

REVISIONS FOR CHARTER SCHOOLS, URBAN HIGH SCHOOL ACADEMIES, & SCHOOLS OF EXCELLENCE

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Senate Bill 618 as passed by the Senate

Sponsor: Sen. Phil Pavlov

House Committee: Education

Senate Committee: Education

Complete to 10-25-11

A SUMMARY OF SENATE BILL 618 (S-1) AS PASSED BY THE SENATE 10-6-11

BRIEF SUMMARY:

Senate Bill 618 (S-1) would amend the Revised School Code (MCL 380.501 et al.) to do the following with respect to public school academies (PSAs), urban high school academies, and schools of excellence (SOEs):

- Delete numerical and geographical limits on the issuance of contracts for PSAs, urban high school academies, and SOEs.
- Allow two or more authorizing bodies to issue a contract for a PSA or an SOE under an inter-local agreement.
- Require educational goals to include demonstrated student academic achievement for all groups of students.
- Permit contracts for the operation of the same configuration of age or grade levels at more than one site.
- Delete requirements for a PSA or SOE to comply with a school district's collective bargaining agreement.
- Exempt property of a PSA, urban high school academy, or SOE from real and personal property taxes.
- Require enrollment at a PSA or an SOE authorized by a community college to be open to all pupils in the state meeting the admission policy.
- Require a petition to be signed by at least 5 percent, rather than 15 percent, of the electors in a school district, in order to place the question of issuing a PSA or SOE contract on the ballot.
- Revise provisions concerning the responsibilities of an authorizing body and the revocation of a contract.

The bill also would require public school academies, urban high school academies, and schools of excellence to comply with laws concerning participation in state assessments, data collection systems, state level student growth models, state accountability and accreditation systems, and other public comparative data collection required for public schools.

The bill is tie-barred to Senate Bills 619, 620, and 621. Senate Bill 619 would amend the Revised School Code to delete the limit on the number of cyber schools that may be formed, and revise requirements for cyber schools. Senate Bill 620 would amend the Revised School Code to provide for the formation of "conversion schools." Senate Bill 621 would make changes in the State School Aid Act concerning the provision of state aid for the instruction of non-public students by public schools.

FISCAL IMPACT:

State Fiscal Impact – The bill lifts many restrictions on the number and location of charter schools (public school academies, urban high school academies, and school of excellence) in the state, which would likely result in more charter schools in the state. As these new schools open, State School Aid Fund expenditures in the near term would increase. In determining pupil membership counts, the State School Aid Act provides for an alternative blend for new charter schools during its first two years of operations, averaging the Fall (October) and supplemental (February) counts in the current school year, rather than the standard 90-10 blend (90% of the Fall count and 10% of the supplemental count in the prior school year) used in existing districts and charter schools. This difference typically results in a slightly higher pupil membership count for the new charter school. The State School Aid Act provides that the per pupil foundation allowance for charter schools is equal to the foundation allowance of the school district in which the charter school is located, subject to a maximum foundation allowance of \$7,110. Annual adjustments in a charter school's foundation allowance generally track the adjustment in the foundation allowance of the school district in which the charter school is located. As a result, as new charter schools open, state foundation allowance expenditures will increase.

The bill exempts property occupied by charter schools from real and personal property taxes. The act currently exempts charter schools from all taxation property that it owns. Moreover, the General Property Tax Act generally provides a limited exemption for property (1) leased, loaned, or otherwise made available to a school district or other state-supported or nonprofit educational institution (including charter schools) (2) which would have been exempt from ad valorem taxation if it had been occupied by its owner solely for the purposes for which it was incorporated, while (3) it is used by the school district or other state-supported education institution. The bill essentially expands the existing property tax exemptions, as it relates to charter schools, contained in the Revised School Code and the General Property Tax Act to exempt property occupied by a charter school but owned by a non-exempt owner (such as a private individual or a for-profit corporation). The bill would reduce School Aid Fund revenue by exempting such property from the 6-mill state education tax. The property exemption would also reduce revenue from local school operating taxes, which reduces the local portion of the foundation allowance, thereby increasing State School Aid Fund expenditures (the state's portion) in order to maintain per-pupil foundation allowances paid to school districts.

Local Fiscal Impact – As noted above, the bill would reduce local property tax revenue due to the exemption of property occupied by a charter school. From the standpoint of

local school districts, any resulting loss in revenue generated by local school operating taxes is generally offset by an increase in the state's portion of the foundation allowance as noted above.

To the extent that lifting the restrictions on the number and location of charter schools results in an increase in the number of charter schools (and enrollment in charter schools), other school districts and charter schools whose students transfer to a new charter school would see a reduction in revenue from the per-pupil foundation allowance as pupil membership declines. In FY 2010-11, charter school pupils accounted for approximately 7.5% of the total public school pupils in the state.

The bill also permits charter schools to operate at multiple sites under one contract for the same configuration of age and grade, rather than requiring a contract for each site, which could result in some administrative efficiencies for both the charter school and the authorizing institution (a school district, intermediate school district, community college, or public state university).

The bill also removes a requirement that charter schools authorized by a school district provide an "assurance" that the charter school employee will be covered by a collective bargaining agreement that applies to other employees of the school district in a similar capacity. This would likely decrease the prevalence of collective bargaining agreements for school district-authorized charter schools, likely altering the employment status of these employees and their level of wages benefits.

DETAILED SUMMARY:

A detailed description of Senate Bill 618 (S-1) follows.

Public School Academies

Authorizing Bodies. Currently, one of the following may be an authorizing body that issues a contract for the operation of a PSA:

- The board of a school district that operates grades K to 12.
- An intermediate school board.
- The board of a community college.
- The governing board of a state public university.

The bill also would include two or more of those public agencies exercising power, privilege, or authority jointly pursuant to an inter-local agreement under the Urban Cooperation Act.

Limits on Contracts Issuance. The bill would delete provisions under which the board of a community college may not issue a contract for a PSA to operate in a first class school district or for a PSA to operate outside the boundaries of the community college district. The bill also would delete provisions that allow a community college to issue a contract

for a PSA to operate on the grounds of a federal military installation outside the boundaries of the community college district.

Remove State University Authorization Cap. Currently, the combined total number of contracts for PSAs issued by all state public universities may not exceed 150, and the total number of contracts issued by any one university may not exceed 50 percent of the maximum combined total number. The bill would delete this provision.

Educational Goals. Now under the law, an application for a PSA contract must include, among other things, a copy of the educational goals of the PSA, the curricula to be offered, and the methods of pupil assessment to be used. A contract for a PSA also must include the educational goals it is to achieve and the methods by which it will be held accountable. The bill would require the educational goals to include demonstrated improved pupil academic improvement for all groups of pupils.

Remove Collective Bargaining Agreement for Public School Authorizers. For a PSA authorized by a school district, the application must include an assurance that employees of the PSA will be covered by the collective bargaining agreements that apply to other employees of the district employed in similar classifications in schools that are not PSAs. The contract for a PSA authorized by a school district also must include an agreement to this effect. The bill would delete these requirements.

Allow Multiple Sites. The bill would allow a contract applicant to request the authorizing body to issue a contract allowing the PSA board of directors to operate the same configuration of age or grade levels at more than one site. An authorizing body could include such a provision in the contract, if each configuration of age or grade levels and each site identified in the contract were under the direction and control of the board of directors.

Oversight Responsibility. Under the Revised School Code, an authorizing body is responsible for overseeing, or contracting with an intermediate school district (ISD), community college, or university to oversee each PSA operating under a contract issued by that authorizing body. The bill would delete a requirement that the oversight be sufficient to ensure that the authorizing body can certify that the PSA is in compliance with statute, rules, and the terms of the contract.

Instead, the bill provides that the authorizing body would be responsible for overseeing compliance by the board of directors with the contract and all applicable law. These provisions would not relieve any other government entity of its enforcement or supervisory responsibility.

Ballot Petition. Now under the Revised School Code, if a person applies to the board of a school district for a contract to organize one or more PSAs within the boundaries of the district, and the board does not issue the contract, the person may petition the board to place the question on the ballot to be decided by the school electors. The petition must be

signed by the number of electors equal to at least 15 percent of the total number of school electors of the district. The bill would reduce that percentage to 5 percent.

Additional Contract Provisions. In addition to the provisions that currently must be in a contract for a PSA, the bill would require the following:

- A certification, signed by an authorized member of the board of directors of the PSA, that it would comply with the contract and all applicable law.
- A requirement that the board ensure compliance with Public Act 317 of 1968 (which governs contracts between public servants and public entities).
- A requirement that the board prohibit specifically identified family relationships between board members, individuals with an ownership interest in an educational management organization involved in the PSA's operation, officers or employees of such an organization, and employees of the PSA.
- A requirement that the board make information concerning its operation and management available to the public and to the authorizing body in the same manner as required by state law for school districts.
- A provision requiring the authorizing body to review, and allowing it to disapprove, any agreement between the board and an educational management organization before the agreement was final and valid.
- A requirement that the board prohibit any individual from being employed by the PSA in more than one full-time position and simultaneously being compensated at a full-time rate for each of those positions.

The contract also would have to require the board to collect, maintain, and make available to the public and the authorizing body at least all of the following information concerning the PSA's operation and management:

- A copy of the contract.
- A list of currently serving board members; copies of policies approved by the board; board meeting agendas and minutes; a copy of the budget approved by the board; and copies of bills paid for \$10,000 or more.
- Quarterly financial reports submitted to the authorizing body.
- A current list of teachers and administrators working at the school, including their individual salaries, and copies of teaching or school administrator's certificates or permits.
- Evidence of compliance with the criminal background and records checks and unprofessional conduct check required under the code for all teachers and administrators working at the PSA.
- Curriculum documents and materials given to the authorizing body.
- Copies of any management contracts or services contracts approved by the board.
- Copies of facility leases or deeds, or both, and of any equipment leases.
- All health and safety reports and certificates.
- Any management letters issued as part of the annual financial audit.
- Any other information specifically required under the code.

Real and Personal Property Tax Exemption. Under the bill, property occupied by a PSA and used exclusively for educational purposes would be exempt from real and personal property taxes.

Enrollment. Currently, enrollment in a PSA may be open to all individuals who reside in this state who meet the admission policy. Under the bill, this would apply to a PSA authorized by a school district or an ISD.

For a PSA authorized by a state public university, enrollment must be open to all pupils who reside in the state who meet the admission policy. The bill would extend this requirement to a PSA authorized by a community college.

The Revised School Code allows a PSA to give enrollment priority to a pupil who transfers to the PSA from another PSA under a matriculation agreement between them. The bill, instead, would allow a PSA to give enrollment priority to a pupil who transferred to the PSA from another public school under a matriculation agreement between the PSA and the other public school.

The bill also would allow a PSA to give enrollment priority to a child of a person who was employed by or at the PSA or who was on its board of directors.

Authorizing Body Responsibilities. The bill would require an authorizing body that issued a PSA contract to do all of the following:

- Ensure that the contract and the application for it complied with the Revised School Code.
- Within 10 days after issuing the contract, submit a copy to the Department of Education.
- Establish the method of selection, length of term, and number of members of the board of directors of each PSA it authorized, and ensure that the board included representatives from the local community.
- Oversee each PSA sufficiently to ensure that the board of directors was in compliance with the contract and applicable law.
- Develop and implement a process for holding a PSA accountable for meeting applicable academic performance standards set forth in the contract and for implementing corrective action for a PSA that did not meet the standards.
- Take necessary measures to ensure that the board operated independently of any educational management company involved in the PSA's operations.
- Oversee and ensure that the pupil admission process used by the PSA was operated in a fair and open manner and was in compliance with the contract and the Code.
- Ensure that the board maintained and released information as necessary to comply with applicable law.

Contract Revocation. The Revised School Code allows an authorizing body to revoke a PSA contract if it determines that any of the following have occurred: failure of the PSA

to abide by and meet the educational goals set forth in the contract; failure of the PSA to comply with all applicable law; failure of the PSA to meet generally accepted public sector accounting principles; and the existence of one or more other grounds for revocation as specified in the contract.

The bill would retain these provisions but would add: failure to demonstrate improved public academic achievement for all groups of pupils or meet the educational goals set forth in the contract; and, failure to meet generally accepted public sector accounting principles and demonstrate sound fiscal stewardship.

Currently, except for a PSA that is an alternative school serving a special student population, if the Superintendent of Public Instruction determines that a PSA site that has been operating for at least four years is among the lowest-achieving 5 percent of all public schools in the state, and is in year two of restructuring sanctions under the federal No Child Left Behind Act, then the state superintendent must notify the authorizing body. Under the bill, this would not apply if the PSA were undergoing reconstitution.

Now, if an authorizing body receives this notice, it must revoke the PSA's contract and the PSA must be closed at the end of the school year. The bill, instead, would require the authorizing body to amend the PSA's contract to eliminate its authority to operate the existing age and grade levels at the site and the PSA would have to cease operating those age and grade levels at the site, effective at the end of the school year. If the PSA operated at only one site, the authorizing body would have to revoke the PSA's contract.

Except as provided above, the bill would allow an authorizing body, before revoking a contract, to consider and take corrective measures to avoid revocation. An authorizing body could reconstitute the PSA in a final attempt to improve student educational performance or to avoid interruption of the educational process. An authorizing body would have to include a reconstituting provision in the contract that identified these corrective measures, including canceling a contract with an educational management organization, if any, withdrawing approval of an employment contract, or appointing a new board of directors or a trustee to take over operation of the PSA.

If an authorizing body revoked a contract, it would have to work with a school district or another public school, or both, to ensure a smooth transition for the affected pupils. If the revocation occurred during the school year, the authorizing body, as fiscal agent, would have to return to the State Treasurer any school aid funds it held that were attributable to the affected pupils, for deposit in the State School Aid Fund. The State Treasurer would have to distribute funds to the public school in which the pupils enrolled after the revocation according to a methodology established by the Michigan Department of Education and the Center for Educational Performance and Information.

Within 10 days after a PSA's contract terminated or was revoked, the authorizing body would have to notify the Superintendent of Public Instruction of the name of the PSA and the date of the termination or revocation.

Certificated Teachers. The Revised School Code requires PSAs to use certificated teachers, subject to exceptions for PSAs "operated" by a university or community college. The bill would refer, instead, to PSAs "authorized" by a university or community college.

Annual Report. The bill would repeal Section 501a, which requires the State Board of Education, at least annually, to submit to the House and Senate Education Committees a report evaluating PSAs generally, and containing specific information for each PSA.

Urban High School Academies

Contract Issuance; Remove Cap; Priority. The Revised School Code allows the governing board of a state public university to act as an authorizing body to issue a contract for the organization and operation of an urban high school academy. Under the law, not more than 15 contracts may be issued for an urban high school academy that will be located in a county with a population of at least one million, and an urban high school academy may not operate outside the boundaries of such a county. The bill would delete those limits.

The Revised School Code requires an authorizing body to give priority to applicants for a contract that demonstrate specific conditions, including that the proposed school will operate at least all of grades 9 through 12 within three years after beginning operation. The bill would change this from three years to five years after beginning operation.

Multiple Sites. An urban high school academy may not operate at a site other than the single site requested for the configuration of grades that will use the site, except as allowed in its contract.

If an urban high school academy operates the same configuration of grades at more than one site, each of those sites must be considered to be operated under a separate contract, and the operation must be equivalent to the issuance of a contract for the purposes of the limitation on the number of contracts that may be issued. If an urban high school academy operates classes at more than one location, it must be considered to be operating at a single site if all of the locations are within a one-mile radius of the academy's central administrative office and if the total number of pupils enrolled in any particular grade at all locations does not exceed 135. The bill would delete these provisions.

Educational Goals. Under the bill, urban high school academies would be subject to the same requirements concerning educational goals as proposed for PSAs.

Contract Revocation. As provided for a PSA, the Revised School Code allows an authorizing body to revoke the contract for an urban high school academy if particular grounds exist. The bill would revise these in the same manner as proposed for PSAs.

The bill also would add language regarding an urban high school academy that was among the lowest-achieving five percent of public schools. The language would be the same as currently provided for PSAs, subject to the proposed amendments.

Currently, before an authorizing body revokes a contract, it must consider and take corrective measures to avoid revocation, and must reconstitute the academy in a final attempt to improve student educational performance or to avoid interruption of the educational process. Under the bill, these actions would be permissive.

Power of Authorizing Body. Currently, if the State Board of Education finds that an authorizing body is not engaging in appropriate continuing oversight of one or more urban high school academies, the board by unanimous vote may suspend the power of the authorizing body to issue new contracts. The bill would transfer this responsibility from the State Board of Education to the state Superintendent of Public Instruction.

Tax Exemption. Under the bill, property occupied by an urban high school academy and used exclusively for educational purposes would be exempt from real and personal property taxes.

Schools of Excellence

Definition of Authorizing Body. Currently, one of the following may be an authorizing body that issues a contract for the operation of an SOE:

- The board of a school district that operates grades K to 12.
- An intermediate school board.
- The board of a community college.
- The governing board of a State public university.

The bill also would include two or more of those public agencies exercising power, privilege, or authority jointly pursuant to an inter-local agreement under the Urban Cooperation Act.

Limits on Contracts Issuance. The bill would delete a provision under which the board of a community college may not issue a contract for an SOE to operate outside the boundaries of the community college district. The bill also would delete a provision that allows a community college to issue a contract for an SOE to operate on the grounds of a federal military installation outside the boundaries of the community college district.

Enrollment. Currently, for an SOE authorized by a state public university, enrollment must be open to all pupils who reside in the state who meet the admission policy. Under the bill, this also would apply to an SOE authorized by a community college.

The Revised School Code allows an SOE to give enrollment priority to certain pupils. The bill also would allow an SOE to give priority to a child of a person who was employed by or at the school or on its board of directors.

Oversight Fee Specifications Eliminated. An authorizing body may charge a fee, or require the reimbursement of expenses, for considering a contract application, issuing a contract, or providing oversight of a contract, in an amount that does not exceed a combined total of three percent of the total state school aid received by the SOE in the school year in which the fees or expenses are charged. Now under the law, the authorizing body may use the fee only for purposes specified in the Revised School Code, and for other purposes that assist the SOE or traditional public schools in achieving improved academic performance. The bill would delete this provision.

Cyber School SOE. The Revised School Code allows schools of excellence to operate as cyber schools under certain conditions. The bill would delete a requirement that the authorizing body of such a school submit a report to the state Superintendent of Public Instruction and to the Legislature at the end of the school's second full school year.

Other Provisions. With respect to schools of excellence, the bill would make the same changes as proposed for PSAs concerning the following: educational goals; contracts to operate the same configuration of age or grade levels at more than one site; an authorizing body's oversight responsibilities; collective bargaining agreements; petition signatures; property tax exemption; revocation of a contract; and certificated teachers.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.