~**COMPUTED MILLAGE** the school district will levy to provide
2 revenue the school district will use to pay the qualified bonds,
3 any outstanding qualified bonds, and any outstanding or projected
4 qualified loans of the school district. For the purpose of the pro
5 forma debt service projection, the school district may assume for
6 the first 5 years following the date of the application the average
7 growth or decline in taxable value for the 5 years or such other
8 period of time requested by the school district if approved by the
9 state treasurer preceding the date of the application and the
10 average growth or decline rate for the 20 years immediately
11 ~~preceeding~~**PRECEDING** the date of the application but not more than
12 3% or less than 0% growth rate, for the remaining term of the
13 proposed bonds.

14 (d) Evidence that the rate of utilization of each project to
15 be financed will be at least 85% for new buildings and 60% for
16 renovated facilities. If the projected enrollment of the district
17 would not otherwise support utilization at the rates described in
18 this subsection, the school district may include an explanation of
19 the actions the school district intends to take to address the
20 underutilization, including, if applicable, actions to close school
21 buildings or other actions designed to assure continued assured use
22 of the facilities being financed.

23 (e) Evidence that the cost per square foot of the project or
24 projects will be reasonable in light of economic conditions
25 applicable to the geographic area in which the school district is
26 located.

27 (f) Evidence that the school district will repay all

1 outstanding qualified bonds, the proposed qualified bonds, all
2 outstanding qualified loans, and all qualified loans expected to be
3 incurred with respect to all qualified bonds of the school
4 district, including the proposed qualified bond issue, not later
5 than the applicable final mandatory repayment date.

6 (g) The overall utilization rate of all school buildings in
7 the school district, excluding special education purposes.

8 (h) The total bonded debt outstanding of the school district
9 and the total taxable value of property in the school district for
10 the school district fiscal year in which the application is filed.

11 (i) A statement describing any environmental or usability
12 problems to be addressed by the project or projects.

13 (j) An architect's analysis of the overall condition of the
14 facilities to be renovated or replaced as a part of the project or
15 projects.

16 (k) An amortization schedule demonstrating that the weighted
17 average maturity of the qualified bond issue does not exceed 120%
18 of the average reasonably expected useful life of the facilities,
19 excluding land and site improvements, being financed or refinanced
20 with the proceeds of the qualified bonds, determined as of the
21 later of the date on which the qualified bonds will be issued or
22 the date on which each facility is expected to be placed in
23 service.

24 (l) An agreement that the school district will keep books and
25 records detailing the investment and expenditure of the proceeds of
26 the qualified bonds and, at the request of the state treasurer, the
27 school district will promptly, but not later than the date

1 specified in the request, which date shall be not less than 5
2 business days after the date of the request, submit information
3 requested by the state treasurer related to the detailed
4 information maintained by the school district as to the investment
5 and expenditure of the proceeds of its qualified bonds.

6 Sec. 6. (1) The state treasurer shall ~~prequalify~~**PRELIMINARILY**
7 **QUALIFY** bonds of a school district if the state treasurer
8 determines all of the following:

9 (a) The issuance of additional qualified bonds will not
10 prevent the school district from repaying its outstanding qualified
11 bonds, the proposed bonds, all outstanding qualified loans, and all
12 qualified loans expected to be incurred with respect to all
13 qualified bonds of the school district, including the proposed bond
14 issue, not later than the applicable final mandatory repayment
15 date.

16 (b) The form and language of the ballot conforms with the
17 requirements of this act.

18 (c) The school district has filed an application complying
19 with the requirements of section 5.

20 (d) If the proposed bond issue is approved by the voters after
21 September 30, 2012 and will result in additional qualified loans,
22 the outstanding balance of all qualified loans on the most recent
23 May 1 or November 1 did not exceed \$1,800,000,000.00. ~~The~~
24 ~~\$1,800,000,000.00 limitation described in the immediately preceding~~
25 ~~sentence does not apply after June 30, 2016.~~

26 (e) The issuance of additional qualified bonds approved by
27 voters after September 30, 2012 will not have an adverse financial

1 impact on the school district, this state, or the school loan
2 revolving fund. In making this determination, the state treasurer
3 shall consider relevant factors, including, but not limited to,
4 whether the issuance of the proposed bond issue will cause the
5 aggregate outstanding amount of qualified and nonqualified bonds,
6 including the proposed bond issue, and currently outstanding
7 qualified loans of the school district to exceed 25% of the taxable
8 value of the school district at the time the proposed bonds are
9 issued.

10 **(2) ANY PRELIMINARY QUALIFICATION ISSUED BY THE STATE**
11 **TREASURER SHALL EXPIRE 10 YEARS AFTER THE DATE OF ITS ISSUANCE OR**
12 **UPON A SOONER DATE STATED IN THE PRELIMINARY QUALIFICATION ORDER.**

13 Sec. 7. (1) The state treasurer shall qualify bonds of a
14 school district if the state treasurer determines all of the
15 following:

16 (a) A majority of the school district electors have approved
17 the bonds.

18 (b) The terms of the bond issue comply with applicable
19 provisions of the revised school code, 1976 PA 451, MCL 380.1 to
20 380.1852.

21 (c) The school district is in compliance with the revised
22 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

23 (d) The weighted average maturity of the qualified bond issue
24 does not exceed 120% of the average reasonably expected useful life
25 of the facilities, excluding land and site improvements, being
26 financed or refinanced with the proceeds of the bonds, determined
27 as of the later of the date on which the qualified bonds will be

1 issued or the date on which each facility is expected to be placed
2 in service.

3 (e) The school district has filed any information necessary to
4 update the contents of the original application to reflect changes
5 in any of the information approved in the preliminary qualification
6 process, **AND THOSE CHANGES, INCLUDING BOND STRUCTURE, ESTIMATED**
7 **BORROWING, AND PROJECT SCOPE, ARE NOT SUBSTANTIALLY DIFFERENT.**

8 (f) The school district has agreed that the school district
9 will keep books and records detailing the investment and
10 expenditure of the proceeds of the qualified bonds and, at the
11 request of the state treasurer, the school district will promptly,
12 but not later than the date specified in the request, which date
13 shall be not less than 5 business days after the date of the
14 request, submit information requested by the state treasurer
15 related to the detailed information maintained by the school
16 district as to the investment and expenditure of the proceeds of
17 its qualified bonds.

18 **(G) THE PRELIMINARY QUALIFICATION ORDER PURSUANT TO WHICH**
19 **QUALIFICATION IS BEING SOUGHT IS STILL EFFECTIVE.**

20 (2) An order qualifying bonds shall specify the principal and
21 interest payment dates for all the bonds, the maximum principal
22 amount of and maximum interest rate on the bonds, the computed
23 millage, ~~if any,~~ the final mandatory repayment date, and other
24 matters as the state treasurer shall determine or as are required
25 by this act.

26 (3) If the application for ~~prequalification~~ **PRELIMINARY**
27 **QUALIFICATION** demonstrates that the school district will borrow

1 from this state in accordance with this act, the state treasurer
2 and the school district shall enter into a loan agreement setting
3 forth the terms and conditions of any qualified loans to be made to
4 the school district under this act.

5 (4) If a school district does not issue its qualified bonds
6 within 180 days after the date of the order qualifying bonds, the
7 order shall no longer be effective. However, the school district
8 may reapply for qualification by filing an application and
9 information necessary to update the contents of the original
10 application for prequalification or qualification.

11 (5) The state treasurer shall qualify refunding bonds issued
12 to refund qualified loans or qualified bonds if the state treasurer
13 finds that all of the following are met:

14 (a) The refunding bonds comply with the provisions of the
15 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
16 141.2821.

17 (b) That the school district will repay all outstanding
18 qualified bonds, the proposed qualified bonds, all outstanding
19 qualified loans, and all qualified loans expected to be incurred
20 with respect to all qualified bonds of the school district,
21 including the proposed qualified bond issue, not later than the
22 applicable final mandatory repayment date.

23 Sec. 8. (1) A ballot submitted to the school electors of a
24 school district after November 8, 2005 requesting authorization to
25 issue unlimited tax general obligations that will be guaranteed by
26 this state in accordance with section 16 of article IX of the state
27 constitution of 1963 shall inform the electors ~~that if~~ **AT A MINIMUM**

1 OF ALL THE FOLLOWING:

2 (A) CLEAR DESCRIPTIONS OF THE PURPOSES FOR WHICH THE PROCEEDS
3 OF THE BONDS WILL BE USED.

4 (B) WHETHER the school district expects to borrow from this
5 state to pay debt service on the bonds. ~~the~~

6 (C) IF THE SCHOOL DISTRICT EXPECTS TO BORROW FROM THIS STATE
7 TO PAY DEBT SERVICE OF THE BONDS THE estimated total amount of the
8 principal of ~~that borrowing~~ and the interest ~~to be paid~~ on that
9 borrowing. ~~the~~

10 (D) THE CURRENT COMPUTED MILLAGE, THE ESTIMATED AVERAGE ANNUAL
11 COMPUTED MILLAGE ACCOUNTING FOR THE PROPOSED BONDS AND ANY
12 BORROWING, AND the estimated duration of the millage levy. ~~and~~
13 ~~the estimated computed millage rate for that levy. The ballot shall~~
14 ~~also inform the electors of the~~

15 (E) THE total amount of qualified bond and loan debt currently
16 outstanding. ~~and~~

17 (F) A STATEMENT that the estimated computed millage rate AND
18 DURATION may change based on changes in certain circumstances.

19 (2) ANYTHING CONTAINED IN THE BALLOT NOT SPECIFIED IN THIS
20 SECTION SHALL BE CONSIDERED SURPLUSAGE AND OF NO LEGAL EFFECT.

21 (3) THE BALLOT LANGUAGE SHALL BE SUBJECT TO FINAL DEPARTMENT
22 OF TREASURY APPROVAL AND SHALL CONTAIN SUCH ADDITIONAL INFORMATION
23 AS THE DEPARTMENT OF TREASURY DEEMS NECESSARY TO ENSURE FULL
24 DISCLOSURE TO THE VOTERS.

25 Sec. 9. (1) Except as otherwise provided in this act, a school
26 district may borrow from the state an amount not greater than the
27 difference between the proceeds of the school district's computed

1 millage and the amount necessary to pay principal and interest on
2 its qualified bonds, including any necessary allowances for
3 estimated tax delinquencies. **THE COMPUTED MILLAGE FOR ANY DISTRICT**
4 **UPON RECEIVING A QUALIFIED LOAN REGARDLESS OF HOW IT IS PROVIDED**
5 **PURSUANT TO THIS ACT, OR WITH AN OUTSTANDING QUALIFIED LOAN**
6 **BALANCE, SHALL BE 7 MILLS OR THE DISTRICT'S ACTUAL COMPUTED**
7 **MILLAGE, WHICHEVER IS HIGHER.**

8 (2) For school districts having qualified loans outstanding as
9 of July 20, 2005, the state treasurer shall review information
10 relating to each school district regarding the taxable value of the
11 school district and the actual debt service of outstanding
12 qualified bonds as of July 20, 2005 and shall issue an order
13 establishing the payment date for all those outstanding qualified
14 loans and any additional qualified loans expected to be incurred by
15 those school districts related to qualified bonds issued before
16 July 20, 2005. The payment date shall be not later than 72 months
17 after the date on which the qualified bonds most recently issued by
18 the school district are due and payable. The payment date
19 established pursuant to this subsection for a school district is a
20 final mandatory repayment date.

21 (3) For qualified loans related to qualified bonds issued
22 after July 20, 2005, the qualified loans shall be due 72 months
23 after the date on which the qualified bonds for which the school
24 borrowed from this state are due and payable. The due date
25 determined pursuant to this subsection for a school district is a
26 final mandatory repayment date. This section does not preclude
27 early repayment of qualified bonds or qualified loans.

1 (4) The state treasurer shall maintain separate accounts for
2 each school district on the books and accounts of this state noting
3 the qualified bond, the related qualified loans, the final payment
4 date of the bonds, the final mandatory repayment date of the
5 qualified loans, and the interest rate accrued on the loans.

6 (5) For qualified loans relating to qualified bonds issued
7 after July 20, 2005, a school district shall continue to levy ~~the~~^A
8 computed millage until it has completely repaid all principal and
9 interest on its qualified loans.

10 (6) For qualified loans relating to qualified bonds issued
11 before July 20, 2005, a school district shall continue to comply
12 with the levy and repayment requirements imposed before July 20,
13 2005. Not less than 90 days after July 20, 2005, the state
14 treasurer and the school district shall enter into amended and
15 restated repayment agreements to incorporate the levy and repayment
16 requirements applicable to qualified loans issued before July 20,
17 2005.

18 (7) Upon the request of a school district made before June 1
19 of any year, the state treasurer annually may waive all or a
20 portion of the millage required to be levied by a school district
21 to pay principal and interest on its qualified bonds or qualified
22 loans under this section if the state treasurer finds all of the
23 following:

24 (a) The school board of the school district has applied to the
25 state treasurer for permission to levy less than the millage
26 required to be levied to pay the principal and interest on its
27 qualified bonds or qualified loans under subsection (1).

1 (b) The application specifies the number of mills the school
2 district requests permission to levy.

3 (c) The waiver will be financially beneficial to this state,
4 the school district, or both.

5 (d) The waiver will not reduce the **COMPUTED** millage levied by
6 the school district to pay principal and interest on qualified
7 bonds or qualified loans under this act to less than 7 mills.

8 (e) The board of the school district, by resolution, has
9 agreed to comply with all conditions that the state treasurer
10 considers necessary.

11 (8) All qualified loans shall bear interest at 1 of the
12 following rates:

13 (a) The greater of 3% or the average annual cost of funds used
14 to make qualified loans plus 0.125%, but not less than the cost of
15 funds on outstanding qualified notes and bonds issued by the
16 Michigan finance authority to finance loans computed by the state
17 treasurer not less often than annually.

18 (b) A lesser rate determined by the state treasurer to be
19 necessary to maintain the exemption from federal income tax of
20 interest on any bonds or notes issued to fund qualified loans.

21 (c) A higher rate determined by the state treasurer to be
22 necessary to prevent the impairment of any contract of this state
23 or the Michigan finance authority in existence on the effective
24 date of the amendatory act that added this subdivision.

25 (9) A payment date determined under subsection (2) or a due
26 date determined under subsection (3) is a final mandatory repayment
27 date. Once established for a school district as provided in this

1 section, a final mandatory repayment date shall apply to all
2 qualified loans of the school district, whenever made, until 30
3 days after the date the school district has no outstanding
4 qualified loans and no outstanding debt incurred to refund
5 qualified loans. Notwithstanding this subsection, the state
6 treasurer may determine a later mandatory repayment date for a
7 school district that agrees to levy a higher millage, acceptable to
8 the state treasurer, not to exceed 13 mills, than its ~~existing~~
9 **CURRENT** computed millage.

10 Sec. 11. The state treasurer may promulgate rules to implement
11 this act pursuant to the administrative procedures act of 1969,
12 1969 PA 306, MCL 24.201 to 24.328, and may issue **GUIDELINES OR**
13 ~~bulletins as authorized by this act.~~ **ALL TO FURTHER CLARIFY THE**
14 **APPLICATION OF THIS ACT AND ANY RELATED RULES.**

15 Sec. 12. If a school district does not apply for
16 ~~prequalification~~ **PRELIMINARY QUALIFICATION** or qualification or
17 approval of a bond issue before the issuance of those bonds, the
18 state treasurer shall not approve or qualify those bonds as
19 qualified bonds under this act.

20 Sec. 14. (1) If any paying agent for a school district's
21 qualified bonds notifies the state treasurer that the school
22 district has failed to deposit sufficient funds to pay principal
23 and interest due on the qualified bonds when due, or if a
24 bondholder notifies the state treasurer that the school district
25 has failed to pay principal or interest on qualified bonds when
26 due, whether or not the school district has filed a draw request
27 with the state treasurer, the state treasurer shall promptly pay

1 the principal or interest on the qualified bond. ~~when due.~~

2 (2) If the state treasurer pays any amount described in this
3 section, the state treasurer shall bill the school district for the
4 amount paid and the school district shall immediately remit the
5 amount to the state treasurer. If the school district would have
6 been eligible to borrow the debt service in accordance with the
7 terms of this act, the school district shall enter into a loan
8 agreement establishing the terms of the qualified loan as provided
9 in this act. If the state treasurer directs the Michigan ~~municipal~~
10 ~~bond~~ **FINANCE** authority **OR ITS SUCCESSOR** to pay any amount described
11 in this section, the state treasurer shall cause the Michigan
12 ~~municipal bond~~ **FINANCE** authority to bill the school district for
13 the amount paid and the school district shall immediately remit the
14 amount to the Michigan ~~municipal bond~~ **FINANCE** authority.

15 Sec. 16. (1) The state treasurer may charge a ~~prequalification~~
16 **PRELIMINARY QUALIFICATION** application fee, a qualification
17 application fee, and an annual loan activity fee in the amounts
18 determined by the state treasurer to be required to pay the
19 estimated administrative expenses incurred under this act for the
20 fiscal year in which the state treasurer imposes the fee.

21 (2) The state treasurer shall deposit all fees collected under
22 this act into a separate fund established within the state
23 treasury, and shall use the proceeds of the fees solely for the
24 purpose of administering and enforcing this act. The unexpended and
25 unobligated balance of this fund at the end of each state fiscal
26 year shall be carried forward over to the succeeding state fiscal
27 year and shall not lapse to the general fund but shall be available

1 for reappropriation for the next state fiscal year.