

DEPARTMENT OF TREASURY

STATE TREASURER

SCHOOL BOND QUALIFICATION, APPROVAL, AND LOAN RULES

Filed with the secretary of state on February 15, 2022

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the state treasurer by section 11 of the school bond qualification, approval, and loan act, 2005 PA 92, MCL 388.1931, and section 33 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233

R 388.2, R 388.3, R 388.11, R 388.12, and R 388.13 of the Michigan Administrative Code are amended, and R 388.6, R 388.10 and R 388.20 of the Code are rescinded, as follows:

PART 2. SCHOOL BOND QUALIFICATION

R 388.2 Preliminary qualification; application.

Rule 2. (1) A completed preliminary qualification application shall include a submission to the department that complies with section 5 of the act, MCL 388.1925, any other applicable law, and any other guidance published by the department including, but not limited to, global instructions, policies, procedures, guidelines, or rules. The application shall include the following:

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

(i) Section 1361 of the revised school code, 1976 PA 451, MCL 380.1361

(ii) Section 24f of the general property tax act, 1893 PA 206, MCL 211.24f

(iii) Section 8 of the act, MCL 388.1928.

(iv) Any other applicable law.

(b) A description of the project or projects to be financed including 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 shall 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 shall be included:

(A) The planned use of the space.

(B) The type of work expected to be performed.

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(C) The estimated total cost of the work to be performed.

(iv) For site acquisitions, the total cost of acquisition shall be included, 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 both of the following:

(i) That the projected computed millage 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 existing and anticipated qualified loans related to those bonds not later than the final mandatory repayment date.

(ii) That the school district's projected average growth in taxable value is based on the assumptions required by the act.

(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.

(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 sections 5(2)(k) and 7(1)(d) of the act, MCL 388.1925 and 388.1927.

(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.

R 388.3 Qualification of bonds.

Rule 3. (1) To obtain final qualification of bonds, a school district shall, along with meeting any other requirements of section 7 of the act, MCL 388.1927, 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 certificate of determination of election results and vote count approving the bonds.

(c) An updated pro forma debt service projection.

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

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

(3) Supporting documentation for refunding bond issues shall include additional

financial schedules that document net present value savings of the refunding bond issue.

(4) 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.

PART 3. SCHOOL LOAN REVOLVING FUND LOANS

R 388.6 Rescinded.

R 388.10 Rescinded.

R 388.11 Interest rates on qualified loans.

Rule 11. (1) All qualified loans shall bear interest as defined in section 9(8) of the act, MCL 388.1929.

(2) The department shall recalculate the interest rate on all qualified loans at least quarterly.

(3) Interest on all qualified loans shall be compounded annually on September 30.

R 388.12 Repayment; invoices.

Rule 12. (1) 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.

(2) 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.

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

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 addition to any other remedies provided by the act or other state law, in the

event of noncompliance, the school district shall file or correct the required documentation.

(3) 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.

(4) 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.

PART 10. USE OF REMAINING PROCEEDS

R 388.20 Rescinded.