

**DEPARTMENT OF TREASURY**

**STATE TREASURER**

**SCHOOL BOND QUALIFICATION, APPROVAL, AND LOAN RULES**

(By authority conferred on the state treasurer by section 11 of 2005 PA 92, MCL 388.1931, and section 33 of 1969 PA 306, MCL 24.201 to 24.328)

**PART 1. GENERAL DEFINITIONS**

**R 388.1 Definitions.**

Rule 1. (1) As used in these rules:

(a) "Act" means the school bond qualification, approval, and loan act, 2005 PA 92, MCL 388.1921 et seq.

(b) "Business day" means any day that does not fall on a Saturday, Sunday, or state legal holiday.

(c) "Calendar day" means any day represented on the yearly calendar including Saturday, Sunday, and state legal holidays.

(d) "Debt service" means principal and interest payments on qualified bond issues and associated fees related to those bonds.

(e) "Department" means the Michigan department of treasury.

(f) "Mandatory final loan repayment date" means the date specified in the loan agreement entered into by a school district under the act by which principal and interest on all qualified loans related to all qualified bonds are finally due.

(g) "Projected debt millage levy" means the number of mills in any year, not less than 7 mills and not more than 13 mills, that, if levied by the school district, will generate sufficient annual proceeds to pay principal and interest on all the school district's existing and proposed qualified bonds plus principal and interest on all qualified loans related to those qualified bonds less funds on hand and legally available for that purpose not later than the dates defined in the act or in these rules.

(h) "Qualification" means the process of qualifying bonds or loans in accordance with section 4 to section 13 of 2005 PA 92, MCL 388.1924 to 388.1933.

(i) "Refunding bond" means a bond issued to refund or refinance an existing qualified bond or outstanding qualified loan owed to the state under this act.

(j) "State legal holiday" means those days designated in section 1 of 1865 PA 124, MCL 435.101.

(k) "Treasurer" means the Michigan state treasurer as defined by 2005 PA 92, MCL 388.1923.

(l) A term defined in the act has the same meaning when used in these rules.

History: 2007 AACCS.

**PART 2. SCHOOL BOND QUALIFICATION**

**R. 388.2 Preliminary qualification; application.**

Rule 2. (1) A completed preliminary qualification application shall include submission to the department of all of the following information:

(a) The proposed ballot language to be submitted to the electors, which shall include all language required by the following statutes:

- (i) MCL 380.1361, the revised school code.
- (ii) MCL 211.24f, general property tax act.
- (iii) Section 28 of the Act.
- (iv) Any other applicable law.

(b) A description of the project or projects to be financed that includes all of the following:

(i) A cost analysis providing summary totals that can be matched to budget estimates as reported by the school district.

(ii) For new construction, all of the following should be included:

- (A) The estimated number of rooms.
- (B) The types of rooms expected to be constructed.
- (C) The estimated square footage of the project or projects.
- (D) The estimated cost per square foot.

(iii) For remodeling and site work, all of the following should be included:

- (A) The planned use of the space.
- (B) The type of work expected to be performed.
- (C) The estimated total cost of the work to be performed.

(iv) For site acquisitions, either of the following should be included:

- (A) The cost per acre.
- (B) The total cost of acquisition, or if such information is not available, the estimated total cost of acquisition.

(v) For technology, furnishings, and equipment, school districts shall provide detail regarding the types of technology, furnishings, and equipment to be purchased.

(c) A pro forma debt service projection, which shall demonstrate the following:

(i) That the proceeds of the school district's projected debt millage levy will be sufficient to repay principal and interest on all of the school district's existing and proposed new qualified bonds plus principal and interest on all qualified loans related to those bonds not later than the mandatory final loan repayment date.

(ii) That the school district's projected average growth in taxable value is based on the following assumptions:

(A) For the first 5 years following the date of the application, assume no higher than the average growth in taxable value for the 5 years preceding the date of the application.

(B) For the remaining term after the first 5 years following the date of the application, assume the lesser of the average growth in taxable value for the 5 years preceding the date of the application or 3%.

(d) The utilization rate for each project included in the preliminary qualification application, which meets the following specifications:

(i) The utilization rate shall be calculated by dividing the projected 5-year enrollment by the standard pupil capacity factor provided by the department.

(ii) The 5-year enrollment projection used in this calculation shall be obtained from an enrollment projection service provider approved by the department.

(iii) When the utilization rate for any building is below 60% for remodeling projects and 85% for new construction projects, the school district shall submit a written explanation of such variance discussing the actions the school district intends to take to address the underutilization.

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

(f) An amortization schedule in accordance with MCL 388.1925 (2)(m) and MCL 388.1927(1)(d).

(g) A completed prequalification application also includes the following data, which the department shall use for informational purposes only:

(i) The weighted average age of all school buildings involved in the proposed project or projects based on square footage.

(ii) The school district's taxable value per pupil.

(iii) The total bonded debt outstanding of the school district for the school district fiscal year in which the application is filed.

(iv) The total taxable value of property in the school district for the school district fiscal year in which the application is filed.

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

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

(2) The department shall determine the reasonableness of cost per square foot by comparing the cost included in the preliminary qualification application to the cost per square foot parameter announced annually by the department. The cost per square foot parameter announced annually by the department shall be calculated from data derived from reputable independent sources including but not limited to R.S. Means or such similar entity that provides reliable objective information.

(3) If it has been more than 12 months since the preliminary qualification was approved, then a school district shall submit the following information to update the application prior to submitting an application for final qualification:

(a) A status report of any previous series of bonds included in the authorization.

(b) Updated project sheets for each project included in the proposed series and supporting cost detail, as described in R 388.2(1)(b).

(c) A cost summary sheet for proposed bond series.

(d) An updated pro forma debt service projection showing bond structure for proposed series.

History: 2007 AACCS.

### **R 388.3 Qualification of bonds.**

Rule 3. (1) To obtain final qualification of bonds, a school district shall submit a final qualification application and supporting documentation in the form prescribed by the department.

(2) Supporting documentation shall include all of the following:

(a) A cover letter from legal counsel indicating the requested approval date and delivery date if known at the time of submission.

(b) The certified canvass of election for building and site bonds.

(c) An updated pro forma debt service projection as described in R 388.2(1)(c).

(d) A copy of the resolution authorizing the issuance of bonds.

(e) A copy of the resolution authorizing the sale of bonds if such a resolution is applicable.

(f) The preliminary or final official statement, whichever is available at the time of submission.

(g) A draft of the proposed bond counsel opinion.

(3) Supporting documentation for refunding bond issues shall also include both of the following:

(a) Additional financial schedules that document net present value savings of the refunding bond issue.

(b) A draft verification report of mathematical accuracy of the refunding tables, prepared by an independent source.

(4) If a school district does not issue its qualified bonds within 180 days after the date of the order qualifying bonds, then the school district shall submit a revised application and updated pro forma debt service projection to the department.

(5) Notwithstanding the repayment requirements of these rules, all bonds qualified under the act and Article IX of the state constitution of 1963 shall be considered qualified upon issuance of the order qualifying bonds by the state treasurer until final maturity.

History: 2007 AACCS.

#### **R 388.4 Debt service payment dates.**

Rule 4. Qualified bonds shall be payable as to principal on May 1, and shall be payable as to interest on May 1 and November 1.

History: 2007 AACCS.

#### **R 388.5 Guidelines.**

Rule 5. The department shall issue guidelines, in accordance with the administrative procedures act, as needed, to assist school districts with completing prequalification and qualification applications.

History: 2007 AACCS.

### **PART 3. SCHOOL LOAN REVOLVING FUND LOANS**

**R 388.6 Certification of computed millage.**

Rule 6. A school district shall authorize and certify the levy of its full computed millage before borrowing from the school loan revolving fund.

History: 2007 AACCS.

**R 388.7 Report of taxable value decrease.**

Rule 7. All school districts that issue qualified bonds shall report the amount of any reduction in taxable value to the department in writing by September 1 of any calendar year in which the taxable value of the school district decreases in comparison to the previous calendar year.

History: 2007 AACCS.

**R 388.8 Annual loan activity application.**

Rule 8. A completed annual loan activity application shall include submission to the department of all of the following:

- (a) A cover transmittal letter.
- (b) An annual loan activity application consisting of a certified resolution in the form prescribed by the department providing for the following:
  - (i) Designation and authorization of a school district official to complete all required and necessary documents related to the school loan revolving fund.
  - (ii) Approval of the estimated amount to be disbursed from or repaid to the school loan revolving fund.
  - (iii) Certification of the amount of qualified debt millage to be levied.
  - (iv) Agreement to take actions or refrain from taking actions as necessary to maintain the tax-exempt status of any bonds or notes issued by the state in accordance with the state constitution of 1963 or by the Michigan municipal bond authority in accordance with the act.
- (c) An annual loan activity worksheet.
- (d) Copies of reconciled bank statements to support the debt fund balance reported on the annual loan activity worksheet.
- (e) Any other documentation and information necessary to determine the amount of the disbursement or repayment.

History: 2007 AACCS.

**R 388.9 Worksheet/draw request.**

Rule 9. (1) A completed draw request shall include submission to the department of all of the following:

- (a) A cover transmittal letter.
- (b) A worksheet/draw request.

(c) Copies of reconciled bank statements to support the debt fund balance reported on worksheet/draw request.

(d) Any other documentation and information necessary to determine the amount of the disbursement.

(2) If the state or the Michigan municipal bond authority issues tax exempt bonds for purposes of funding qualified loans related to qualified bonds, as defined in the act, then school districts that receive proceeds of those tax exempt bonds shall use such proceeds towards the district's qualified debt service within 5 business days of receipt.

History: 2007 AACCS.

### **R 388.10 Mandatory final loan repayment dates for borrowing related to new bond issues.**

Rule 10. The mandatory final loan repayment dates for borrowing related to new bond issues shall be determined as follows:

(a) For school districts that had outstanding qualified loans, applied for qualification before May 25, 2005, and passed a new qualified bond proposal in the year 2005, the mandatory final loan repayment date for borrowing related to the new bond issue shall be a date not later than 72 months after the final maturity date of the new bond issue.

(b) For school districts with outstanding qualified loans that applied for qualification after May 25, 2005, the mandatory final loan repayment date for borrowing for a new bond issue is as follows:

(i) The mandatory final loan repayment date for the qualified loans related to the outstanding qualified bonds as stated in the loan agreement.

(ii) If the school district has prepaid the outstanding amount owed to the state, a date not later than 72 months after the final maturity date of the new bond issue.

(c) For school districts that have no outstanding qualified loans, the mandatory final loan repayment date for borrowing related to a new bond issue shall be not later than 72 months after the final maturity date of the new bond issue.

History: 2007 AACCS.

### **R 388.11 Interest rates on qualified loans.**

Rule 11. (1) All qualified loans outstanding prior to the effective date of the act being July 20, 2005, shall continue to bear interest as provided in the repayment agreements entered into between the district and the state before the effective date of the act.

(2) The interest rate on qualified loans shall be calculated on a weighted-average basis applying the applicable interest costs of all outstanding school loan bonds and computed to the nearest 1/8 of 1 percent.

(3) All qualified loans issued subsequent to the effective date of the act being July 20, 2005, shall bear interest as defined in sec. 9(8) of the act.

(4) The department shall recalculate the interest rate on all qualified loans whenever any of the following occur:

(a) Additional school loan bonds are issued.

- (b) Existing school loan bonds are refunded.
- (c) Principal payments are made on existing school loan bonds.
- (d) Variable interest rates are adjusted on school loan bonds.
- (5) Interest on all qualified loans shall be compounded annually on September 30.

History: 2007 AACCS.

### **R 388.12 Repayment; invoices.**

Rule 12. (1) When the revenue generated by a school district's computed millage levied in a 12-month period exceeds the debt service due on qualified bonds during that 12-month period, then the school district shall pay the difference, less a reasonable amount of funds on hand, as determined by the state treasurer, to cover minimum balance requirements or potential tax disputes, to the department as payment of the outstanding loan.

(2) The department shall issue an invoice to the school district at least once a year when the information contained in a loan activity statement demonstrates that the revenue generated by a school district's levy of the computed millage will exceed the annual debt service on the bonds.

(3) The school district shall remit the amount specified in the invoice to the department not later than the next succeeding May 15 after the dated date of the invoice.

(4) The school district shall promptly submit to the department an explanation of any difference between the invoiced payment due and the payment remitted.

History: 2007 AACCS.

## **PART 4. NONCOMPLIANCE**

### **R 388.13 Noncompliance; remedies.**

Rule 13. (1) The following situations constitute noncompliance:

(a) A school district that owes the state loan repayments relating to qualified bonds fails to levy at least the computed millage upon its taxable value for debt retirement purposes for qualified bonds or qualified loans under the act.

(b) A school district fails to honor its agreement to repay a qualified loan or any installment of a qualified loan.

(c) A school district fails to file or correctly file required documentation as defined in the act or these rules.

(2) In the event of noncompliance, the school district shall do all of the following as required by the department:

(a) File or correct the required documentation.

(b) Increase its debt levy in the next succeeding year to obtain the funds necessary to repay the amount of the default plus a late charge that shall be 3% of the amount due. If a school district fails to levy at least the computed millage upon its taxable value, then the school district shall increase its debt levy in the next succeeding year to obtain the amount necessary to repay the amount of the default plus a late charge that

shall be 3% of the amount due even when such an increase will be higher than the computed millage.

(c) Shall pay to the state the amount of the default plus the 3% late charge together with any other amounts owed during the next tax year following the year in which the default occurred.

(3) The department shall not disburse state school aid to the non-complying school district until arrangements for the payment of the amount in arrears are made with the department's approval.

(4) Failure of a school district to comply with application due dates or failure of a school district to process any report, application, confirmation, or repayment as required under the act or in these rules may result in 1 or both of the following:

(a) The department may issue a notification to the school board requiring a written response of remedy.

(b) The department may withhold a school district's state aid funds until the school district complies with all requirements.

(5) None of the following situations constitutes noncompliance:

(a) Taxpayer delinquencies.

(b) Failure of projected pupil or tax base growth rates to meet initial projections.

(c) Decline in the school district tax base.

History: 2007 AACCS.

## **PART 5. REFUNDING**

### **R 388.14 Refunding qualified loans.**

Rule 14. (1) School districts that intend to refund qualified loans owed to the state under the act shall disclose the intent to do so in the information submitted to the electors at the time of the election for the related new money bonds, if any.

(2) If a school district intends to use the proceeds of a qualified bond to refund all or a portion of its outstanding qualified loans, then the school district shall submit pro forma statements prepared by the school district's financial advisor demonstrating that the refunding of the outstanding qualified loans will result in a net present value savings to the school district. A school district may request, in writing, approval of an exception to this requirement, which shall be granted if the department determines that a reasonable basis for the exception exists, as described in MCL 141.2611(2) of the revised municipal finance act.

(3) For the purposes of calculating the net present value of the principal and interest of the qualified loans being refunded, the interest rate applied shall be the greater of 5% or the historical 5-year average school loan revolving fund loan interest rate as provided by the department.

(4) Qualified bonds issued to refund outstanding qualified loans shall not be issued for a term longer than the projected repayment term of the qualified loans as of the date of the refunding.

History: 2007 AACCS.



**R 388.15 Refunding bonds.**

Rule 15. (1) Bonds issued to refund qualified bonds shall comply with the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101.

(2) The term of the refunding bond shall be not longer than the term of the original bond issue being refunded.

(3) The issuance of refunding bonds should not result in greater borrowing from the school loan revolving fund than would occur without the refunding.

History: 2007 AACCS.

**PART 6. VARIABLE INTEREST RATE DEBT**

**R 388.16 Variable interest rate, interest rate exchange, swap, hedge, or similar agreements.**

Rule 16. (1) School districts using variable interest rate debt or entering into interest rate exchanges, swaps, hedges or similar agreements shall do all of the following:

(a) Maintain a minimum fund balance within any applicable Internal Revenue Service regulations sufficient to limit borrowing from the school loan revolving fund to the regularly scheduled May and November borrowings.

(b) Provide supplemental schedules with current estimates of debt service payments projected for the upcoming year along with the submission of the annual loan activity application.

(c) Provide written notification to the department if changes are made to the indenture documents. If the department does not respond in writing within 30 days after receipt of the notification, then the parties may proceed with the transaction.

(2) A school district may not borrow from the school loan revolving fund to pay a termination payment or similar payment related to the termination or cancellation of an interest rate exchange or swap, hedge, or other similar agreement entered into or modified after July 20, 2005, pursuant to MCL 388.1923(3)(b).

History: 2007 AACCS.

**PART 7. TIME COMPUTATION**

**R 388.17 Business and calendar days in the act.**

Rule 17. Unless otherwise required by these rules, when the act, these rules, or related guidelines refer to time periods of 7 days or less, it shall mean business days. When the act, these rules, or related guidelines refer to time periods greater than 7 days, it shall mean calendar days.

History: 2007 AACCS.

## **PART 8. APPEALS**

### **R 388.18 Appeals.**

Rule 18. (1) A school district may appeal a decision of a designated representative of the department to the state treasurer directly by submitting a written request for reconsideration by the state treasurer detailing the grounds for the request within 30 calendar days of the decision.

(2) The state treasurer shall issue a final determination within 30 calendar days of receipt of the appeal request.

(3) Decisions of the state treasurer are final.

(4) A school district may seek judicial review of a decision in accordance with the provisions of section 631 of 1961 PA 236, MCL 600.631.

History: 2007 AACCS.