

SFA

BILL ANALYSIS

RECEIVED

Senate Fiscal Agency

• Lansing, Michigan 48909

• (517) 373-5383

MAY 23 1989

Mich. State Law Library

Senate Bill 164 (as passed by the Senate)
Senate Bill 165 (as passed by the Senate)
Sponsor: Senator John J. H. Schwarz, M.D.
Committee: Education and Mental Health

Date Completed: 4-5-89

RATIONALE

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-level administrative agency for the GSL Program. (Guaranteed student loans are Federally subsidized low interest loans made by private lenders such as banks, savings and loan associations, credit unions, other lending institutions, schools, State agencies, and private nonprofit agencies.) Under the Federal GSL 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 Michigan Higher Education Loan Authority was created for this purpose, and to act as a guarantor of GSL loans in case of default by a student. Recent revisions in Federal banking and financial institution laws, as well as changes in the GSL program have resulted in changes in the business of guaranteed student loans. In light of these circumstances, concern has been raised about the basic operation of the State's loan Authorities. 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, it is feared that Michigan students and lenders will be forced to go elsewhere--such as to out-of-State firms--to participate in the loan program.

CONTENT**Senate Bill 164**

The bill would amend the Higher Education Loan Authority Act, which established the Michigan Higher Education Loan Authority in order to provide loans to eligible students and to parents of students, to require the Authority to exercise its powers as an autonomous entity, independent of the Director of the Department of Education. The Act currently specifies that the Authority is created as a public body corporate and politic within the Department of Education; the bill would retain this provision.

In addition to the powers of the Authority already enumerated in the Act, the bill specifies that the Authority would have the power to purchase or contract for supplies, materials, printing, equipment, and services, including but not limited to, utility, legal, accounting, and consulting services as needed to carry out the Act. In making purchases and entering into contracts, the Authority would be required to encourage and promote the competitive viability of the private sector in providing products and services to the Authority. 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.

S.B. 164 & 165 (4-5-89)

The bill also provides that a majority of the Authority's members who were qualified and serving would constitute a quorum for conducting business. Currently, the Act only specifies that a majority of the Authority's members constitutes a quorum.

MCL 390.1153 and 390.1154

Senate Bill 165

The bill would amend Public Act 77 of 1960, which created the Michigan Higher Education Assistance Authority, to:

- Specify that the Authority would be an agency in the Department of Education. Currently, the Act provides that the Authority is an agency and instrumentality of the State of Michigan.
- Require the Authority to exercise its powers as an autonomous entity, independent of the Director of the Department of Education.
- Permit the Authority to purchase or contract for supplies, materials, equipment, printing, and services, including, but not limited to, utility, legal, accounting, and consulting services, as needed in order to carry out the Act.
- Require the Authority, in purchasing and contracting, to encourage and promote the private sector's competitive viability in providing products and services to the Authority. 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.
- Repeal a provision in the Executive Organization Act that transferred the Authority, by a "type I transfer", to the State Board of Education (MCL 16.408).

MCL 390.951 et al.

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on the State and no fiscal impact on local units of government.

The bills would allow the Higher Education Loan Authority and the Higher Education

Assistance Authority to contract for materials and services without utilizing the Department of Management and Budget procurement process. To the extent that the Authorities could independently procure commodities and services at a lower cost, there could be savings for the Michigan Department of Education (MDOE). Procured commodities could range from smaller items such as micro-computers to contracts for loan administration services. The FY 1988-89 contractual services, supplies, and materials (CSS&M) appropriation for the MDOE's Division of Student Financial Assistance Services is \$3,297,300; the equipment appropriation is \$25,600.

ARGUMENTS

Supporting Argument

Concern has been raised about the MHEAA's ability to compete in the student loan business. Currently, many lenders can process student loans--from initial approval of the loan to transmittal of funds--in a 24-hour period. Under the MHEAA, however, processing of a loan can take up to four weeks. Insufficient staffing and inadequate computer resources are being blamed for the problem. For example, the computer used by the Michigan agency reportedly also is used by the Departments of Education and Licensing and Regulation. Thus, computer time often is diverted to other users, and the computer itself, some people contend, is not able to keep up with the demand. Michigan's loan guarantee agency also is considered to be understaffed when compared to other lending agencies that handle a comparable loan volume. Such inefficiencies and constraints are placing the Authorities at a competitive disadvantage. Senate Bills 164 and 165 would assist the Authorities in carrying out their functions in order to satisfy the needs of students and parents as well as the colleges and universities that participate in the program.

Opposing Argument

Concerns had been raised after Senate Bills 164 and 165 were reported from the Education and Mental Health Committee that neither bill contained provisions specifying that competitive bidding procedures would have to be followed by the Higher Education Loans and Assistance Authorities when obtaining equipment and services. Amendments subsequently were

adopted by the Senate to require the Authorities in purchasing and contracting "to encourage and promote" the private sector's competitive viability in providing products and services. These provisions are similar to provisions included in the Management and Budget Act, which prescribes the powers and duties of the Department of Management and Budget (DMB) as well as providing for administrative services such as purchasing. That Act, however, also includes provisions, added by Public Act 504 of 1988, that require the Department to solicit competitive bids from the private sector (MCL 18.1261). A major consideration in government purchasing policy is that competitive bidding benefits taxpayers by keeping down the cost of government. While the bills would "encourage and promote the private sector's competitive viability" in providing products and services to the Authorities, they would not expressly require the Authorities to seek competitive bids. Thus, there would be no guarantee that efforts would be undertaken by the Authorities to seek bids in order to hold down their operating costs.

Opposing Argument

By removing the Authorities from the procurement practices and oversight of the DMB, the bill also would remove the Authorities from the Michigan reciprocal preference law (Public Act 237 of 1988), which is part of the Management and Budget Act. Under the new law, if a bid for a State contract exceeds \$100,000, preference must be given to a company that has certified it is a Michigan business, over other bidders located in states that apply a preference law against out-of-state businesses.

Opposing Argument

If there are procedural problems in working with the DMB, then these should be reviewed on behalf of all of State government. Merely to exempt the Authorities would not address the issues.

Legislative Analyst: L. Arasim

Fiscal Analyst: E. Jeffries

A8990\S164B

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.