

SUBSTITUTE FOR  
SENATE BILL NO. 1077

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  
7 levied by the school district, will generate sufficient annual

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

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

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

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

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

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

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

26 (d) "Qualified bond" means a bond that is qualified under this  
27 act for state loans as provided in section 16 of article IX of the

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

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

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

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

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

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

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

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

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

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

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

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

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

26           (c) A pro forma debt service projection showing the estimated  
27 ~~mills~~**COMPUTED MILLAGE** the school district will levy to provide

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

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

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

26 (f) Evidence that the school district will repay all  
27 outstanding qualified bonds, the proposed qualified bonds, all

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

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

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

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

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

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

23 (l) An agreement that the school district will keep books and  
24 records detailing the investment and expenditure of the proceeds of  
25 the qualified bonds and, at the request of the state treasurer, the  
26 school district will promptly, but not later than the date  
27 specified in the request, which date shall be not less than 5

1 business days after the date of the request, submit information  
2 requested by the state treasurer related to the detailed  
3 information maintained by the school district as to the investment  
4 and expenditure of the proceeds of its qualified bonds.

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

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

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

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

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

25 (e) The issuance of additional qualified bonds approved by  
26 voters after September 30, 2012 will not have an adverse financial  
27 impact on the school district, this state, or the school loan



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

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

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

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

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

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

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

1 in service.

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

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

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

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

25 (3) If the application for ~~prequalification~~ **PRELIMINARY**  
26 **QUALIFICATION** demonstrates that the school district will borrow  
27 from this state in accordance with this act, the state treasurer

1 and the school district shall enter into a loan agreement setting  
2 forth the terms and conditions of any qualified loans to be made to  
3 the school district under this act.

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

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

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

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

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

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

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

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

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

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

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

18 Sec. 9. (1) Except as otherwise provided in this act, a school  
19 district may borrow from the state an amount not greater than the  
20 difference between the proceeds of the school district's computed  
21 millage and the amount necessary to pay principal and interest on  
22 its qualified bonds, including any necessary allowances for  
23 estimated tax delinquencies. **THE COMPUTED MILLAGE FOR ANY DISTRICT**  
24 **UPON RECEIVING A QUALIFIED LOAN REGARDLESS OF HOW IT IS PROVIDED**  
25 **PURSUANT TO THIS ACT, OR WITH AN OUTSTANDING QUALIFIED LOAN**  
26 **BALANCE, SHALL BE 7 MILLS OR THE DISTRICT'S ACTUAL COMPUTED**  
27 **MILLAGE, WHICHEVER IS HIGHER.**

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

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

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

26           (5) For qualified loans relating to qualified bonds issued  
27 after July 20, 2005, a school district shall continue to levy ~~the~~**A**

1 computed millage until it has completely repaid all principal and  
2 interest on its qualified loans.

3 (6) For qualified loans relating to qualified bonds issued  
4 before July 20, 2005, a school district shall continue to comply  
5 with the levy and repayment requirements imposed before July 20,  
6 2005. Not less than 90 days after July 20, 2005, the state  
7 treasurer and the school district shall enter into amended and  
8 restated repayment agreements to incorporate the levy and repayment  
9 requirements applicable to qualified loans issued before July 20,  
10 2005.

11 (7) Upon the request of a school district made before June 1  
12 of any year, the state treasurer annually may waive all or a  
13 portion of the millage required to be levied by a school district  
14 to pay principal and interest on its qualified bonds or qualified  
15 loans under this section if the state treasurer finds all of the  
16 following:

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

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

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

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

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

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

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

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

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

18 (9) A payment date determined under subsection (2) or a due  
19 date determined under subsection (3) is a final mandatory repayment  
20 date. Once established for a school district as provided in this  
21 section, a final mandatory repayment date shall apply to all  
22 qualified loans of the school district, whenever made, until 30  
23 days after the date the school district has no outstanding  
24 qualified loans and no outstanding debt incurred to refund  
25 qualified loans. Notwithstanding this subsection, the state  
26 treasurer may determine a later mandatory repayment date for a  
27 school district that agrees to levy a higher millage, acceptable to

1 the state treasurer, not to exceed 13 mills, than its ~~existing~~  
2 **CURRENT** computed millage.

3 Sec. 11. The state treasurer may promulgate rules to implement  
4 this act pursuant to the administrative procedures act of 1969,  
5 1969 PA 306, MCL 24.201 to 24.328. ~~7 and may issue bulletins as~~  
6 ~~authorized by this act.~~

7 Sec. 12. If a school district does not apply for  
8 ~~prequalification~~ **PRELIMINARY QUALIFICATION** or qualification or  
9 approval of a bond issue before the issuance of those bonds, the  
10 state treasurer shall not approve or qualify those bonds as  
11 qualified bonds under this act.

12 Sec. 14. (1) If any paying agent for a school district's  
13 qualified bonds notifies the state treasurer that the school  
14 district has failed to deposit sufficient funds to pay principal  
15 and interest due on the qualified bonds when due, or if a  
16 bondholder notifies the state treasurer that the school district  
17 has failed to pay principal or interest on qualified bonds when  
18 due, whether or not the school district has filed a draw request  
19 with the state treasurer, the state treasurer shall promptly pay  
20 the principal or interest on the qualified bond. ~~when due.~~

21 (2) If the state treasurer pays any amount described in this  
22 section, the state treasurer shall bill the school district for the  
23 amount paid and the school district shall immediately remit the  
24 amount to the state treasurer. If the school district would have  
25 been eligible to borrow the debt service in accordance with the  
26 terms of this act, the school district shall enter into a loan  
27 agreement establishing the terms of the qualified loan as provided



1 in this act. If the state treasurer directs the Michigan ~~municipal~~  
2 ~~bond~~-**FINANCE** authority **OR ITS SUCCESSOR** to pay any amount described  
3 in this section, the state treasurer shall cause the Michigan  
4 ~~municipal bond~~-**FINANCE** authority to bill the school district for  
5 the amount paid and the school district shall immediately remit the  
6 amount to the Michigan ~~municipal bond~~-**FINANCE** authority.

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

13       (2) The state treasurer shall deposit all fees collected under  
14 this act into a separate fund established within the state  
15 treasury, and shall use the proceeds of the fees solely for the  
16 purpose of administering and enforcing this act. The unexpended and  
17 unobligated balance of this fund at the end of each state fiscal  
18 year shall be carried forward over to the succeeding state fiscal  
19 year and shall not lapse to the general fund but shall be available  
20 for reappropriation for the next state fiscal year.