

Act No. 109
Public Acts of 2015
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015**

Introduced by Rep. Poleski

ENROLLED HOUSE BILL No. 4325

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," (MCL 380.1 to 380.1852) by adding section 1219.

The People of the State of Michigan enact:

Sec. 1219. (1) Except as otherwise provided in subsection (2), before July 7 of each school fiscal year, each school district and public school academy shall transmit to CEPI the budgetary assumptions used when adopting its annual budget pursuant to the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a. However, a school district or public school academy that had a positive general fund balance of at least 5% of total general fund revenues for each of 2 most recently completed school fiscal years is not required to transmit the budgetary assumptions under this subsection. After receipt by CEPI, CEPI shall compile and transmit the budgetary assumptions to the department of treasury. The submission of the budgetary assumptions under this subsection shall be in the form prescribed by CEPI and shall include at least all of the following information:

(a) The projected foundation allowance for the school district or public school academy used by its governing body when adopting the budget for the school district or public school academy for the current school fiscal year.

(b) The projected membership of the school district or public school academy used when adopting the budget of the school district or public school academy for the current school fiscal year.

(c) The estimated expenditures per pupil for the school district or public school academy for the immediately preceding school fiscal year, calculated by dividing total general fund operating expenditures for the school district or public school academy during that school fiscal year by the membership for the school district or public school academy reported by the department in the most recent state aid financial status report for the month of May.

(d) The projected expenditures per pupil for the school district or public school academy for the current school fiscal year, calculated by dividing the total general fund operating expenditures authorized by the governing body of the school district or the public school academy when adopting the budget for the current school fiscal year by the projected membership of the school district or public school academy used when adopting the budget of the school district or public school academy for the current school fiscal year.

(2) If an authorizing body submits a budgetary assumption report required under subsection (1) on behalf of each public school academy authorized by that authorizing body that would otherwise be required to submit budgetary assumptions under subsection (1), then those public school academies are not required to submit the budgetary assumption report required under subsection (1).

(3) If, based on the factors enumerated in this subsection, the state treasurer determines that the potential for fiscal stress exists within a school district, intermediate school district, or public school academy; that an operating deficit may arise within a school district, intermediate school district, or public school academy during the current school fiscal year or the following 2 school fiscal years; or that a school district, intermediate school district, or public school academy may be unable to meet its financial obligations while also satisfying the school district's, intermediate school district's, or public school academy's obligations or abilities to provide public educational services in a manner that complies with this act, the state school aid act of 1979, and applicable rules, then the state treasurer may declare that the potential for fiscal stress exists for the school district, intermediate school district, or public school academy. This determination shall be based on consideration of the following factors:

(a) Financial data or other information submitted by the school district, intermediate school district, or public school academy to a state department or agency.

(b) Financial data or other information included within an audited financial statement of the school district, intermediate school district, or public school academy.

(c) Financial data or other information provided to a state department, agency, or authority in connection with a request to issue bonds, notes, or other debt obligations, including, but not limited to, information relating to a request for a loan under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

(d) Financial data or other information included within a recommended budget, budget, or general appropriations act of the school district, intermediate school district, or public school academy.

(e) Financial data or other information provided to a state department, agency, or authority by an officer, employee, contractor, or agent of the school district, intermediate school district, or public school academy.

(f) For a school district, data relating to pupil enrollment, including, but not limited to, residents of other school districts enrolled in the school district and residents of the school district enrolled in another school district or in a public school not operated by the school district.

(g) For a school district, financial data or other information provided to the department or department of treasury by the intermediate school district in which the school district is located.

(h) For a public school academy, financial data or other information provided to the department or department of treasury by the authorizing body of the public school academy.

(4) If the state treasurer declares under subsection (3) that the potential for fiscal stress exists for a school district, intermediate school district, or public school academy, then not less than 14 days after the declaration the state treasurer shall do all of the following:

(a) Notify the governing body of the school district, intermediate school district, or public school academy that the state treasurer has declared that the potential for fiscal stress exists for the school district, intermediate school district, or public school academy.

(b) For a school district or public school academy, notify the governing body of the school district or public school academy that it may establish a contract under subsection (5) with an intermediate school district to perform an administrative review of the financial status of the school district or public school academy.

(5) Subject to subsection (16), if the state treasurer declares under subsection (3) that the potential for fiscal stress exists for a school district or public school academy, the governing body of the school district or public school academy may choose to establish a contract with an intermediate school district to perform an administrative review of the financial status of the school district or public school academy. An intermediate school district that is working with a school district or public school academy to establish a contract under this subsection shall consult with the department of treasury on the development of the contract. A school district or public school academy must enter into this contract within 60 days after receiving notification of the declaration from the state treasurer under subsection (4). A contract under this subsection between an intermediate school district and a school district or public school academy shall provide for all of the following:

(a) Within 90 days after entering into the contract, the intermediate school district shall complete an administrative review and issue recommendations to the school district or public school academy concerning those steps the school district or public school academy should consider taking to avoid a deficit.

(b) After completion of the administrative review, the intermediate school district shall present the recommendations under subdivision (a) at the next scheduled public meeting of the governing body of the school district or public school academy.

(c) The intermediate school district shall send a copy of the recommendations to the department and the department of treasury.

(d) Subject to subsection (6), the intermediate school district's administrative review under subdivision (a) shall include, but is not limited to, all of the following:

(i) An examination of financial practices, including at least an examination of the school district's or public school academy's compliance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, budget to actual expense report monitoring, and budget amendment practices after budget adoption.

(ii) An examination of staffing and a comparison of staffing to other school districts and public school academies, as applicable.

(iii) An examination of wages and a comparison of wages to other school districts and public school academies in the area, as applicable.

(iv) An examination of benefit costs as a percentage of wages and a comparison of benefit costs as a percentage of wages to other school districts and public school academies in the area, as applicable.

(v) A school building student capacity utilization review.

(vi) An examination of non-instructional costs by function and a comparison of those costs to other school districts and public school academies, as applicable.

(vii) A review of enrollment projection methods and history.

(viii) An examination of deferred maintenance and capital investment needs. Capital investment needs include technology equipment and technology infrastructure needs.

(ix) An examination of substitute costs, workers compensation costs, unemployment compensation costs and forecasts, and a review of other insurance programs.

(x) An examination of pupil transportation costs and routing.

(xi) An examination of the current and future costs of existing bargaining agreements.

(e) The school district or public school academy shall give the intermediate school district or its contracted agents access to any and all financial data or information relating to the financial condition of the school district or public school academy as requested by the intermediate school district.

(f) The school district or public school academy shall allow the intermediate school district or its contracted agents to examine all financial records and books of account of the school district or public school academy.

(g) The school district or public school academy shall promptly and fully provide the assistance and information necessary and properly requested by the intermediate school district or its contracted agent in the effectuation of the intermediate school district's duties under this subsection, including, but not limited to, complying with a request that the school district or public school academy provide a facility condition assessment or a physical asset inventory if either of these has not been completed in the immediately preceding 24 months.

(h) The school district or public school academy shall allow the intermediate school district to work in a consortium with another intermediate school district or multiple intermediate school districts in the effectuation of the intermediate school district's duties under this subsection.

(i) The school district or public school academy shall allow the intermediate school district to use a contractor or contractors to assist in the review on a cost recovery basis as determined by the intermediate school district.

(j) Either the intermediate school district or the school district or public school academy may rescind the contract, as follows:

(i) The intermediate school district may rescind the contract if the school district or public school academy is not complying with 1 or more of the recommendations issued to the school district or public school academy under subdivision (a).

(ii) The school district or public school academy may rescind the contract for any reason.

(6) The parties to a contract under subsection (5) may request the department of treasury to waive 1 or more of the requirements for items to be included in the intermediate school district's administrative review under subsection (5)(d). If the department of treasury grants a waiver under this subsection, then the intermediate school district's administrative review under subsection (5)(d) is not required to include the waived item or items.

(7) If a school district or public school academy establishes a contract with an intermediate school district under subsection (5), the intermediate school district shall submit quarterly reports to the department of treasury on the status of the implementation of the recommendations issued to the school district or intermediate school district by the intermediate school district under subsection (5)(a).

(8) Subject to subsection (9), the state treasurer may require a school district, intermediate school district, or public school academy to submit periodic financial status reports under this section if all of the following occur:

(a) The state treasurer has declared under subsection (3) that the potential for fiscal stress exists for the school district, intermediate school district, or public school academy.

(b) More than 60 days have passed since the school district, intermediate school district, or public school academy was notified of the declaration as required under subsection (4)(a).

(c) For a school district or public school academy, that school district or public school academy has not established a contract with an intermediate school district in the time and manner required under subsection (5), has rescinded a contract with an intermediate school district under subsection (5)(j), or has had its contract with an intermediate school district under subsection (5) rescinded by the intermediate school district under subsection (5)(j).

(d) The school district, intermediate school district, or public school academy has not had a positive general fund balance of at least 5% of total general fund revenues for each of the 2 most recently completed school fiscal years.

(e) The school district, intermediate school district, or public school academy has had a declining general fund balance in 1 or both of the 2 most recently completed school fiscal years.

(f) The school district, intermediate school district, or public school academy is not required to submit a deficit elimination plan or an enhanced deficit elimination plan under section 1220.

(9) If a school district or public school academy enters into a contract with an intermediate school district as described under subsection (5), the state treasurer shall not require the school district or public school academy to submit periodic financial status reports under this section until at least 730 days after the governing body of the school district or public school academy was notified of the declaration of the state treasurer under subsection (4)(a). However, the state treasurer may require the school district or public school academy to submit periodic financial status reports under this section if the state treasurer determines that the school district or public school academy has not implemented any of the recommendations within 365 days after the governing body of the school district or public school academy was notified of the declaration of the state treasurer under subsection (4)(a).

(10) If a school district, intermediate school district, or public school academy is required to submit periodic financial status reports under this section, the school district, intermediate school district, or public school academy shall do all of the following:

(a) Submit a periodic financial status report in the form and manner and on the periodic basis prescribed by the department of treasury, after approval by the governing body of the school district or public school academy.

(b) Transmit a copy of each periodic financial status report required under this section to the members of its governing body.

(c) Provide the department of treasury with other financial data or information relating to the financial conditions of the school district, intermediate school district, or public school academy as requested by the department of treasury.

(d) Allow the department of treasury to examine financial records and books of account of the school district, intermediate school district, or public school academy.

(e) Promptly and fully provide the assistance and information necessary and properly requested by the department of treasury in the exercise of the department of treasury's duties under this section.

(11) If a school district, intermediate school district, or public school academy fails to submit a periodic financial status report required under this section, or if the state treasurer determines that information included on a periodic financial status report indicates that fiscal stress exists within the school district, intermediate school district, or public school academy, or that a deficit has occurred or is projected to occur within the school district, intermediate school district, or public school academy within the current school fiscal year or the next school fiscal year and that the school district, intermediate school district, or public school academy lacks the capacity to address the deficit without state assistance, then the state treasurer may require the school district, intermediate school district, or public school academy to submit an enhanced deficit elimination plan under section 1220.

(12) If a school district is required to submit periodic financial status reports under this section and a loan is issued to the school district under the emergency loan act, 1980 PA 243, MCL 141.931 to 141.942, the state treasurer shall require the school district to submit periodic financial status reports under this section for not more than 4 years after the date of issuance of the loan.

(13) A school district, intermediate school district, or public school academy is no longer required to submit periodic financial status reports under this section if the state treasurer determines that the periodic financial status reports submitted by the school district, intermediate school district, or public school academy indicate that potential fiscal stress does not exist within the school district, intermediate school district, or public school academy; that a deficit is not projected to arise within the school district, intermediate school district, or public school academy within the current school fiscal year or the next 2 school fiscal years; and that the school district, intermediate school district, or public school academy will be able to meet its financial obligations while also satisfying the school district's, intermediate

school district's, or public school academy's obligations or ability to provide public educational services in a manner that complies with this act, the state school aid act, and applicable rules.

(14) If the state treasurer makes a determination under subsection (13) that the conditions under that subsection apply to a school district, intermediate school district, or public school academy, the state treasurer shall notify the school district, intermediate school district, or public school academy within 14 days after making that determination.

(15) CEPI shall make available to the public on its website all of the periodic financial status reports submitted to the state treasurer under this section. The state treasurer shall transmit to CEPI any documents needed by CEPI to comply with this subsection.

(16) If the state treasurer declares under subsection (3) that the potential for fiscal stress exists for a public school academy, then, in addition to the option under subsection (5) for the public school academy to establish a contract with an intermediate school district to perform an administrative review under subsection (5), the governing body of the public school academy may establish a contract with its authorizing body for the authorizing body to perform an administrative review of the financial status of the public school academy. If a public school academy and its authorizing body establish a contract for the authorizing body to perform an administrative review under this subsection, then all of the following apply:

(a) The authorizing body shall perform all of the same functions with respect to the public school academy as an intermediate school district performs for an administrative review under subsection (5).

(b) The contract and administrative review shall include all of the same items as a contract and administrative review under subsection (5).

(c) The authorizing body has all of the same powers and duties with respect to the contract and the administrative review as an intermediate school district has for a contract and administrative review under subsection (5), including, but not limited to, the duty to consult with the department of treasury when working to establish the contract.

(d) The department of treasury shall perform the same role and shall treat the contract and administrative review, and the public school academy, in the same manner as if it were a contract and administrative review under subsection (5).

(e) All of the provisions under this section that apply to a contract and administrative review under subsection (5) also apply to the contract and administrative review under this subsection.

(17) As used in this section:

(a) "Authorizing body" means an authorizing body for a public school academy under this act.

(b) "CEPI" means the center for educational performance and information created in section 94a of the state school aid act of 1979, MCL 388.1694a.

(c) "Deficit" means a condition prohibited under section 15(2) of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.435, or under section 102(1) of the state school aid act of 1979, MCL 388.1702. Deficit also includes 1 or both of the following circumstances for a school district, intermediate school district, or public school academy:

(i) The total general fund balance of the school district, intermediate school district, or public school academy is negative or is projected to be negative at the end of the current school fiscal year.

(ii) One or more of the funds of the school district, intermediate school district, or public school academy other than the general fund have a negative balance or projected negative balance that is greater than the total general fund balance.

(d) "Financial emergency" means that 1 or more of the conditions described in section 5(3)(a) to (m) of the local financial stability and choice act, 2012 PA 436, MCL 141.1545, exist or are likely to occur within a school district, intermediate school district, or public school academy in the current or next school fiscal year and threaten the ability of the school district, intermediate school district, or public school academy to provide necessary governmental services essential to public health, safety, and welfare.

(e) "Fiscal stress" means 1 or both of the following:

(i) That a school district, intermediate school district, or public school academy is unable to meet its short-term or long-term financial obligations as those obligations arise.

(ii) That 1 or more of the conditions described in section 4(1)(a) to (i), (k) to (q), or (s) of the local financial stability and choice act, 2012 PA 436, MCL 141.1544, exist or are likely to occur within a school district, intermediate school district, or public school academy.

(f) "Governing body" means, for a school district, the school board of the school district and, for a public school academy, the board of directors of the public school academy.

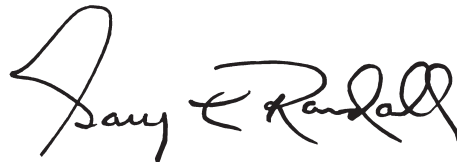
(g) "Membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(h) "Pupil" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 98th Legislature are enacted into law:

- (a) House Bill No. 4327.
- (b) House Bill No. 4328.
- (c) House Bill No. 4330.
- (d) House Bill No. 4331.
- (e) House Bill No. 4332.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor