

HOUSE BILL No. 5195

December 1, 2011, Introduced by Reps. Durhal, Jackson and Stallworth and referred to the Committee on Appropriations.

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
9 behalf of the district or intermediate district, unpaid amounts or
10 subsequently due amounts, or both, of principal and interest on the

House Bill No. 5195 as amended December 8, 2011

1 outstanding obligation upon which the district or intermediate
2 district defaulted.

3 (2) The state treasurer may withhold all or part of any
4 payment that a district or intermediate district is entitled to
5 receive under this act to the extent authorized or required under
6 section 15 of the school bond qualification, approval, and loan
7 act, 2005 PA 92, MCL 388.1935.

8 (3) Under an agreement entered into by a district or
9 intermediate district assigning all or a portion of the payment
10 that it is eligible to receive under this act to the Michigan
11 ~~municipal bond~~ **FINANCE** authority or to the trustee of a pooled
12 arrangement or pledging the amount for payment of an obligation it
13 incurred with the Michigan ~~municipal bond~~ **FINANCE** authority or with
14 the trustee of a pooled arrangement, the state treasurer shall
15 transmit to the Michigan ~~municipal bond~~ **FINANCE** authority or a
16 trustee designated by the **MICHIGAN FINANCE** authority or to the
17 trustee of a pooled arrangement the amount of the payment that is
18 assigned or pledged under the agreement.

[(4)] IF A DISTRICT OR

19 **INTERMEDIATE DISTRICT [FOR WHICH AN EMERGENCY MANAGER HAS BEEN APPOINTED
PURSUANT TO THE LOCAL GOVERNMENT AND SCHOOL DISTRICT FISCAL
ACCOUNTABILITY ACT, 2011 PA 4, MCL 141.1501 TO 141.1531, OR THAT HAS AN
APPROVED DEFICIT ELIMINATION PLAN UNDER SECTION 102,] ENTERS INTO OR HAS
ENTERED INTO AN AGREEMENT**

20 **DESCRIBED IN [SUBSECTION (3)] PURSUANT TO SECTION [1225(2)] OF THE**
21 **REVISED SCHOOL CODE, MCL 380.1225, WHETHER THE OBLIGATION WAS**
22 **ISSUED BEFORE OR AFTER THE EFFECTIVE DATE OF [THIS SUBSECTION**
23 **], THE PORTION OF STATE SCHOOL AID PAID**
24 **OR TO BE PAID DIRECTLY TO THE MICHIGAN FINANCE AUTHORITY, OR TO A**
25 **TRUSTEE DESIGNATED BY THE MICHIGAN FINANCE AUTHORITY, FOR THE SOLE**
26 **PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON THE OBLIGATION**
27 **IS SUBJECT TO A LIEN AND TRUST THAT IS A STATUTORY LIEN AND TRUST,**

House Bill No. 5195 as amended December 8, 2011

1 PARAMOUNT AND SUPERIOR TO ALL OTHER LIENS AND INTERESTS OF ANY
2 KIND, FOR THE SOLE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST
3 ON THE OBLIGATION. THE STATUTORY LIEN AND TRUST APPLIES TO THE
4 STATE SCHOOL AID RECEIVED OR TO BE RECEIVED BY THE MICHIGAN FINANCE
5 AUTHORITY, OR TRUSTEE DESIGNATED BY THE MICHIGAN FINANCE AUTHORITY,
6 IMMEDIATELY UPON THE LATER OF THE EFFECTIVE DATE OF [THIS SUBSECTION
7] OR THE TIME WHEN THE STATE
8 SCHOOL AID IS ALLOCATED TO THE DISTRICT OR INTERMEDIATE DISTRICT,
9 BUT IS SUBJECT TO ANY SUBSEQUENT REDUCTION OF THE STATE SCHOOL AID
10 ALLOCATION BY OPERATION OF LAW OR EXECUTIVE ORDER. THE LIEN AND
11 TRUST IMPOSED BY THIS SECTION WITH RESPECT TO STATE SCHOOL AID HAS
12 A PRIORITY AS ESTABLISHED IN THE AGREEMENT, EXCEPT THAT THE
13 AGREEMENT SHALL NOT IMPAIR ANY EXISTING LIEN AND TRUST PREVIOUSLY
14 CREATED PURSUANT TO THIS SECTION, INCLUDING ANY LIEN AND TRUST
15 APPLICABLE TO A MULTI-YEAR REPAYMENT AGREEMENT UNDER SECTION 1225
16 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1225. EXCEPT AS
17 OTHERWISE PROVIDED IN THIS SUBSECTION, THE LIEN AND TRUST CREATED
18 UNDER THIS SUBSECTION FOR THE BENEFIT OF HOLDERS OF THE OBLIGATION
19 ISSUED PURSUANT TO THIS SECTION IS VALID AND BINDING AGAINST A
20 PARTY HAVING A CLAIM OF ANY KIND IN TORT, CONTRACT, OR OTHERWISE
21 AGAINST THE DISTRICT OR INTERMEDIATE DISTRICT THAT HAS ISSUED THE
22 OBLIGATION SECURED BY A PLEDGE OF STATE SCHOOL AID PURSUANT TO THIS
23 SECTION, REGARDLESS OF WHETHER THAT PARTY HAS NOTICE OF THE PLEDGE.
24 A PLEDGE MADE PURSUANT TO THIS SECTION FOR THE BENEFIT OF THE
25 HOLDERS OF OBLIGATIONS OR OTHERS IS PERFECTED WITHOUT DELIVERY,
26 RECORDING, OR NOTICE. THE STATE SCHOOL AID PAID OR TO BE PAID TO
27 THE MICHIGAN FINANCE AUTHORITY, OR TRUSTEE DESIGNATED BY THE

House Bill No. 5195 as amended December 8, 2011

1 MICHIGAN FINANCE AUTHORITY, SHALL BE HELD IN TRUST FOR THE SOLE
 2 BENEFIT OF THE HOLDERS OF THE OBLIGATION ISSUED PURSUANT TO THIS
 3 SECTION OR SECTION 1225 AND IS EXEMPT FROM BEING LEVIED UPON,
 4 TAKEN, SEQUESTERED, OR APPLIED TOWARD PAYING THE DEBTS OR
 5 LIABILITIES OF THE DISTRICT OR INTERMEDIATE DISTRICT OTHER THAN FOR
 6 PAYMENT OF THE OBLIGATION TO WHICH THE LIEN APPLIES. HOWEVER,
 7 NOTHING IN THIS SUBSECTION ALTERS THE ABILITY OF THE STATE
 8 TREASURER TO WITHHOLD STATE SCHOOL AID FROM A DISTRICT OR
 9 INTERMEDIATE DISTRICT AS PROVIDED BY LAW.

10 [(5)] Notwithstanding the payment dates prescribed by this act
 11 for distributions under this act, the state treasurer may advance
 12 all or part of a payment that is dedicated for distribution or for
 13 which the appropriation authorizing the payment has been made if
 14 and to the extent, under the terms of an agreement entered into by
 15 a district or intermediate district and the Michigan ~~municipal bond~~
 16 FINANCE authority, the payment that the district or intermediate
 17 district is eligible to receive has been assigned to or pledged for
 18 payment of an obligation it incurred with the Michigan ~~municipal~~
 19 ~~bond~~ FINANCE authority.

20 [(6)] This ~~subsection~~ SECTION does not require the state to make
 21 an appropriation to any school district or intermediate school
 22 district and shall not be construed as creating an indebtedness of
 23 the state, and any agreement made pursuant to this ~~subsection~~
 24 SECTION shall contain a statement to that effect.

25 [(7)] As used in this ~~subsection~~, SECTION, "trustee of a pooled
 26 arrangement" means the trustee of a trust approved by the state
 27 treasurer and, subject to the conditions and requirements of that

House Bill No. 5195 as amended December 8, 2011

1 approval, established for the purpose of offering for sale, as part
2 of a pooled arrangement, certificates representing undivided
3 interests in notes issued by districts or intermediate districts
4 under section 1225 of the revised school code, 1976 PA 451, MCL
5 380.1225.

6 **[(8)]** If a trustee applies to the state treasurer for approval
7 of a trust for the purposes of this ~~subsection~~, **SECTION**, the state
8 treasurer shall approve or disapprove the trust within 10 days
9 after receipt of the application.

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No. ____ or House Bill No. 5194 (request no.
12 03855'11) of the 96th Legislature is enacted into law.