

HOUSE BILL No. 6577

November 17, 2010, Introduced by Rep. Durhal and referred to the Committee on Education.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending section 17a (MCL 388.1617a), as amended by 2006 PA 342.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17a. (1) The department may withhold all or part of any
2 payment that a district or intermediate district is entitled to
3 receive under this act to the extent the withholdings are a
4 component part of a plan, developed and implemented pursuant to the
5 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
6 141.2821, or other statutory authority, for financing an
7 outstanding obligation upon which the district or intermediate
8 district defaulted. Amounts withheld shall be used to pay, on

1 behalf of the district or intermediate district, unpaid amounts or
2 subsequently due amounts, or both, of principal and interest on the
3 outstanding obligation upon which the district or intermediate
4 district defaulted.

5 (2) The state treasurer may withhold all or part of any
6 payment that a district or intermediate district is entitled to
7 receive under this act to the extent authorized or required under
8 section 15 of the school bond qualification, approval, and loan
9 act, 2005 PA 92, MCL 388.1935. **HOWEVER, THIS SUBSECTION DOES NOT**
10 **APPLY TO A DISTRICT THAT IS LEVYING THE MAXIMUM NUMBER OF MILLS**
11 **AUTHORIZED UNDER SECTION 16 OF ARTICLE IX OF THE STATE CONSTITUTION**
12 **OF 1963 TO PAY DEBT SERVICE OR LOANS WITH RESPECT TO BONDS**
13 **QUALIFIED PURSUANT TO THE SCHOOL BOND QUALIFICATION, APPROVAL, AND**
14 **LOAN ACT, 2005 PA 92, 388.1921 TO 388.1939.**

15 (3) Under an agreement entered into by a district or
16 intermediate district assigning all or a portion of the payment
17 that it is eligible to receive under this act to the Michigan
18 ~~municipal bond~~-**FINANCE** authority or to the trustee of a pooled
19 arrangement **OR OTHER TRUSTEE**, or pledging the amount for payment of
20 an obligation it incurred with the Michigan ~~municipal bond~~-**FINANCE**
21 authority or with the trustee of a pooled arrangement, the state
22 treasurer shall transmit to the Michigan ~~municipal bond~~-**FINANCE**
23 authority or a trustee designated by the authority or to the
24 trustee of a pooled arrangement **OR OTHER TRUSTEE** the amount of the
25 payment that is assigned or pledged under the agreement. **IF A**
26 **DISTRICT OR INTERMEDIATE DISTRICT ENTERS INTO OR HAS ENTERED INTO**
27 **AN AGREEMENT DESCRIBED IN THIS SUBSECTION PURSUANT TO SECTION 1225**

1 OF THE REVISED SCHOOL CODE, MCL 380.1225, WHETHER THE OBLIGATION
2 WAS ISSUED BEFORE OR AFTER THE EFFECTIVE DATE OF THE 2010
3 AMENDATORY ACT THAT AMENDED THIS SECTION, THE PORTION OF STATE
4 SCHOOL AID PAID OR TO BE PAID DIRECTLY TO THE MICHIGAN FINANCE
5 AUTHORITY, TRUSTEE OF A POOLED ARRANGEMENT, OR OTHER TRUSTEE FOR
6 THE SOLE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON THE
7 OBLIGATION IS SUBJECT TO A LIEN AND TRUST THAT IS A STATUTORY LIEN
8 AND TRUST PARAMOUNT AND SUPERIOR TO ALL OTHER LIENS AND INTERESTS
9 OF ANY KIND, FOR THE SOLE PURPOSE OF PAYING THE PRINCIPAL OF AND
10 INTEREST ON THE OBLIGATION. THE STATUTORY LIEN AND TRUST IS CREATED
11 APPLICABLE TO THE STATE SCHOOL AID RECEIVED OR TO BE RECEIVED BY
12 THE MICHIGAN FINANCE AUTHORITY, TRUSTEE OF A POOLED ARRANGEMENT, OR
13 OTHER TRUSTEE IMMEDIATELY UPON THE LATER OF THE EFFECTIVE DATE OF
14 THE 2010 AMENDATORY ACT THAT AMENDED THIS SECTION OR THE TIME WHEN
15 THE STATE SCHOOL AID IS ALLOCATED TO THE DISTRICT OR INTERMEDIATE
16 DISTRICT, BUT IS SUBJECT TO ANY SUBSEQUENT REDUCTION OF THAT
17 ALLOCATION BY OPERATION OF LAW OR EXECUTIVE ORDER. THE LIEN AND
18 TRUST IMPOSED BY THIS SECTION WITH RESPECT TO STATE SCHOOL AID HAS
19 A PRIORITY AS ESTABLISHED IN THE AGREEMENT, EXCEPT THAT THE
20 AGREEMENT SHALL NOT IMPAIR ANY EXISTING LIEN AND TRUST PREVIOUSLY
21 CREATED PURSUANT TO THIS SECTION, INCLUDING ANY LIEN AND TRUST
22 APPLICABLE TO A MULTI-YEAR REPAYMENT AGREEMENT UNDER SECTION 1225
23 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1225. EXCEPT AS
24 OTHERWISE PROVIDED IN THIS SUBSECTION, THE LIEN AND TRUST CREATED
25 UNDER THIS SUBSECTION FOR THE BENEFIT OF HOLDERS OF THE OBLIGATION
26 ISSUED PURSUANT TO THIS SECTION IS VALID AND BINDING AGAINST A
27 PARTY HAVING A CLAIM OF ANY KIND IN TORT, CONTRACT, OR OTHERWISE

1 AGAINST THE DISTRICT OR INTERMEDIATE DISTRICT THAT HAS ISSUED THE
2 OBLIGATION SECURED BY A PLEDGE OF STATE SCHOOL AID PURSUANT TO THIS
3 SECTION, REGARDLESS OF WHETHER THAT PARTY HAS NOTICE OF THE PLEDGE.
4 A PLEDGE MADE PURSUANT TO THIS SECTION FOR THE BENEFIT OF THE
5 HOLDERS OF OBLIGATIONS OR OTHERS IS PERFECTED WITHOUT DELIVERY,
6 RECORDING, OR NOTICE. THE STATE SCHOOL AID PAID OR TO BE PAID TO
7 THE MICHIGAN FINANCE AUTHORITY, TRUSTEE OF A POOLED ARRANGEMENT, OR
8 OTHER TRUSTEE SHALL BE HELD IN TRUST FOR THE SOLE BENEFIT OF THE
9 HOLDERS OF THE OBLIGATION ISSUED PURSUANT TO THIS SECTION AND SHALL
10 BE EXEMPT FROM BEING LEVIED UPON, TAKEN, SEQUESTERED, OR APPLIED
11 TOWARD PAYING THE DEBTS OR LIABILITIES OF THE DISTRICT OR
12 INTERMEDIATE DISTRICT OTHER THAN FOR PAYMENT OF THE OBLIGATION TO
13 WHICH THE LIEN APPLIES. HOWEVER, NOTHING IN THIS SUBSECTION ALTERS
14 THE ABILITY OF THE STATE TREASURER TO WITHHOLD STATE SCHOOL AID
15 FROM A DISTRICT OR INTERMEDIATE DISTRICT AS PROVIDED BY THIS ACT.

16 (4) Notwithstanding the payment dates prescribed by this act
17 for distributions under this act, the state treasurer may advance
18 all or part of a payment that is dedicated for distribution or for
19 which the appropriation authorizing the payment has been made if
20 and to the extent, under the terms of an agreement entered into by
21 a district or intermediate district and the Michigan ~~municipal bond~~
22 **FINANCE** authority, the payment that the district or intermediate
23 district is eligible to receive has been assigned to or pledged for
24 payment of an obligation it incurred with the Michigan ~~municipal~~
25 ~~bond~~ **FINANCE** authority.

26 (5) This ~~subsection~~ **SECTION** does not require the state to make
27 an appropriation to any school district or intermediate school

1 district and shall not be construed as creating an indebtedness of
 2 the state, and any agreement made pursuant to this ~~subsection~~
 3 **SECTION** shall contain a statement to that effect. As used in this
 4 ~~subsection, "trustee~~ **SECTION:**

5 **(A) "TRUSTEE** of a pooled arrangement" means the trustee of a
 6 trust approved by the state treasurer and, subject to the
 7 conditions and requirements of that approval, established for the
 8 purpose of offering for sale, as part of a pooled arrangement,
 9 certificates representing undivided interests in notes issued by
 10 districts or intermediate districts under section 1225 of the
 11 revised school code, 1976 PA 451, MCL 380.1225.

12 **(B) "OTHER TRUSTEE" MEANS THE TRUSTEE APPROVED BY THE STATE**
 13 **TREASURER AND, SUBJECT TO THE CONDITIONS AND REQUIREMENTS OF THAT**
 14 **APPROVAL, WITH WHOM A DISTRICT OR INTERMEDIATE DISTRICT ENTERS INTO**
 15 **AN AGREEMENT PURSUANT TO SECTION 1225 OF THE REVISED SCHOOL CODE,**
 16 **1976 PA 451, MCL 380.1225.**

17 **(6)** If a trustee applies to the state treasurer for approval
 18 of a trust for the purposes of this ~~subsection, SECTION~~, the state
 19 treasurer shall approve or disapprove the trust within 10 days
 20 after receipt of the application.

21 Enacting section 1. This amendatory act does not take effect
 22 unless all of the following bills of the 95th Legislature are
 23 enacted into law:

24 (a) Senate Bill No. ____ or House Bill No. 6578 (request no.
 25 07747'10).

26 (b) Senate Bill No. ____ or House Bill No. 6579 (request no.
 27 07749'10).

1 (c) Senate Bill No. _____ or House Bill No. 6576 (request no.
2 07750'10).