

## THE REVISED SCHOOL CODE (EXCERPT)

### Act 451 of 1976

#### Part 17

#### BONDS AND NOTES

### **380.1351 Borrowing money and issuing bonds; purposes; limitations; bonds or notes as full faith and credit tax limited obligations.**

Sec. 1351.

(1) Until May 1, 1994, a school district may borrow money and issue bonds of the district to defray all or a part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurbishing, equipping, or reequipping school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities, or parts of or additions to those facilities; acquiring, preparing, developing, or improving sites, or parts of or additions to sites, for school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities; purchasing school buses; participating in the administrative costs of an urban renewal program through which the school district desires to acquire a site or addition to a site for school purposes; refunding all or part of existing bonded indebtedness; or accomplishing a combination of the purposes set forth in this subsection. In addition, until December 31, 1991 a school district may borrow money and issue bonds to defray all or part of the cost of purchasing textbooks.

(2) Except as otherwise provided in this subsection, a school district shall not borrow money or issue bonds for a sum that, together with the total outstanding bonded indebtedness of the district, exceeds 5% of the state equalized valuation of the taxable property within the district, unless the proposition of borrowing the money or issuing the bonds is submitted to a vote of the school electors of the district at a regular or special school election and approved by the majority of the school electors voting on the question. Regardless of the amount of outstanding bonded indebtedness of the school district, a vote of the school electors is not necessary in order to issue bonds for a purpose described in section 1274a, to issue bonds under section 11i of the state school aid act of 1979, MCL 388.1611i, or, if the school district has fewer than 1,100 pupils in membership in 2006 and is located in a county with a population of less than 30,500 as of the 2000 decennial census, to issue qualified zone academy bonds. For the purposes of this subsection, the following types of bonds shall not be included in computing the total outstanding bonded indebtedness of a school district:

(a) Bonds issued under section 11i of the state school aid act of 1979, MCL 388.1611i.

(b) If the school district has fewer than 1,100 pupils in membership in 2006 and is located in a county with a population of less than 30,500 as of the 2000 decennial census, qualified zone academy bonds.

(3) A school district shall not issue bonds under this part for an amount greater than 15% of the total assessed valuation of the district, except as provided in section 1356. A bond qualified under section 16 of article IX of the state constitution of 1963 and implementing legislation shall not be included for purposes of calculating the 15% limitation. Bonds issued under this part are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that bonds issued for a purpose described in section 1274a may be sold at a public or publicly negotiated sale at the time or times, at the price or prices, and at a discount as determined by the board of the school district.

(4) Bonds or notes issued by a school district or intermediate school district under this part or section 442, 629, or 1274a shall be full faith and credit tax limited obligations of the district pledging the general funds, voted and allocated tax levies, or any other money available for such a purpose and shall not allow or provide for the levy of additional millage for payment of the bond or note without a vote of the qualified electorate of the district.

(5) As used in this section, "qualified zone academy bond" means that term as defined in section 1397e of the internal revenue code, 26 USC 1397e.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;-- Am. 1977, Act 43, Imd. Eff. June 29, 1977 ;-- Am. 1985, Act 22, Imd. Eff. May 20, 1985 ;-- Am. 1990, Act 352, Imd. Eff. Dec. 26, 1990 ;-- Am. 1997, Act 152, Imd. Eff. Dec. 22, 1997 ;-- Am. 2002, Act 67, Imd. Eff. Mar. 15, 2002 ;-- Am. 2003, Act 299, Eff. Jan. 1, 2005 ;-- Am. 2006, Act 680, Imd. Eff. Jan. 10, 2007

**Popular Name:** Act 451

### **380.1351a Borrowing money and issuing bonds.**

Sec. 1351a.

(1) Beginning with bonds issued after May 1, 1994, a school district, including, but not limited to, a school district that is a community district or a qualifying school district, shall not borrow money and issue bonds of the district under section 1351(1). However, a school district, including, but not limited to, a school district that is a community district, may borrow money and issue bonds of the district to defray all or a part of the cost of purchasing, erecting, completing, remodeling, or equipping or reequipping, except for equipping or reequipping for technology, school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities, or parts of or additions to those facilities; furnishing or refurnishing new or remodeled school buildings; acquiring, preparing, developing, or improving sites, or parts of or additions to sites, for school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities; purchasing school buses; acquiring, installing, or equipping or reequipping school buildings for technology; or accomplishing a combination of the purposes set forth in this subsection. Section 1351(2) to (4) applies to bonds issued under this section.

(2) The proceeds of bonds issued under this section or under section 11i of the state school aid act of 1979, MCL 388.1611i, shall be used for capital expenditures and to pay costs of bond issuance, and shall not be used for maintenance costs. Except as otherwise provided in this subsection, a school district that issues bonds under this section or under section 11i of the state school aid act of 1979, MCL 388.1611i, shall have an independent audit, using generally accepted accounting principles, of its bonding activities under these sections conducted within 120 days after completion of all projects financed by the proceeds of the bonds and shall submit the audit report to the department of treasury. For bonds issued under section 11i of the state school aid act of 1979, MCL 388.1611i, the independent audit required under this subsection may be conducted and submitted with the annual report required under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) A school district, including, but not limited to, a school district that is a community district, shall not borrow money and issue notes or bonds under this section to defray all or part of the costs of any of the following:

(a) Upgrades to operating system or application software.

(b) Media, including diskettes, compact discs, video tapes, and disks, unless used for the storage of initial operating system software or customized application software included in the definition of technology under this section.

(c) Training, consulting, maintenance, service contracts, software upgrades, troubleshooting, or software support.

(4) A resident of a school district, including, but not limited to, a school district that is a community district, has standing to bring suit against the school district to enforce the provisions of this section in a court having jurisdiction.

(5) As used in this section, "technology" means any of the following:

(a) Hardware and communication devices that transmit, receive, or compute information for pupil instructional purposes.

(b) The initial purchase of operating system software or customized application software, or both, accompanying the purchase of hardware and communication devices under subdivision (a).

(c) The costs of design and installation of the hardware, communication devices, and initial operating system software or customized application software authorized under this subsection.

**History:** Add. 1993, Act 312, Eff. Mar. 15, 1994 ;-- Am. 1994, Act 278, Imd. Eff. July 11, 1994 ;-- Am. 1997, Act 152, Imd. Eff. Dec. 22, 1997 ;-- Am. 2002, Act 65, Imd. Eff. Mar. 15, 2002 ;-- Am. 2016, Act 192, Imd. Eff. June 21, 2016

**Popular Name:** Act 451

### **380.1351b Appreciation or sale at discount.**

Sec. 1351b.

Beginning with bonds issued after May 1, 1995, bonds issued under section 1351a shall not in whole or in part appreciate in principal amount or be sold at a discount of more than 10%.

**History:** Add. 1994, Act 278, Imd. Eff. July 11, 1994

**Popular Name:** Act 451

### **380.1352 Borrowing money or issuing bonds; contract for legal representation.**

Sec. 1352.

The board of a school district or intermediate school district shall not contract for legal representation by an attorney or law firm in connection with borrowing money and issuing bonds under this act unless the board or intermediate school board does all of the following:

(a) Requests from the attorney or law firm and obtains before entering into the contract disclosure of whether the attorney or law firm also represents the underwriter of the bonds or any other party involved in the bond issue.

(b) If the disclosure under subdivision (a) indicates that the attorney or law firm represents the underwriter or another party involved in the bond issue, consents by majority vote of the board or intermediate school board to entering into the contract notwithstanding the attorney's or law firm's representation of the underwriter or other party as well as the board or intermediate school board.

(c) In its contract with the attorney or law firm, requires the attorney or law firm to submit itemized billings on at least a monthly basis that itemize at least time and services provided and any payments made by the attorney or law firm to third parties in connection with representation of the board or intermediate school board.

**History:** Add. 1994, Act 278, Imd. Eff. July 11, 1994

**Popular Name:** Act 451

**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

**380.1361 Bonds; election; ballot; surplusage.**

Sec. 1361.

(1) School district elections upon the issuance of bonds shall be held and conducted in accordance with this act and chapter XIV of the Michigan election law, MCL 168.301 to 168.315. Members of the school board shall not serve on a board of election inspectors.

(2) The question shall be submitted by ballot in substantially the following form:

"Shall

\_\_\_\_\_,"

(here state the legal name of the school district)

county/or counties of \_\_\_\_\_ and state of Michigan,  
borrow the sum of not to exceed dollars (\$\_\_\_\_\_)  
and issue its bonds therefor, for the purpose of \_\_\_\_\_?

Yes

( )

No

( )".

(3) Anything contained in the ballot not specified in this section shall be considered surplusage and of no legal effect.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;-- Am. 2003, Act 299, Eff. Jan. 1, 2005

**Popular Name:** Act 451

**380.1362 Bonds; issuance; conditions prescribed by school district board.**

Sec. 1362.

(1) The board of a school district that votes to borrow a sum of money may issue the bonds of the district.

(2) The board shall prescribe all of the following:

(a) The form of the bonds.

(b) The amount of the bonds, which shall not be less than \$50.00 each.

(c) The time for payment of the bonds.

(d) The interest rates on the bonds.

(e) The manner in which the president and secretary of the board shall execute the bonds.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;-- Am. 2002, Act 68, Imd. Eff. Mar. 15, 2002

**Popular Name:** Act 451

**380.1363 School districts subject to revised municipal finance act; handling moneys received to discharge indebtedness.**

Sec. 1363.

Money raised by taxes or otherwise received by a school district for the purpose of paying and discharging the principal and interest of the indebtedness is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;-- Am. 2002, Act 69, Imd. Eff. Mar. 15, 2002

**Popular Name:** Act 451

**380.1364 Tax for payment of principal and interest.**

Sec. 1364.

The board of a school district which borrows money shall impose an annual tax on the taxable property in the district for the purpose of paying the principal borrowed, or a part thereof, and the interest thereon, to be levied and collected as other school taxes are levied and collected.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977

**Popular Name:** Act 451

**380.1371 Debt retirement fund; duties of treasurer.**

Sec. 1371.

The treasurer of the board of education shall have custody of money, securities, and other evidences of value belonging or pertaining to the debt retirement fund and shall pay out money of the fund, or transfer the securities or evidences of value therein, only upon the order of a majority of the members elected to and serving on the board, and upon a written order of the president and secretary of the board.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977

**Popular Name:** Act 451

**380.1372 Debt retirement fund; record of moneys; securities, and transactions; reports.**

Sec. 1372.

The treasurer of a board of education shall keep a proper record of the moneys and securities on hand in the debt retirement fund and of the transactions relating thereto. The treasurer shall periodically, and when requested by the board, make a complete report concerning the same. The proper officers of the school district shall make reports concerning the transactions relating to the debt retirement fund as may be required by the state board or other authority in connection with the handling of the funds of the school district.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977

**Popular Name:** Act 451