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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 164 (as enrolled)

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Sponsor: Senator John J. H. Schwarz, M.D.

Senate Committee: Education and Mental Health

House Committee: Colleges and Universities

Date Completed: 8-3-89

PUBLIC ACT 127 of 1989PUBLIC ACT 128 of 1989**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 contract competitively for services including consulting services as needed to carry out the purposes of the Act.

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

S.B. 164 &amp; 165 (8-3-89)

## 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 contract competitively for services including consulting services as needed to carry out the purposes of the Act.
- 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 competitively for materials and services. 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.

#### Supporting Argument

A major consideration in government purchasing policy is that competitive bidding benefits taxpayers by keeping down the cost of government. Under the bills, the Authorities would be permitted to contract competitively for "services" including "consulting services" that were needed to carry out the purposes of the Higher Education Loan Authority Act and Public Act 177 of 1960. According to Department of Management and Budget officials, even with the bills, the Authorities still would be subject to the Management and Budget Act for the purchasing of equipment. (That Act prescribes the powers and duties of the Department as well as provides for administrative services, such as purchasing. The Act also requires the DMB to solicit competitive bids from the private sector.) While the bills would provide the Authorities with some flexibility in contracting for "services", the Authorities still would have to go through the DMB for the purchase of equipment.

Response: The bill is not clear as to the definition of "services" and "consulting services", which could be subject to broad interpretation. According to DMB officials, the Department's administrative manual lists 150 distinct services under the definition of "consulting services". The bills should either define these terms or reference manuals that list the types of services

that would be involved.

**Opposing Argument**

If there are procedural problems in working with the DMB, then these should be reviewed on behalf of all of State government.

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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.