

Act No. 278
Public Acts of 1994
Approved by the Governor
July 10, 1994
Filed with the Secretary of State
July 11, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senator Bouchard

ENROLLED SENATE BILL No. 164

AN ACT to amend sections 1267 and 1351a 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 section 1267 as amended by Act No. 159 of the Public Acts of 1990 and section 1351a as added by Act No. 312 of the Public Acts of 1993 being sections 380 1267 and 380 1351a of the Michigan Compiled Laws and to add sections 1351b and 1352

The People of the State of Michigan enact

Section 1 Sections 1267 and 1351a of Act No. 451 of the Public Acts of 1976 section 1267 as amended by Act No. 159 of the Public Acts of 1990 and section 1351a as added by Act No. 312 of the Public Acts of 1993 being sections 380 1267 and 380 1351a of the Michigan Compiled Laws are amended and sections 1351b and 1352 are added to read as follows

Sec 1267 (1) Before commencing construction of a new school building or addition to or repair or renovation of an existing school building except repair in emergency situations the board of a school district other than a first class school district shall obtain competitive bids on all the material and labor required for the complete construction of a proposed new building or addition to or repair or renovation of an existing school building

(2) The board shall advertise for the bids required under subsection (1) once each week for 2 successive weeks in a newspaper of general circulation in the area where the building or addition is to be constructed or where the repair or renovation of an existing building is to take place The advertisement for bids shall do all of the following

(a) Specify the date and time by which all bids must be received by the board

(b) State that the board will not consider or accept a bid received by the board after the date and time specified for bid submission

(c) Identify the time date and place of a public meeting at which the board or its designee will open and read aloud each bid received by the board by the date and time specified in subdivision (a)

(3) The board shall require each bidder for a contract under this section to file with the board security in an amount not less than 1/20 of the amount of the bid conditioned to secure the school district from loss or damage by reason of

the withdrawal of the bid or by the failure of the bidder to enter a contract for performance if the bid is accepted by the board

(4) The board shall not open consider or accept a bid that the board receives after the date and time specified for bid submission in the advertisement for bids described in subsection (2)

(5) At a public meeting identified in the advertisement for bids described in subsection (2) the board or its designee shall open and read aloud each bid that the board received at or before the time and date for bid submission specified in the advertisement for bids. The board may reject any or all bids and if all bids are rejected shall readvertise in the manner required by this section

(6) This section does not apply to buildings renovations or repairs costing less than \$12 500 00 or to repair work normally performed by school district employees. The maximum amount specified in this subsection shall be adjusted each year by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately preceding year and adding that product to the maximum amount that applied in the immediately preceding year rounding to the nearest whole dollar

Sec 1351a (1) Beginning with bonds issued after May 1 1994 a school district may not borrow money and issue bonds of the district under section 1351(1). However a school district may borrow money and issue bonds of the district to defray all or a part of the cost of purchasing erecting completing remodeling or equipping or reequipping except for equipping or reequipping for technology school buildings including library buildings structures athletic fields playgrounds or other facilities or parts of or additions to those facilities furnishing or refurnishing new or remodeled school buildings acquiring preparing developing or improving sites or parts of or additions to sites for school buildings including library buildings structures athletic fields playgrounds or other facilities purchasing school buses acquiring installing or equipping or reequipping school buildings for technology refunding all or part of existing bonded indebtedness if the net present value of the principal and interest to be paid on the refunding bonds excluding the cost of issuance will be less than the net present value of the principal and interest to be paid on the bonds being refunded as calculated using a method approved by the department of treasury or accomplishing a combination of the purposes set forth in this subsection. Section 1351(2) to (4) applies to bonds issued under this section

(2) The proceeds of bonds issued under this section shall be used for capital expenditures and to pay costs of bond issuance and shall not be used for maintenance costs. A school district that issues bonds under this section shall have an independent audit using generally accepted accounting principles of its bonding activities conducted within 120 days after completion of all projects financed by the proceeds of the bonds and shall submit the audit report to the department of treasury

(3) Bonds issued under this section for an asset with a useful life of less than 30 years shall not be issued for a term that is longer than the useful life of the asset

(4) A school district shall not borrow money and issue notes or bonds under this section to defray all or part of the costs of any of the following

(a) Upgrades to operating system or application software

(b) Media including diskettes compact discs video tapes and disks unless used for the storage of initial operating system software or customized application software included in the definition of technology under this section

(c) Training consulting maintenance service contracts software upgrades troubleshooting or software support

(5) A resident of a school district has standing to bring suit against the school district to enforce the provisions of this section in a court having jurisdiction

(6) As used in this section technology means any of the following

(a) Hardware and communication devices that transmit receive or compute information for pupil instructional purposes

(b) The initial purchase of operating system software or customized application software or both accompanying the purchase of hardware and communication devices under subdivision (a)

(c) The costs of design and installation of the hardware communication devices and initial operating system software or customized application software authorized under this subsection

Sec 1351b Beginning with bonds issued after May 1 1995 bonds issued under section 1351a shall not in whole or in part appreciate in principal amount or be sold at a discount of more than 10%

Sec 1352 The board of a school district or intermediate school district shall not contract for legal representation by an attorney or law firm in connection with borrowing money and issuing bonds under this act unless the board or intermediate school board does all of the following

(a) Requests from the attorney or law firm and obtains before entering into the contract disclosure of whether the attorney or law firm also represents the underwriter of the bonds or any other party involved in the bond issue

(b) If the disclosure under subdivision (a) indicates that the attorney or law firm represents the underwriter or another party involved in the bond issue consents by majority vote of the board or intermediate school board to entering into the contract notwithstanding the attorney's or law firm's representation of the underwriter or other party as well as the board or intermediate school board

(c) In its contract with the attorney or law firm requires the attorney or law firm to submit itemized billings on at least a monthly basis that itemize at least time and services provided and any payments made by the attorney or law firm to third parties in connection with representation of the board or intermediate school board

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor