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SFA**BILL ANALYSIS**

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Senate Bill 1506 (as introduced 11-12-02)
Sponsor: Senator Shirley Johnson
Committee: Education

Date Completed: 11-13-02

CONTENT

The bill would create the "Michigan Public Educational Facilities Authority Act" to do the following:

- Create within the Department of Treasury the Michigan Public Educational Facilities Authority, and transfer to it the existing Authority that was established by Executive Order 2002-3.
- Permit the Authority to assist, through financing or refinancing, the construction, acquisition, rehabilitation, refurbishing, and equipping of public schools, as provided in Section 142 of the Internal Revenue Code.
- Permit the Authority to lend money to a developer or a public school by purchasing obligations of the developer or the school, and permit the Authority to issue tax-exempt bonds and notes for this purpose.
- Provide that the Authority's board of trustees would consist of the State Treasurer and four members appointed by the Governor with the advice and consent of the Senate; and provide that not more than two appointees could be members of the same political party.
- Permit the Authority to require a public school or developer to pledge for the payment of the obligations purchased by the Authority, money received or to be received by the public school or the developer, whether from the imposition of taxes by the State or from other sources and returned to the school or the developer as provided by law.
- Provide that a public school or developer could contract to pay no interest or interest at a variable rate on money borrowed from the Authority, and could contract with respect to a loan from the Authority or an obligation purchased by it.
- Require the Authority to report annually to the Center for Educational Performance and Information (a temporary State agency created by Executive Reorganization Order 2000-6).

The bill would define "developer" as a person who had entered into a "public-private partnership agreement" with a "qualified public educational facility". The bill would define those terms as they are in Section 142 of the Internal Revenue Code. The Code defines "qualified public educational facility" as any school facility that is part of a public elementary or secondary school, and is owned by a private, for-profit corporation under a public-private partnership agreement with a state or local educational agency. Under a "public-private partnership agreement", the corporation agrees to construct, rehabilitate, refurbish, or equip a school facility and, at the end of the term of the agreement, to transfer the school facility to the state or local educational agency for no additional consideration.

The bill would define "public school" as a public elementary or secondary educational entity or agency established under the Revised School Code, whose primary mission is the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, a public school academy corporation, a strict discipline academy corporation, the Department of Education, or the State Board of Education. A public school also would include

a laboratory school or other elementary or secondary school controlled and operated by a State public university.

BACKGROUND

Section 142 of the Internal Revenue Code defines "exempt facility bond" for purposes of a part of the Code that contains tax exemption requirements for state and local bonds. Under this definition, at least 95% of the net proceeds of a bond issue must be used to provide the types of facilities listed in the definition. When this list was expanded to qualified public educational facilities, Governor Engler issued Executive Order (E.O.) 2001-11 to create the Michigan Public Educational Facilities Authority. After certain technical problems with that E.O. were revealed, Executive Order 2002-3 rescinded the 2001 E.O. and recreated the Authority.

The Authority is located within the Department of Treasury and exercises its powers independently of the State Treasurer. The Authority is governed by a board of trustees consisting of the State Treasurer and four trustees appointed by the Governor with the advice and consent of the Senate. Not more than two of the appointed trustees may belong to the same political party.

The Executive Orders transferred to the Authority and its board of trustees all of the statutory powers and responsibilities of the Michigan Strategic Fund and the Fund's board of directors with respect to a commercial enterprise involving the construction, rehabilitation, refurbishing, or equipping of school facilities that were occupied or to be occupied by a public school, including the power to issue bonds and notes and enter into contracts.

The E.O.s also transferred to the Authority and its board the statutory powers and responsibilities of the Michigan Municipal Bond Authority and its board regarding public school academies, laboratory schools, and other elementary or secondary schools controlled by a public university, including the power to issue bonds and notes and enter into contracts.

Executive Order 2002-03 designated to the Authority the allocation of volume limitations for exempt facility bonds relating to qualified public educational facilities. Under the Internal Revenue Code, this volume limitation is \$10 multiplied by the state population.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Since the Authority is already in operation pursuant to Executive Order 2002-3, this bill would have no fiscal impact on State or local government. Revenue for operational costs of the Authority would be available from fees charged to public schools or developers for use of the Authority's services. At this time, the salaries of the Authority's two staff persons, the director and a financial specialist, constitute the operational costs. The State is not liable for debt of the Authority and the bill would maintain that separation.

Fiscal Analyst: Jessica Runnels

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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.