

HOUSE BILL No. 4023

January 31, 1991, Introduced by Rep. Keith and referred to the Committee on Education.

A bill to amend sections 6 and 101 of Act No. 94 of the Public Acts of 1979, entitled as amended "The state school aid act of 1979," as amended by Act No. 207 of the Public Acts of 1990, being sections 388.1606 and 388.1701 of the Michigan Compiled Laws; and to add section 167.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 6 and 101 of Act No. 94 of the Public
2 Acts of 1979, as amended by Act No. 207 of the Public Acts of
3 1990, being sections 388.1606 and 388.1701 of the Michigan
4 Compiled Laws, are amended and section 167 is added to read as
5 follows:

6 Sec. 6. (1) "Center program" means a program operated by a
7 district or intermediate district for special education pupils
8 from several districts in programs for the autistically impaired,

1 trainable mentally impaired, severely mentally impaired, severely
2 multiply impaired, hearing impaired, physically and otherwise
3 health impaired, and visually impaired. Programs for emotionally
4 impaired pupils housed in buildings that do not serve regular
5 education pupils shall also qualify. Unless otherwise approved
6 by the department, a center program either shall serve all con-
7 stituent districts within an intermediate district or shall serve
8 several districts with less than 50% of the pupils residing in
9 the operating district. In addition, pupils approved by the
10 department, who formerly would have been placed in a center pro-
11 gram, placed in noncenter programs to comply with the least
12 restrictive environment provisions of section 612 of the educa-
13 tion of the handicapped act, 20 U.S.C. 1412, may be counted under
14 this section provided:

15 (a) The pupil is special education eligible and receiving
16 special education programs or services on the pupil count date;
17 and

18 (b) The pupil is eligible as autistically impaired, traina-
19 ble mentally impaired, severely mentally impaired, and severely
20 multiply impaired.

21 (2) "District pupil retention rate" means the proportion of
22 pupils who have not dropped out of school in the immediately pre-
23 ceding school year and is equal to 1 minus the quotient of the
24 number of pupils unaccounted for in the immediately preceding
25 school year, as determined pursuant to subsection (3), divided by
26 the pupils of the immediately preceding school year.

1 (3) "District pupil retention report" means a report of the
2 number of pupils, excluding migrant and adult, in the district
3 for the immediately preceding school year, adjusted for those
4 pupils who have transferred into the district, transferred out of
5 the district, transferred to alternative programs, and have grad-
6 uated, to determine the number of pupils who are unaccounted
7 for. The number of pupils unaccounted for shall be calculated as
8 determined by the department.

9 (4) "Membership", except as otherwise provided in sections
10 56 and 62, means the number of full-time equivalent pupils in
11 grades K to 12 actually enrolled and in regular daily attendance
12 on the pupil membership count day as determined by the number of
13 pupils registered for attendance plus pupils received by transfer
14 and minus pupils lost as defined by rules promulgated by the
15 state board. In a district operating an extended school year
16 program approved by the state board, a pupil enrolled, but not
17 scheduled to be in regular daily attendance on the pupil member-
18 ship count day, shall be counted. The department shall give a
19 uniform interpretation of full-time and part-time memberships.
20 The state board may provide a district with an adjustment of the
21 district's membership count upon the showing of a substantial
22 increase in membership due to the closing of a nonpublic school
23 after the pupil membership count day. In a district offering
24 classes that are scheduled for a full year in which different
25 pupils participate in different sessions, full-time equated mem-
26 berships shall be determined by dividing the number of class

1 hours scheduled and provided per year per pupil by 900 for
2 elementary and secondary pupils and by 480 for adult pupils.

3 (5) "Pupil" means a person in membership in a public
4 school. A district must have the approval of the pupil's dis-
5 trict of residence to count the pupil in membership, except
6 approval by the pupil's district of residence shall not be
7 required for adult or nonpublic part-time pupils, for pupils
8 receiving 1/2 or less of their instruction in a district other
9 than their district of residence, or for those pupils who were
10 enrolled and in regular daily attendance and remain enrolled and
11 in regular daily attendance in the district other than their dis-
12 trict of residence before April 1, 1981.

13 (6) "Pupil membership count day" of a district means:

14 (a) The fourth Friday following Labor day each school year.

15 (b) For a district maintaining school during the entire
16 school year, the ~~following days:~~ FOURTH FRIDAY AFTER SCHOOL
17 BEGINS IN EACH QUARTER OF EACH SCHOOL YEAR.

18 ~~(i) Fourth Friday in July.~~

19 ~~(ii) Fourth Friday in October.~~

20 ~~(iii) Fourth Friday in January.~~

21 ~~(iv) Fourth Friday in April.~~

22 (c) A district receiving funds from the job training part-
23 nership act, Public Law 97-300, 96 Stat. 1322, or a district
24 operating a training program approved by the department may amend
25 the number of pupils counted on the pupil membership count day to
26 include pupils participating in the job training partnership act
27 program or a training program approved by the department. The

1 pupil membership count day for these pupils shall be the third
2 Friday after the first Monday after the start of instruction for
3 the program. Aid received under section 21(1) for these pupils
4 shall be reduced $1/480$ for each hour of classroom instruction the
5 pupils are scheduled to receive under 480 hours and further
6 reduced to ensure that the combined section 21(1) and the job
7 training partnership act or other approved training program aid
8 for the programs do not exceed the cost of the programs as veri-
9 fied by the intermediate school district of the district operat-
10 ing the programs.

11 (d) For the 1990-91 school year only, for a district whose
12 pupils are not in regular daily attendance on the pupil member-
13 ship count day or on any of the 15 regular school days before the
14 pupil membership count day, at the option of the district, either
15 the second or the third Friday following the first Monday after
16 either the start or resumption of pupil instruction.

17 (7) "Rule" means a rule promulgated pursuant to the adminis-
18 trative procedures act of 1969, Act No. 306 of the Public Acts of
19 1969, as amended, being sections 24.201 to 24.328 of the Michigan
20 Compiled Laws.

21 (8) "The school code of 1976" means Act No. 451 of the
22 Public Acts of 1976, as amended, being sections 380.1 to 380.1852
23 of the Michigan Compiled Laws.

24 (9) "School fiscal year" means a fiscal year which commences
25 July 1 and continues through June 30.

26 (10) "State board" means the state board of education.

1 (11) "Tuition pupil" means a pupil of school age attending
2 school in a district other than the pupil's district of
3 residence. A pupil's district of residence shall not require a
4 high school tuition pupil, as provided under section 111, to
5 attend another school district after the pupil has been assigned
6 to a school district.

7 Sec. 101. (1) To be eligible to receive state aid under
8 this act, not later than the third Friday following the pupil
9 membership count day, each district superintendent through the
10 secretary of the district's board shall file with the intermedi-
11 ate superintendent a certified and sworn copy of the district's
12 enrollment for the current school year. In addition, a district
13 maintaining school during the entire year, as provided under sec-
14 tion 1561 of the school code of 1976, shall file with the inter-
15 mediate superintendent a certified and sworn copy of the enroll-
16 ment for the current school year pursuant to rules promulgated by
17 the state board. In case of failure to file the sworn and certi-
18 fied copy not later than the third Friday following the pupil
19 membership count day or pursuant to rules promulgated by the
20 state board, state aid due to be distributed on December 1 under
21 this act shall be withheld from the defaulting district. A
22 person who willfully falsifies a figure or statement in the cer-
23 tified and sworn copy of enrollment shall be punished in the
24 manner prescribed by the laws of this state.

25 (2) Each district shall provide a minimum of 180 days of
26 pupil instruction AND A MINIMUM OF 2 TEACHER PROFESSIONAL
27 DEVELOPMENT DAYS OR NONINSTRUCTIONAL WORK DAYS. Except as

1 provided in ~~subsections (6) and (7)~~ SUBSECTION (5) AND SECTION
2 167, a district failing to hold 180 days of pupil instruction
3 shall forfeit 1/180 of its total state aid appropriation for each
4 day of failure. A district failing to comply with rules promul-
5 gated by the state board, which rules establish the minimum time
6 pupil instruction is to be provided to pupils for the regular
7 school year, shall forfeit from its total state aid allocation an
8 amount determined by applying a ratio of the time duration the
9 district was in noncompliance in relation to the minimum time
10 pupil instruction is required. A district failing to meet both
11 the minimum 180 days of pupil instruction requirement and the
12 prescribed time of pupil instruction requirement shall be pena-
13 lized only the higher of the 2 amounts calculated under the for-
14 feiture provisions of this subsection. Not later than August 1,
15 the board of each district shall certify to the department the
16 number of days of pupil instruction in the previous school year.
17 If the district did not hold at least 180 days of pupil instruc-
18 tion, the deduction of state aid shall be made in the following
19 fiscal year from the first payment of state school aid. Days
20 lost because of strikes or teachers' conferences shall not be
21 counted as days of pupil instruction. A district not having 70%
22 of the district's membership in attendance on any day shall
23 receive state aid in that proportion of 1/180 that the actual
24 percent of attendance bears to 70%. The state board shall
25 promulgate rules for the implementation of this subsection.

26 (3) The first 2 days when pupil instruction is not provided
27 because of conditions not within the control of school

1 authorities, such as severe storms, fires, epidemics, or health
2 conditions as defined by the city, county, or state health
3 authorities, shall be counted as days of pupil instruction.
4 Subsequent such days shall not be counted as days of pupil
5 instruction.

6 (4) A district shall not be allotted or paid a sum under
7 this act in a fiscal year if the department determines that at
8 the end of the preceding school fiscal year the amount of funds
9 on hand in the district available for the payment of the opera-
10 tion cost in the district exceeded the amount of money expended
11 for operation cost in the district during the preceding school
12 fiscal year.

13 (5) A district shall not forfeit part of its state aid
14 appropriation if it adopts or has in existence an alternative
15 scheduling program for pupils in kindergarten, which program is
16 approved by the state board.

17 SEC. 167. (1) IF A PUBLIC SCHOOL EMPLOYEES' STRIKE PREVENTS
18 AN EMPLOYER FROM FULFILLING THE REQUIREMENT FOR 180 DAYS OF STU-
19 DENT INSTRUCTION IMPOSED BY SECTION 1284 OF THE SCHOOL CODE OF
20 1976, BEING SECTION 380.1284 OF THE MICHIGAN COMPILED LAWS, AND
21 SECTION 101 OF THIS ACT, AN EMPLOYEE ENGAGED IN THE STRIKE SHALL
22 FORFEIT 1/180 OR A DAY'S PROPORTION, WHICHEVER IS LESS, OF THE
23 EMPLOYEE'S ANNUAL SALARY, AS DETERMINED IN THE MASTER AGREEMENT
24 SUBSEQUENTLY RATIFIED, FOR EACH DAY THE REQUIREMENT IS NOT
25 FULFILLED. AN EMPLOYEE WHO DISPUTES THE FORFEITURE MAY APPLY TO
26 THE EMPLOYMENT RELATIONS COMMISSION FOR A DETERMINATION OF THE
27 EXACT AMOUNT OF THE FORFEITURE UNDER RULES THE COMMISSION

1 PROMULGATES. UPON PROPER SHOWING BY THE EMPLOYEE, THE COMMISSION
2 MAY ISSUE AN ORDER CORRECTING THE EMPLOYER'S DETERMINATION. THE
3 SCHOOL YEAR, FOR PURPOSES OF COMPUTING THE 180 DAYS OF INSTRUCC-
4 TION, SHALL CONCLUDE ON OR BEFORE THE THIRD FRIDAY IN JUNE. THE
5 DETERMINATION OF 180 DAYS OF STUDENT INSTRUCTION SHALL NOT
6 INCLUDE SATURDAYS, SUNDAYS, THANKSGIVING DAY, CHRISTMAS DAY, NEW
7 YEAR'S DAY, MEMORIAL DAY, DAYS LOST BECAUSE OF EMPLOYEE STRIKES,
8 TEACHER PROFESSIONAL DEVELOPMENT DAYS, OR NONINSTRUCTIONAL WORK
9 DAYS. THE CALENDAR SHALL INCLUDE AT LEAST 10 VACATION DAYS,
10 SCHEDULED AFTER THE FIRST 2 WEEKS OF THE SCHOOL YEAR AND BEFORE
11 THE LAST 2 WEEKS OF THE SCHOOL YEAR. SATURDAYS, SUNDAYS, HOLI-
12 DAYS, TEACHER PROFESSIONAL DEVELOPMENT DAYS, OR NONINSTRUCTIONAL
13 WORK DAYS SHALL NOT BE USED TO COMPUTE VACATION DAYS.

14 (2) IF A DISTRICT IS UNABLE TO PROVIDE 180 DAYS OF STUDENT
15 INSTRUCTION BY THE THIRD FRIDAY OF JUNE BECAUSE OF A LEGAL SCHOOL
16 EMPLOYEES' STRIKE, AS PERMITTED BY SECTION 20 OF ACT NO. 336 OF
17 THE PUBLIC ACTS OF 1947, BEING SECTION 423.220 OF THE MICHIGAN
18 COMPILED LAWS, THE DEPARTMENT SHALL ESTIMATE AND MAKE, IN THE
19 SAME STATE FISCAL YEAR THE STRIKE OCCURS, A DEDUCTION FROM THE
20 DISTRICT'S TOTAL STATE AID APPROPRIATION EQUAL TO THE FORFEITURE
21 OF WAGES OR SALARY REQUIRED FOR THE STRIKING EMPLOYEES UNDER SEC-
22 TION 21 OF ACT NO. 336 OF THE PUBLIC ACTS OF 1947, BEING SECTION
23 423.221 OF THE MICHIGAN COMPILED LAWS. IF THE REQUIRED DEDUCTION
24 EXCEEDS THE DISTRICT'S TOTAL STATE AID APPROPRIATION OR IF THE
25 DISTRICT DOES NOT RECEIVE STATE AID, THE DISTRICT SHALL REMIT TO
26 THE STATE, IN A MANNER PRESCRIBED BY THE DEPARTMENT, THE AMOUNT
27 OF THE EXCESS, OR IN THE CASE OF A DISTRICT THAT DOES NOT RECEIVE

1 STATE AID, THE TOTAL AMOUNT OF REVENUE LOST FROM THE GENERAL FUND
2 OF THE DISTRICT TO PAY THE DEDUCTION FOR DEPOSIT IN THE GENERAL
3 FUND OF THE STATE. IF A DISPUTE CONCERNING THE FORFEITURE OF
4 WAGES OR SALARY UNDER SECTION 21 OF ACT NO. 336 OF THE PUBLIC
5 ACTS OF 1947 IS PENDING, THE AMOUNT OF THE SALARY OR WAGE FORFEI-
6 TURE IN DISPUTE SHALL NOT BE DEDUCTED FROM THE DISTRICT'S STATE
7 AID OR REMITTED FROM THE DISTRICT'S GENERAL FUND. FOR PURPOSES
8 OF THIS SUBSECTION, THE 180 DAYS OF STUDENT INSTRUCTION SHALL BE
9 IN COMPLIANCE WITH SUBSECTION (1).

10 Section 2. This amendatory act shall not take effect unless
11 all of the following bills of the 86th Legislature are enacted
12 into law:

13 (a) Senate Bill No. ____ or House Bill No. 4022 (request
14 no. 00852'91).

15 (b) Senate Bill No. ____ or House Bill No. 4016 (request
16 no. 00853'91).