

SENATE BILL No. 1158

March 8, 2000, Introduced by Senator JOHNSON and referred to the Committee on Government Operations.

A bill to amend 1980 PA 243, entitled
"Emergency municipal loan act,"
by amending section 2 (MCL 141.932), as amended by 1998 PA 528.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) There is created a local emergency financial
2 assistance loan board within the department of treasury. This
3 board shall consist of the state treasurer, the director of the
4 department of consumer and industry services, and the director of
5 the department of management and budget. Except for budgeting,
6 procurement, and related functions of the board that shall be
7 performed under the direction and supervision of the state trea-
8 surer, the board shall exercise its prescribed statutory powers,
9 duties, and functions independently of the department of
10 treasury.

1 (2) The board has the powers necessary to carry out and
2 effectuate the purposes and provisions of this act, including all
3 of the following powers:

4 (a) To act by an order issued in the name of the board and
5 signed by the members of the board. The signature of the desig-
6 nee of a member, when the designee is acting for his or her prin-
7 cipal, has the same force and effect as the signature of the
8 member.

9 (b) To authorize and make loans; to renegotiate the terms of
10 outstanding loans; and to make, execute, and deliver contracts
11 and other instruments necessary or convenient to the exercise of
12 its powers.

13 (c) To aid, advise, and consult with a municipality with
14 respect to fiscal questions arising from and relating to its pro-
15 posed or outstanding loans.

16 ~~(d) To promulgate rules under the administrative procedures~~
17 ~~act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that it considers~~
18 ~~necessary.~~

19 (D) ~~(e)~~ To examine the books and records of a municipality
20 applying for or receiving a loan under this act for the purpose
21 of ascertaining if the municipality is complying, in relation to
22 a loan under this act, with the requirements of the board, the
23 laws of this state, and the charter, ordinances, and resolutions
24 of the municipality. Additionally, for effectuating this pur-
25 pose, the board may require sworn statements from any officer or
26 employee of the municipality and may require the municipality to
27 furnish a statement of its financial condition. The board has

1 full power, in furtherance of its investigations, to examine
2 witnesses on oath, to compel the attendance of witnesses, to
3 compel the giving of testimony, and to compel the production of
4 books, papers, and records. Witnesses may be summoned by the
5 board by its process upon the payment of the same fees as are
6 allowed to witnesses attending in the circuit court for the
7 county in which a hearing is held. A person duly subpoenaed
8 under this section who fails to attend or testify at the place
9 named in the subpoena served for that purpose is guilty of a
10 misdemeanor.

11 (E) ~~-(f)-~~ To serve notice upon a municipality of an order
12 relating to the municipality issued by the board. A municipality
13 has prima facie notice of and is bound by an order of the board
14 if notice has been served upon it by registered mail addressed to
15 any officer of the municipality upon whom legal process may be
16 served.

17 (F) ~~-(g)-~~ To enforce compliance with its orders; with the
18 terms of outstanding loans; with any provision of this act; or,
19 in relation to a loan under this act, with any law of this state
20 or with the charter, ordinances, or resolutions of a municipality
21 that received a loan under this act. As 1 method to enforce com-
22 pliance, the board may institute appropriate proceedings in the
23 courts of this state, including proceedings for writs of mandamus
24 and injunctions.

25 (G) ~~-(h)-~~ To subject a loan to the terms and conditions the
26 board considers necessary to ensure compliance with the uniform
27 budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a,

1 and to ensure timely repayment of the loan, including, but not
2 limited to, requiring the direct assignment for repayment of a
3 loan of ~~any~~ state money appropriated to the municipality.

4 (H) ~~(i)~~ To provide loan terms specifying conditions and
5 events of default and remedies available upon default by a
6 municipality.

7 (I) ~~(j)~~ To impose loan terms upon the disbursement of a
8 loan authorized to be made under section 3(2)(b) or (3).

9 (3) The board shall review each application for a loan from
10 a municipality to determine if the municipality satisfies the
11 requirements of this act. Except for loans authorized under sec-
12 tion 3(2) or (3), upon determining those applications that sat-
13 isfy the application eligibility requirements of section 4 and,
14 for subsequent annual loans, section 8, the board may authorize
15 an annual loan to 1 or more of those eligible applicants upon
16 declaring that a local fiscal emergency exists in the
17 municipality. For loans authorized under section 3(2) or (3),
18 the board may authorize a loan upon determining that the munici-
19 pality has satisfied the requirements of this act applicable to
20 loans under section 3(2) or (3).

21 (4) All actions of the board shall be approved by all mem-
22 bers of the board. All meetings of the board shall be conducted
23 at a public meeting held in compliance with the open meetings
24 act, 1976 PA 267, MCL 15.261 to 15.275.

25 (5) Subject to the requirements of this act, the board has
26 the sole authority to determine all of the following:

- 1 (a) The amount of a loan.
- 2 (b) The rate or rates of interest on a loan.
- 3 (c) Any other condition related to a loan including, but not
4 limited to, requiring that the proceeds of a loan be used for
5 specified purposes.
- 6 (6) The department of treasury shall provide staff services
7 to the board to carry out this act.
- 8 (7) A municipality may do 1 or more of the following:
- 9 (a) Borrow money under this act.
- 10 (b) Enter into a loan agreement with the board.
- 11 (c) Issue its notes evidencing the loan.
- 12 (d) Assign and convey any revenues allocated to it for
13 repayment of the loan.
- 14 (e) Take any other action necessary to receive, secure, or
15 repay a loan under this act.