

HOUSE BILL No. 5830

September 8, 2016, Introduced by Rep. Poleski and referred to the Committee on Financial Liability Reform.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1220 (MCL 380.1220), as added by 2015 PA 111.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1220. (1) A school district, intermediate school
2 district, or public school academy shall not adopt or operate under
3 a deficit budget, and a school district, intermediate school
4 district, or public school academy shall not incur an operating
5 deficit in a fund during a school fiscal year. If a school
6 district, intermediate school district, or public school academy
7 has an existing deficit fund balance, incurs a deficit fund balance
8 in the most recently completed school fiscal year, or adopts a
9 current year budget that projects a deficit fund balance, all of

1 the following apply:

2 (a) The school district, intermediate school district, or
3 public school academy shall notify the superintendent of public
4 instruction and the state treasurer immediately upon the occurrence
5 of the circumstance. A school district shall provide a copy of the
6 notice under this subdivision to the intermediate superintendent of
7 the intermediate school district in which the school district is
8 located. A public school academy shall provide a copy of the notice
9 under this subdivision to the authorizing body of the public school
10 academy.

11 (b) Within 30 days after making notification under subdivision
12 (a), the school district, intermediate school district, or public
13 school academy shall submit to the superintendent of public
14 instruction in the form and manner prescribed by the department an
15 amended budget for the current school fiscal year and a deficit
16 elimination plan approved by the board of the school district,
17 intermediate school district, or public school academy, with a copy
18 to the state treasurer. A school district shall transmit a copy of
19 the amended budget and the deficit elimination plan to the
20 intermediate superintendent of the intermediate school district in
21 which the school district is located. A public school academy shall
22 transmit a copy of the amended budget and the deficit elimination
23 plan to its authorizing body.

24 (c) The department may withhold and release some or all of the
25 money payable to the school district, intermediate school district,
26 or public school academy as provided under section 102(1) of the
27 state school aid act of 1979, MCL 388.1702.

1 (d) The superintendent of public instruction may require a
2 deficit elimination plan to include an academic plan for the school
3 district, intermediate school district, or public school academy.

4 (e) After the superintendent of public instruction approves a
5 school district's, intermediate school district's, or public school
6 academy's deficit elimination plan, the school district,
7 intermediate school district, or public school academy shall post
8 the deficit elimination plan on the school district's, intermediate
9 school district's, or public school academy's website.

10 (2) IN ADDITION TO THE MEASURES UNDER SUBSECTION (1), IF THE
11 BOARD OF A SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT ADOPTS A
12 BUDGET FOR A SCHOOL FISCAL YEAR THAT PROJECTS A DEFICIT FUND
13 BALANCE, ALL OF THE FOLLOWING APPLY:

14 (A) SUBJECT TO SUBDIVISION (B), UNTIL EITHER THE
15 SUPERINTENDENT OF PUBLIC INSTRUCTION OR THE STATE TREASURER
16 DETERMINES THAT THE SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT
17 IS NO LONGER IN DEFICIT AND THAT ALL MEMBERS OF THE BOARD HAVE
18 COMPLETED THE TRAINING UNDER SUBDIVISION (D), THE BOARD SHALL NOT
19 HAVE THE POWER OR RESPONSIBILITY TO APPROVE OR ADOPT A BUDGET. FOR
20 A SCHOOL DISTRICT, THAT POWER AND RESPONSIBILITY INSTEAD SHALL BE
21 EXERCISED BY THE SUPERINTENDENT OF THE SCHOOL DISTRICT AND, FOR AN
22 INTERMEDIATE SCHOOL DISTRICT, THAT POWER AND RESPONSIBILITY INSTEAD
23 SHALL BE EXERCISED BY THE INTERMEDIATE SUPERINTENDENT OF THE
24 INTERMEDIATE SCHOOL DISTRICT.

25 (B) A BOARD THAT WOULD OTHERWISE BE SUBJECT TO SUBDIVISION (A)
26 MAY CONTINUE TO EXERCISE THE POWER AND RESPONSIBILITY TO APPROVE OR
27 ADOPT A BUDGET IF THE BOARD APPROVES A RESOLUTION RETAINING THAT

1 POWER AND RESPONSIBILITY BY AN AFFIRMATIVE VOTE OF AT LEAST 2/3 OF
2 THE MEMBERS SERVING ON THE BOARD.

3 (C) FOR A SUPERINTENDENT OR INTERMEDIATE SUPERINTENDENT WHO
4 ADOPTS A BUDGET WHILE EXERCISING THE BUDGETING POWER AND
5 RESPONSIBILITY OF A BOARD UNDER SUBDIVISION (A), THE BOARD MAY NOT
6 TERMINATE HIS OR HER EMPLOYMENT FOR AT LEAST 2 YEARS OR UNTIL HIS
7 OR HER CONTRACT EXPIRES, WHICHEVER IS LATER. IN ADDITION, FOR THE
8 CHIEF FINANCIAL OFFICER SERVING AT THE TIME THAT A SUPERINTENDENT
9 OR INTERMEDIATE SUPERINTENDENT EXERCISES THE POWER AND
10 RESPONSIBILITIES UNDER SUBDIVISION (A), THE BOARD MAY NOT TERMINATE
11 HIS OR HER EMPLOYMENT FOR AT LEAST 2 YEARS OR UNTIL HIS OR HER
12 CONTRACT EXPIRES, WHICHEVER IS LATER.

13 (D) THE BOARD SHALL ENSURE THAT ALL OF ITS MEMBERS COMPLETE A
14 COURSE OF SCHOOL BOARD TRAINING THAT COVERS AT LEAST SCHOOL BOARD
15 GOVERNANCE, PUBLIC SCHOOL FINANCING, FISCAL RESPONSIBILITY, AND
16 ETHICS.

17 (3) ~~(2)~~—The following reporting requirements apply for the
18 purposes of this section and section 1219:

19 (a) Not later than March 1 of each year, the department shall
20 prepare a report of deficits incurred or projected by school
21 districts, intermediate school districts, and public school
22 academies in the immediately preceding fiscal year and the progress
23 made in reducing those deficits and submit the report to the
24 standing committees of the legislature responsible for K-12
25 education legislation, the appropriations subcommittees of the
26 legislature responsible for K-12 school aid appropriations, the
27 house and senate fiscal agencies, the state treasurer, and the

1 state budget director. The department also shall submit quarterly
2 interim reports concerning the progress made by school districts,
3 intermediate school districts, and public school academies in
4 reducing those deficits to the standing committees of the
5 legislature responsible for K-12 education legislation, the
6 appropriations subcommittees of the legislature responsible for K-
7 12 school aid appropriations, the house and senate fiscal agencies,
8 the state treasurer, and the state budget director. On a quarterly
9 basis, the superintendent of public instruction shall publicly
10 present those reports to the appropriations subcommittees of the
11 legislature responsible for K-12 school aid appropriations.

12 (b) Not later than March 1 of each year, the state treasurer
13 shall prepare a report of school districts, intermediate school
14 districts, and public school academies that were required under
15 section 1219 to submit periodic financial status reports in the
16 immediately preceding state fiscal year or required under this
17 section to submit an enhanced deficit elimination plan in the
18 immediately preceding state fiscal year, and the progress made in
19 adhering to that plan, and submit the report to the standing
20 committees of the legislature responsible for K-12 education
21 legislation, the appropriations subcommittees of the legislature
22 responsible for K-12 state school aid appropriations, the house and
23 senate fiscal agencies, the department, and the state budget
24 director. The state treasurer also shall submit quarterly interim
25 reports concerning school districts, intermediate school districts,
26 and public school academies that are subject to periodic financial
27 status reports or are under an enhanced deficit elimination plan to

1 the standing committees of the legislature responsible for K-12
2 education legislation, the appropriations subcommittees of the
3 legislature responsible for K-12 state school aid appropriations,
4 the house and senate fiscal agencies, the department, and the state
5 budget director. On a quarterly basis, the state treasurer shall
6 publicly present those quarterly interim reports to the
7 appropriations subcommittees of the legislature responsible for K-
8 12 state school aid appropriations.

9 **(4)** ~~(3)~~—A school district, intermediate school district, or
10 public school academy required to submit a deficit elimination plan
11 under this section shall submit to the superintendent of public
12 instruction and the state treasurer a monthly monitoring report on
13 revenue and expenditures in a form and manner prescribed by the
14 department and shall post these reports on its website. A school
15 district shall transmit a copy of each report under this subsection
16 to the intermediate superintendent of the intermediate school
17 district in which the school district is located. A public school
18 academy shall transmit a copy of each report under this section to
19 the authorizing body of the public school academy. A school
20 district may contract with its intermediate school district or
21 another entity to provide the monthly monitoring report.

22 **(5)** ~~(4)~~—If a school district, intermediate school district, or
23 public school academy is required to submit a deficit elimination
24 plan under this section, and the deficit elimination plan is
25 approved by the department, the superintendent of public
26 instruction may continue allotment and payment of funds as provided
27 under section 102 of the state school aid act of 1979, MCL

388.1702. When approving a deficit elimination plan, the superintendent of public instruction shall establish the period of time within which a school district, intermediate school district, or public school academy must eliminate its deficit and may set special conditions that the school district, intermediate school district, or public school academy must meet while the deficit elimination plan is in effect. After the department approves a school district's, intermediate school district's, or public school academy's deficit elimination plan under this subsection, the school district, intermediate school district, or public school academy shall post the deficit elimination plan on the school district's, intermediate school district's, or public school academy's website. The requirements of this section relating to a deficit elimination plan do not apply to a school district, intermediate school district, or public school academy if the school district, intermediate school district, or public school academy is required to submit an enhanced deficit elimination plan under subsection ~~(5)~~ **(6)**.

(6) ~~(5)~~—If, based upon information included in a periodic financial status report required under section 1219, a deficit elimination plan required under this section, or a request by the superintendent of public instruction, the state treasurer determines that a school district, intermediate school district, or public school academy is subject to rapidly deteriorating financial circumstances, persistently declining enrollment, or other indicators of financial stress likely to result in recurring operating deficits or recurring financial stress within the school

1 district, intermediate school district, or public school academy,
2 the state treasurer may require the school district, intermediate
3 school district, or public school academy to submit an enhanced
4 deficit elimination plan in the form and manner determined by the
5 department of treasury. If the deficit for a school district,
6 intermediate school district, or public school academy that is
7 subject to a deficit elimination plan has not been completely
8 eliminated within 5 years after it submitted its initial deficit
9 elimination plan, the state treasurer shall require the school
10 district, intermediate school district, or public school academy to
11 submit an enhanced deficit elimination plan under this subsection.
12 An enhanced deficit elimination plan shall provide for the
13 resolution of the deteriorating financial circumstances,
14 persistently declining enrollment, or other indicators of recurring
15 operating deficits or recurring financial stress and is subject to
16 approval by the state treasurer. As a condition of approving the
17 enhanced deficit elimination plan, the state treasurer may require
18 a school district, intermediate school district, or public school
19 academy required to submit an enhanced deficit elimination plan
20 under this section to enter into a financial recovery agreement
21 with the state treasurer. A financial recovery agreement may
22 provide for, but is not limited to, all of the following:

23 (a) Assistance and guidance from the department of treasury
24 and other state departments and agencies.

25 (b) A financial and operating plan for the school district,
26 intermediate school district, or public school academy.

27 (c) The appointment of a local auditor or inspector, or both.

1 (d) Remedial measures or other action under this act necessary
2 to address the financial circumstances of the school district,
3 intermediate school district, or public school academy.

4 (e) The required retention by the school district,
5 intermediate school district, or public school academy of a
6 consultant or 1 or more other experts for the purpose of assisting
7 the school district, intermediate school district, or public school
8 academy to achieve the goals and objectives of the financial
9 recovery agreement.

10 (7) ~~(6)~~—Before a school district, intermediate school
11 district, or public school academy submits an enhanced deficit
12 elimination plan to the state treasurer under subsection ~~(5)~~, **(6)**,
13 the board of the school district or intermediate school district or
14 board of directors of the public school academy shall approve the
15 plan. If a school district, intermediate school district, or public
16 school academy is required to submit an enhanced deficit
17 elimination plan under subsection ~~(5)~~, **(6)**, some or all of the
18 money payable to the school district, intermediate school district,
19 or public school academy under the state school aid act of 1979 may
20 be withheld by the state treasurer and released as provided under
21 section 102(3) of the state school aid act of 1979, MCL 388.1702.
22 When approving an enhanced deficit elimination plan, the state
23 treasurer may establish the period of time within which a school
24 district, intermediate school district, or public school academy
25 must eliminate its deficit and may set special conditions that the
26 school district, intermediate school district, or public school
27 academy must meet while the enhanced deficit elimination plan is in

1 effect.

2 **(8)** ~~(7)~~—To assure greater coordination and effective
3 partnerships in the development and implementation of an enhanced
4 deficit elimination plan under subsection ~~(5)~~, ~~(6)~~, when
5 administering subsections ~~(5)~~, ~~(6)~~, and ~~(9)~~, ~~(6)~~, ~~(7)~~, **AND (10)**,
6 the department of treasury shall consult with all of the following:

7 (a) The department.

8 (b) The school district, intermediate school district, or
9 public school academy required to submit an enhanced deficit
10 elimination plan under subsection ~~(5)~~, ~~(6)~~.

11 (c) For a school district required to submit an enhanced
12 deficit elimination plan under subsection ~~(5)~~, ~~(6)~~, the
13 intermediate superintendent of the intermediate school district in
14 which the school district is located.

15 (d) For a public school academy required to submit an enhanced
16 deficit elimination plan under subsection ~~(5)~~, ~~(6)~~, the authorizing
17 body of the public school academy.

18 **(9)** ~~(8)~~—After the state treasurer approves an enhanced deficit
19 elimination plan for a school district, intermediate school
20 district, or public school academy, the school district,
21 intermediate school district, or public school academy shall post
22 the enhanced deficit elimination plan on the school district's,
23 intermediate school district's, or public school academy's website.

24 **(10)** ~~(9)~~—If a school district, intermediate school district,
25 or public school academy is required to submit an enhanced deficit
26 elimination plan under subsection ~~(5)~~, ~~(6)~~, the school district,
27 intermediate school district, or public school academy shall submit

1 to the superintendent of public instruction and the state treasurer
2 an enhanced monthly monitoring report on revenue, expenditures,
3 cash flow, debt, other liabilities, assets, budget amendments,
4 pupil membership, and other data relating to the finances of the
5 school district, intermediate school district, or public school
6 academy in a form and manner prescribed by the department of
7 treasury and shall post these reports on its website.

8 **(11)** ~~(10)~~—As used in this section:

9 (a) "Authorizing body" means an authorizing body for a public
10 school academy under this act.

11 **(B) "DEFICIT" MEANS THAT TERM AS DEFINED IN SECTION 1219.**

12 **(C)** ~~(b)~~—"Deficit elimination plan" means a plan required under
13 this section for the elimination of a deficit that sets forth
14 actions to be taken to eliminate the deficit within the time period
15 prescribed by the department.

16 **(D)** ~~(c)~~—"Deficit fund balance" means that term as defined in
17 the "Michigan Public School Accounting Manual" published by the
18 department.

19 **(E)** ~~(d)~~—"Enhanced deficit elimination plan" means measures
20 required by the state treasurer under this section to address the
21 financial conditions within a school district, intermediate school
22 district, or public school academy and resolve any deficit within
23 the time period prescribed by the state treasurer.

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.