

SCHOOL BUILDING AND SITE SINKING FUND

for Michigan Public Schools



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This practice guide discusses the requirements for the levy of a building and site sinking fund tax by a school district under Section 1212 of the Michigan Revised School Code (MCL §380.1212). Section 1212 provides that, with voter approval, a school district may levy a sinking fund tax to pay for certain allowable capital improvement projects and purchases which include the construction and renovation of school buildings, the purchase of real property, the repair of school buildings and the purchase of certain equipment.

In the past, a major drawback of the sinking fund was that it could not be used for the purchase of equipment or furnishings. In 2016 and again in 2023, legislation was enacted which expanded the permitted use of a sinking fund, authorized by the voters after the effective date for these legislative changes, to include various equipment items which includes school security improvements, technology, student transportation vehicles (e.g., school buses), trucks, vans and parts, supplies and equipment to maintain these vehicles.

The 2016 legislative changes also reduced the maximum sinking fund mills from 5 mills to 3 mills and the allowable term for the sinking fund from 20 years to 10 years. These changes are only effective for sinking fund millages approved after 2016.

» STATUTORY REQUIREMENTS FOR A SINKING FUND

Under Section 1212, a sinking fund millage can only be levied after voter approval and the proceeds of the levy can only be used for the purposes authorized by Section 1212 or as further limited by the voter approved ballot language. The expanded permitted uses for a sinking fund for various equipment, approved in 2016 and 2023, are only effective for sinking fund proposals approved by voters after the effective date for these changes. The following chart sets forth the allowable uses of a sinking fund tax levy depending on the date of the voter approval:

Voter Authorization: PRE-2017	Voter Authorization: POST-2016 AND PRE-AUGUST 6, 2023	Voter Authorization: POST-AUGUST 6, 2023
Up to 5 mills for up to 20 years	Up to 3 mills for up to 10 years	Up to 3 mills for up to 10 years
Purchase of real estate for sites for, and the construction or repair ¹ of, school buildings NO EQUIPMENT OR FURNISHINGS	Purchase of real estate for sites for, and the construction or repair ¹ of, school buildings NO EQUIPMENT OR FURNISHINGS OTHER THAN: - School Security Improvements ³ - Technology ⁴	Purchase of real estate for sites for, and the construction or repair ¹ of, school buildings NO EQUIPMENT OR FURNISHINGS OTHER THAN: - School Security Improvements ³ - Technology ⁴ - Student Transportation Vehicles ⁵ and parts, supplies and equipment to maintain these vehicles - Trucks, vans ⁶ and parts, supplies and equipment to maintain these vehicles
NO MAINTENANCE ²	NO MAINTENANCE ²	NO MAINTENANCE ²
ANNUAL AUDIT ⁷	ANNUAL AUDIT ⁷	ANNUAL AUDIT ⁷

1 "Repair" – putting back in good condition – curative.

2 "Maintenance" – keeping in good condition – preventative.

3 "School Security Improvements" - any capital improvement or purchase that is designed to act as a deterrent to unauthorized entry of persons or items onto school premises or to otherwise promote security, including, but not limited to, metal detectors, locks, doors, lighting, cameras, and enhancements to entryways. School security improvement also includes a mobile telephone application that provides the ability to communicate with personnel on site while also connecting an emergency telephone call to a 9-1-1 center. School security improvement does not include personnel costs or operation costs related to a capital improvement or purchase or related to a mobile telephone application.

4 "Technology" – as defined in Section 1351a of the Revised School Code which is as follows
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.

5 "School Transportation Vehicles" – defined by Treasury to mean school busses or other school related vehicles that are used to transport students.

6 "Trucks and vans" – must be registered under the Michigan Vehicle Code and used to carry parts, equipment and personnel for or in the maintenance of school buildings.

7 For information regarding the required annual audit of a sinking fund see Treasury Numbered Letter 2023, effective as of November 2, 2023.

COMPARISON OF THE ALLOWABLE USE OF SINKING FUND AND BOND PROCEEDS

PROJECTS	ALLOWABLE USES	
	SINKING FUND MCL §380.1212	BOND MCL §380.1351a
Constructing new school buildings	Y	Y
Constructing additions to existing school buildings	Y	Y
Remodeling existing school buildings	Y	Y
Energy conservation improvements	Y	Y
Asbestos abatement	Y	Y
Land purchases	Y	Y
Site development and improvement	Y	Y
Athletic facility development and improvements	Y	Y
Playground development and improvements	Y	Y
Equipment purchases (generally, see exceptions below)	N	Y
Furnishing purchases	N	Y
School security improvements	Y ¹	Y
Technology purchases	Y ¹	Y
Student Transportation Vehicles and parts, supplies and equipment to maintain these vehicles	Y ²	N/Y ³
Trucks, vans and parts, supplies and equipment to maintain these vehicles	Y ²	N
Repairs	Y	N
Maintenance or warranty agreements	N	N
Supplies, salaries, service contracts	N	N
Uniforms	N	N
Textbooks	N	N
Upgrades to existing computer operating system or application software	N	N
Computer training, computer operating system or application software	N	N
Computer training, computer consulting or computer maintenance contracts	N	N

1 Only applicable to sinking fund authorization approved by the voters after 2016.

2 Only applicable to sinking fund authorization approved by the voters after August 6, 2023.

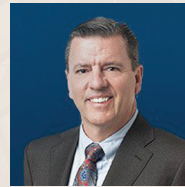
3 Bond proceeds can only be used for the purchase of a school bus which is defined under State law as a motor vehicle with a seating capacity of 11 or more passengers, including the driver, used for the transportation of students to and from school or school-related events.

LAWYERS SERVING SCHOOL DISTRICTS

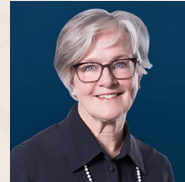
Large firm resources with the personal service and attention of a specialized school law practice.

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Vendor Agreements
Student Conduct
Restructuring Counsel
Teacher Tenure and Evaluation
Construction-Related Agreements
FOIA/OMA/Governance
Technology
Labor Agreements
Environmental
Elections/Campaign Finance
Special Education
Employment Litigation/Grievances
School Reform/Accountability/Compliance
Pupil Accounting
Cybersecurity
Intellectual Property
Intergovernmental Agreements
Cash Flow Borrowings
Energy Conservation
Property Disposition/Real Estate
Investigations

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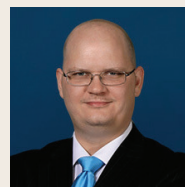
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