

HOUSE BILL No. 5415

November 1, 2001, Introduced by Rep. Kolb and referred to the Committee on Commerce.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1356 (MCL 380.1356), as amended by 1993 PA
312.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1356. (1) Notwithstanding section 1351, a school dis-
2 trict that has an operating or projected operating deficit in
3 excess of \$100.00 per membership pupil may borrow and issue its
4 negotiable interest bearing notes or bonds for the purpose of
5 funding the deficit in accordance with this section. This
6 authority is in addition to and not in derogation of any power
7 granted to a school district by any other provision of this act.
8 However, except for the purpose of funding an operating or
9 projected operating deficit resulting from a state tax tribunal
10 order or a court order, a school district shall not initiate the

05330'01

JLB

1 procedures to borrow money or issue notes or bonds under this
2 section after January 1, 1994.

3 (2) Before a board of a school district issues notes or
4 bonds under this section, the board shall provide by resolution
5 for the submission of the following certified and substantiated
6 information to the municipal finance commission or its successor
7 agency for school districts:

8 (a) There exists or will exist an operating deficit in the
9 school district in excess of \$100.00 per membership pupil.

10 (b) During or before the fiscal year in which the applica-
11 tion is made, the school district has made every available effort
12 to offset the deficit, including submission of a question to the
13 school electors of the district to increase the rate of ad
14 valorem property taxes levied in the school district.

15 (c) The school district has a plan approved by the school
16 board that outlines actions to be taken to balance future expen-
17 ditures with anticipated revenues.

18 ~~(d) The maximum interest rate as described in~~
19 ~~subsection (6).~~

20 (3) The existence of the operating or projected operating
21 deficit and the amount of the operating or projected operating
22 deficit shall be determined by the department of treasury, using
23 normal school accounting practices. If a financial audit is
24 required to arrive at a conclusive determination as to the amount
25 of the deficit, the state treasurer shall charge all necessary
26 expenses for the audit, including per diem and travel expenses,
27 to the school district, and the school district shall make

1 payment to the state treasurer for these expenses. The
2 determination by the department of treasury is final and conclu-
3 sive as to the existence of an operating or projected operating
4 deficit, the amount of the deficit, and the amount of the deficit
5 per membership pupil.

6 (4) The notes or bonds may be issued in 1 or more series by
7 resolution adopted by the school board, which resolution in each
8 case shall make reference to the determination of the department
9 of treasury. The amount of a note or bond issued shall not
10 exceed the amount of the operating deficit as shown by the
11 determination. ~~The school district shall levy sufficient taxes~~
12 ~~annually, in addition to all other taxes, without limitation as~~
13 ~~to rate or amount in order to meet payments of principal and~~
14 ~~interest on the notes or bonds coming due before the next collec-~~
15 ~~tion of taxes.~~

16 (5) The school district shall pledge as secondary security
17 for the notes or bonds future state school aid payments, if any,
18 and other funds of the district legally available as security.

19 ~~(6) The notes or bonds shall mature serially with annual~~
20 ~~maturities not more than 10 years from their date and shall bear~~
21 ~~interest, payable annually or semiannually, at a rate or rates~~
22 ~~not exceeding a rate determined by the school board in the school~~
23 ~~district's borrowing resolution. The first principal installment~~
24 ~~on the notes or bonds shall be due not more than 18 months from~~
25 ~~the date of the notes or bonds, and a principal installment on~~
26 ~~the notes shall not be less than 1/3 of the principal amount of a~~
27 ~~subsequent principal installment. The notes or bonds may be made~~

~~1 subject to redemption before maturity with or without premium in
2 a manner and at times provided in the resolution authorizing the
3 issuance of the notes or bonds.~~

4 (6) ~~-(7)-~~ Notes or bonds issued under this section are valid
5 and binding general obligations of the school district, it being
6 the intent and purpose that the notes or bonds and the interest
7 on the notes or bonds be promptly paid when due from the first
8 money available to the district not pledged for other indebted-
9 ness and except to the extent that the use is restricted by the
10 state constitution of 1963 or the laws of the United States.

11 (7) ~~-(8)-~~ Unless an exception from prior approval is avail-
12 able pursuant to subsection (11), before a school district issues
13 notes or bonds under this section, the school district shall make
14 sworn application to the municipal finance commission or its suc-
15 cessor agency for school districts on forms to be furnished by
16 the municipal finance commission or its successor agency for
17 school districts for permission to do so and shall attach to the
18 application the determination of the department of treasury and a
19 certified copy of the resolution authorizing the notes or bonds.
20 Unless an exception from prior approval is available pursuant to
21 subsection (11), notes or bonds shall not be issued under this
22 section until the district has first secured approval for the
23 issuance from the municipal finance commission or its successor
24 agency for school districts. In determining whether a proposed
25 issue of notes or bonds shall be approved, the municipal finance
26 commission or its successor agency for school districts shall
27 take into consideration whether the notes or bonds conform to

~~1 this section and whether the amounts pledged for the payment of~~
~~2 the notes or bonds will be sufficient to pay the principal and~~
~~3 interest as the notes or bonds become due. If prior approval is~~
~~4 required, the municipal finance commission or its successor~~
~~5 agency for school districts may require the district to reduce~~
~~6 the amount of the note or bond issue or to alter the schedule of~~
~~7 repayment. Chapter II of the municipal finance act, Act No. 202~~
~~8 of the Public Acts of 1943, as amended, being sections 132.1 to~~
~~9 132.3 of the Michigan Compiled Laws, governs with respect to the~~
~~10 notes or bonds authorized by this section.~~ BONDS AND NOTES

11 ISSUED UNDER THIS SECTION ARE SUBJECT TO THE REVISED MUNICIPAL
12 FINANCE ACT, 2001 PA 34, MCL 141.2101 TO 141.2821.

13 (8) ~~-(9) The notes or bonds shall be sold at not less than~~
14 ~~par and at public sale after notice by publication at least 7~~
15 ~~days before the sale in a publication printed in the English lan-~~
16 ~~guage and circulated in this state that carries as part of its~~
17 ~~regular service notices of sale of municipal bonds and is~~
18 ~~approved by the department of treasury as a publication complying~~
19 ~~with the foregoing qualifications, or at private sale as autho-~~
20 ~~rized by the department of treasury.~~ The proceeds of the sale of
21 notes authorized under this section, after payment of the costs
22 of issuance of the notes or bonds and interest on the notes or
23 bonds for a period not to exceed 9 months, shall be used solely
24 for the purpose of paying necessary operating expenses of the
25 school district, including the payment of principal of and inter-
26 est on notes or bonds of the school district issued for operating
27 purposes under this or any other act.

1 (9) ~~-(10)-~~ A board of a school district that borrows
2 pursuant to subsections (1) to ~~-(9)-~~ (8) shall submit its budget
3 for review and approval to the department of education. The
4 department of education shall take necessary steps, subject to
5 the school district's contracts and statutory obligations, to
6 assure that the expenditures of a school district that receives
7 money under this part shall not exceed revenues on an annual
8 basis and that the school district maintains a balanced budget.

9 ~~-(11) The requirement of subsection (8) for obtaining the~~
10 ~~prior approval of the municipal finance commission or its succes-~~
11 ~~sor agency before issuing bonds or notes under this section is~~
12 ~~subject to sections 10 and 11 of chapter III of Act No. 202 of~~
13 ~~the Public Acts of 1943, being sections 133.10 and 133.11 of the~~
14 ~~Michigan Compiled Laws, and the department of treasury has the~~
15 ~~same authority as provided by section 11 of chapter III of Act~~
16 ~~No. 202 of the Public Acts of 1943 to issue an order providing or~~
17 ~~denying an exception from the prior approval required by subsec-~~
18 ~~tion (8) for bonds or notes authorized by this section.~~