

Act No. 232
Public Acts of 2012
Approved by the Governor
June 26, 2012
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Rep. Knollenberg

ENROLLED HOUSE BILL No. 5287

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; 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 acts and parts of acts," by amending sections 622, 1211, and 1223 (MCL 380.622, 380.1211, and 380.1223), sections 622 and 1223 as amended by 2009 PA 22 and section 1211 as amended by 2011 PA 317.

The People of the State of Michigan enact:

Sec. 622. (1) The intermediate school board shall select financial institutions for the deposit of school funds. The intermediate school board shall keep a set of coded accounts to be approved by the superintendent of public instruction and shall have its books audited at least annually by a certified public accountant. General operating funds, building and site funds, cooperative education funds, special education funds, vocational-technical education funds, and debt retirement funds shall be maintained separately and shall not be commingled, except that the intermediate school board, by resolution, may authorize the treasurer to combine money from more than 1 fund for the purpose of making an investment authorized by subsection (2)(g).

(2) The treasurer of an intermediate school district, if authorized by resolution of the intermediate school board, may invest general operating funds, special education funds, area vocational-technical education funds, building and site funds, cooperative education funds, and debt retirement funds of the district. Investments shall be made subject to subsection (4) and shall be restricted to any of the following:

- (a) Bonds, bills, or notes of the United States or obligations of this state.
- (b) Certificates of deposit issued by a financial institution.
- (c) Commercial paper rated prime at the time of purchase and maturing not more than 270 days after the date of purchase.
- (d) Securities issued or guaranteed by agencies or instrumentalities of the United States government.
- (e) United States government or federal agency obligation repurchase agreements.
- (f) Bankers' acceptances issued by a bank that is a member of the federal deposit insurance corporation.

(g) Investment pools, as authorized by the surplus funds investment pool act, 1982 PA 367, MCL 129.111 to 129.118, composed entirely of instruments that are legal for direct investment by an intermediate school district.

(h) Mutual funds composed entirely of investment vehicles that are legal for direct investment by an intermediate school district.

(i) Certificates of deposit issued in accordance with the following conditions:

(i) The funds are initially invested through a financial institution that is not ineligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(ii) The financial institution arranges for the investment of the funds in certificates of deposit in 1 or more insured depository institutions, as defined in 12 USC 1813, or 1 or more insured credit unions, as defined in 12 USC 1752, for the account of the intermediate school district.

(iii) The full amount of the principal and any accrued interest of each certificate of deposit is insured by an agency of the United States.

(iv) The financial institution acts as custodian for the intermediate school district with respect to each certificate of deposit.

(v) At the same time that the funds of the intermediate school district are deposited and the certificate or certificates of deposit are issued, the financial institution receives an amount of deposits from customers of other insured depository institutions or insured credit unions equal to or greater than the amount of the funds initially invested by the intermediate school district through the financial institution.

(j) Deposit accounts that meet all of the following conditions:

(i) The funds are initially deposited in a financial institution that is not ineligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(ii) The financial institution arranges for the deposit of the funds in deposit accounts in 1 or more insured depository institutions, as defined in 12 USC 1813, or 1 or more insured credit unions, as defined in 12 USC 1752, for the account of the intermediate school district.

(iii) The full amount of the principal and any accrued interest of each deposit account is insured by an agency of the United States.

(iv) The financial institution acts as custodian for the intermediate school district with respect to each deposit account.

(v) On the same date that the funds of the intermediate school district are deposited under subparagraph (ii), the financial institution receives an amount of deposits from customers of other insured depository institutions or insured credit unions equal to or greater than the amount of the funds initially deposited by the intermediate school district in the financial institution.

(3) The earnings of an investment shall become a part of the fund from which the investment was made. When money of more than 1 fund of a single intermediate school district or money of more than 1 intermediate school district are combined for an investment pool authorized by subsection (2)(g), the money shall be accounted for separately, and the earnings from the investment shall be separately and individually computed, recorded, and credited to the fund or intermediate school district, as the case may be, for which the investment was acquired.

(4) Notwithstanding subsection (2), additional funds of an intermediate school district shall not be deposited or invested in a financial institution that is not eligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(5) Assets acceptable for pledging to secure deposits of funds under this act are limited to any of the following:

(a) Assets considered acceptable to the state treasurer under section 3 of 1855 PA 105, MCL 21.143, to secure deposits of state surplus funds.

(b) Any of the following:

(i) Securities issued by the federal home loan mortgage corporation.

(ii) Securities issued by the federal national mortgage association.

(iii) Securities issued by the government national mortgage association.

(c) Securities considered acceptable to the intermediate school board and the financial institution.

(6) Security in the form of collateral, surety bond, or another form may be taken for the deposits or investments of an intermediate school district in a financial institution. However, an investment under subsection (2)(e) or in an investment pool that includes instruments eligible for investments under subsection (2)(e) shall be secured by the transfer of title and custody of the obligations to which the repurchase agreements relate and an undivided interest in those obligations must be pledged to the intermediate school district for these agreements.

(7) As used in this section, "deposit" includes purchases of or investment in shares of a credit union.

(8) As used in this section, “financial institution” means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

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 principal residence, qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal 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. Except as otherwise provided in subsection (9), the board of a school district that had a foundation allowance for the 1994-95 state fiscal year greater than \$6,500.00 may reduce the number of mills from which a principal residence, qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal property are exempted under this subsection by up to the number of mills, as certified under section 1211a, required to be levied on a principal residence, qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal 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 principal residence, qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal 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 was 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. However, the board of a school district described in this subsection, by board resolution, may elect to exempt each principal residence and all qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal property located in the school district from some or all of the mills that the board is authorized to levy under this subsection.

(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 was 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, MCL 388.1620, 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 principal residence, qualified agricultural property, qualified forest property, supportive housing property, property occupied by a public school academy, and industrial personal property are exempted under subsection (1).

(4) Commercial personal property is exempt from 12 of the mills levied under this section. However, if the number of mills from which industrial personal property is exempted for a specific school district is reduced under this section, then the number of mills from which commercial personal property is exempted for that school district shall be reduced by that same number of mills.

(5) 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.

(6) 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.

(7) 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.

(8) A school district shall not levy mills allocated under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a, other than mills allocated to a school district of the first class for payment to a public library commission under section 11(4) of the property tax limitation act, 1933 PA 62, MCL 211.211, after 1993.

(9) Beginning with taxes levied for 2011, if a school district had a foundation allowance for the 1994-95 state fiscal year greater than \$6,500.00 and if the school district's foundation allowance for the 2009-2010 state fiscal year was less than the basic foundation allowance prescribed for the 2009-2010 state fiscal year under section 20 of the state school aid act of 1979, MCL 388.1620, the school district may not reduce the number of mills from which certain classes of property are exempted from the levy of millage under subsection (1) and may not levy that number of mills on those classes of property as would otherwise be allowed under subsection (1).

(10) 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, MCL 388.1620.

(b) "Commercial personal property" means property classified as commercial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(c) "Foundation allowance" means a school district's foundation allowance as calculated under section 20 of the state school aid act of 1979, MCL 388.1620.

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

(e) "Industrial personal property" means the following:

(i) Except as otherwise provided in subparagraph (ii), property classified as industrial personal property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(ii) Beginning December 31, 2011, industrial personal property does not include a turbine powered by gas, steam, nuclear energy, coal, or oil the primary purpose of which is the generation of electricity for sale.

(f) "Membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(g) "Owner", "person", "principal residence", and "qualified agricultural property" mean those terms as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

(h) "Property occupied by a public school academy" means property occupied by a public school academy, urban high school academy, or school of excellence that is used exclusively for educational purposes.

(i) "Qualified forest property" means that term as defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj[1].

(j) "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 former 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 for eliminating an operating deficit.

(iv) Taxes levied for operation of a library under section 1451 or for operation of a library established pursuant to 1913 PA 261, MCL 397.261 to 397.262, 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 the property tax limitation act, 1933 PA 62, MCL 211.211.

(vi) Taxes levied under former 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.

(k) "Supportive housing property" means real property certified as supportive housing property under chapter 3B of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1459 to 125.1459a.

Sec. 1223. (1) If authorized by resolution of the board of a school district, the treasurer may invest debt retirement funds, building and site funds, building and site sinking funds, or general funds of the district. The investment shall be made subject to subsection (7) and shall be restricted to the following:

(a) Bonds, bills, or notes of the United States; obligations, the principal and interest of which are fully guaranteed by the United States; or obligations of the state. In a primary or fourth class school district, the bonds, bills, or notes shall be payable, at the option of the holder, upon not more than 90 days' notice, or if not so payable, shall have maturity dates not more than 5 years after the purchase dates.

(b) Certificates of deposit issued by a financial institution or share certificates of a state or federal credit union that is a financial institution.

(c) Commercial paper rated prime at the time of purchase and maturing not more than 270 days after the date of purchase.

(d) Securities issued or guaranteed by agencies or instrumentalities of the United States government.

(e) United States government or federal agency obligation repurchase agreements.

(f) Bankers' acceptances issued by a bank that is a member of the federal deposit insurance corporation.

(g) Mutual funds composed entirely of investment vehicles that are legal for direct investment by a school district.

(h) Investment pools, as authorized by the surplus funds investment pool act, 1982 PA 367, MCL 129.111 to 129.118, composed entirely of instruments that are legal for direct investment by a school district.

(i) Certificates of deposit issued in accordance with the following conditions:

(i) The funds are initially invested through a financial institution that is not ineligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(ii) The financial institution arranges for the investment of the funds in certificates of deposit in 1 or more insured depository institutions, as defined in 12 USC 1813, or 1 or more insured credit unions, as defined in 12 USC 1752, for the account of the school district.

(iii) The full amount of the principal and any accrued interest of each certificate of deposit is insured by an agency of the United States.

(iv) The financial institution acts as custodian for the school district with respect to each certificate of deposit.

(v) At the same time that the funds of the school district are deposited and the certificate or certificates of deposit are issued, the financial institution receives an amount of deposits from customers of other insured depository institutions or insured credit unions equal to or greater than the amount of the funds initially invested by the school district through the financial institution.

(j) Deposit accounts that meet all of the following conditions:

(i) The funds are initially deposited in a financial institution that is not ineligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

(ii) The financial institution arranges for the deposit of the funds in deposit accounts in 1 or more insured depository institutions, as defined in 12 USC 1813, or 1 or more insured credit unions, as defined in 12 USC 1752, for the account of the school district.

(iii) The full amount of the principal and any accrued interest of each deposit account is insured by an agency of the United States.

(iv) The financial institution acts as custodian for the school district with respect to each deposit account.

(v) On the same date that the funds of the school district are deposited under subparagraph (ii), the financial institution receives an amount of deposits from customers of other insured depository institutions or insured credit unions equal to or greater than the amount of the funds initially deposited by the school district in the financial institution.

(2) An obligation purchased under this section, when received by the treasurer, shall be deposited with the financial institution having the deposit of the money of the particular fund from which the obligation was purchased.

(3) Money in the several funds of a school district shall not be commingled for the purpose of making an investment authorized by this section except as follows:

(a) The board of a school district may establish and maintain 1 common debt retirement fund for issues of bonds of similar character.

(b) The board of a school district, by resolution, may authorize the treasurer to combine money from more than 1 fund for the purpose of making an investment authorized by subsection (1)(h).

(4) Earnings of an investment shall become a part of the fund for which the investment was made. When money of more than 1 fund of a single district or money of more than 1 district are combined for an investment pool authorized by subsection (1)(h), the money shall be accounted for separately, and the earnings from the investment shall be separately and individually computed, recorded, and credited to the fund or district, as the case may be, for which the investment was acquired.

(5) The treasurer of a school district, if authorized by resolution of the board, may deposit upon approval of the employee, funds accumulated under a deferred compensation program in a federally insured financial institution authorized by law to do business in this state. If authorized by a resolution of the board, the treasurer of a school district, with the prior consent of the employee, may use funds accumulated under a deferred compensation plan to purchase from a life insurance company authorized to do business in this state an annuity contract or life insurance policy in the manner and for the purposes described in section 457 of the internal revenue code.

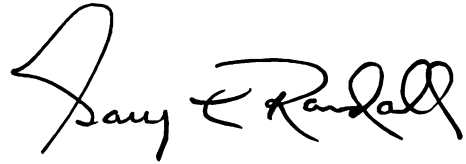
(6) Security in the form of collateral, surety bond, or another form may be taken for the deposits or investments of a school district in a financial institution. However, an investment under subsection (1)(e) or in an investment pool that includes instruments eligible for investments under subsection (1)(e) shall be secured by the transfer of title and custody of the obligations to which the repurchase agreements relate and an undivided interest in those obligations must be pledged to the school district for these agreements.

(7) Notwithstanding subsection (1), additional funds of a school district shall not be deposited or invested in a financial institution that is not eligible to be a depository of surplus funds belonging to this state under section 6 of 1855 PA 105, MCL 21.146.

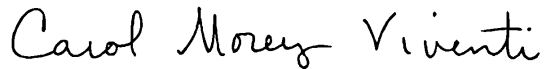
(8) As used in this section, "deposit" includes purchase of or investment in shares of a credit union.

(9) As used in this section, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and which maintains a principal office or branch office located in this state under the laws of this state or the United States.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor