

Act No. 258
Public Acts of 1994
Approved by the Governor
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**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Reps Walberg Bobier LeTarte Profit Saunders Baade Byrum Cropsey Bennane Nye
Oxender Dalman McNutt Bender Randall Keith Stille Fitzgerald Hammerstrom Rhead Lowe
Porreca Pitomak Munsell Kilpatrick Gernaat and Bullard
Reps Bryant Gilmer Gnodtke London McBryde Middaugh Middleton and Voorhees named
co sponsors

ENROLLED HOUSE BILL No. 5445

AN ACT to amend sections 624a 681 681a 682 705 1211 1211c 1262 1451 1724 and 1727a 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 sections 624a 681a 705 1211c and 1727a as added and section 1451 as amended by Act No 312 of the Public Acts of 1993 section 681 as amended by Act No 21 of the Public Acts of 1984 section 1211 as amended by Act No 136 of the Public Acts of 1994 and section 1262 as amended by Act No 147 of the Public Acts of 1983 being sections 380 624a 380 681 380 681a 380 682 380 705 380 1211 380 1211c 380 1262 380 1451 380 1724 and 380 1727a of the Michigan Compiled Laws to add sections 625a 1211d 1211e and 1724a to repeal certain parts of the act and to repeal certain parts of the act on a specific date

The People of the State of Michigan enact

Section 1 Sections 624a 681 681a 682 705 1211 1211c 1262 1451 1724 and 1727a of Act No 451 of the Public Acts of 1976 sections 624a 681a 705 1211c and 1727a as added and section 1451 as amended by Act No 312 of the Public Acts of 1993 section 681 as amended by Act No 21 of the Public Acts of 1984 section 1211 as amended by Act No 136 of the Public Acts of 1994 and section 1262 as amended by Act No 147 of the Public Acts of 1983 being sections 380 624a 380 681 380 681a 380 682 380 705 380 1211 380 1211c 380 1262 380 1451 380 1724 and 380 1727a of the Michigan Compiled Laws are amended and sections 625a 1211d 1211e and 1724a are added to read as follows

Sec 624a Except as provided in section 705 beginning January 1 1994 and each year after 1994 the board of an intermediate school district may levy ad valorem property taxes for operating purposes at a rate not to exceed the maximum number of mills allocated to that intermediate school district in 1993 as provided for under the property tax limitation act Act No 62 of the Public Acts of 1933 being sections 211 201 to 211 217a of the Michigan Compiled Laws

Sec 625a Except as provided in section 705 beginning in 1995 the board of an intermediate school district may levy ad valorem property taxes for operating purposes at a rate not to exceed 1 5 times the number of mills allocated to the intermediate school district for those purposes in 1993 as provided for under the property tax limitation act Act No 62 of the Public Acts of 1933 being sections 211 201 to 211 217a of the Michigan Compiled Laws

Sec 681 (1) An intermediate school district may establish an area vocational technical education program and operate the program under sections 681 to 690 if approved by a majority of the intermediate school electors of the intermediate school district voting on the question The election shall be called and conducted pursuant to sections 661 and 662 The establishment of the area vocational technical education program may be rescinded by the same process

(2) The question of establishing an area vocational technical education program may be submitted to the intermediate school electors of an intermediate school district at an annual election or at a special election held in each of the constituent districts The intermediate school board shall determine the date of the election and shall give notice under section 662 to the secretary of each constituent district at least 60 days in advance of the date the proposition is to be submitted to the intermediate school electors

(3) The ballot for referring the question of adopting sections 681 to 690 and establishing an area vocational technical education program to the intermediate school electors of an intermediate school district shall be substantially in the following form

Shall _____ state of Michigan come under sections 681 to 690 of the
(g l m f t m l t h l d t t)
school code of 1976 and establish an area vocational technical education program which is designed to encourage the operation of area vocational technical education programs if the annual property tax levied for this purpose is limited to _____ mills?

Yes ()

No ()

(4) Beginning in 1995 the number of mills of ad valorem property taxes an intermediate school board may levy for area vocational technical education program operating purposes under sections 681 to 690 is limited to the following

(a) If the intermediate school district did not levy any millage in 1993 for area vocational technical education program operating purposes under sections 681 to 690 the intermediate school board with the approval of the intermediate school electors may levy not more than 1 mill for those purposes

(b) If the intermediate school district levied millage in 1993 for area vocational technical education program operating purposes under sections 681 to 690 the intermediate school board with the approval of the intermediate school electors may levy mills for those purposes at a rate not to exceed 1 5 times the number of mills authorized for those purposes in the intermediate school district in 1993 Approval of the intermediate school electors is not required for the levy under this subdivision of previously authorized mills until that authorization expires

(5) An intermediate school district shall not hold more than 2 elections in a calendar year concerning the authorization of a millage rate for area vocational technical education program operating purposes under sections 681 to 690

Sec 681a Beginning January 1 1994 and each year after 1994 the board of an intermediate school district may levy ad valorem property taxes for area vocational technical education program purposes under sections 681 to 690 at a rate not to exceed the number of mills levied for those purposes by the intermediate school district in 1993

Sec 682 Subject to section 681(4) an intermediate school board operating under sections 681 to 690 may direct that the question of increasing the millage limit on the annual property tax levied for area vocational technical education be submitted to the intermediate school electors of the intermediate school district The election shall be called and conducted under sections 661 and 662 The ballot shall be substantially in the following form

Shall the _____ mill limitation on the annual property tax previously approved by the electors of
_____ state of Michigan for the establishment and operation of area vocational technical
(g l m f t m d t h l d t t)
education programs be increased by _____ mills?

Yes ()

No ()

Sec 705 (1) Beginning in 1997 and each year after 1997 a regional enhancement property tax may be levied by an intermediate school district at a rate not to exceed 3 mills to enhance other state and local funding for local school district operations if approved by a majority of the intermediate school electors voting on the question

(2) If a resolution requesting that the question of a regional enhancement property tax be submitted to the voters is adopted within a 180 day period and transmitted to the intermediate school board by 1 or more boards of its constituent school districts representing a majority of the combined membership of the constituent school districts as of the most recent pupil membership count day and if those resolutions all contain an identical specified number of mills to be levied under this section and an identical specified number of years for which the tax shall be levied the question of levying a regional enhancement property tax by the intermediate school district shall be placed on the ballot by the intermediate school district at the next annual school election held in each of the constituent districts. However if the question is to be submitted at an annual school election and a constituent district does not hold its annual election on the second Monday in June the intermediate school board shall call a special election in that constituent district to be held on the same day as the annual school election. If the question is to be submitted to the intermediate school electors of an intermediate school district having a population of more than 1 400 000 the intermediate school board shall call a special election to be held at the next state primary or general election. However if the resolution requirement is met more than 180 days before the next annual school district elections to be held on the second Monday in June and if requested in the resolutions the intermediate school board shall submit the question of levying a regional enhancement property tax within the intermediate school district on the ballot at a special election under section 662 called by the intermediate school board for that purpose not earlier than 90 days or later than 120 days after the resolution requirements are met.

(3) Not later than 10 days after receipt by the intermediate school district of the revenue from the regional enhancement property tax the intermediate school district shall calculate and pay to each of its constituent school districts an amount of the revenue calculated by dividing the total amount of the revenue by the combined membership of the constituent school districts within the intermediate district as of the most recent pupil membership count day and multiplying that quotient by the constituent school district's membership as of the most recent pupil membership count day for which a final department audited pupil count is available.

(4) Regional enhancement property tax under this section may be levied for a term not to exceed 20 years as specified in the ballot question and may be renewed for the same term with the approval of a majority of the intermediate school electors voting on the question.

(5) The question of levying a regional enhancement property tax under this section shall be presented to the intermediate school electors as a separate question.

Sec 1211 (1) Except as otherwise provided in this section and section 1211c the board of a school district shall levy not more than 18 mills for school operating purposes or the number of mills levied in 1993 for school operating purposes whichever is less. A homestead and qualified agricultural property are exempt from the mills levied under this subsection except for the number of mills by which that exemption is reduced under this subsection. The board of a school district with a foundation allowance calculated under section 20 of the state school aid act of 1979 being section 388 1620 of the Michigan Compiled Laws for the 1994 95 state fiscal year of more than \$6 500 00 may reduce the number of mills from which a homestead and qualified agricultural property are exempted under this subsection by up to the number of mills as certified under section 1211a required to be levied on a homestead and qualified agricultural property for the school district's combined state and local revenue per membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for the state fiscal year ending in 1995 and the board also may levy in 1994 or a succeeding year that number of mills for school operating purposes on a homestead and qualified agricultural property.

(2) Subject to subsection (3) if the department of treasury determines that the maximum number of mills allowed to be levied under subsection (1) on all classes of property is not sufficient for a school district's combined state and local revenue per membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for that school fiscal year the board of the school district may levy in 1994 or a succeeding year additional mills uniformly on all property up to the number of mills required for the school district's combined state and local revenue per membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for the state fiscal year ending in 1995.

(3) After 1994 the number of mills a school district may levy under this section on any class of property shall not exceed the lesser of the number of mills the school district is certified by the department of treasury under section 1211a to levy on that class of property under this section in 1994 or the number of mills required to be levied on that class of property under this section to ensure that the increase from the immediately preceding state fiscal year in the school district's combined state and local revenue per membership pupil calculated as if the school district had levied the maximum number of mills the school district was allowed to levy under this section regardless of the number of mills the school district actually levied does not exceed the lesser of the dollar amount of the increase in the basic foundation allowance under section 20 of the state school aid act of 1979 from the immediately preceding state fiscal year or the percentage increase in the general price level in the immediately preceding calendar year. If the number of mills a school district is allowed to levy under this section in a year after 1994 is less than the number of mills the school district was allowed to levy under this section in the immediately preceding year any reduction required by this subsection in the school district's millage rate shall be calculated by first reducing the number of mills the school district

is allowed to levy under subsection (2) and then increasing the number of mills from which a homestead and qualified agricultural property are exempted under subsection (1)

(4) Millage levied under this section must be approved by the school electors. For the purposes of this section millage approved by the school electors before January 1, 1994 for which the authorization has not expired is considered to be approved by the school electors.

(5) If a school district levies millage for school operating purposes that is in excess of the limits of this section, the amount of the resulting excess tax revenue shall be deducted from the school district's next regular tax levy.

(6) If a school district levies millage for school operating purposes that is less than the limits of this section, the board of the school district may levy at the school district's next regular tax levy an additional number of mills not to exceed the additional millage needed to make up the shortfall.

(7) A school district shall not levy mills allocated under the property tax limitation act, Act No. 62 of the Public Acts of 1933, being sections 211.201 to 211.217a of the Michigan Compiled Laws, other than mills allocated to a school district of the first class for payment to a public library commission under section 11(4) of Act No. 62 of the Public Acts of 1933, being section 211.211 of the Michigan Compiled Laws, after 1993.

(8) As used in this section:

(a) Combined state and local revenue per membership pupil means that term as defined in section 20 of the state school aid act of 1979.

(b) Foundation allowance means a school district's foundation allowance as calculated under section 20 of the state school aid act of 1979.

(c) General price level means that term as defined in section 33 of article IX of the state constitution of 1963.

(d) Homestead and qualified agricultural property mean those terms as defined in section 1211d or in section 7dd of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.7dd of the Michigan Compiled Laws. If a term defined in section 1211d is defined in section 7dd of Act No. 206 of the Public Acts of 1893 differently than the term is defined in section 1211d, then that term as used in this section means that term as defined in section 7dd of Act No. 206 of the Public Acts of 1893.

(e) Membership means that term as defined in section 6 of the state school aid act of 1979, being section 388.1606 of the Michigan Compiled Laws.

(f) School operating purposes includes expenditures for furniture and equipment, for alterations necessary to maintain school facilities in a safe and sanitary condition, for funding the cost of energy conservation improvements in school facilities, for deficiencies in operating expenses for the preceding year, and for paying the operating allowance due from the school district to a joint high school district in which the school district is a participating school district under part 3a. Taxes levied for school operating purposes do not include any of the following:

(i) Taxes levied by a school district for operating a community college under part 25.

(ii) Taxes levied under section 1212.

(iii) Taxes levied under section 1356(4) for eliminating an operating deficit.

(iv) Taxes levied for operation of a library under section 260 or 1451 or for operation of a library established pursuant to Act No. 261 of the Public Acts of 1913, being sections 397.261 to 397.262 of the Michigan Compiled Laws, that were not included in the operating millage reported by the district to the department as of April 1, 1993. However, a district may report to the department not later than April 1, 1994, the number of mills it levied in 1993 for a purpose described in this subparagraph that the school district does not want considered as operating millage, and then that number of mills is excluded under this section from taxes levied for school operating purposes.

(v) Taxes paid by a school district of the first class to a public library commission pursuant to section 11(4) of Act No. 62 of the Public Acts of 1933, being section 211.211 of the Michigan Compiled Laws.

(vi) Taxes levied under section 1512 for operation of a community swimming pool. In addition, if a school district included the millage it levied in 1993 for operation of a community swimming pool as part of its operating millage reported to the department for 1993, the school district may report to the department not later than June 17, 1994, the number of mills it levied in 1993 for operation of a community swimming pool that the school district does not want considered as operating millage, and then that number of mills is excluded under this section from taxes levied for school operating purposes.

Sec. 1211a. Not later than June 20, 1994, the department of treasury shall certify each school district's combined state and local revenue per membership pupil, as defined in section 1211, for the school fiscal year ending in 1994, the number of mills the school district may levy beginning in 1994 under section 1211, and the number of mills by which the school district may reduce the exemption for a homestead and qualified agricultural property for 1994 under section 1211. The department of education shall provide to the department of treasury all information necessary for the department of treasury to make the certifications under this section. Not later than July 20, 1994, a school district may appeal the determinations made by the department of treasury for the district under this section. An appeal under this

subsection shall be made to the superintendent of public instruction who may assign the appeal to a hearing officer. The superintendent of public instruction shall offer any appealing school district an appeal conference to attempt to resolve the issues raised in the appeal without a hearing. If the appeal conference does not resolve the issues, the superintendent of public instruction or hearing officer may conduct a hearing. Based upon the appeal, the information submitted by the school district and the information provided by the department of treasury, the hearing officer shall submit a proposed decision to the superintendent of public instruction either affirming the determinations made by the department of treasury or directing the department of treasury to make specific adjustments. Not later than 30 days after receiving the proposed decision or not later than 30 days after hearing the appeal, the superintendent of public instruction shall issue a final decision either affirming the determinations made by the department of treasury or directing the department of treasury to make specific adjustments and provide a copy to the school district.

Sec 1211c For 1994 through 1996, a school district may levy, in addition to the millage authorized under section 1211, not to exceed 3 mills for operating purposes if approved by the school electors at an election held after 1993. The question of levying mills authorized under this section shall be presented to school electors as a separate question.

Sec 1211d (1) Except as otherwise provided in subsection (2) as used in this section and in section 1211,

(a) **Homestead** means that portion of a dwelling or unit in a multiple unit dwelling that is subject to ad valorem taxes and is owned and occupied as a principal residence by an owner of the dwelling or unit. Homestead also includes all of an owner's unoccupied property classified as residential that is adjoining or contiguous to the dwelling subject to ad valorem taxes and that is owned and occupied as a principal residence by the owner. Contiguity is not broken by a road or a right of way. Homestead also includes any portion of a principal single family dwelling or a single family unit in a multiple unit dwelling used as a residence of an owner that is rented or leased to another person as a residence as long as that portion of the principal residence that is rented or leased is less than 50% of the total square footage of living space in the principal residence. Homestead also includes a life care facility registered under the living care disclosure act, Act No. 440 of the Public Acts of 1976, being sections 554.801 to 554.844 of the Michigan Compiled Laws. Homestead also includes property owned by a cooperative housing corporation and occupied as a principal residence by tenant stockholders.

(b) **Owner** means a person who is 1 of the following:

(i) A person who owns property or who is purchasing property under a land contract;

(ii) A person who is a partial owner of property;

(iii) A person who owns property as a result of being a beneficiary of a will or trust or as a result of intestate succession;

(iv) A person who owns or is purchasing a dwelling on leased land;

(v) A person holding a life lease in property previously sold or transferred to another;

(vi) A grantor who has placed the property in a revocable trust or a qualified personal residence trust;

(c) **Person** for purposes of a homestead means an individual and for purposes of qualified agricultural property means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(d) **Principal residence** means the 1 place where a person has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established.

(e) **Qualified agricultural property** means unoccupied property and related buildings classified as agricultural or other unoccupied property and related buildings located on that property devoted primarily to agricultural use as defined in section 2 of the farmland and open space preservation act, Act No. 116 of the Public Acts of 1974, being section 554.702 of the Michigan Compiled Laws. Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed an exemption on a homestead on other property. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agriculture use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or a residence that is not a related building.

(2) If a term defined in this section is defined in section 7dd of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.7dd of the Michigan Compiled Laws, differently than that term is defined in subsection (1), then that term as used in this section and in section 1211 means that term as defined in section 7dd of Act No. 206 of the Public Acts of 1893.

Sec 1211e (1) Subject to subsection (2), to claim an exemption under section 1211(1) for qualified agricultural property for the 1994 tax year, if an affidavit claiming an exemption on a homestead was not filed for the property by May 1, 1994, an affidavit claiming the exemption on qualified agricultural property shall be filed with the local assessing

unit by June 1 1994 If property is qualified agricultural property and is classified as agricultural property under section 34c of the general property tax act Act No 206 of the Public Acts of 1893 being section 211 34c of the Michigan Compiled Laws that property is exempt and an affidavit claiming the exemption does not need to be filed

(2) If there are provisions in Act No 206 of the Public Acts of 1893 that are inconsistent with subsection (1) the provisions of Act No 206 of the Public Acts of 1893 prevail

Sec 1262 (1) The board of a school district or a local act school district may acquire real or personal property for use for school purposes by purchase land contract lease with or without option to purchase or title retaining contract The board may enter into contracts for the purchase of telecommunication and technology related services for school purposes to be paid for in installments over a period not to exceed the term of the contract However if the board borrows funds to pay for telecommunication and technology related services the total cost of principal interest and fees and expenses of borrowed funds shall not exceed the total amount of the original service installment contract The board may pay for the property or services out of funds of the district which are or may become lawfully available for these purposes and shall record any expenditure for property as a capital cost and any expenditure for the purchase of services as an operating expense The outstanding balance of all contractual agreements exclusive of interest shall not exceed 1 1/4% of the state equalized valuation of real and personal property in the district

(2) The board of a school district or an intermediate school district may enter into an executory land contract or agreement for the sale of real property not required for school purposes if the contract or agreement requires the full purchase price to be paid in installments within not more than 10 years after the date of the contract or within not more than 20 years after the date of the contract if the sale is to another unit of government A contract or agreement described in this subsection and entered into before the effective date of this subsection is validated and made legal and enforceable

(3) The board of a school district or a local act school district may sell exchange or lease real or personal property of the school district which is no longer required for school purposes and give proper deeds bills of sale or other instruments passing title to the property

(4) Proceeds from the sale of real property on which there is no bonded debt shall be credited to any account of the school district However if bonded debt exists on the property sold the sale proceeds shall be credited to the debt retirement account If the sale proceeds exceed the existing bonded debt including interest on the property sold the board shall credit the residual to any other account of the school district

Sec 1451 (1) A school district other than a primary school district by a majority vote of the school electors at an annual or special election may establish a public library

(2) The school electors of a school district in which a library is established may vote a district tax for the support of the public library at an annual or special election of the district The board of the school district may vote a tax for the maintenance and support of the public library

(3) A tax authorized or voted under this part shall be levied and collected in the same manner as other school district taxes are levied and collected

(4) The millage allowed under this section may be levied without a vote of the school electors of the school district until the millage authorization expires The rate of a tax authorized or voted under this section shall not exceed the number of mills levied by the school district under this section in 1993 that were not included in the operating millage reported by the school district to the department as of April 1 1993 or the number of mills levied by the school district under this section in 1993 that the school district does not want considered as operating millage reported by the school district as of April 1 1994 whichever is greater

(5) The board of a school district shall not hold an election to levy mills under this section after December 31 1993

Sec 1724 Subject to section 1724a an intermediate school board operating under sections 1722 to 1729 may direct that the question of increasing the millage limit on the annual property tax levied for special education be submitted to the school electors of the intermediate school district The election shall be called and held in the manner provided in sections 661 and 662 The ballot shall be substantially in the following form

Shall the _____ mill limitation on the annual property tax previously approved by the electors of the _____ state of Michigan for the education of handicapped persons be increased by _____ mills?
(d g l m f t h t m d t h l l t t)

Yes ()
No ()

Sec 1724a (1) Beginning in 1995 the board of an intermediate school district may levy ad valorem property taxes for special education purposes under sections 1722 to 1729 at a rate not to exceed 1 75 times the number of mills of those taxes authorized in the intermediate school district in 1993 All or part of the millage levied under this section may be

renewed as provided in this article Approval of the intermediate school electors is not required for the levy under this section of previously authorized mills until that authorization expires

(2) An intermediate district shall not hold more than 2 elections in a calendar year concerning the authorization of a millage rate for special education purposes under sections 1722 to 1729

Sec 1727a Beginning in 1994 and each year after 1994 the board of an intermediate school district may levy ad valorem property taxes for special education purposes under sections 1722 to 1729 at a rate not to exceed the number of mills of those taxes levied in the intermediate school district in 1993 All or part of the millage levied under this section may be renewed as provided in this article

Section 2 Sections 705a 705b 1211b and 1451a of Act No 451 of the Public Acts of 1976 being sections 380 705a 380 705b 380 1211b and 380 1451a of the Michigan Compiled Laws are repealed

Section 3 Sections 624a 681a and 1727a of Act No 451 of the Public Acts of 1976 section 624a as added by Act No 312 of the Public Acts of 1993 being sections 380 624a 380 681a and 380 1727a of the Michigan Compiled Laws are repealed effective January 1 1995

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor