

Act No. 415
Public Acts of 2004
Approved by the Governor
November 29, 2004
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November 29, 2004
EFFECTIVE DATE: November 29, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

**Introduced by Reps. Ruth Johnson, Voorhees, Stakoe, Robertson, Wenke, Pappageorge, Rocca, Nofs,
Woodward, Garfield, Milosch and Taub**

ENROLLED HOUSE BILL No. 5839

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," by amending sections 681, 687, 1723, 1724a, and 1731 (MCL 380.681, 380.687, 380.1723, 380.1724a, and 380.1731), sections 681 and 687 as amended by 2003 PA 299, section 1724a as added by 1994 PA 258, and section 1731 as amended by 2002 PA 70, and by adding section 625b.

The People of the State of Michigan enact:

Sec. 625b. For a tax that is authorized after the effective date of this section for intermediate school district operating purposes, the duration of the authorization for the tax shall not exceed 20 years. The authorization for a tax described in this section may be renewed with the approval of the intermediate school electors for a duration not to exceed 20 years. The duration of the authorization for a tax described in this section shall be stated in the ballot question concerning the levy or renewal of the tax.

Sec. 681. (1) An intermediate school district may establish an area vocational-technical education program and operate the program under sections 681 to 690 if approved by a majority of the intermediate school electors of the intermediate school district voting on the question. The election shall be called and conducted in accordance with this act and the Michigan election law. The establishment of the area vocational-technical education program may be rescinded by the same process.

(2) The question of establishing an area vocational-technical education program may be submitted to the intermediate school electors of an intermediate school district at a regular school election or at a special election held in each of the constituent districts. Subject to section 641 of the Michigan election law, MCL 168.641, the intermediate school board shall determine the date of the election and shall give notice to the school district filing official at least 60 days in advance of the date the ballot question is to be submitted to the intermediate school electors.

(3) The ballot for referring the question of adopting sections 681 to 690 and establishing an area vocational-technical education program to the intermediate school electors of an intermediate school district shall be substantially in the following form:

“Shall _____ (legal name of intermediate school district), state of Michigan, come under sections 681 to 690 of the revised school code and establish an area vocational-technical education program which is designed to encourage the operation of area vocational-technical education programs if the annual property tax levied for this purpose is limited to _____ mills?

Yes ()

No ()”.

(4) Beginning in 1995, and subject to section 625b, the number of mills of ad valorem property taxes an intermediate school board may levy for area vocational-technical education program operating purposes under sections 681 to 690 is limited to the following:

(a) If the intermediate school district did not levy any millage in 1993 for area vocational-technical education program operating purposes under sections 681 to 690, the intermediate school board, with the approval of the intermediate school electors, may levy not more than 1 mill for those purposes.

(b) If the intermediate school district levied millage in 1993 for area vocational-technical education program operating purposes under sections 681 to 690, the intermediate school board, with the approval of the intermediate school electors, may levy mills for those purposes at a rate not to exceed 1.5 times the number of mills authorized for those purposes in the intermediate school district in 1993. Approval of the intermediate school electors is not required for the levy under this subdivision of previously authorized mills until that authorization expires.

(5) An intermediate school district that levies a tax for area vocational-technical education program operating purposes shall not use proceeds from the tax for any purpose other than area vocational-technical education program operating purposes and shall submit to the department of treasury a copy of the audit report from the audit of the intermediate school district conducted under section 622a. If the department of treasury determines from the audit report that the proceeds from the tax have been used for a purpose other than area vocational-technical education program operating purposes, as defined under subsection (7), the department of treasury shall notify the intermediate school district of that determination. If the intermediate school district disputes the determination or claims that the situation has been corrected, within 15 days after receipt of the determination the intermediate school district may submit an appeal of the determination to the department of treasury. Within 90 days after receipt of the appeal, the department of treasury shall consider the appeal and make a determination of whether the initial determination was correct or incorrect and of whether the situation has been corrected. If the department of treasury finds that the initial determination was correct and that the situation has not been corrected, then the department of treasury shall file a copy of the report with the attorney general. The attorney general shall review the report and, if the attorney general considers it appropriate, shall commence or direct the prosecuting attorney for the county in which the violations occurred to commence appropriate proceedings against the intermediate school board or the official or employee. These proceedings shall include at least a civil action in a court of competent jurisdiction for the recovery of any public money determined by the audit to have been illegally expended and for the recovery of any public property determined by the audit to have been converted or misappropriated.

(6) If the attorney general determines from a report filed under subsection (5) that an intermediate school district has misspent tax proceeds as described in subsection (5) and notifies the intermediate school district of this determination, the intermediate school district shall repay to its area vocational-technical education program operating fund an amount equal to the amount the department of treasury determined under subsection (5) has been used for a purpose other than area vocational-technical education program operating purposes. The intermediate school district shall make this repayment from funds of the intermediate school district that lawfully may be used for making such a repayment.

(7) For the purposes of subsections (5) and (6), the department and the department of treasury, in consultation with intermediate school districts, shall develop and make available to intermediate school districts a definition of area vocational-technical education program operating purposes.

(8) An intermediate school district shall not hold more than 2 elections in a calendar year concerning the authorization of a millage rate for area vocational-technical education program operating purposes under sections 681 to 690.

Sec. 687. (1) An intermediate school board in which an area vocational-technical education program is established, by a majority vote of the intermediate school electors voting on the question at a regular school election or at a special election called for that purpose, may borrow money and issue bonds of the intermediate school district subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to defray all or part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurbishing, equipping, or reequipping area vocational-technical buildings and other facilities, or parts of buildings and other facilities or additions to buildings and other facilities; acquiring, preparing, developing, or improving sites, or parts of sites or additions to sites, for area vocational-

technical buildings and other facilities; refunding all or part of existing bonded indebtedness; or accomplishing a combination of the foregoing purposes. An intermediate school district shall not issue bonds under this part for an amount greater than 1.5% of the total assessed valuation of the intermediate school district.

(2) 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 foregoing 1.5% limitation.

(3) An intermediate school board may submit a proposal to issue bonds of the intermediate school district, authorized under this section, to the intermediate school electors at the same election at which the intermediate school electors vote on the establishment of an area vocational-technical education program. If these questions are presented to the school electors at the same election, the board shall include the bond proposal in the 60-day notice given the boards of constituent districts. The establishment of an area vocational-technical education program shall become effective if approved by a majority of the intermediate school electors voting on the question. The authority to issue bonds is effective only if a majority of the intermediate school electors approve both the establishment of the area vocational-technical education program and the issuance of bonds.

(4) The ballot used in submitting the question of borrowing money and issuing bonds under this section shall be in substantially the following form:

“Shall _____ (here state the legal name of the intermediate school district designating the name of a district of not less than 18,000 pupils or first class school district that has elected not to come under this act as far as an area vocational-technical education program is concerned) state of Michigan, borrow the sum of not to exceed \$_____ and issue its bonds therefor, for the purpose of _____?”

Yes ()

No ()”.

(5) An intermediate school district shall not use the proceeds from bonds issued or refunded under this section or levy a tax to repay bonds issued or refunded under this section for any purpose other than facilities used for area vocational-technical education purposes. If a facility is to be used during regular school hours for purposes other than providing area vocational-technical education programs and services, proceeds from bonds issued or refunded under this section or from millage levied to repay bonds issued or refunded under this section shall be used only for that portion of the facility that is used for providing area vocational-technical education programs and services.

Sec. 1723. The ballot submitting the question of the adoption of sections 1722 to 1729 to the school electors of an intermediate school district shall be substantially in the following form:

“Shall the _____ (legal name of the intermediate school district), state of Michigan, come under sections 1722 to 1729 of the revised school code, which are designed to encourage the education of handicapped persons, if the annual property tax levied for administration is limited to _____ mills?”

Yes ()

No ()”.

Sec. 1724a. (1) Beginning in 1995, and subject to section 625b, the board of an intermediate school district may levy ad valorem property taxes for special education purposes under sections 1722 to 1729 at a rate not to exceed 1.75 times the number of mills of those taxes authorized in the intermediate school district in 1993. All or part of the millage levied under this section may be renewed as provided in this article. Approval of the intermediate school electors is not required for the levy under this section of previously authorized mills until that authorization expires.

(2) An intermediate school district that levies a tax for special education operating purposes shall not use proceeds from the tax for any purpose other than special education operating purposes and shall submit to the department of treasury a copy of the audit report from the audit of the intermediate school district conducted under section 622a. If the department of treasury determines from the audit report that the proceeds from the tax have been used for a purpose other than special education operating purposes, as defined under subsection (4), the department of treasury shall notify the intermediate school district of that determination. If the intermediate school district disputes the determination or claims that the situation has been corrected, within 15 days after receipt of the determination the intermediate school district may submit an appeal of the determination to the department of treasury. Within 90 days after receipt of the appeal, the department of treasury shall consider the appeal and make a determination of whether the initial determination was correct or incorrect and of whether the situation has been corrected. If the department of treasury finds that the initial determination was correct and that the situation has not been corrected, then the department of treasury shall file a copy of the report with the attorney general. The attorney general shall review the report and, if the attorney general considers it appropriate, shall commence or direct the prosecuting attorney for the county in which the violations occurred to commence appropriate proceedings against the intermediate school board or the official or employee. These proceedings shall include at least a civil action in a court of competent jurisdiction for the recovery of any public money determined by the audit to have been illegally expended and for the recovery of any public property determined by the audit to have been converted or misappropriated.

(3) If the attorney general determines from a report filed under subsection (2) that an intermediate school district has misspent tax proceeds as described in subsection (2) and notifies the intermediate school district of this determination, the intermediate school district shall repay to its special education operating fund an amount equal to the amount the department of treasury determined under subsection (2) has been used for a purpose other than special education operating purposes. The intermediate school district shall make this repayment from funds of the intermediate school district that lawfully may be used for making such a repayment.

(4) For the purposes of subsections (2) and (3), the department and the department of treasury, in consultation with intermediate school districts, shall develop and make available to intermediate school districts a definition of special education operating purposes.

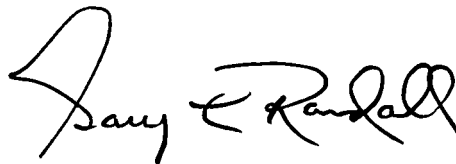
(5) An intermediate district shall not hold more than 2 elections in a calendar year concerning the authorization of a millage rate for special education purposes under sections 1722 to 1729.

Sec. 1731. (1) An intermediate school district may borrow money and issue bonds of the intermediate school district subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to defray all or part of the costs of purchasing, erecting, completing, remodeling, improving, furnishing, refurbishing, equipping, or reequipping buildings for special education facilities; acquiring, preparing, developing, or improving sites, or parts of sites or additions to sites, for buildings and other special education facilities; refunding all or part of existing bonded indebtedness; or the accomplishment of a combination of these purposes.

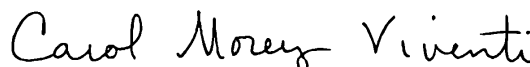
(2) An intermediate school district shall not issue bonds for purposes of purchasing, erecting, completing, remodeling, improving, furnishing, refurbishing, equipping, or reequipping buildings for special education for an amount greater than 1.5% of the total assessed valuation of the intermediate school district.

(3) An intermediate school district shall not use the proceeds from bonds issued or refunded under this section or levy a tax to repay bonds issued or refunded under this section for any purpose other than facilities used for special education purposes. If a facility is to be used during regular school hours for purposes other than providing special education programs and services, proceeds from bonds issued or refunded under this section or from millage levied to repay bonds issued or refunded under this section shall be used only for that portion of the facility that is used for providing special education programs and services.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor