

Act No. 228
Public Acts of 1992
Approved by the Governor
October 15, 1992
Filed with the Secretary of State
October 16, 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Rep. Jacobetti

ENROLLED HOUSE BILL No. 4903

AN ACT to amend sections 2, 4, and 11 of Act No. 108 of the Public Acts of 1961, entitled as amended "An act to provide for loans by the state of Michigan to school districts for the payment of principal and interest upon school bonds; to prescribe the terms and conditions of the loans and the conditions upon which levies for bond principal and interest shall be included in computing the amount to be so loaned by the state; to prescribe the powers and duties of the superintendent of public instruction and the state treasurer in relation to such loans; to provide for the repayment of such loans; to provide incentives for repayment of such loans; to provide for other matters in respect to such loans; and to make an appropriation," section 2 as amended by Act No. 65 of the Public Acts of 1991 and section 4 as amended by Act No. 22 of the Public Acts of 1991, being sections 388.952, 388.954, and 388.961 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 2, 4, and 11 of Act No. 108 of the Public Acts of 1961, section 2 as amended by Act No. 65 of the Public Acts of 1991 and section 4 as amended by Act No. 22 of the Public Acts of 1991, being sections 388.952, 388.954, and 388.961 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 2. (1) If the minimum amount which it would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills or the computed millage under subsection (2), whichever is less, on each dollar of its assessed valuation as last equalized by the state, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall loan the excess amount to the school district for the

payment of principal and interest. For bond issues sold before October 1, 1991 or bond issues sold exclusively to refund qualified bond issues sold before October 1, 1991, schools shall be allowed to borrow at least the percentage over 7 mills allowed them in the 1990-91 fiscal year. The school district shall levy not less than 12 mills or its equivalent for operating purposes.

(2) The computed millage referred to in subsection (1) is the number of mills as computed by the state treasurer that the school district would have to levy in the year the computation is made and each succeeding year to be able to pay the principal and interest on all of its qualified bonds and loans made to the school district under this act, taking into account loans made to the school district under this act for debt service, by not later than 60 months after the final maturity date of all of its qualified bonds outstanding as of the date of the computation, but shall be not less than 7 mills. The state treasurer shall make the computation based on the following assumptions:

(a) An assumed interest rate on loans made under this act equal to the average interest rate on school bond loan fund notes and bonds over the immediately preceding 5-year period.

(b) A projected total state equalized valuation for the school district that assumes a state equalized valuation growth rate or decline rate equal to the school district's average yearly state equalized valuation growth rate or decline rate over the immediately preceding 5-year period.

(3) Upon request made by a school district before June 1 of any year, the superintendent of public instruction and the state treasurer annually may jointly issue an order waiving all or a portion of the millage required to be levied by a school district to pay principal and interest on its qualified bonds pursuant to subsection (1) if they find all of the following:

(a) The school board of the school district has applied to the department of education for permission to levy less than the millage required to be levied to pay the principal and interest on its qualified bonds pursuant to subsection (1).

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

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

(d) The waiver will not reduce the millage levied by the school district to pay principal and interest on qualified bonds under subsection (1) to less than 7 mills.

(e) The school board, by resolution, has agreed to comply with all conditions that the superintendent of public instruction and the state treasurer consider are necessary.

Sec. 4. (1) The superintendent of public instruction shall issue his or her certificate qualifying an issue of bonds, upon application for a certificate being made by the school district, if the superintendent finds the following:

(a) That the last maturity date of the issue of bonds is not less than 10 years from the issuance date appearing on the bonds subject to the following qualifications and exceptions:

(i) Except for bonds issued for a purpose described in section 1274a of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1274a of the Michigan Compiled Laws, or as otherwise provided in this subparagraph, if the ratio of debt to valuation of the school district exceeds 4%, the last maturity date of the issue of bonds shall be not less than 15 years from the issuance date appearing on the bonds; if the ratio of debt to valuation of the school district exceeds 7%, the last maturity date of the issue of bonds shall be not less than 25 years from the issuance date appearing on the bonds; or if the ratio of debt to valuation of the school district exceeds 12%, the last maturity date of the issue of bonds shall be not less than 29 years from the issuance date appearing on the bonds. Regardless of the ratio of debt to valuation of a school district, the state treasurer may authorize the last maturity date of an issue of bonds of that school district to be not less than 10 years from the issuance date appearing on the bonds if the state treasurer determines it is financially beneficial to the state or to the school district. As used in this section, "ratio of debt to valuation" means that ratio arrived at by dividing the total tax supported bonded indebtedness of the school district outstanding as of the date of the filing of the application required by this act, including the bonds proposed to be qualified, by the assessed valuation of the school district as last equalized by the state. The refunding part of any proposed issue of bonds shall not be included in the total indebtedness of the school district for the purposes of this section.

(ii) If the bonds are issued for a purpose described in section 1274a of Act No. 451 of the Public Acts of 1976, the last maturity of the issue of bonds may be less than 10 years from the issuance date appearing on the bonds but not less than the number of years approved by the superintendent of public instruction in the certificate of qualification. The certificate of qualification of the superintendent of public instruction shall contain a certification and approval that the bonds are issued for such a purpose, which approval shall be final and conclusive and shall set forth the minimum number of years for the last maturity of the bonds.

(b) That the yearly principal maturity date is not less than 5 months after the major part of the taxes for the bonds becomes by law a lien upon the property assessed.

(c) Except as otherwise provided in this subdivision, that the amount of principal maturing in any calendar year is not less than the amount of principal maturing in any prior calendar year and, except for bonds issued for a purpose described in section 1274a of Act No. 451 of the Public Acts of 1976, if the ratio of debt to valuation of the school district exceeds 12%, that the first 10 principal maturities do not in the aggregate exceed 25% of the total principal amount of the bonds proposed to be qualified. Regardless of the amount of principal maturing in any calendar year and regardless of the ratio of debt to valuation of the school district, the state treasurer may authorize principal maturities in any amount if the state treasurer determines it is financially beneficial to the state or to the school district. At the request of the school district, the state treasurer may grant that authorization as part of the procedure of preliminary qualification under subdivision (f).

(d) That the cost of the project for which the bonds are to be issued is within reasonable standards of cost as established by the state board of education, which standards may vary as to different localities in accordance with any variance in construction costs between localities.

(e) Except for bonds issued for a purpose described in section 1274a of Act No. 451 of the Public Acts of 1976, that there exists a need for the project based upon current and probable future enrollment and that the project is designed to provide school facilities reasonably adequate to meet that need.

(f) Subject to subsection (3), if a bond issue requires an election, that a bond issue that a school district wishes to qualify has been given preliminary qualification prior to the official action of the board of education calling for the election on the bond issue.

(g) If the bonds are issued for a purpose described in section 1274a of Act No. 451 of the Public Acts of 1976, and if the bonds have not been approved by a majority of the school electors voting on the question, that the school district has demonstrated and the state treasurer has approved the method of payment for, and the ability to pay, the bonds and that the school district has received the prior approval of the department of treasury for the issuance of the bonds under the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws.

(2) For refunding bonds issued to refund bonds issued before May 4, 1955, the superintendent of public instruction shall issue the certificate of qualification if the superintendent finds that the refunding bonds comply with the requirements set forth in subsection (1)(c). For refunding bonds issued to refund bonds issued on or after May 4, 1955, or issued to refund loans from the state made under the authority of this act, the superintendent shall issue the certificate of qualification if the superintendent finds that the refunding bonds comply with the requirements set forth in subsection (1)(c) and also that the refunding bonds are being issued to refund loans from the state made under the authority of this act or that the bonds representing the original indebtedness either were qualified or satisfied the requirements for qualification set forth in subsection (1)(d) and (e) in effect when issued or would have satisfied the requirements set forth in subsection (1)(d) and (e) had those requirements been in effect when the bonds were issued. Refunding bonds issued to refund loans from the state made under the authority of this act shall be considered as refunding bonds for all purposes including section 16 of article IX of the state constitution of 1963.

(3) The requirement of subsection (1)(f) does not apply to a bond issue that is approved by the school district electors between December 31, 1990 and July 1, 1991 and that is in part ineligible for qualification. A series of bonds for such a bond issue may be qualified by the superintendent of public instruction if it is limited to either a project or projects eligible for qualification or refunding of obligations issued for a purpose described in section 1274a of Act No. 451 of the Public Acts of 1976, or both.

Sec. 11. Any school district applying for preliminary qualification of bonds or final qualification of refunding bonds under this act shall pay a fee for the preliminary qualification of bonds or final qualification of refunding bonds, which fee shall be used toward defraying the administrative expenses in connection with this act and Act No. 151 of the Public Acts of 1955, as amended, being sections 388.931 to 388.938 of the Michigan Compiled Laws. The fee shall be paid to the superintendent of public instruction within 30 days after the money obtained through the sale of the preliminarily qualified bonds or finally qualified refunding bonds has been received by the treasurer of the board of education of the school district. The superintendent of public instruction shall promulgate necessary rules in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. The amount of the fee to be charged to the school district shall be determined by the superintendent of public instruction. The amount of the fee shall vary according to the amount of the bond issue, except that it shall not be less than \$100.00, and the total amount to be charged to all school districts in any 1 fiscal year shall be approximately equal to the estimated administrative expenses in connection with this act for the same fiscal year. Upon failure of any school district to pay the preliminary qualification fee or final qualification of refunding bonds fee within the time specified, the superintendent of public instruction may withhold the amount of the fee from the payment of state school aid money next due the district.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved

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Governor.