



**House  
Legislative  
Analysis  
Section**

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**HIGHER ED. LOAN AUTHORITIES**

**Senate Bill 164 (Substitute H-1)  
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First Analysis (5-11-89)**

**RECEIVED**

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**Sponsor: Sen. John J. H. Schwarz, MID<sup>1</sup> State Law Library  
Senate Committee: Education & Mental Health  
House Committee: Colleges & Universities**

***THE APPARENT PROBLEM:***

The Michigan Higher Education Assistance Authority (MHEAA) was created in 1960 to provide loans to college students. With the creation of the federal Guaranteed Student Loan (GSL) program in 1965, the MHEAA became the state administrative agency for the GSL program. (GSLs are federally subsidized low interest loans made by private lenders such as banks, savings and loans, and credit unions, as well as other financial institutions, schools, state agencies, and private nonprofit agencies.) Under the federal program, a lender of last resort must exist at the state level in order to make loans to anyone who is eligible for a GSL but is not able to obtain a GSL from a private lender. The MHEAA was created for this purpose, and to act as a guarantor of GSL loans in case of student default. Recent revisions in federal and state banking and financial institution laws, as well as changes in the GSL program, have altered the way GSLs are made. Further, concerns have been expressed over the basic operation of the state's loan authorities. (The Michigan Higher Education Loan Authority acts in a similar capacity to the MHEAA.) Some people contend that insufficient staffing and lack of operating resources have placed the authorities at a competitive disadvantage. Without modifications in the operation of the loan program, these people fear that Michigan students and lenders will be forced to look elsewhere, such as to out-of-state firms, to borrow higher education funds.

***THE CONTENT OF THE BILLS:***

The bills would require the Michigan Higher Education Student Loan Authority (MHESLA) and the Michigan Higher Education Assistance Authority (MHEAA) to exercise their powers as autonomous entities, independent of the director of the Department of Education.

**Senate Bill 164** would amend the Higher Education Loan Authority Act (MCL 390.1153 and 390.1154) to require the MHESLA to exercise its powers independent of the department director. The act specifies that the authority is created as a public body corporate and politic within the department, and the bill would retain this provision. In addition to its powers enumerated in the act, the bill would authorize the authority to purchase supplies, materials, printing, equipment, and services, including but not limited to utility, legal, accounting, and consulting services, as needed to carry out its duties under the act. In all purchases made by the authority, all other things being equal, preference would have to be given to products manufactured or services offered by Michigan-based firms, where consistent with federal statutes. The authority would solicit competitive bids from the private sector whenever practicable to efficiently and effectively meet its needs. Before it could use any other procurement method for an acquisition, the authority would first have to determine that competitive solicitation of bids in the private

sector was not appropriate. The bill also provides that a majority of the authority's members who were qualified and serving would constitute a quorum for conducting business. (The act currently specifies that a majority of its members constitutes a quorum.)

**Senate Bill 165** would amend Public Act 77 of 1960 (MCL 390.951 et al), which created the MHEAA, to provide for the following:

- The authority would be an agency in the department; currently, the act provides that the authority is an agency and instrumentality of the state.
- The authority would be required to exercise its powers as an autonomous entity, independent of the department director.
- The authority could purchase or contract for supplies, materials, equipment, printing, and services, including but not limited to utility, legal, accounting, and consulting services, as needed to carry out its duties under the act. In all its purchases, all other things being equal, the authority would give preference to products manufactured or services offered by Michigan-based firms, where consistent with federal statutes.
- The authority would solicit competitive bids from the private sector whenever practicable to efficiently and effectively meet its needs. Before it could use any other procurement method for an acquisition, the authority would first have to determine that competitive solicitation of bids in the private sector was not appropriate.

The bill would repeal a provision in the Executive Organization Act that transferred the MHEAA, by a "type I transfer," to the State Board of Education.

***HOUSE COMMITTEE ACTION:***

The House Committee on Colleges and Universities adopted substitutes for both bills which include provisions to require the authorities to solicit competitive bids from the private sector when practicable, or determine that these were not appropriate, before they used any other procurement method for an acquisition. This language replaced language in the Senate-passed versions to require the authorities, in making purchases and entering into contracts, to encourage and promote the competitive viability of the private sector in providing products and services to the authorities.

***FISCAL IMPLICATIONS:***

According to the Senate Fiscal Agency, the bills would have an undetermined fiscal impact on the state and no fiscal impact on local governments. By allowing the authorities to contract for materials and services without utilizing the Department of Management and Budget's procurement process, the bills could permit the authorities to procure commodities and services at a lower cost, which could save

money for the Department of Education. Procured commodities could range from smaller items such as micro-computers to contracts for loan administration services. The fiscal year 1988-89 contractual services, supplies, and materials appropriation for the department's division of Student Financial Assistance Services is \$3,297,300, while the equipment appropriation is \$25,600. (4-5-89)

## **ARGUMENTS:**

### ***For:***

The bills would provide greater autonomy for the purchase of services and supplies for both authorities currently housed within the education department. Both the MHEAA and the MHESLA are now competing with out-of-state based private lending agencies and loan guarantors in an industry that has become increasingly competitive. Out-of-state lenders can offer not only attractive purchasing prices but also a quick and responsive level of service expected in today's consumer markets. In many cases, these lenders can process student loans, from initial approval of a loan to the disbursement of funds; in 24 hours. The MHEAA's loan processing time, conversely, can often take up to four weeks. Some feel insufficient staffing and inadequate computer resources are to blame. For example, the computer used by the MHEAA reportedly is also used by the Departments of Education and Licensing and Regulation. Thus, computer time is often diverted to other users, and the computer itself is not able to keep up with demand. The bills would solve these problems by allowing the authorities to provide loan services in a more timely and efficient manner — to the benefit of Michigan students, schools, and lenders.

### ***For:***

Both bills contain provisions which would expressly require the authorities to seek competitive bids from the private sector for procuring supplies or services, and thus would guarantee that efforts undertaken in the bid process could keep operating costs to a minimum. These provisions are consistent with provisions included within the Department of Management and Budget (DMB) Act, Public Act 504 1988, which require the department to solicit competitive bids from the private sector (MCL 18.1261).

### ***Against:***

Despite the fact that the legislature would maintain its oversight responsibilities over the authorities, the bills would provide them with too much flexibility. Historically, it has been uncommon for individual departments or agencies to be authorized to provide such autonomous purchasing powers as would be provided under the bill. If there currently exist procedural problems in working with the DMB, then these should be reviewed on behalf of all state government. Simply exempting the authorities would not address this issue.

## **POSITIONS:**

The Department of Education supports the bills. (5-9-89)