

HOUSE BILL No. 4407

February 24, 2009, Introduced by Reps. Espinoza, Gregory, Liss and Terry Brown and referred to the Committee on Education.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending section 101 (MCL 388.1701), as amended by 2006 PA 342.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 101. (1) To be eligible to receive state aid under this
2 act, not later than the fifth Wednesday after the pupil membership
3 count day and not later than the fifth Wednesday after the
4 supplemental count day, each district superintendent through the
5 secretary of the district's board shall file with the intermediate
6 superintendent a certified and sworn copy of the number of pupils
7 enrolled and in regular daily attendance in the district as of the
8 pupil membership count day and as of the supplemental count day, as
9 applicable, for the current school year. In addition, a district

1 maintaining school during the entire year, as provided under
2 section 1561 of the revised school code, MCL 380.1561, shall file
3 with the intermediate superintendent a certified and sworn copy of
4 the number of pupils enrolled and in regular daily attendance in
5 the district for the current school year pursuant to rules
6 promulgated by the superintendent. Not later than the seventh
7 Wednesday after the pupil membership count day and not later than
8 the seventh Wednesday after the supplemental count day, the
9 intermediate district shall transmit to the center revised data, as
10 applicable, for each of its constituent districts. If a district
11 fails to file the sworn and certified copy with the intermediate
12 superintendent in a timely manner, as required under this
13 subsection, the intermediate district shall notify the department
14 and state aid due to be distributed under this act shall be
15 withheld from the defaulting district immediately, beginning with
16 the next payment after the failure and continuing with each payment
17 until the district complies with this subsection. If an
18 intermediate district fails to transmit the data in its possession
19 in a timely and accurate manner to the center, as required under
20 this subsection, state aid due to be distributed under this act
21 shall be withheld from the defaulting intermediate district
22 immediately, beginning with the next payment after the failure and
23 continuing with each payment until the intermediate district
24 complies with this subsection. If a district or intermediate
25 district does not comply with this subsection by the end of the
26 fiscal year, the district or intermediate district forfeits the
27 amount withheld. A person who willfully falsifies a figure or

1 statement in the certified and sworn copy of enrollment shall be
2 punished in the manner prescribed by section 161.

3 (2) To be eligible to receive state aid under this act, not
4 later than the twenty-fourth Wednesday after the pupil membership
5 count day and not later than the twenty-fourth Wednesday after the
6 supplemental count day, an intermediate district shall submit to
7 the center, in a form and manner prescribed by the center, the
8 audited enrollment and attendance data for the pupils of its
9 constituent districts and of the intermediate district. If an
10 intermediate district fails to transmit the audited data as
11 required under this subsection, state aid due to be distributed
12 under this act shall be withheld from the defaulting intermediate
13 district immediately, beginning with the next payment after the
14 failure and continuing with each payment until the intermediate
15 district complies with this subsection. If an intermediate district
16 does not comply with this subsection by the end of the fiscal year,
17 the intermediate district forfeits the amount withheld.

18 (3) All of the following apply to the provision of pupil
19 instruction:

20 (a) Except as otherwise provided in this section, each
21 district shall provide at least 1,098 hours of pupil instruction.
22 Except as otherwise provided in this act, a district failing to
23 comply with the required minimum hours of pupil instruction under
24 this subsection shall forfeit from its total state aid allocation
25 an amount determined by applying a ratio of the number of hours the
26 district was in noncompliance in relation to the required minimum
27 number of hours under this subsection. Not later than August 1, the

1 board of each district shall certify to the department the number
2 of hours of pupil instruction in the previous school year. If the
3 district did not provide at least the required minimum number of
4 hours of pupil instruction under this subsection, the deduction of
5 state aid shall be made in the following fiscal year from the first
6 payment of state school aid. A district is not subject to
7 forfeiture of funds under this subsection for a fiscal year in
8 which a forfeiture was already imposed under subsection (6). Hours
9 lost because of strikes or teachers' conferences shall not be
10 counted as days or hours of pupil instruction.

11 (b) Except as otherwise provided in subdivision (c), a
12 district not having at least 75% of the district's membership in
13 attendance on any day of pupil instruction shall receive state aid
14 in that proportion of 1/180 that the actual percent of attendance
15 bears to the specified percentage.

16 (c) ~~Beginning in 2005-2006, at~~ **AT** the request of a district
17 that operates a department-approved alternative education program
18 and that does not provide instruction for pupils in all of grades K
19 to 12, the superintendent shall grant a waiver for a period of 3
20 school years from the requirements of subdivision (b) in order to
21 conduct a pilot study. The waiver shall indicate that an eligible
22 district is subject to the proration provisions of subdivision (b)
23 only if the district does not have at least 50% of the district's
24 membership in attendance on any day of pupil instruction. Not later
25 than 2008-2009, the department shall report on the impact of this
26 waiver on the academic achievement of pupils in these districts to
27 the state budget director and the senate and house appropriations

1 subcommittees on state school aid. In order to be eligible for this
2 waiver, a district must maintain records to substantiate its
3 compliance with the following requirements during the pilot study:

4 (i) The district offers the minimum hours of pupil instruction
5 as required under this section.

6 (ii) For each enrolled pupil, the district uses appropriate
7 academic assessments to develop an individual education plan that
8 leads to a high school diploma.

9 (iii) The district tests each pupil to determine academic
10 progress at regular intervals and records the results of those
11 tests in that pupil's individual education plan.

12 (d) The superintendent shall promulgate rules for the
13 implementation of this subsection.

14 (4) Except as otherwise provided in this subsection, the first
15 30 hours for which pupil instruction is not provided because of
16 conditions not within the control of school authorities, such as
17 severe storms, fires, epidemics, utility power unavailability,
18 water or sewer failure, or health conditions as defined by the
19 city, county, or state health authorities, shall be counted as
20 hours of pupil instruction. ~~Beginning in 2003-2004, with~~ **FOR 2008-**
21 **2009 ONLY, THE FIRST 30 HOURS FOR WHICH PUPIL INSTRUCTION IS NOT**
22 **PROVIDED BECAUSE OF CONDITIONS NOT WITHIN THE CONTROL OF SCHOOL**
23 **AUTHORITIES, SUCH AS SEVERE STORMS, FIRES, EPIDEMICS, UTILITY POWER**
24 **UNAVAILABILITY, WATER OR SEWER FAILURE, OR HEALTH CONDITIONS AS**
25 **DEFINED BY THE CITY, COUNTY, OR STATE HEALTH AUTHORITIES, SHALL BE**
26 **COUNTED AS HOURS OF PUPIL INSTRUCTION.** WITH the approval of the
27 superintendent of public instruction, the department shall count as

1 hours of pupil instruction for a fiscal year not more than 30
2 additional hours for which pupil instruction is not provided in a
3 district after April 1 of the applicable school year due to unusual
4 and extenuating occurrences resulting from conditions not within
5 the control of school authorities such as those conditions
6 described in this subsection. Subsequent such hours shall not be
7 counted as hours of pupil instruction.

8 (5) A district shall not forfeit part of its state aid
9 appropriation because it adopts or has in existence an alternative
10 scheduling program for pupils in kindergarten if the program
11 provides at least the number of hours required under subsection (3)
12 for a full-time equated membership for a pupil in kindergarten as
13 provided under section 6(4).

14 (6) Not later than April 15 of each fiscal year, the board of
15 each district shall certify to the department the planned number of
16 hours of pupil instruction in the district for the school year
17 ending in the fiscal year. In addition to any other penalty or
18 forfeiture under this section, if at any time the department
19 determines that 1 or more of the following has occurred in a
20 district, the district shall forfeit in the current fiscal year
21 beginning in the next payment to be calculated by the department a
22 proportion of the funds due to the district under this act that is
23 equal to the proportion below the required minimum number of hours
24 of pupil instruction under subsection (3), as specified in the
25 following:

26 (a) The district fails to operate its schools for at least the
27 required minimum number of hours of pupil instruction under

1 subsection (3) in a school year, including hours counted under
2 subsection (4).

3 (b) The board of the district takes formal action not to
4 operate its schools for at least the required minimum number of
5 hours of pupil instruction under subsection (3) in a school year,
6 including hours counted under subsection (4).

7 (7) In providing the minimum number of hours of pupil
8 instruction required under subsection (3), a district shall use the
9 following guidelines, and a district shall maintain records to
10 substantiate its compliance with the following guidelines:

11 (a) Except as otherwise provided in this subsection, a pupil
12 must be scheduled for at least the required minimum number of hours
13 of instruction, excluding study halls, or at least the sum of 90
14 hours plus the required minimum number of hours of instruction,
15 including up to 2 study halls.

16 (b) The time a pupil is assigned to any tutorial activity in a
17 block schedule may be considered instructional time, unless that
18 time is determined in an audit to be a study hall period.

19 (c) Except as otherwise provided in this subdivision, a pupil
20 in grades 9 to 12 for whom a reduced schedule is determined to be
21 in the individual pupil's best educational interest must be
22 scheduled for a number of hours equal to at least 80% of the
23 required minimum number of hours of pupil instruction to be
24 considered a full-time equivalent pupil. A pupil in grades 9 to 12
25 who is scheduled in a 4-block schedule may receive a reduced
26 schedule under this subsection if the pupil is scheduled for a
27 number of hours equal to at least 75% of the required minimum

1 number of hours of pupil instruction to be considered a full-time
2 equivalent pupil.

3 (d) If a pupil in grades 9 to 12 who is enrolled in a
4 cooperative education program or a special education pupil cannot
5 receive the required minimum number of hours of pupil instruction
6 solely because of travel time between instructional sites during
7 the school day, that travel time, up to a maximum of 3 hours per
8 school week, shall be considered to be pupil instruction time for
9 the purpose of determining whether the pupil is receiving the
10 required minimum number of hours of pupil instruction. However, if
11 a district demonstrates to the satisfaction of the department that
12 the travel time limitation under this subdivision would create
13 undue costs or hardship to the district, the department may
14 consider more travel time to be pupil instruction time for this
15 purpose.

16 (e) In grades 7 through 12, instructional time that is part of
17 a junior reserve officer training corps (JROTC) program shall be
18 considered to be pupil instruction time regardless of whether the
19 instructor is a certificated teacher if all of the following are
20 met:

21 (i) The instructor has met all of the requirements established
22 by the United States department of defense and the applicable
23 branch of the armed services for serving as an instructor in the
24 junior reserve officer training corps program.

25 (ii) The board of the district or intermediate district
26 employing or assigning the instructor complies with the
27 requirements of sections 1230 and 1230a of the revised school code,

1 MCL 380.1230 and 380.1230a, with respect to the instructor to the
2 same extent as if employing the instructor as a regular classroom
3 teacher.

4 (8) The department shall apply the guidelines under subsection
5 (7) in calculating the full-time equivalency of pupils.

6 (9) Upon application by the district for a particular fiscal
7 year, the superintendent may waive for a district the minimum
8 number of hours of pupil instruction requirement of subsection (3)
9 for a department-approved alternative education program. If a
10 district applies for and receives a waiver under this subsection
11 and complies with the terms of the waiver, for the fiscal year
12 covered by the waiver the district is not subject to forfeiture
13 under this section for the specific program covered by the waiver.
14 If the district does not comply with the terms of the waiver, the
15 amount of the forfeiture shall be calculated based upon a
16 comparison of the number of hours of pupil instruction actually
17 provided to the minimum number of hours of pupil instruction
18 required under subsection (3).

19 (10) A district may count up to 38 hours of qualifying
20 professional development for teachers, including the 5 hours of
21 online professional development provided by the Michigan virtual
22 university under section 98, as hours of pupil instruction.
23 However, if a collective bargaining agreement that provides more
24 than 38 but not more than 51 hours of professional development for
25 teachers is in effect for employees of a district as of ~~the~~
26 ~~effective date of the 2006 amendatory act that amended this~~
27 ~~subsection~~ **OCTOBER 1, 2006**, then until the fiscal year that begins

1 after the expiration of that collective bargaining agreement a
2 district may count up to 51 hours of qualifying professional
3 development for teachers, including the 5 hours of online
4 professional development provided by the Michigan virtual
5 university under section 98, as hours of pupil instruction. A
6 district that elects to use this exception shall notify the
7 department of its election. As used in this subsection, "qualifying
8 professional development" means professional development that is
9 focused on 1 or more of the following:

10 (a) Achieving or improving adequate yearly progress as defined
11 under the no child left behind act of 2001, Public Law 107-110.

12 (b) Achieving accreditation or improving a school's
13 accreditation status under section 1280 of the revised school code,
14 MCL 380.1280.

15 (c) Achieving highly qualified teacher status as defined under
16 the no child left behind act of 2001, Public Law 107-110.

17 (d) Maintaining teacher certification.