

HOUSE BILL No. 5352

December 12, 2017, Introduced by Rep. Yaroach and referred to the Committee on Local Government.

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 2015 PA 114.

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 article 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, the emergency municipal loan act, 1980 PA 243, MCL
7 141.931 to 141.942, the local financial stability and choice act,
8 2012 PA 436, MCL 141.1541 to 141.1575, section 1356 of the revised
9 school code, MCL 380.1356, or other statutory authority, for

1 financing an outstanding obligation upon which the district or
2 intermediate district defaulted or for other financial obligations
3 of the district or intermediate district. Amounts withheld ~~shall~~
4 **MUST** be used to pay, on behalf of the district or intermediate
5 district, unpaid amounts or subsequently due amounts, or both, of
6 principal and interest on the outstanding obligation upon which the
7 district or intermediate district defaulted.

8 (2) The state treasurer may withhold all or part of any
9 payment that a district or intermediate district is entitled to
10 receive under this article to the extent authorized or required
11 under section 15 of the school bond qualification, approval, and
12 loan act, 2005 PA 92, MCL 388.1935, the emergency municipal loan
13 act, 1980 PA 243, MCL 141.931 to 141.942, the local financial
14 stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575,
15 section 1356 of the revised school code, MCL 380.1356, or other
16 statutory authority.

17 (3) Under an agreement entered into by a district or
18 intermediate district assigning all or a portion of the payment
19 that it is eligible to receive under this article to the Michigan
20 finance authority or to the trustee of a pooled arrangement or
21 pledging the amount for payment of an obligation it incurred with
22 the Michigan finance authority or with the trustee of a pooled
23 arrangement, the state treasurer shall transmit to the Michigan
24 finance authority or a trustee designated by the Michigan finance
25 authority or to the trustee of a pooled arrangement or other
26 designated depository the amount of the payment that is assigned or
27 pledged under the agreement.

1 (4) If a district or intermediate district for which an
2 emergency manager **OR A FINANCIAL MANAGEMENT TEAM** is in place under
3 the local financial stability and choice act, 2012 PA 436, MCL
4 141.1541 to 141.1575, or that has an approved deficit elimination
5 plan or an approved enhanced deficit elimination plan under the
6 revised school code, enters into or has entered into an agreement
7 described in subsection (3) pursuant to section 1225(2) of the
8 revised school code, MCL 380.1225, whether the obligation was
9 issued before or after ~~the effective date of this subsection,~~
10 **FEBRUARY 7, 2012**, the portion of state school aid paid or to be
11 paid on behalf of the district or intermediate district directly to
12 the Michigan finance authority, or to a trustee designated by the
13 Michigan finance authority, for the sole purpose of paying the
14 principal of and interest on the obligation is subject to a lien
15 and trust that is a statutory lien and trust, paramount and
16 superior to all other liens and interests of any kind, for the sole
17 purpose of paying the principal of and interest on the obligation.
18 The statutory lien and trust applies to the state school aid
19 received or to be received by the Michigan finance authority, or
20 trustee designated by the Michigan finance authority, on behalf of
21 the district or intermediate district, immediately upon the time
22 when the state school aid is allocated to the district or
23 intermediate district, but is subject to any subsequent reduction
24 of the state school aid allocation by operation of law or executive
25 order. The lien and trust imposed by this section with respect to
26 state school aid has a priority as established in the agreement,
27 except that the agreement ~~shall~~**MUST** not impair any existing lien

1 and trust previously created pursuant to this section, including
2 any lien and trust applicable to a multi-year repayment agreement
3 under section 1225 of the revised school code, MCL 380.1225. Except
4 as otherwise provided in this subsection, the lien and trust
5 created under this subsection for the benefit of holders of the
6 obligation issued pursuant to this section is valid and binding
7 against a party having a claim of any kind in tort, contract, or
8 otherwise against the district or intermediate district that has
9 issued the obligation secured by a pledge of state school aid
10 pursuant to this section, regardless of whether that party has
11 notice of the pledge. A pledge made pursuant to this section for
12 the benefit of the holders of obligations or others is perfected
13 without delivery, recording, or notice. The state school aid paid
14 or to be paid on behalf of a district or intermediate district to
15 the Michigan finance authority, or trustee designated by the
16 Michigan finance authority, ~~shall~~**MUST** be held in trust for the
17 sole benefit of the holders of the obligation issued pursuant to
18 this section or section 1225 of the revised school code, MCL
19 380.1225, and is exempt from being levied upon, taken, sequestered,
20 or applied toward paying the debts or liabilities of the district
21 or intermediate district other than for payment of the obligation
22 to which the lien applies. However, nothing in this subsection
23 alters the ability of the state treasurer to withhold state school
24 aid from a district or intermediate district as provided by law.

25 (5) Notwithstanding the payment dates prescribed by this
26 article for distributions under this article, the state treasurer
27 may advance all or part of a payment that is dedicated for

1 distribution or for which the appropriation authorizing the payment
2 has been made if and to the extent, under the terms of an agreement
3 entered into by a district or intermediate district and the
4 Michigan finance authority, the payment that the district or
5 intermediate district is eligible to receive has been assigned to
6 or pledged for payment of an obligation it incurred with the
7 Michigan finance authority.

8 (6) This section does not require the state to make an
9 appropriation to any school district or intermediate school
10 district and ~~shall~~**MUST** not be construed as creating an
11 indebtedness of the state, and any agreement made pursuant to this
12 section ~~shall~~**MUST** contain a statement to that effect.

13 (7) As used in this section, "trustee of a pooled arrangement"
14 means the trustee of a trust approved by the state treasurer and,
15 subject to the conditions and requirements of that approval,
16 established for the purpose of offering for sale, as part of a
17 pooled arrangement, certificates representing undivided interests
18 in notes issued by districts or intermediate districts under
19 section 1225 of the revised school code, MCL 380.1225.

20 (8) If a trustee applies to the state treasurer for approval
21 of a trust for the purposes of this section, the state treasurer
22 shall approve or disapprove the trust within 10 days after receipt
23 of the application.

24 (9) An allocation to a district or intermediate district under
25 this article is contingent upon the district's or intermediate
26 district's compliance with this section.

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.

2 Enacting section 2. This amendatory act does not take effect
3 unless Senate Bill No. _____ or House Bill No. 5337 (request no.
4 03826'17) of the 99th Legislature is enacted into law.