

Act No. 14
Public Acts of 1992
Approved by the Governor
March 10, 1992
Filed with the Secretary of State
March 10, 1992

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

Introduced by Rep. Keith

ENROLLED HOUSE BILL No. 5002

AN ACT to amend section 1225 of Act No. 451 of the Public Acts of 1976, entitled as amended "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and classify the laws relating to elementary and secondary education; to provide for the classification, organization, regulation, and maintenance of schools, school districts, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, and intermediate school districts; to provide for the regulation of school teachers and school administrators; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal certain acts and parts of acts," as amended by Act No. 306 of the Public Acts of 1982, being section 380.1225 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 1225 of Act No. 451 of the Public Acts of 1976, as amended by Act No. 306 of the Public Acts of 1982, being section 380.1225 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 1225. (1) Subject to restrictions of this section, the board of a local or intermediate school district may borrow money and issue its notes for the borrowed money to secure funds for school operations or to pay previous loans made for school operations under this or any other statute. The board shall pledge money to be received by it from state school aid for the payment of notes issued under this section. The notes are full faith and credit obligations of the school district and are payable from tax levies or from unencumbered funds of the school district in event of the unavailability or insufficiency of state school aid for any reason.

(2) Notes issued under this section shall become due not later than 12 months after the date on which they are issued, except as provided in this section. Notes issued within a fiscal year shall not exceed 100% of the difference between the total state aid funds apportioned to the school district for that fiscal year and the portion already received or pledged, except secondary pledges made under section 1356.

(3) A school district that is not able to redeem its notes within 12 months after the date on which the notes were issued may enter into a multi-year agreement with a lending institution to repay its obligation. A repayment agreement shall not be executed without the prior approval of an authorized representative of the state board.

(4) During the last 3 months of a fiscal year, additional notes may be issued pledging state school aid for the next succeeding fiscal year. The additional notes shall not exceed 15% of the state school aid apportioned to the school district for the next succeeding fiscal year or if the apportionment has not been made, 15% of the apportionment for the then current fiscal year. The additional notes shall mature not later than 12 months after the date of issuance. Notes sold and delivered under this section shall bear interest at a rate agreed to by the board, which rate shall not exceed the rate provided in section 1a of chapter III of the municipal finance act, Act No. 202 of the Public Acts of 1943, as amended, being section 133.1a of the Michigan Compiled Laws, and may be made redeemable before maturity on the terms and conditions provided in the notes.

(5) Notes issued under this section are not subject to the municipal finance act, Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 139.3 of the Michigan Compiled Laws. A local or intermediate school board shall not issue notes under this section unless it applies for and receives the prior approval of the authorized representative of the state board or a school board requests and receives an exception from prior approval pursuant to subsections (7), (8), and (9). A certificate of approval issued by the authorized representative of the state board shall show the estimated amount of state school aid allocated to the school district for the current fiscal year and, if applicable, for the next succeeding fiscal year and payments that have been distributed to the school district before the date of the certificate. Failure of a school district to receive state school aid shall not affect the validity or enforceability of a note issued under this section.

(6) A local or intermediate school board may make more than 1 borrowing under this section during a school year. A board shall not contest the validity of a note issued by it under this section if the note has been approved by the authorized representative of the state board and the district has received the principal amount of the note. The certificate of approval and estimated determination of state school aid by the authorized representative of the state board shall be conclusive as to the authority of a board to borrow under this section. The certificate shall be signed by the authorized representative of the state board.

(7) A local school board may submit a request to the authorized representative of the state board for an exception from prior approval on a form prescribed by the authorized representative. The request shall be accompanied by a filing fee of \$100.00 for a request relating to notes totaling less than \$500,000.00 or \$400.00 for a request relating to notes totaling \$500,000.00 or more. If the request is not accompanied by the proper filing fee or by other information or materials required by law, the authorized representative shall not consider the request to be complete and may return the request without acting upon it.

(8) Not later than 10 business days after receiving a complete request and proper filing fee under subsection (7), the authorized representative of the state board shall issue an order granting the exception unless the representative finds that 1 or more of the following conditions exist or have occurred:

(a) It appears from the information submitted by the school district under section 102 of the state school aid act of 1979, being section 388.1702 of the Michigan Compiled Laws, and from other information available to the department that the school district ended its immediately preceding fiscal year with a deficit in 1 or more of its funds and does not have a plan approved under section 102(5) of the state school aid act of 1979 for eliminating the deficit.

(b) The school district has failed to comply with the requirements of this section with regard to an outstanding note issued under this section or a note issued under this section during the 3 years immediately preceding the date of the request.

(c) The school district is in default in the payment of the principal of or interest on any of its obligations.

(9) If the authorized representative of the state board finds that 1 or more of the conditions described in subsection (8)(a) to (c) applies to a request for an exception under subsection (7), the representative may issue an order denying the request or may grant the exception if he or she finds that the existence of the condition is inconsequential to the request. If the representative fails to act on a complete request within the 10-day period specified in subsection (8), the exception shall be considered to be granted as of the expiration of the 10-day period.

(10) Subject to the maximum amounts for notes as specified in subsections (2) and (4), an exception from prior approval, whether granted by order of the authorized representative of the state board or because of failure of the representative to act on the request, is valid for 4 months.

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.