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LET INTERMEDIATE SCHOOL DISTRICTS INVEST IN MUTUAL FUNDS

House Bill 4384 as introduced
First Analysis (3-13-01)

Sponsor: Rep. Wayne Kuipers
Committee: Education

THE APPARENT PROBLEM:

Under the Revised School code, Michigan's 56 regional or intermediate school districts (ISDs) are distinguished from Michigan's 554 local school districts. (Actually, the state has more than 700 local school districts, since each of the 184 charter school academies is defined as its own "school district.") The duties and responsibilities of both the intermediate and the local school districts are specified in separate sections of the school code, in order to make clear their respective programs, though there is considerable similarity in many of the purely administrative functions of both kinds of districts. For example, the Revised School Code allows the administrators of local school districts to invest in specified investment vehicles in order to earn higher interest income on their districts' deposits of public funds. Currently under the code, a local school district's administrators may invest in U.S. Treasury bonds, certificates of deposit, commercial papers, certain securities, U.S. governmental repurchase agreements, bankers' acceptances, certain investment pools, and certain mutual funds.

However, in what seems to have been an unintentional oversight, according to testimony before the House Education Committee, the separate but parallel section of the Revised School Code that allows the administrators of intermediate school districts to invest in specified investment vehicles includes all those allowed to local school districts with the exception of mutual funds. At the request of the Michigan Association of School Administrators, legislation has been introduced to correct that technical oversight.

In an unrelated matter, the proposed legislation also would bring the language of this section of the Revised School Code into compliance with the governor's Executive Order (EO 1999-112) concerning the Department of Education, which went into effect on January 1, 2000.

THE CONTENT OF THE BILL:

The Revised School Code allows intermediate school districts to invest district funds in certain specified investment vehicles, including U.S. treasury bonds, certificates of deposit, commercial paper, certain securities, U.S. government repurchase agreements, bankers' acceptances, and certain investment pools. The bill would amend the code to add to this list mutual funds composed entirely of investment vehicles that were legal for direct investment by an intermediate school district. The bill would also amend this provision of the school code to replace a reference to the state board of education with a reference to the state superintendent of public instruction.

MCL 380.622

BACKGROUND INFORMATION:

Investment options. Public Act 132 of 1986 (enrolled Senate Bill 296) amended the School Code to authorize investment pooling by local and intermediate school districts, along with other new investment options. Before passage of this act, a school district's treasurer, if authorized by resolution of the district's board, was able to invest the district's funds – debt retirement funds, building and site funds, and general funds – in three basic instruments specified in the school code: (a) U.S. bonds, bills or notes, obligations guaranteed by the United States or obligations of the state; (b) certificates of deposits issued by a state or national bank, savings accounts of a state or federal savings and loan association, or certificates of deposits of share certificates of a state or federal credit union organized and authorized to operate in Michigan; or (c) commercial paper rated prime at the time of purchase and maturing not more than 270 days after the date of purchase. According to the then-Senate Analysis Section analysis of Senate Bill 296 (dated 6-25-85), some people argued that local and intermediate school districts would realize higher returns on their investments if the

School Code were amended to make more investment options available to them, and, in particular, to authorize districts to join in investment pools. Proponents of the bill also argued that since the legislature had authorized in 1984 (in Public Act 299) a number of new investment options for community colleges, local and intermediate school districts should be afforded similar powers to generate additional revenue from taxpayer dollars.

The Senate Analysis Section's full description of the content of Public Act 132 of 1986 (which amended MCL 380.622, 380.1221, and 380.1223) is as follows:

The bill would allow a district's treasurer to invest funds in investment pools composed entirely of instruments that were legal for direct investment by a local or intermediate district, as authorized by the Surplus Funds Investment Pool Act. In addition, a school board by resolution could authorize the treasurer to combine money from more than one of a district's funds for the purpose of investing in an investment pool. When money of more than one fund of a single district or money or more than one district were combined for an investment pool, the money would be accounted for separately, and the earnings from the investment separately and individually computed, recorded, and credited to the fund of district for which the investment was acquired.

The bill also would expand the code's list of authorized school district investment options to include bankers' acceptances issued by a bank that was member of the Federal Deposit Insurance Corporation (FDIC), and mutual funds composed entirely of investment vehicles that were legal for direct investment by a district. Finally the bill would remove the code's prohibition on a district's taking of security in the form of collateral, surety bond, or another form for its deposits or investments in a bank, savings and loan association, or credit union.

Executive Order 1999-12. Among other things, the governor's executive order (EO 1999-12) concerning the Department of Education, which went into effect on January 1, 2000, transferred duties and responsibilities formerly within the purview of the State Board of Education (comprising eight elected officials) to the state Superintendent for Public Instruction (one official who is appointed by the State Board of Education).

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact on the state. It could affect intermediate school districts, as allowing them to invest in mutual funds could result in their receiving a higher or lower return on their investments. The fiscal impact cannot be determined at this time. (3-13-01)

ARGUMENTS:

For:

When Public Act 132 of 1986 amended the School Code, the amendments apparently were intended to apply to investments both by local school districts (under section 1223of the code) and by intermediate school districts (under section 622 of the code). The act added additional investment opportunities for both local and intermediate school districts, with the lists of additional investment options identical for both kinds of districts except for mutual funds, which were added only to the section of the school code applying to local school districts. In light of the Senate Analysis Section's description of Public Act 132 (see BACKGROUND INFORMATION), it appears that the failure to add mutual funds to the list of investment options for intermediate schools districts was simply a technical oversight. The bill would correct this oversight by adding mutual funds to the list of investment options available to intermediate school districts.

POSITIONS:

The Department of Treasury supports the bill. (3-8-01)

The Michigan Association of School Administrators supports the bill. (3-8-01)

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■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.