

SENATE BILL No. 359

June 5, 1991, Introduced by Senator WARTNER and referred to the Committee on Education.

A bill to amend section 1225 of Act No. 451 of the Public Acts of 1976, entitled as amended

"The school code of 1976,"

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:

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

5 Sec. 1225. (1) Subject to restrictions of this section, the
6 board of a local or intermediate school district may borrow money
7 and issue its notes for the borrowed money to secure funds for
8 school operations or to pay previous loans made for school
9 operations under this or any other statute. The board shall

1 pledge money to be received by it from state school aid for the
2 payment of notes issued under this section. The notes are full
3 faith and credit obligations of the school district and are pay-
4 able from tax levies or from unencumbered funds of the school
5 district in event of the unavailability or insufficiency of state
6 school aid for any reason.

7 (2) Notes issued UNDER THIS SECTION shall become due not
8 later than September 1 immediately following the fiscal year in
9 which they are issued, except as provided in this section. Notes
10 issued within a fiscal year shall not exceed 100% of the differ-
11 ence between the total state aid funds apportioned to the school
12 district for that fiscal year and the portion already received or
13 pledged, except secondary pledges made under section 1356.

14 (3) A school district that is not able to redeem its notes
15 before September 1 immediately following the fiscal year in which
16 the notes were issued may enter into a multi-year agreement with
17 a lending institution to repay its obligation. A repayment
18 agreement shall not be executed without the prior approval of an
19 authorized representative of the state board.

20 (4) During the last 3 months of a fiscal year, additional
21 notes may be issued pledging state school aid for the next
22 SUCCEEDING fiscal year. The additional notes shall not exceed
23 15% of the state school aid apportioned to the school district
24 for the next SUCCEEDING fiscal year or if the apportionment has
25 not been made, 15% of the apportionment for the then current
26 fiscal year. The additional notes shall mature not later than
27 November 1 immediately following the date of issuance. Notes

1 sold and delivered under this section shall bear interest at a
2 rate agreed to by the board, which rate shall not exceed the rate
3 provided in section 1a of chapter III of the municipal finance
4 act, Act No. 202 of the Public Acts of 1943, as amended, being
5 section 133.1a of the Michigan Compiled Laws, and may be made
6 redeemable ~~prior to~~ BEFORE maturity on the terms and conditions
7 provided in the notes.

8 (5) Notes issued under this section ~~shall~~ ARE not ~~be~~
9 subject to the municipal finance act, Act No. 202 of the Public
10 Acts of 1943, as amended, being sections 131.1 to ~~138.2~~ 139.3
11 of the Michigan Compiled Laws. ~~Notes~~ A LOCAL OR INTERMEDIATE
12 SCHOOL BOARD shall not ~~be issued without~~ ISSUE NOTES UNDER THIS
13 SECTION UNLESS IT APPLIES FOR AND RECEIVES the prior approval of
14 the authorized representative of the state board ~~given upon~~
15 ~~application of the board of the school district~~ OR A SCHOOL
16 BOARD REQUESTS AND RECEIVES AN EXCEPTION FROM PRIOR APPROVAL PUR-
17 SUANT TO SUBSECTIONS (7), (8), AND (9). A certificate of
18 approval issued by the authorized representative of the state
19 board shall show the estimated amount of state school aid allo-
20 cated to the school district for the current fiscal year and, if
21 applicable, for the next succeeding fiscal year and payments
22 ~~which~~ THAT have been distributed to the school district before
23 the date of the certificate. Failure of a school district to
24 receive state school aid shall not affect the validity or
25 enforceability of a note issued under this section.

26 (6) A LOCAL OR INTERMEDIATE SCHOOL board may make more than
27 1 borrowing under this section during a school year. A board

1 shall not contest the validity of a note issued by it under this
2 section if the note has been approved by the authorized represen-
3 tative of the state board and the district has received the prin-
4 cipal amount of the note. The certificate of approval and esti-
5 mated determination of state school aid by the authorized repre-
6 sentative of the state board shall be conclusive as to the
7 authority of a board to borrow under this section. The certifi-
8 cate shall be signed by the authorized representative of the
9 state board.

10 (7) A LOCAL SCHOOL BOARD MAY SUBMIT A REQUEST TO THE AUTHO-
11 RIZED REPRESENTATIVE OF THE STATE BOARD FOR AN EXCEPTION FROM
12 PRIOR APPROVAL ON A FORM PRESCRIBED BY THE AUTHORIZED
13 REPRESENTATIVE. THE REQUEST SHALL BE ACCOMPANIED BY A FILING FEE
14 OF \$100.00 FOR A REQUEST RELATING TO NOTES TOTALING LESS THAN
15 \$500,000.00 OR \$400.00 FOR A REQUEST RELATING TO NOTES TOTALING
16 \$500,000.00 OR MORE. IF THE REQUEST IS NOT ACCOMPANIED BY THE
17 PROPER FILING FEE OR BY OTHER INFORMATION OR MATERIALS REQUIRED
18 BY LAW, THE AUTHORIZED REPRESENTATIVE SHALL NOT CONSIDER THE
19 REQUEST TO BE COMPLETE AND MAY RETURN THE REQUEST WITHOUT ACTING
20 UPON IT.

21 (8) NOT LATER THAN 10 CALENDAR DAYS AFTER RECEIVING A COM-
22 PLETE REQUEST AND PROPER FILING FEE UNDER SUBSECTION (7), THE
23 AUTHORIZED REPRESENTATIVE OF THE STATE BOARD SHALL ISSUE AN ORDER
24 GRANTING THE EXCEPTION UNLESS THE REPRESENTATIVE FINDS THAT 1 OR
25 MORE OF THE FOLLOWING CONDITIONS EXIST OR HAVE OCCURRED:

26 (A) IT APPEARS FROM THE INFORMATION SUBMITTED BY THE SCHOOL
27 DISTRICT UNDER SECTION 102 OF THE STATE SCHOOL AID ACT OF 1979,

1 BEING SECTION 388.1702 OF THE MICHIGAN COMPILED LAWS, AND FROM
2 OTHER INFORMATION AVAILABLE TO THE DEPARTMENT THAT THE SCHOOL
3 DISTRICT ENDED ITS IMMEDIATELY PRECEDING FISCAL YEAR WITH A DEFI-
4 CIT IN 1 OR MORE OF ITS FUNDS AND DOES NOT HAVE A PLAN APPROVED
5 UNDER SECTION 102(5) OF THE STATE SCHOOL AID ACT OF 1979 FOR
6 ELIMINATING THE DEFICIT.

7 (B) THE SCHOOL DISTRICT HAS FAILED TO COMPLY WITH THE
8 REQUIREMENTS OF THIS SECTION WITH REGARD TO AN OUTSTANDING NOTE
9 ISSUED UNDER THIS SECTION OR A NOTE ISSUED UNDER THIS SECTION
10 DURING THE 3 YEARS IMMEDIATELY PRECEDING THE DATE OF THE
11 REQUEST.

12 (C) THE SCHOOL DISTRICT IS IN DEFAULT IN THE PAYMENT OF THE
13 PRINCIPAL OF OR INTEREST ON ANY OF ITS OBLIGATIONS.

14 (9) IF THE AUTHORIZED REPRESENTATIVE OF THE STATE BOARD
15 FINDS THAT 1 OR MORE OF THE CONDITIONS DESCRIBED IN SUBSECTION
16 (8)(A) TO (C) APPLIES TO A REQUEST FOR AN EXCEPTION UNDER SUBSEC-
17 TION (7), THE REPRESENTATIVE MAY ISSUE AN ORDER DENYING THE
18 REQUEST OR MAY GRANT THE EXCEPTION IF HE OR SHE FINDS THAT THE
19 EXISTENCE OF THE CONDITION IS INCONSEQUENTIAL TO THE REQUEST. IF
20 THE REPRESENTATIVE FAILS TO ACT ON A REQUEST WITHIN THE 10-DAY
21 PERIOD SPECIFIED IN SUBSECTION (8), THE EXCEPTION SHALL BE CON-
22 sidered TO BE GRANTED AS OF THE EXPIRATION OF THE 10-DAY PERIOD.

23 (10) AN EXCEPTION FROM PRIOR APPROVAL, WHETHER GRANTED BY
24 ORDER OF THE AUTHORIZED REPRESENTATIVE OF THE STATE BOARD OR
25 BECAUSE OF FAILURE OF THE REPRESENTATIVE TO ACT ON THE REQUEST,
26 IS VALID FOR 4 MONTHS.