

Act No. 359
Public Acts of 2008
Approved by the Governor
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**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senators Jansen, Thomas, Van Woerkom, Richardville and Gilbert

ENROLLED SENATE BILL No. 1342

AN ACT to amend 1966 PA 331, entitled "An act to revise and consolidate the laws relating to community colleges; to provide for the creation of community college districts; to provide a charter for such districts; to provide for the government, control and administration of such districts; to provide for the election of a board of trustees; to define the powers and duties of the board of trustees; to provide for the assessment, levy, collection and return of taxes therefor; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," (MCL 389.1 to 389.195) by amending the title, as amended by 1998 PA 153, and by adding chapter 13 to part 2.

The People of the State of Michigan enact:

TITLE

An act to revise and consolidate the laws relating to community colleges; to provide for the creation of community college districts; to provide a charter for such districts; to provide for the government, control and administration of such districts; to provide for the election of a board of trustees; to define the powers and duties of the board of trustees; to provide for the assessment, levy, collection and return of taxes therefor; to authorize community college districts to operate a new jobs training program, enter into certain training agreements, and issue bonds to finance the training program; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

PART 2

CHAPTER 13

NEW JOBS TRAINING PROGRAMS

Sec. 161. As used in this chapter:

- (a) "Agreement" means a written agreement between an employer and a community college district concerning a project and any amendments to that agreement.
- (b) "Bond" or "bonds" means bonds, notes, or other debt issued by a community college district under this chapter.
- (c) "Employer" means a person that is engaged in business and has employees in this state.
- (d) "New job" means a full-time job in this state that meets all of the following:
 - (i) Except as provided in subparagraph (ii) or (iii), is a new, existing, or expanding business of an employer.
 - (ii) Is not a job of a recalled worker, a replacement job, or any other job that existed in the employer's business within the 1-year period preceding the date of an agreement.
 - (iii) Is not a job that is part of an employer's business operation located in a municipality in this state, if that job existed in a business operation or a substantially similar business operation of the employer formerly located in another municipality in this state, the employer moved that business operation or substantially similar business operation to its

current location, and the employer closed or substantially reduced that former business operation or substantially similar business operation.

(iv) Results in a net increase in employment in this state for that employer.

(v) The wage paid for the job is equal to or exceeds 175% of the state minimum wage.

(e) "New jobs credit from withholding" means the credit established in section 163.

(f) "New jobs training program" or "program" means the project or projects established by a community college district for the creation of jobs by providing education and training or retraining of workers for new jobs.

(g) "Program costs" mean all necessary and incidental costs of providing program services.

(h) "Program services" include, but are not limited to, any of the following:

(i) Training or retraining for new jobs.

(ii) Adult basic education and job-related instruction.

(iii) Developmental, readiness, and remedial education.

(iv) Vocational and skill-assessment services and testing.

(v) Training facilities, equipment, materials, and supplies.

(vi) Administrative expenses for the new jobs training program.

(vii) Subcontracted services with public universities and colleges in this state, private colleges or universities, or any federal, state, or local departments or agencies.

(viii) Contracted or professional services.

(i) "Project" means a training arrangement that is the subject of an agreement entered into between the community college district and an employer to provide program services.

(j) "State minimum wage" means the minimum hourly wage rate under the minimum wage law of 1964, 1964 PA 154, MCL 408.381 to 408.398.

Sec. 162. (1) Subject to subsection (4), a community college district may enter into an agreement to establish a project with an employer engaged in business activities anywhere in the state. An agreement shall meet section 163 and all of the following:

(a) Shall provide for program costs that may be paid from a new jobs credit from withholding, to be received or derived from new employment resulting from the project, or from tuition, student fees, or special charges fixed by the board of trustees to defray program costs in whole or in part.

(b) Shall contain an estimate of the number of new jobs to be created by the employer.

(c) Shall include a provision that fixes, on a quarterly basis, the minimum amount of new jobs credit from withholding to be paid for program costs.

(d) Shall provide that if the amount received from the new jobs credit from withholding is insufficient to pay program costs, the employer agrees to provide money, at least quarterly, to make up the shortfall, so that the community college district receives for each quarter the minimum amount of new jobs credit from withholding that is provided in the agreement.

(e) Shall include the employer's agreement to mortgage, assign, pledge, or place a lien on any real or personal property as required by the community college district as security for its obligations under the agreement.

(f) Shall provide for payment of an administrative fee to the community college district in an amount equal to 15% of the aggregate amount to be paid under the agreement.

(g) May contain other provisions the community college district considers appropriate or necessary.

(2) Any payments required to be made by an employer under an agreement are a lien on the employer's business property, real and personal, until paid, have equal precedence with property taxes, and shall not be divested by a judicial sale. Property subject to the lien established in this subsection may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties, and consequences as for the nonpayment of property taxes. The purchaser at tax sale obtains the property subject to the remaining payments required under the agreement.

(3) A community college district shall file a copy of an agreement with the department of treasury promptly after its execution.

(4) A community college district shall not enter into any new agreements after December 31, 2018.

Sec. 163. (1) If any part of the program costs of a new jobs training program are to be paid from receipt of money from a new jobs credit from withholding, the agreement shall contain all of the following provisions:

(a) That program costs are to be paid from money received from a new jobs credit from withholding.

(b) That the new jobs credit from withholding shall be based on salary and wages paid to employees of the employer in the new jobs.

(c) That for each employee in a new job, the employer shall each month pay the amount required to be deducted and withheld by the employer under section 351 of the income tax act of 1967, 281 PA 1967, MCL 206.351, to the community college district in the same manner as the employer returns and pays withholding payments to the revenue division of

the department of treasury, and the community college district shall pay the amounts received into a special fund to pay program costs and the principal of and interest on any bonds issued by the community college district to finance or refinance the project in whole or in part.

(d) That the community college district may irrevocably pledge the new jobs credit from withholding, and the special fund into which the withholdings are paid, for the payment of the principal of and interest on bonds issued by a community college district to finance or refinance the project in whole or in part.

(e) That for each new jobs credit from withholding paid to a community college district under subdivision (c), the employer shall certify to the department of treasury that the payment was made pursuant to an agreement and shall provide any other information reasonably requested by the department of treasury.

(f) Any other provisions required by the community college district.

(2) At the end of each calendar quarter, a community college district receiving money from a new jobs credit from withholding shall certify to the department of treasury the amount of new jobs credit from withholding each employer with which the community college district has an agreement has remitted to the community college district in that calendar quarter.

(3) By April 1 of each year, each community college district that received money from a new jobs credit from withholding in the preceding calendar year shall provide all of the following information to the department of treasury for the preceding calendar year:

(a) The name of the community college district.

(b) The name of each employer with which the community college district has an agreement, organized by major industry group under the North American industry classification system published by the office of management and budget.

(c) The amount of money from a new jobs credit from withholding each employer described in subdivision (b) has remitted to the community college district.

(d) The amount of new jobs training revenue bonds the community college district has authorized, issued, or sold.

(e) The total amount of the community college district's debt related to agreements at the end of the calendar year.

(f) The number of degrees or certificates awarded to program participants in the calendar year.

(g) The number of individuals who entered a program at the community college district in the calendar year; who completed the program in the calendar year; and who were enrolled in a program at the end of the calendar year.

(h) The number of individuals who completed a program an employer described in subdivision (b) hired to fill new jobs.

(i) Any other information reasonably requested by the department of treasury.

Sec. 164. (1) Subject to subsection (16), by resolution of its board of trustees, a community college district may authorize, issue, and sell its new jobs training revenue bonds in anticipation of payments to be received pursuant to an agreement, subject to the requirements of this chapter, to finance costs of new jobs training programs and to pay costs of issuing those bonds. The bonds shall be payable in the manner and on the terms and conditions determined, or within the parameters specified, by the board in the resolution authorizing issuance of the bonds. The resolution authorizing the bonds shall create a lien on the receipts from new jobs credit from withholding to be received by the community college district pursuant to an agreement or agreements that shall be a statutory lien and shall be a first lien subject only to liens previously created. As additional security, in the resolution authorizing the bonds, the board of trustees may also pledge the limited tax full faith and credit of the district and may authorize and enter into an insurance contract, agreement for lines of credit, letter of credit, commitment to purchase obligations, remarketing agreement, reimbursement agreement, tender agreement, or any other transaction necessary to provide security to assure timely payment of any bonds.

(2) Bonds described in subsection (1) shall be authorized by resolution of the board of trustees, and shall bear the date or dates, and shall mature at the time or times, not exceeding 20 years from the date of issue, provided in the resolution. The bonds shall bear interest at the rate or rates, fixed or variable or a combination of fixed and variable, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment and at the place or places, and be subject to the terms of redemption provided in the resolution or resolutions. The bonds of the community college district may be sold at a competitive or negotiated sale at par, premium, or discount as determined in the authorizing resolution.

(3) A community college district may issue bonds described in subsection (1) with respect to a single project or multiple projects as determined by the board of trustees in the resolution authorizing the issuance of the bonds. The board of trustees may determine to sell the bonds in conjunction with the sale of bonds by another community college district.

(4) Any resolution authorizing any bonds under this section, or any issue of bonds of those bonds, may contain provisions concerning any of the following, and those provisions are part of the contract with the holders of the bonds:

(a) Pledging all or any part of any fees or available funds of the community college district, or other money received or to be received, to secure the payment of the bonds or of any issue of bonds, and subject to any agreements with bondholders as may then exist.

(b) Pledging all or any part of the assets of the community college district, including mortgages and obligations securing the assets, to secure the payment of the bonds or of any issue of bonds, subject to any agreements with bondholders as may then exist.

(c) The setting aside of reserves or sinking funds and the regulation and disposition of reserves or sinking funds.

(d) Limitations on the purpose to which the proceeds of sale of bonds may be applied and pledging the proceeds to secure the payment of the bonds or of any issue of bonds.

(e) Limitations on the issuance of additional bonds; the terms on which additional bonds may be issued and secured; and the refunding of outstanding or other bonds.

(f) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to the amendment or abrogation, and the manner in which bondholders may give that consent.

(g) Vesting in a trustee or trustees the property, rights, powers, and duties in trust determined by the board of trustees of the community college district.

(h) Any other matters that in any way affect the security or protection of the bonds.

(i) Delegating to an officer or other employee of the community college district, or an agent designated by the community college district, the power to cause the issue, sale, and delivery of the bonds within limits on those bonds established by the community college district concerning any of the following:

(i) The form of the bonds.

(ii) The maximum interest rate or rates of the bonds.

(iii) The maturity date or dates of the bonds.

(iv) The purchase price of the bonds.

(v) The denominations of the bonds.

(vi) The redemption premiums of the bonds.

(vii) The nature of the security for the bonds.

(viii) Any other terms and conditions concerning issuance of the bonds prescribed by the board of trustees of the community college district.

(5) All of the following apply to any pledge of money or other assets made by a community college district to secure any bonds or issue of bonds under this section:

(a) The pledge is valid and binding from the time when the pledge is made.

(b) The money or other assets pledged are immediately subject to the lien of the pledge when received, without any physical delivery of the money or assets or any further act.

(c) The lien of the pledge is valid and binding as against all parties having claims of any kind, in tort, contract, or otherwise, against the community college district, whether or not those parties have notice of the lien.

(d) The community college district is not required to record the resolution or any other instrument creating the pledge.

(6) The board of trustees of a community college district and any person executing bonds subject to this section are not personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance of the bonds.

(7) A community college district issuing bonds under this section may purchase bonds of the community college district out of any funds available for that purpose, subject to any agreements with bondholders in effect at that time. Unless the board of the community college district determines by resolution that the payment of a higher price is in the best interests of the community college district, the community college shall not purchase those bonds at a price that exceeds 1 of the following, as applicable:

(a) If the bonds are redeemable at the time of purchase, the redemption price applicable at that time plus accrued interest to the next interest payment date on the bonds.

(b) If the bonds are not redeemable at the time of purchase, the redemption price applicable on the first date after the purchase on which the bonds are redeemable, plus accrued interest to that date.

(8) Bonds issued under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that bonds issued under this section are subject to the maximum rate permitted under section 305 of the revised municipal finance act, 2001 PA 34, MCL 141.2305.

(9) The issuance of bonds under this section is subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

(10) Bonds issued under this section shall not be considered to be within any limitation of outstanding debt limit applicable to the community college district, including any limitation contained in section 122, but shall be considered as authorized in addition to any limitation of outstanding debt limit applicable to the community college district.

(11) By resolution of its board of trustees, a community college district may refund all or any part of its outstanding bonds issued under this section by issuing refunding bonds. A community college district may issue refunding bonds whether the outstanding bonds to be refunded have or have not matured, are or are not redeemable on the date of issuance of the refunding bonds, or are or are not subject to redemption before maturity.

(12) A community college district may issue refunding bonds under subsection (11) in a principal amount greater than the principal amount of the outstanding bonds to be refunded if necessary to effect the refunding under the refunding plan.

(13) A community college district may use the proceeds of refunding bonds issued under subsection (11) to pay interest accrued, or to accrue, to the earliest or any subsequent date of redemption, purchase, or maturity of the outstanding bonds to be refunded, redemption premium, if any, and any commission, service fee, and other expense necessary to be paid in connection with the outstanding bonds to be refunded. A community college district may also use the proceeds of refunding bonds to pay part of the cost of issuance of the refunding bonds, interest on the refunding bonds, a reserve for the payment of principal, interest, and redemption premiums on the refunding bonds, and other necessary incidental expenses, including, but not limited to, placement fees and fees or charges for insurance, letters of credit, lines of credit, or commitments to purchase the outstanding bonds to be refunded.

(14) A community college district may apply the proceeds of refunding bonds issued under subsection (11) and other available money to payment of the principal, interest, or redemption premiums, if any, on the refunded outstanding bonds at maturity or on any prior redemption date or may deposit the proceeds or other money in trust to use to purchase and deposit in trust direct obligations of the United States, direct noncallable and nonprepayable obligations that are unconditionally guaranteed by the United States government as to full and timely payment of principal and interest, noncallable and nonprepayable coupons from those obligations that are stripped pursuant to United States treasury programs, and resolution funding corporation bonds and strips, the principal and interest on which when due, together with other available money, will provide funds sufficient to pay principal, interest, and redemption premiums, if any, on the refunded outstanding bonds as the refunded outstanding bonds become due, whether by maturity or on a prior redemption date, as provided in the authorizing resolution.

(15) A community college district is authorized to pay all or part of the costs of new jobs training programs out of funds of the community college district, including self-funding methods. The use of funds of the community college district and self-funding methods to pay the costs of new jobs training programs shall be considered an authorized expenditure of public funds and shall not be construed as an investment.

(16) A community college district shall not authorize, issue, or sell any new jobs training revenue bonds after December 31, 2018.

Sec. 165. Bonds and notes issued by a community college district under this chapter and the interest on and income from those bonds and notes are exempt from taxation by this state or a political subdivision of this state.

Sec. 166. The aggregate outstanding obligation of all agreements entered into under this chapter shall not exceed \$50,000,000.00 in any calendar year.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6185 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor