

THE REVISED SCHOOL CODE (EXCERPT)
Act 451 of 1976

380.1356 Operating deficit; notes or bonds as school financing stability bonds; resolution; determination of deficit amount; pledge as security; agreement; lien; revenues held in trust; maturity; interest; installments; redemption; valid and binding general obligations; payment; use of proceeds; review and approval of budget.

Sec. 1356. (1) Notwithstanding section 1351, a school district that has an operating or projected operating deficit or that has outstanding state aid anticipation notes issued under section 1225 through the Michigan finance authority may, with the approval of the state treasurer, borrow and issue notes or bonds for the purpose of eliminating the deficit or refunding or refinancing the state aid anticipation notes and related multiyear repayment obligations in accordance with this section. Notes or bonds issued under this section shall be known as school financing stability bonds. This authority is in addition to and not in derogation of any power granted to a school district by any other provision of this act.

(2) Before a school district issues notes or bonds under this section, the board of the school district shall provide by resolution for the submission of the following certified and substantiated information to the department of treasury:

(a) There exists or will exist an operating deficit in the school district or the school district has outstanding state aid anticipation notes issued under section 1225 through the Michigan finance authority.

(b) If the school district has a deficit, during or before the fiscal year in which the application is made, the school district has made every available effort to offset the deficit.

(c) The school district has a plan approved by the state treasurer that outlines actions to be taken to balance future expenditures with anticipated revenues and to repay any bonds or notes issued under this section. The state treasurer may recognize a deficit elimination plan or an enhanced deficit elimination plan authorized under section 102 of the state school aid act of 1979, MCL 388.1702, as satisfying the requirements for an approved plan under this subdivision.

(3) The existence of an operating or projected operating deficit, the amount of the operating or projected operating deficit, and the amount necessary to refund or refinance any school aid anticipation notes issued under section 1225 through the Michigan finance authority shall be determined by the department of treasury, using normal school accounting practices. If a financial audit is required to arrive at a conclusive determination as to the amount of a deficit, the state treasurer shall charge all necessary expenses for the audit, including per diem and travel expenses, to the school district, and the school district shall make payment to the state treasurer for these expenses. A determination by the department of treasury under this subsection is final and conclusive.

(4) The notes or bonds may be issued in 1 or more series by resolution adopted by the school board, which resolution in each case shall make reference to the determination of the department of treasury under subsection (3). The amount of a note or bond issued shall not exceed the amount determined by the department of treasury under subsection (3).

(5) The school district may pledge as security for the repayment of principal and interest on notes or bonds issued under this section money from state school aid payments paid or payable to the school district, revenue from taxes levied by the school district for school operating purposes under section 1211, and other tax revenue or money of the district legally available as security. A pledge under this subsection is valid and binding from the time the pledge is made. A pledge under this subsection for the benefit of the holders of notes or bonds or for the benefit of others is perfected without delivery, recording, or notice. A school district may enter into an agreement with the department of treasury or the Michigan finance authority, or both, providing for the direct payment on behalf of the school district to the Michigan finance authority or a designated trustee of state school aid pledged for the repayment of principal and interest on notes or bonds issued under this section in the same manner as an agreement under section 17a(4) of the state school aid act of 1979, MCL 388.1617a. A school district also may provide for the deposit of revenues pledged for the payment of notes or bonds issued under this section in a separate account to pay principal and interest on notes or bonds, associated administrative costs, and any other obligations issued by the school district secured by the revenues. If the school district enters into an agreement with a person with a duty or obligation to collect for, pay, remit, disburse, or distribute to the school district all or a portion of the revenues pledged by the school district under this section, then the agreement must also provide for the direct payment of the revenues that the person has a duty or obligation to collect for, pay, remit, disburse, or distribute to the school district, and that the school district has pledged for payment of the notes or bonds issued under this section, to a trustee to be deposited in a trust account and used only for paying principal of and interest on the notes or bonds and related administrative costs and any other obligations issued or owing by the school district and

secured by the revenues. If a school district has entered into an agreement with a trustee for the deposit of revenues pledged by a school district into a trust account, then after the issuance of the notes or bonds and before the deposit of the revenues of the school district into that trust account, the revenues of the school district to be deposited are held in trust for the benefit of the trustee and the notes or bonds by any persons coming into possession of the revenues. The revenues are held in trust for the benefit of the trustee and the notes or bonds whether the school district directly collects the revenues, another person collects the revenues, or any other person comes into possession of the revenues, and the revenues remain subject to the trust regardless of any subsequent transfer of the revenues until the revenues are deposited into the trust account. If the school district or other person holds a residual or other interest in the revenues held in trust and to be deposited with the trustee in the trust account, the interest is subordinate to a lien on the revenues in favor of the trustee for the purpose of ensuring delivery of the revenues to the trust account. The lien arises by operation of law and without further act or notice of any kind at the earliest time that the school district has or acquires any rights in the revenues pledged under the agreement, is and will remain paramount and superior to any other lien and interest of any kind, and is perfected without delivery, recording, or notice. The revenues held in trust and to be deposited into the trust account under this subsection are exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the school district other than those expressly specified in the agreement described in this subsection.

(6) The notes or bonds shall mature serially with annual maturities not more than 25 years from their date and shall bear interest, payable annually or semiannually, at a rate or rates not exceeding a rate determined by the school board in the school district's borrowing resolution. The first principal installment on the notes or bonds shall be due not more than 18 months from the date of the issuance of the notes or bonds. The notes or bonds may be made subject to redemption before maturity with or without premium in a manner and at times provided in the resolution authorizing the issuance of the notes or bonds.

(7) Notes or bonds issued under this section are valid and binding general obligations of the school district, it being the intent and purpose that the notes or bonds and the interest on the notes or bonds be promptly paid when due from the first money available to the school district not pledged for other indebtedness and except to the extent that the use is restricted by the state constitution of 1963 or the laws of the United States. If a school district does not receive state school aid, the validity of a note or bond issued under this section is not affected.

(8) Except as otherwise provided in this section, and unless the state treasurer approves an exception, bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(9) The proceeds of the sale of notes or bonds authorized under this section, after payment of the costs of issuance of the notes or bonds and interest on the notes or bonds, shall be used solely for the purpose of paying necessary operating expenses of the school district, including the payment of principal of and interest on notes or bonds of the school district issued for operating purposes under this or any other act.

(10) A board of a school district that borrows under this section shall submit its budget for review and approval to the department of treasury. The department of treasury shall take necessary steps, subject to the school district's contracts and statutory obligations, to assure that the expenditures of a school district that receives money under this part shall not exceed revenues on an annual basis and that the school district maintains a balanced budget.

History: 1976, Act 451, Imd. Eff. Jan. 13, 1977;—Am. 1981, Act 143, Imd. Eff. Nov. 3, 1981;—Am. 1983, Act 118, Imd. Eff. July 18, 1983;—Am. 1993, Act 312, Eff. Mar. 15, 1994;—Am. 2002, Act 181, Imd. Eff. Apr. 23, 2002;—Am. 2016, Act 192, Imd. Eff. June 21, 2016.

Popular name: Act 451