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SENATE SUBSTITUTE FOR

HOUSE BILL NO. 5411

(As passed the Senate, March 21, 2002)

(As passed the Senate, April 17, 2002)

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1225 (MCL 380.1225), as amended by 1997 PA 152.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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 obtained for school operations under this or any other statute. The school board or intermediate school 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 or intermediate school district and are payable from tax levies or from unencumbered funds of the school district or intermediate 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. Except as otherwise provided in this subsection, notes issued within a fiscal year shall not exceed 70% of the difference between the total state aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received or pledged, except secondary pledges made under section 1356. Until June 30, 1999, notes issued and sold to the Michigan municipal bond authority within a fiscal year shall not exceed 70% of the difference between the total state aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received.

(3) A school district or intermediate 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 or, for notes sold to the Michigan municipal bond authority only, without the approval of an authorized representative of the department of treasury.

(4) During the last 4 months of a fiscal year, notes may be issued pledging state school aid for the next succeeding fiscal year. Except as otherwise provided in this subsection, the notes

shall not exceed 50% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 50% of the apportionment for the then current fiscal year. For the 1997-98 fiscal year only, with the approval of the state treasurer or the department, notes may be issued that shall not exceed 70% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 70% of the apportionment for the then current fiscal year. For the 1998-99 fiscal year only, with the approval of the state treasurer or the department, notes may be issued that shall not exceed 60% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 60% of the apportionment for the then current fiscal year. The 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 school board or intermediate school board, which rate shall not exceed the rate provided in section 1a of chapter III of the municipal finance act, 1943 PA 202, MCL 133.1a, 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, 1943 PA 202, MCL 131.1 to 139.3~~ REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO 141.2821. ~~A school board or intermediate school board shall not issue notes~~

~~under this section unless it applies for and receives prior approval or the school board or intermediate school board requests and receives an exception from prior approval pursuant to subsections (7), (8), and (9). An application for prior approval or for an exception from prior approval shall be made to the authorized representative of the state board unless the notes are to be sold to the Michigan municipal bond authority. If the notes are to be sold to the Michigan municipal bond authority, an application for prior approval or for an exception from prior approval shall be made to the authorized representative of the department of treasury. An order of prior approval issued by the authorized representative of the state board or of the department of treasury or an order of exception from prior approval issued by the authorized representative of the state board or of the department of treasury shall show the estimated amount of state school aid allocated to the school district or intermediate 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 or intermediate school district before the date of the order.~~ Failure of a school district or intermediate school district to receive state school aid does not affect the validity or enforceability of a note issued under this section.

(6) A school board or intermediate school board may make more than 1 borrowing under this section during a school year. ~~A school board or intermediate school board shall not contest the validity of a note issued by it under this section if an~~

~~order of prior approval or of exception from prior approval had been obtained from the authorized representative of the state board or of the department of treasury and the school district or intermediate school district has received the principal amount of the note. An order of prior approval and estimated determination of state school aid by the authorized representative of the state board or of the department of treasury is conclusive as to the authority of a school board or intermediate school board to borrow under this section. An order of prior approval shall be signed by the authorized representative of the state board or of the department of treasury.~~

~~(7) A school board or intermediate school board may submit a request for an exception from prior approval to the authorized representative of the state board or of the department of treasury, as applicable, on a form prescribed by the applicable 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 of the state board or of the department of treasury 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 or of the department~~

~~of treasury, as applicable, shall issue an order granting the exception unless the authorized representative finds that 1 or more of the following conditions exist or have occurred:~~

~~(a) For a school district, it appears from the information submitted by the school district under section 102 of the state school aid act of 1979, MCL 388.1702, and from other information available to the department or to the department of treasury 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, MCL 388.1702, for eliminating the deficit.~~

~~(b) The school district or intermediate 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 or intermediate 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 or of the department of treasury, as applicable, finds that 1 or more of the conditions described in subsection (8)(a) to (c) applies to a request for an exception from prior approval under subsection (7), the authorized representative may issue an order denying the request or, if he or she finds that the existence of the condition is inconsequential to the request, may issue an order granting the exception from prior approval. If the~~

~~authorized representative of the state board or of the department of treasury fails to act on a complete request within the 10-day period specified in subsection (8), the exception from prior approval 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 of the department of treasury or because of failure of the authorized representative of the state board or of the department of treasury to act on the request, is valid for 4 months.~~

(7) ~~(11)~~ In addition to other powers under this section, with the approval of the state treasurer, the board of a local or intermediate school district may obtain a line of credit to secure funds for school operations or to pay previous loans obtained for school operations under this or any other statute. The school board or intermediate school board shall pledge not more than 30% of the state school aid apportioned to the school district or intermediate school district for that fiscal year for repayment of funds received pursuant to a line of credit obtained under this subsection. However, the school board or intermediate school board shall not borrow against the line of credit an amount greater than the difference, as of the date of the borrowing, between the total state school aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received or pledged, except

secondary pledges made under section 1356. To obtain approval for obtaining a line of credit under this subsection, a school board or intermediate school board shall apply to the state treasurer in the form and manner prescribed by the state treasurer, and shall provide information as requested by the state treasurer for evaluating the application. The state treasurer shall approve or disapprove an application and notify the school board or intermediate school board within 20 business days after receiving a proper application. If the state treasurer disapproves an application, the state treasurer shall include the reasons for disapproval in the notification to the school board or intermediate school board.

[Enacting section 1. This amendatory act takes effect May 1, 2002.]