

THE STATE SCHOOL AID ACT OF 1979 (EXCERPT)
Act 94 of 1979

***** 388.1617a.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 1, 2014 *****

388.1617a.amended Withholding payment district or intermediate district entitled to receive; extent; plan for financing outstanding obligation defaulted upon by district or intermediate district; use of amounts withheld; agreement assigning or pledging payment; effect of emergency manager or deficit elimination plan; indebtedness of state not created; "trustee of a pooled arrangement" defined; approval or disapproval of trust.

Sec. 17a. (1) The department may withhold all or part of any payment that a district or intermediate district is entitled to receive under this article to the extent the withholdings are a component part of a plan, developed and implemented pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575, or other statutory authority, for financing an outstanding obligation upon which the district or intermediate district defaulted or for other financial obligations of the district or intermediate district. Amounts withheld shall be used to pay, on behalf of the district or intermediate district, unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding obligation upon which the district or intermediate district defaulted.

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

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

(4) If a district or intermediate district for which an emergency manager is in place under the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575, or that has an approved deficit elimination plan or an approved enhanced deficit elimination plan under section 102, enters into or has entered into an agreement described in subsection (3) pursuant to section 1225(2) of the revised school code, MCL 380.1225, whether the obligation was issued before or after the effective date of this subsection, the portion of state school aid paid or to be paid on behalf of the district or intermediate district directly to the Michigan finance authority, or to a trustee designated by the Michigan finance authority, for the sole purpose of paying the principal of and interest on the obligation is subject to a lien and trust that is a statutory lien and trust, paramount and superior to all other liens and interests of any kind, for the sole purpose of paying the principal of and interest on the obligation. The statutory lien and trust applies to the state school aid received or to be received by the Michigan finance authority, or trustee designated by the Michigan finance authority, on behalf of the district or intermediate district, immediately upon the later of the effective date of this subsection or the time when the state school aid is allocated to the district or intermediate district, but is subject to any subsequent reduction of the state school aid allocation by operation of law or executive order. The lien and trust imposed by this section with respect to state school aid has a priority as established in the agreement, except that the agreement shall not impair any existing lien and trust previously created pursuant to this section, including any lien and trust applicable to a multi-year repayment agreement under section 1225 of the revised school code, MCL 380.1225. Except as otherwise provided in this subsection, the lien and trust created under this subsection for the benefit of holders of the obligation issued pursuant to this section is valid and binding against a party having a claim of any kind in tort, contract, or otherwise against the district or intermediate district that has issued the obligation secured by a pledge of state school aid pursuant to this section, regardless of whether that party has notice of the pledge. A pledge made pursuant to this section for the benefit of the holders of obligations or others is perfected without delivery, recording, or notice. The state school aid paid or to be paid on behalf of a district or intermediate district to the Michigan finance authority, or trustee designated by the Michigan finance authority, shall be held in trust for the sole benefit of the holders of the obligation issued pursuant to this section or section 1225 of the revised school code, MCL 380.1225, and is exempt from being levied upon, taken, sequestered, or applied toward paying the debts or

liabilities of the district or intermediate district other than for payment of the obligation to which the lien applies. However, nothing in this subsection alters the ability of the state treasurer to withhold state school aid from a district or intermediate district as provided by law.

(5) Notwithstanding the payment dates prescribed by this article for distributions under this article, the state treasurer may advance all or part of a payment that is dedicated for distribution or for which the appropriation authorizing the payment has been made if and to the extent, under the terms of an agreement entered into by a district or intermediate district and the Michigan finance authority, the payment that the district or intermediate district is eligible to receive has been assigned to or pledged for payment of an obligation it incurred with the Michigan finance authority.

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

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

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

History: Add. 1983, Act 37, Imd. Eff. May 10, 1983;—Am. 1985, Act 142, Eff. Jan. 13, 1986;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 2002, Act 71, Imd. Eff. Mar. 15, 2002;—Am. 2005, Act 95, Imd. Eff. July 20, 2005;—Am. 2006, Act 342, Eff. Oct. 1, 2006;—Am. 2012, Act 2, Imd. Eff. Feb. 7, 2012;—Am. 2013, Act 97, Eff. Oct. 1, 2013;—Am. 2014, Act 196, Eff. Oct. 1, 2014.

Compiler's note: Enacting section 1 of Act 342 of 2006 provides:

"Enacting section 1. (1) In accordance with section 30 of article I of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2006-2007 is estimated at \$11,682,508,200.00 and state appropriations to be paid to local units of government for fiscal year 2006-2007 are estimated at \$11,536,597,200.00.

(2) In accordance with section 30 of article I of the state constitution of 1963, total state spending from state sources for fiscal year 2005-2006 in this amendatory act and 2005 PA 155 is estimated at \$11,308,027,200.00 and state appropriations to be paid to local units of government for fiscal year 2004-2005 are estimated at \$11,285,376,300.00."