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BILL ANALYSIS



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Senate Bill 679 (as enrolled)
 Sponsor: Senator Leon Stille
 Senate Committee: Education
 House Committee: Education

PUBLIC ACT 289 of 1995

Date Completed: 1-29-96

CONTENT

The bill amends the School Code of 1976, which it renames the "Revised School Code", to do the following:

- Replace second, third, and fourth class school districts and primary school districts with "general powers school districts", and specify their powers and duties, such as holding elections.
- Add provisions concerning a parent's fundamental right to determine and direct the care, teaching, and education of his or her children.
- Increase from 75 to 150 by 1999, the total number of public school academy contracts that all State public universities may issue; and permit community colleges to contract for more than one academy.
- Provide that revenue from taxes levied by a school district may be used to support a public school academy operated by the district.
- Prohibit an academy authorizer from charging fees in excess of 3% of the total State school aid an academy receives for considering an application, issuing a contract, or overseeing an academy's operation.
- Require the State Board of Education to submit annually to the Senate and House committees on education a report evaluating public school academies.
- Require the State Board to report to the Legislature on mandates imposed on school districts, intermediate school districts (ISDs), and public school academies.
- Permit the State Board to grant waivers from Board or Department of Education rules, if a school district, ISD, academy, or university school can efficiently and effectively address a rule's intent.
- Require the State Board to review, by September 30, 1996, all State Board or Department rules pertaining to special education.
- Increase the required number of pupil instruction days in a school year to 190 by the 2006-2007 school year, and increase the minimum number of pupil instruction hours to 1,140 by the 2006-2007 school year.
- Provide for the issuance of a one-year nonrenewable temporary teaching certificate to an out-of-State teacher and require him or her to pass a basic skills or subject area examination to receive a Michigan teaching certificate.
- Permit a school board or ISD board to employ a person without a teaching certificate as a substitute teacher if he or she has at least 90 semester hours of credit.
- Permit, instead of require, the establishment of a bilingual instruction program; and require the State to fund bilingual education at the level funded in fiscal year 1995-96.
- Provide that a child will not have to attend a public school if the child is being educated by his or her parent or legal guardian at the child's home in an organized educational program, as specified in the bill.
- Require public school academies to comply with various Code provisions, including bilingual education and school building construction.
- Specify that State core curriculum standards are the recommended standards for adoption by local districts in formulating local curricula; and delete

the requirement that accredited schools provide a core academic curriculum.

The bill also repeals entire parts of the Code pertaining to primary districts; districts of the fourth, third, and second classes; and joint high school districts. The bill also repeals various sections of the Code including those on: assistance for students not advancing in grade level; teaching dispute management; nature study areas; multicultural education; site-based decision-making; school boards' reporting annually to the State Board; and, certain provisions dealing with school property.

In addition, the bill repeals various academic requirements including those pertaining to: pupil performance standards; student portfolios; establishment of vocational education; regulation of student conduct; and, establishment of academic and/or attendance standards for eligibility to enroll in drivers education courses. The bill also repeals certain provisions concerning textbooks, libraries, and health and physical education; administrator certification; and, condemnation of property required by a school district.

The bill will take effect July 1, 1996. The bill's provisions on substitute teacher employment (MCL 380.1236) as well as employment by a school district or ISD of a superintendent or other administrators (MCL 380.1229), however, will take effect March 28, 1996.

Parental Rights

The bill specifies that it is the natural, fundamental right of parents and legal guardians to determine and direct the care, teaching, and education of their children. The bill also specifies that the State's public schools serve pupils' needs by cooperating with a pupil's parents and legal guardians to develop the pupil's intellectual capabilities and vocational skills in a safe and positive environment.

"School District"

The Code currently defines "school district" or "local school district" as a primary school district (a district that does not operate a high school) or a school district of the first, second, third, or fourth class. The bill defines "school district" or "local school district" as a general powers school district, regardless of previous classification, or a school district of the first class.

General Powers School Districts

Currently, each school district, except a district governed by a local act, must be organized and conducted as a primary school district or a school district of the first, second, third, or fourth class. The bill provides, instead, that each school district, except a first class district, must be organized and conducted as a general powers school district regardless of its previous classification. Beginning on the bill's effective date, each school district formerly organized as a primary school district or as a second, third, or fourth class district will be considered to be a general powers school district.

Beginning on the bill's effective date, a school district operating under a special or local act will operate as a general powers school district to the extent that the special or local act is inconsistent with the Code. Upon repeal of a special or local act that governs a school district, that school district must become a general powers school district.

A general powers school district will have all the rights, powers, and duties expressly stated in the bill; may exercise a power implied or incidental to any power expressly stated in the Revised School Code; and, except as provided by law, may exercise a power incidental or appropriate to the performance of any function related to operation of the school district in the interests of public elementary and secondary education in the school district, including but not limited to the following:

- Educating pupils. In addition to educating pupils in grades K-12, this function may include operation of preschool, lifelong education, adult education, community education, and training, enrichment, and recreation programs for other persons.
- Providing for the safety and welfare of pupils while at school or a school-sponsored activity or while en route to or from school or a school-sponsored activity.
- Acquiring, constructing, maintaining, repairing, renovating, disposing of, or conveying school property, facilities, equipment, technology, or furnishings.
- Hiring, contracting for, scheduling, supervising, or terminating employees, independent contractors, and others to carry out school district powers. A school board may indemnify its employees.
- Receiving, spending, accounting for, or investing school district money; borrowing money and pledging school district funds for repayment; and qualifying for State school aid and other public or private money from local, regional, State, or Federal sources.

A general powers school district may enter into agreements or cooperative arrangements with other public or private entities, or join organizations as part of performing the school district's functions. A general powers school district is a body corporate and must be governed by a school board. An act of a school board will not be valid unless approved, at a meeting of the school board, by a majority vote of the members serving on the board.

The board of a general powers school district must adopt bylaws concerning the board's structure. The bylaws may establish or change board procedures, the number of board members, members' terms of office, the number of board officers, officers' titles and duties, and any other matter related to the effective and efficient functioning of the board. Regular meetings of the board must be held at least once each month, at the time and place fixed by the bylaws. Special meetings may be called and held in the manner and for the purposes specified in the bylaws. Board procedures, bylaws, and policies in effect on the bill's effective date will continue in effect until changed by board action.

A school board must be elected as provided under the Revised School Code and the Michigan Election Law. The number of members of the board of a general powers school district and their terms of office will remain the same as they were for that school district before the revised Code takes effect unless either or both are changed by the district's school electors at a regular or special election. The proposition for changing the number of board members or term of office may be placed on the ballot by board action or by petition submitted by school district electors as provided under the Code.

On the bill's effective date, the board of each school district will continue to be the board of the school district and to function in that capacity. A person lawfully serving as a member of the school board, on the bill's effective date, will continue to be a board member and continue in the office for the remainder of the term for which the person was elected or appointed.

The bill specifies that unless expressly provided in the bill, the powers of a school board or school district are not diminished by these provisions.

A school district operating a public library, public museum, or community recreational facility, as of the bill's effective date, may continue to operate these facilities.

Elections

Under the bill, each general powers school district must continue to hold its regular election on the same date the election was held before the bill's effective date or must hold its regular election on one of the following dates determined by a board resolution adopted at least six months before the proposed new election date: annually or biennially on the first Monday in April, annually or biennially on the second Monday in June, or annually or biennially at the same time as the November general election. The school electors must elect members of the board at the school district's regular election.

Under the bill, the board may submit to the school electors a measure, proposition, or question that is within the scope of the powers of the electors and that the board considers just and proper for the proper management or conduct of the school system or the advancement of education in the district's schools. Upon its adoption of a measure or question, the board must submit the measure or question to the school electors at the next regular school election; at a special election; or, if the boundaries of a city or township and the school district are coterminous, at a city or township election.

A special election may be called by the board at times and places in the district that the board designates. The board must call an election on petition of at least 10% of the district's school electors qualified to vote on the question by giving the prescribed notice. The petition, except as to subject, must be substantially in the form prescribed in the Code. A special election may be called on a measure, proposition, or question that may be voted on and decided by the school electors. The questions to be submitted at an election must be stated briefly in the election notice.

If a portion of or an entire city or township is encompassed within the boundaries of a general powers school district and city or township primary or general elections are to be held on the same day as an election of the school district, the school election may be conducted by the same inspectors and canvassed, reported, considered, and treated as part of the city or township primary or general election. The proper city or township officials must prepare and have printed an official ballot on which must be placed the names in rotation of persons who are candidates for nomination or who have been nominated for membership on the board and the measures, propositions, or questions to be submitted to the district's school electors at the election.

The expense of special elections called by the board must be paid to a city or township conducting the election by the board upon presentation of a statement for the expenses. The expenses may not include a charge for use of equipment or services of regular personnel of the city or township, except as otherwise agreed between the city or township and the board.

If a measure, proposition, or question is to be submitted to the school electors at an election conducted for a general powers school district by a city or township, the board must file with the city or township clerk of each city or township whose boundaries are encompassed within the school district a written notice of the adoption by the majority vote of the board of the measure, proposition, or question together with a written draft of the form and purpose of the measure, proposition, or question. The notice must be under the seal of the board and must be filed at least 49 days before the election. Upon receiving the notice, the proper city or township officials must publish it in accordance with applicable law.

If the boundaries of a general powers school district are within the boundaries of a single city or township, the city or township clerk, within the time specified for serving notices on officials elected at a municipal election, must serve notice of election on each member of the board elected at the election. In all other general powers districts, notice of election must be served on each member elected at the election in the manner described in the Code's provisions on the notification of election results (MCL 380.1102).

Currently, the Code specifies that the person receiving the greatest number of votes for school board member must be declared elected, except that in a primary district a majority vote is required to elect a board member. The Code also provides for a recount by a board of county or school canvassers, but does not apply these provisions to an election for board members in a primary school district. The bill deletes references to primary districts. In addition, the bill deletes provisions requiring a board secretary to give a certificate of election to each person elected and requiring a person elected to office to file a written acceptance of office.

The bill also deletes most of the current provisions specifying the format of a candidate petition. The bill requires a nominating petition to be in the form prescribed in the Michigan Election Law, except that it must be nonpartisan and include an opening paragraph currently specified in the Code. In addition, the Code requires that the term of office for each school board member begin on July 1.

The bill adds that a term may begin January 1 if the election is held in November.

First Class School District

The bill provides that a first class school district (i.e., a district with a pupil membership of 120,000), except as provided by law, has all of the powers granted to a general powers school district under the Code and has all additional powers granted by law to a first class school district or its board.

The bill deletes the current provision that in a first class school district the city treasurer is the ex officio treasurer of the board without power to vote. The Code currently requires a board of a first class school district to elect annually its president and vice president, and to elect a secretary of the board who may not be a member of the board. Under the bill, the election of a board president and vice president must take place biennially, and the board treasurer, as well as secretary, must be appointed, instead of being elected.

Under the bill, the treasurer's duties must be determined by the school district general superintendent, as approved by the board. A school district's funds currently have to be deposited with the same depositories that have been selected by the properly constituted authorities for the deposit of city funds. The bill requires the funds to be deposited with depositories selected by the board. Currently, the board of a first class district must require from the city treasurer a separate bond of at least \$100,000 to protect the board's funds. The bill increases the amount of the bond to at least \$200,000.

The bill specifies that unless expressly provided in the bill, the powers of a first class school district are not diminished by these provisions.

Parents' Rights

The bill provides that, in recognition of the rights of parents and legal guardians, the board of a school district, public school academy, university school, or intermediate school district must ensure that the parent or legal guardian responsible for the care and custody of a pupil enrolled in the school district, public school academy, university school, or ISD may do all of the following: review the curriculum, textbooks, and teaching materials of a school in which the pupil is enrolled at a reasonable time and place and in a reasonable manner; and, be present, to a reasonable degree, and at reasonable times and subject to reasonable restrictions, controls, and limits, to observe any

instructional activity, except testing, in a class or course in which the pupil is enrolled and present. The board of a school district, public school academy, university school, or ISD may adopt reasonable policies or guidelines under this provision. These policies or guidelines may not unreasonably prevent the exercise of a parent's or legal guardian's rights and may not create an unreasonable obstacle to teaching or learning, or to administering or maintaining proper discipline, in a school or school program. If a board adopts policies or guidelines under this provision, the board must make them available to the public.

Public School Academies

The Code currently specifies that a public school academy is a public school under Article 8, Section 2 of the State Constitution, is a school district for the purposes of Article 9, Section 11 of the State Constitution, and is subject to the leadership and general supervision of the State Board over all public education under Article 8, Section 3 of the State Constitution. The bill adds that an academy will be a public school for purposes of the Code's provisions concerning the borrowing powers of a school district or ISD (MCL 380.1225).

Under the Code, various entities may act as the authorizing body to issue a contract to organize and operate public school academies. These entities include the board of a school district, an intermediate school board, the board of a community college, and the governing board of a State public university. The bill refers specifically to the board of a school district "that operates grades K to 12". The bill also removes a provision under which a community college board may not issue a contract for more than one public school academy.

The Code requires a person or entity to apply to an authorizing body in order to obtain a contract to organize and operate an academy. The application must include certain information specified in the Code, including the admission policy and criteria to be maintained by the academy. The bill requires that this part of the application include a description of how the applicant will provide to the general public adequate notice that an academy is being created and adequate information on the admission policy, criteria, and process.

In addition, the bill deletes a provision in Part 6B of the Code that the combined total number of contracts for public school academies issued by all State public universities may not exceed 75. Under the bill, the combined total number of contracts for public school academies issued by all State public

universities may not exceed 85 through 1996, and, after the required initial evaluation, may not exceed 100 through 1997, 125 through 1998, or 150 thereafter. The total number of contracts issued by any one State public university may not exceed 50 through 1996, and thereafter may not exceed 50% of the maximum combined total number that may be issued under this provision.

Under the bill, an authorizing body must oversee, or contract with an intermediate school district, community college, or State public university to oversee, each public school academy operating under a contract issued by the authorizing body. The oversight must be sufficient to ensure that the authorizing body can certify that the academy complies with statute, rules, and the terms of the contract.

If the State Board finds that an authorizing body is not engaging in appropriate continuing oversight of one or more public school academies operating under a contract issued by the authorizing body, the State Board may suspend the authorizing body's power to issue new contracts to organize and operate public school academies. A contract issued by the authorizing body during the suspension will be void. A contract issued before the suspension will not be affected by the suspension.

An authorizing body may not charge a fee, or require reimbursement of expenses, for considering an application for a contract, issuing a contract, or providing oversight of a contract for an academy in an amount that exceeds a combined total of 3% of the total State school aid received by the academy in the school year in which the fees or expenses are charged. An authorizing body may provide other services for an academy and charge a fee for those services, but may not require this arrangement as a condition to issuing the contract authorizing the academy.

Currently, to the extent applicable, the progress and outcomes of pupils in a public school academy must be assessed using at least a Michigan Education Assessment Program (MEAP) test or an assessment instrument developed under the Code for a State-endorsed high school diploma, or one or more of the following nationally normed tests: the California achievement test, the Stanford achievement test, the Iowa test of basic skills, or the metropolitan achievement test. The bill provides, instead, that pupil performance must be assessed using at least a MEAP test or an assessment instrument developed for a State-endorsed high school diploma.

A contract issued to organize and administer an academy must contain at least certain information specified in the Code. The bill adds that an application also must include requirements and procedures for financial audits. These audits must be conducted at least annually by a certified public accountant in accordance with generally accepted governmental auditing principles.

The Code requires an academy to comply with all applicable law, including specified State laws. The bill adds to these laws, the Code's provisions on tagging records of missing students (MCL 380.1134); identification requirements for enrolling students (MCL 380.1135); prohibition against separate schools or departments based on race, color, or sex (MCL 380.1146); bilingual instruction (MCL 380.1153); and school construction (MCL 380.1263(3)).

Under the bill, if an academy is operated by a school district that is subject to a court desegregation order, pupil selection at the academy is subject to that order.

The Code specifies that an academy may not levy ad valorem property taxes or any other tax for any purpose. The bill adds that operation of one or more public school academies by a school district or an ISD does not affect the district's or ISD's ability to levy ad valorem property taxes or any other tax. The bill also provides that if a school district or ISD applies for and obtains a contract to operate one or more public school academies under Part 6B, the power of the school district or ISD to levy taxes for any purpose under the Code is not affected by the operation of a public school academy by the district or ISD. Revenue from taxes levied by a school district or ISD under the Code or bonds issued by a district or ISD may be used to support the operation or facilities of a public school academy operated by the district or ISD in the same manner as that revenue may be used under the Code by school districts or ISDs to support school district operations and facilities. The bill specifies that it does not authorize a school district or ISD to levy taxes or issue bonds for any purpose that otherwise is authorized under the Code.

The board of a school district or ISD may enter into an agreement with an academy to provide services to the academy or to pupils of the academy, or for the academy to provide services to the school district or ISD or to pupils of the school district or ISD. The services may be provided on a cooperative basis. A school district

or ISD may charge the academy, or an academy may charge the school district or ISD, for these services.

The Code currently authorizes an academy, in addition to other powers set forth under Part 6B, to take action to carry out the purposes for which it was incorporated, including incurring temporary debt in anticipation of receipt of funds, subject to applicable rules of the State Board. The bill deletes reference to State Board rules, and makes this authority subject to the Code's provisions permitting the board of a local district or ISD to borrow money and issue notes for the borrowed money to secure funds for school operations (MCL 380.1225).

The Code provides that the board of a school district must award a State-endorsed high school diploma to an eligible graduate if certain criteria are met, and may award a high school diploma to a pupil who successfully completes local district requirements established according to State law, regardless of whether the pupil is eligible for any State endorsement. In this context, a school district also is subject to provisions concerning reevaluations, special programs, and accommodations for pupils with disabilities. The bill extends these provisions to public school academies.

The Code requires a school board, other than the board of a first class district, to insure school district property unless otherwise directed by school electors. The bill adds that a public school academy must insure its property.

Currently, the Code prohibits an employee, volunteer, or contractor of a local or intermediate school board from inflicting corporal punishment (the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline) upon any pupil under any circumstances. The Code allows these persons to use reasonable physical force upon a pupil to maintain order and control in a school or school-related setting to provide an environment conducive to safety and learning. The bill applies the Code's provisions on corporal punishment to public school academies.

The Code currently permits an academy's contract to be revoked by the authorizing body that issued the contract if the authorizing body determines that the academy failed to abide by and meet the educational goals specified in the contract, did not comply with applicable law, and/or did not meet

generally accepted public sector accounting principles. In addition, a contract may be revoked if one or more grounds for revocation exist, as specified in the contract. The bill specifies that an authorizing body's decision to revoke a contract is within the authorizing body's discretion, is final, and is not subject to review by a court or any State agency. An authorizing body that revokes a contract is not liable for that action to the public school academy, its corporation, a pupil of the academy, the parent or guardian of an academy pupil, or any other person.

Within one year after the bill's effective date, and at least annually thereafter, the State Board is required to submit a comprehensive report, with findings and recommendations, to the House and Senate committees on education. The report must evaluate public school academies generally, including, but not limited to, an evaluation of whether public school academies are fulfilling the purposes specified in the Code. This report also must contain, for each public school academy, a copy of the academy's mission statement, attendance statistics and dropout rate, aggregate assessment test scores, projections of financial stability, and number of and comments on supervisory visits by the authorizing body. The bill specifies in Part 6B of the Code that this information may be included in the annual report required under the current Code concerning an academy's finances, pupils, curricula, and aggregate assessment test sources (MCL 380.517a).

Intermediate School Districts

The bill specifies that an ISD has all of the rights, powers, and duties expressly stated in the Code; may exercise a power implied or incidental to any power expressly stated in the Code; and, except as provided by law, may exercise a power incidental to or appropriate to the performance of any function related to the operation of the ISD in the interests of public elementary and secondary education in the ISD, including, but not limited to, all of the following:

- Educating pupils. In addition to educating pupils in grades K-12, this function may include operation of a preschool, lifelong education, adult education, community education, training, enrichment, and recreation programs for other persons.
- Providing for the safety and welfare of pupils while at school or a school-sponsored

activity or while en route to or from school or a school-sponsored activity.

- Acquiring, constructing, maintaining, repairing, or renovating ISD property, facilities, equipment, technology, or furnishings.
- Hiring, contracting for, scheduling, supervising, or terminating employees, independent contractors, and others to carry out ISD and intermediate school board powers. The bill specifies that an ISD may indemnify its employees.
- Receiving, spending, accounting for, or investing ISD money; borrowing money and pledging ISD funds for repayment; and qualifying for State school aid and other public or private money from local, regional, State, or Federal sources.

An ISD may enter into agreements with other public or private entities and join organizations as part of performing an ISD's functions.

The Code currently permits an ISD board to employ a superintendent, and specifies that a contract with the superintendent may not exceed a term of four years. The bill deletes the term limitation.

Under the bill, an ISD board may conduct, participate in, administer, or serve as fiscal agent and/or administrative entity for one or more programs involving workforce development, including, but not limited to, job training and development programs, school-to-work initiatives, Work First or programs under the Federal Job Training Partnership Act, or a successor program.

The bill specifies that unless expressly provided, the powers of an ISD or its school board are not diminished by the bill.

In addition to an ISD's current statutory responsibilities, to the extent allowed by law, if the most cost-effective business services are not available to constituent districts, an ISD must offer to provide to constituent districts and to public school academies located within the ISD business services that can be accomplished more cost-effectively by an ISD. An ISD may charge a fee for these services, and may contract with a third party for provision of some or all of these services, including, but not limited to, any of the following: data processing; payroll; class scheduling; distance learning coordination and delivery; and transportation services.

The Code requires an ISD board to prepare an annual general fund operating budget, which must be in a form prescribed by the county tax allocation board. The Code also requires an ISD board by March 1 of each year to submit a budget to a meeting of representatives of the constituent districts. Under the bill, an ISD board, by April 1 of each year, must file the budget with the county clerk of each county in which the ISD is situated, except a county that has established separate tax limitation millage rates pursuant to provisions in the Property Tax Limitation Act. Each county clerk receiving the budget must deliver it to the county tax allocation board in the same manner as other school district budgets are handled. The Code also requires an ISD board by March 1 of each year to submit a budget to a meeting of representatives of the constituent districts. The bill changes the deadline for submitting a budget to June 1 and deletes the provisions on determining the amount of the budget and the filing of a budget with a county clerk.

The Code defines “general fund operating budget” as the budget that includes revenues from the ISD’s share of the 15 mills as determined by the tax allocation board or by referendum and State school aid. The bill deletes reference to the 15 mills.

Consolidation/Property Transfers

The Code provides that two or more school districts, except districts of the first and second class, in which the total combined pupil membership is 75 or more, may consolidate to form a single school district. The consolidated district must be a school district of the fourth or third class, depending on the classification to which its pupil membership entitles it. The bill deletes this language, and provides that two or more school districts may consolidate to form a single school district.

The Code currently permits an intermediate school board to detach property from one school district and attach it to another school district under certain circumstances. The bill requires an ISD board or ISD boards meeting jointly, in making a decision on a proposed transfer of territory, to consider the welfare of the affected pupil, including, but not limited to, the length of the pupil’s commute to and from school on a school bus or otherwise. Currently, the Code permits the State Board to confirm, modify, or set aside the order of an ISD board or the joint ISD boards. Under the bill, the State Board, in considering an

appeal, must consider the welfare of the pupil, including the length of the pupil’s commute to and from school.

State Board Report

Within 180 days after the bill’s effective date, the State Board of Education must prepare and submit to the committees of the Legislature with responsibility for education legislation a report that details the mandates imposed on school districts, intermediate school districts, and public school academies, and on their boards, by the Revised School Code, the State School Aid Act, other State statute, or rule. The report also must make recommendations on: mandates that should be eliminated by the Legislature; mandates applying to school districts, ISDs, or public school academies, or their boards that should, by legislation, be made subject to waiver by the State Board or the Superintendent of Public Instruction; and proposed requirements for obtaining such a waiver.

Bilingual Education

The Code currently requires the board of a school district that has an enrollment of 20 or more children of limited English-speaking ability in a language classification in grades K to 12 to establish and operate a bilingual instruction program for those children. In addition, a board may establish and operate a bilingual instruction program if the school district has fewer than 20 children of limited English-speaking ability. The bill deletes these provisions and, instead, permits a school board to establish and operate a bilingual instruction program. The bill also deletes provisions requiring an ISD to determine whether total numbers of children with limited English-speaking ability residing in the constituent districts that do not operate a program of this kind warrant the establishment of an intermediate bilingual instruction support program. The bill permits an ISD to operate or contract for the operation of a bilingual program or service. The bill also deletes provisions concerning the transportation and payment of tuition for a child by his or her resident school district to a school district offering a bilingual program. In addition, the bill deletes provisions concerning a three-year enrollment in a bilingual instruction program. Under the bill, the State is required to continue funded bilingual instruction programs at least at the level that instruction is funded in the 1995-96 State fiscal year.

Sex Education

Currently, a school board may engage qualified instructors and provide facilities and equipment for instruction in sex education, as described in the Code. A class in sex education must be an elective and not a requirement for graduation. Upon the written request of a pupil or the pupil's parent or legal guardian, a pupil must be excused, without penalty or loss of academic credit, from attending the class.

Under the bill, if a parent or legal guardian of a pupil files with the public school in which the pupil is enrolled a continuing written notice that the pupil is to be excused from a sex education class, the pupil may not be enrolled in this class unless the parent or legal guardian submits a written authorization for that enrollment.

School Boards/Merit Pay

The bill provides that a school district or ISD may implement and maintain a method of compensation for its employees that is based on job performance and job accomplishments.

Annual Estimate of Taxes

Under the bill, a school board must prepare annual estimates of the amount of taxes necessary for the school district's needs for the ensuing fiscal year. The estimates must specify the amount required for the "general fund", the "capital projects fund", and the "debt retirement fund", in accordance with the Municipal Finance Act and outstanding bond resolutions.

The board may include in the "capital projects fund" an amount not exceeding in one year .01% of the school district's taxable value to establish and maintain a school district insurance reserve fund from which school buildings or other school property damaged or destroyed by fire, lightning, or otherwise may be repaired, rebuilt, or replaced by other buildings or property to be used in its place. Taxes may not be levied for this purpose while the insurance reserve fund exceeds or equals .1% of the district's taxable value. The board must carry the insurance reserves forward as an encumbered reserve and may add to the reserve as prescribed in the bill. Insurance reserve funds may be invested as described in the Code's provisions on the investment of funds (MCL 380.1223). Income from the investment must be considered as part of the "general fund". If an emergency is declared by a two-thirds vote of the

board members, the insurance reserve funds may be borrowed for the emergency, but the funds must be returned to the insurance reserve fund from the collection of taxes in the next ensuing fiscal year.

A board must adopt a budget in the same manner and form as required for its estimates and, subject to limitations under law, determine the amount of tax levy needed for the budget. A board must certify the amount to the city and township before the date required by law.

The proper officials of the city and township must apportion the school taxes in the school district in the same manner as other taxes of the city or township are apportioned. Except as otherwise provided, the amount apportioned must be assessed, levied, collected, and returned for each portion of the school district in the same manner as taxes of the city or township in which the portion of the school district is located.

Administrator Contracts

The bill provides that the board of a school district, other than a school district organized as a primary school district during the 1995-96 school year, or ISD must employ a superintendent of schools, who must meet the Code's requirements on continuing education (MCL 380.1246). The superintendent may not be a member of the board. Employment must be by written contract. The term of a superintendent's contract must be fixed by the board, and may not exceed five years. If written notice on a contract's nonrenewal is not given at least 90 days before a contract's termination, the contract will be renewed for an additional one-year period.

The board of a school district or ISD may employ assistant superintendents, principals, assistant principals, guidance directors, and other administrators who will not assume tenure in that position under the teachers' tenure Act. The employment must be by written contract, which must be fixed by the board and not exceed three years. The board must prescribe the duties of a person described in this provision. If written notice of nonrenewal of the contract is not given at least 60 days before the contract's termination date, the contract is renewed for an additional one-year period.

A notification of nonrenewal may be given only for a reason that is not arbitrary or capricious. The board may not issue a nonrenewal notice unless

the affected person has been provided with at least 30 days' advance notice that the board is considering the nonrenewal together with a written statement of the board's reasons for considering the nonrenewal. After the written statement is issued, but before the nonrenewal statement is issued, the affected person must be given the opportunity to meet with at least a majority of the board to discuss the reasons stated in the written statement. The meeting must be open to the public or a closed session, as the affected person elects under the Open Meetings Act. If the board fails to provide for a meeting with the board, or if a court finds that the reason for nonrenewal is arbitrary or capricious, the affected person's contract will be renewed for an additional one-year period. The bill specifies that these provisions do not apply to the nonrenewal of a contract of a superintendent of schools.

Currently, a school district or ISD may not employ a person as a superintendent, principal, assistant principal, or other person whose primary responsibility is administering instructional programs or as a chief business official unless he or she has completed certain continuing education requirements as prescribed by State Board rule. The bill applies this provision to a public school academy.

State Superintendent

Under the bill, if a person employed by the State as Superintendent of Public Instruction is removed from that position, the State Board, or another State agency, may not enter into a settlement agreement concerning that removal unless the agreement is in settlement of a lawsuit filed against the State.

The State Board may not grant administrative leave for more than six months to a person employed, or previously employed, as State Superintendent.

The State Board may not offer a contract for a person to be employed by the State as Superintendent of Public Instruction, or extend that contract of a State Superintendent, within six months before a general election at which State Board members are elected or within two months after a general election at which these members are elected. The State Board may not offer an employment contract for a State Superintendent for more than three years and may not extend a contract in increments of more than one year. The bill specifies that these provisions do not prohibit the State Board from employing an interim State Superintendent at any time there is a vacancy.

Substitute Teachers

The bill provides that the board of a school district or ISD may employ a person without a teaching certificate as a substitute teacher if he or she has at least 90 semester hours of college credit from a college or university.

Under the Code, a teacher who has been employed for 120 days or more during a school year of at least 180 days, or employed as a substitute for 150 days or more by an ISD that operates any program for 220 days or more, must be given the first opportunity to accept or reject a contract after all other teachers in the district have been rehired. The bill increases the 120-day requirement to 150 days and the 150-day requirement to 180 days.

Under the Code, a teacher employed as a substitute teacher with an assignment to one specific teaching position, after 60 days of service, must be granted annual leave and other privileges granted to regular teachers by the school district for the duration of that assignment. The bill refers to 60 days of service "in that assignment".

Noncertificated Teachers

Currently, a local or ISD board may engage a full- or part-time noncertificated, nonendorsed teacher to teach a course in computer science, a foreign language, mathematics, biology, chemistry, engineering, physics, robotics, or any combination of these subject areas, in grades nine through 12. The bill permits a noncertificated, nonendorsed teacher to be employed in another subject area determined by the State Board to be appropriate to be included under this provision and so designated by the State Board.

Under the Code, a noncertificated teacher is qualified to teach if he or she meets certain minimum requirements, as specified in the Code, including having at least two years of occupational experience in the field of specialization in which he or she will teach, except in the case of persons engaged to teach a foreign language. The bill specifies that this experience must be in the five-year period immediately preceding the date of hire.

Currently, if a local or intermediate school board is not able to engage a certificated, endorsed teacher to teach one of these courses, the Department of Education and a teacher preparation institution must use the teaching experience of a noncertificated teacher to waive student teaching as a condition for receiving a

continued employment authorization in the school district and a provisional teaching certificate. The bill deletes reference to a district's inability to engage a certificated teacher, and provides instead for waiver of the student teaching requirement if the noncertificated, nonendorsed teacher completes three years of successful classroom teaching, as determined by regular observation and review by school district and teacher preparation institution personnel.

School Improvement Plans/Core Curricula Under

the Code, the board of a school district or ISD must adopt and implement and submit by September 1 each year to the Department of Education a three- to five-year school improvement plan and continuing school improvement process for each school within the district. School board members, school building administrators, teachers and other school employees, pupils, parents of pupils attending the school, and other residents of the district are required to participate in the planning, development, implementation, and evaluation of the plan. The State Board annually must review a random sample of school improvement plans and submit a report based on the sampling to the Senate and House committees responsible for education legislation. Under the bill, the improvement plan does not have to be submitted, but must be made available, to the Department, and persons described above must be invited and allowed to participate voluntarily in a plan's development, implementation, and evaluation. The bill also deletes requirements that school improvement plans of a school district be maintained on file with the ISD to which a school district is constituent.

The Code also provides that, if the board of a school district wants all of the schools of the district to be accredited, the board must make available to all pupils attending public school in the district a core academic curriculum in each of the curricular areas specified in the State Board-recommended model core academic curriculum developed under the Code. In addition, the board of each school district, considering the academic curricular outcomes recommended by the State Board, must establish a core academic curriculum for its pupils at the elementary, middle, and secondary school levels, and determine the aligned instructional program for delivering the core curriculum and identify the courses and programs in which it will be taught. The bill refers to the State-Board recommended "model core

academic curriculum content standards". These content standards must be updated periodically by the State Board and must be in the form of knowledge and skill content standards that are recommended as State standards for adoption by public schools in local curriculum formulation and adoption. The State Board also must ensure that the Michigan Educational Assessment Program and the high school proficiency exam are based on the State recommended model core curriculum content standards.

The bill deletes the current requirement that a school board, consistent with its core academic curriculum for early elementary school, consider adopting early elementary school program initiatives establishing nongraded, continuous progress programs for grades one through four.

The bill deletes requirements that the State Board, by September 1, 1994, develop and submit for public hearing proposed rules establishing a required core academic curriculum for all school districts, and, by January 1, 1996, submit the proposed rules to the Joint Committee on Administrative Rules. The bill also deletes a requirement that, beginning in the 1997-98 school year, a school board provide to each pupil the core academic curriculum required under these State Board rules.

State-Endorsed Diploma

The Code requires a school board to award a State-endorsed high school diploma to an eligible high school graduate. The bill extends to public school academies the Code's provisions on State-endorsed diplomas.

In addition, the bill provides that for students scheduled to graduate in 1997, the Department of Education may use a version of the science assessment instrument developed or selected and approved by the State Board instead of the science portion of the MEAP grade 11 test, and, in its discretion, may administer that science assessment in the fall of 1995 and/or the spring of 1996. If the Department uses that science assessment instrument, the Department, based on expert advice, must determine the level of proficiency that has to be demonstrated for a pupil scheduled to graduate in 1997 to earn a State endorsement in science.

Currently, a State endorsement must be awarded to a pupil scheduled to graduate from high school in 1997 if he or she achieves certain academic

outcomes in one or more of the subject areas of communication skills, mathematics, science, and beginning with pupils scheduled to graduate in 1999, social studies. The bill deletes reference to 1999 graduates and social studies academic outcomes. Under the bill, beginning with pupils scheduled to graduate in 1998, if a pupil achieves the objectives required by the State Board, as measured by an assessment instrument developed as provided under the Code, for a State-endorsed high school diploma in one or more of the subject areas of communication skills, mathematics, science, and beginning with pupils scheduled to graduate in 2000, social studies, the pupil's school district or public school academy must award a State endorsement on the pupil's diploma in each of the subject areas in which the pupil demonstrated the required proficiency.

Accreditation

Currently, a school board that does not want to be subject to measures described in the Code must ensure that each public school within the district is accredited. The Department of Education is required to develop and distribute proposed accreditation standards, as provided in the Code. In addition, the Department must develop and distribute to all public schools standards for determining that a school is eligible for summary accreditation.

Under the bill, the standards for accreditation or summary accreditation must include pupil performance on the MEAP tests as a criterion, but may not be based solely on pupil performance on MEAP tests. The standards also must include multiple year change in pupil performance on those tests as a criterion. If it is necessary for the State Board to revise accreditation or summary accreditation standards to comply with the bill, the revised standards must be developed, reviewed, approved, and distributed according to the same process as prescribed in the Code.

Waivers

Under the bill, upon application by a school district, public school academy, university school, or ISD, the State Board may grant a limited time waiver from a State Board or Department rule interpreting or implementing a provision of the Code. The State Board may grant a waiver only if one of these entities demonstrates that it can address the intent of the rule in a more effective, efficient, or economical manner or that the waiver is necessary to stimulate improved pupil performance. A waiver

may not be granted for more than three years, but may be renewed. The State Board may place conditions on a waiver or its renewal. The State Board may revoke a waiver if it determines that the waiver no longer meets this provision's criteria, compromises equal opportunities for learning, or is detrimental to the educational interests of pupils. The State Board may not grant a waiver from the duty to comply with a Code provision, and may not grant a waiver from the duty to comply with another State statute unless and to the extent that a waiver is specifically allowed by that other State statute.

Special Education Rules Review

The bill requires the State Board, by September 30, 1996, to conduct a review of all rules promulgated by the State Board or the Department of Education pertaining to special education. The review must consider at least all of the following:

- The need to eliminate unnecessary separation and duplication between regular education and special education facilities, staff, programs, services, and pupils.
- Potential benefits from coordination between all relevant Federal, State, regional, and local organization services, including public and private organization services, for pupils with special needs, and encouragement of the provision of comprehensive necessary services delivered by the most appropriate organization or person in the most cost-effective and programmatically effective manner.
- The advisability of simplification of rules or regulations and processes relating to identification of need and provision of services to special needs pupils, avoidance of barriers and cost and other penalties or discouragements to effective programming, and avoidance of requirements as to staff or program criteria that are not research based; allowing and encouraging reasonably flexible, workable, and if appropriate, cooperatively operated comprehensive services, including reasonable endorsement or other qualification categories for personnel, to be delivered to pupils with related or similar special needs, as may be consistent with research.
- A goal of providing educational and training services in a manner that maximizes for the pupil's benefit the combination of the provisions of the Code and Federal law relating to inclusion, while avoiding, to the

degree reasonably possible, requiring by rule an overall increase in a program or service beyond that required before December 23, 1978.

Pupil Instruction Days/Hours

Under the Code, if the board of a school district does not want the district's State school aid payments to be withheld as described in the State School Aid Act, the board must ensure that the minimum number of days of pupil instruction in a school year is 180 and that the minimum number of hours of pupil instruction in a school year is 900 for the 1994-95 school year, 990 for the 1995-96 and 1996-97 school years, 1,035 for the 1997-98 and 1998-99 school years, and 1,080 for the 1999-2000 school year and each succeeding school year.

Under the bill, the board of a school district or public school academy must ensure that the minimum number of days of pupil instruction in a school year is 180 through the 1996-97 school year, 181 in the 1997-98 school year, 182 in the 1998-99 school year, 183 in the 1999-2000 school year, 184 in the 2000-2001 school year, 185 in the 2001-2002 school year, 186 in the 2002-2003 school year, 187 in the 2003-2004 school year, 188 in the 2004-2005 school year, 189 in the 2005-2006 school year, and 190 in the 2006-2007 school year, and each succeeding school year.

The bill increases the minimum hours of pupil instruction to 1,041 for the 1997-98 school year, 1,047 for the 1998-99 school year, 1,098 for the 1999-2000 school year, 1,104 for the 2000-2001 school year, 1,110 for the 2001-2002 school year, 1,116 for the 2002-2003 school year, 1,122 for the 2003-2004 school year, 1,128 for the 2004-2005 school year, 1,134 for the 2005-2006 school year, and 1,140 for the 2006-2007 school year and each succeeding school year.

The bill provides, however, that there may not be any increase in the required minimum number of days or hours of pupil instruction for a school year ending in a State fiscal year if the percentage growth in the basic foundation allowance under the State School Aid Act for a State fiscal year, as compared with the basic foundation allowance for the immediately preceding State fiscal year, is less than the percentage increase in the average Consumer Price Index for all items, as determined by the U.S. Bureau of Labor Statistics, for the 12-month period ending on the June 30 immediately preceding the beginning of the State fiscal year. For the next school year after a school year for which there is no increase in the required

minimum number of days and hours of pupil instruction because of these provisions, and if these provisions do not apply, the increase in the required minimum number of days and hours of pupil instruction may be only one day and the corresponding number of hours. The bill specifies that these provisions will apply and operate to limit increases in pupil instruction days and hours until the required minimum number is 190 days and 1,140 hours.

The board of a school district or public school academy, by resolution, may choose to provide less than the required number of days of pupil instruction, but must provide at least 180 days of pupil instruction and at least the required number of hours of pupil instruction.

Currently, a school board by August 1 must certify to the State Board the number of days of pupil instruction in the previous school year. The bill also requires certification of the number of hours of pupil instruction and requires public school academies to provide this information to the State Board.

The bill deletes the current provision that, beginning in the 1994-95 school year, it is the intent of the Legislature that a school board consider extending the number of days of pupil instruction in a school year by two days each school year so that by the 2009-2010 school year, the number of pupil instruction days is at least 210.

Teacher Certification

Under the Code, the State Board may issue a teaching certificate only to a person who has passed a basic skills examination and appropriate available subject area examinations. If a person holds a teaching certificate from another state or a teaching degree from an out-of-State teacher preparation institute, he or she must pass exams specified in the Code. The State Board may accept passage of an equivalent examination approved by the Board to meet the examination requirements. The bill generally retains these requirements but adds the provisions described below.

The bill specifies that, if a person holding a teaching certificate from another state applies to the State Board for a Michigan teaching certificate and meets the requirements of the bill, the State Board must issue to the person a Michigan professional education teaching certificate and applicable endorsements comparable to those the person holds in the other state, without requiring the person to pass a basic skills examination or

the applicable subject area examination otherwise required by the Code. To be eligible to receive a Michigan professional education teaching certificate, a person must provide evidence satisfactory to the Department that he or she meets all of the following requirements:

- Has taught successfully for at least three years in a position for which the person's teaching certification from the other state was valid.
- Has earned, after his or her initial certification in another state, at least 18 semester credit hours in a planned course of study at a State Board-approved institution of higher education or has earned, at any time, a State Board-approved master's or doctoral degree.
- Has met the elementary or secondary, as applicable, reading credit requirement established under State Board rule.

A person who receives a teaching certificate and endorsement under this provision is eligible to receive one or more additional endorsements comparable to endorsements the person holds in another state only if the person passes the appropriate subject area examinations required under the Code. The State Board must deny a Michigan teaching certificate to an out-of-State teacher for fraud, material misrepresentation, or concealment in the person's application for a certificate or for a conviction for which a person's teaching certificate may be revoked under the Code's provisions concerning suspension of a certificate upon conviction of certain criminal sexual conduct crimes (MCL 380.1535a).

If a person holding a teaching certificate from another state applies for a Michigan teaching certificate and meets all requirements for the Michigan teaching certificate except passage of the appropriate basic skills examinations, the State Board must issue a nonrenewable temporary teaching certificate, good for one year, to the person. The State Board may not issue a Michigan teaching certificate to the person after the temporary teaching certificate expires, unless he or she passes the appropriate basic skills examinations.

Teacher Certificate Nullification

The Code provides that upon request of a teacher and for good cause, the State Board may nullify that teacher's teaching certificate, one or more endorsements on the teaching certificate, or a grade level certification included in the teaching

certificate if the grade level certification has not been used for at least 10 years. The State Board may not reinstate a teaching certificate, endorsement on a teaching certificate, or a grade level certification that has been nullified. The State Board is required to promulgate rules for the implementation of this provision.

The bill provides, instead, that upon a teacher's request, the State Board must nullify immediately the teacher's certificate. Upon a teacher's request, the State Board also may nullify one or more endorsements on the teaching certificate, or a grade level certification included in the teaching certificate if the grade level certification has not been used for at least 10 years. The State Board may not reinstate, reissue, or renew, a teaching certificate, endorsement on a teaching certificate, or grade level certification that has been nullified pursuant to these provisions. The bill deletes the provision for rules promulgation.

Under the Code, the prosecuting attorney of the county in which a person, who holds a teaching certificate, school administrator's certificate, or State Board approval, was convicted of crimes specified in the Code must notify the State Board of that conviction and of the sentence imposed on the person. The bill adds that any public school, school district, ISD, or nonpublic school in which the person is employed also must be notified of the conviction and sentence.

Professional Development

The Code specifies how funds appropriated by the Legislature to support professional development and education must be allocated, and the purposes for which the funds may be used, including professional development programs for administrators and teachers that emphasize the improvement of teaching and pupils' learning of academic core curriculum outcomes. The bill refers to academic core curriculum objectives. The bill also adds that appropriations for professional development may be used for any other purpose authorized in the appropriation for professional development in the State School Aid Act.

The bill also requires that the board of each school district, ISD, or public school academy provide at least one day of teacher professional development in the 1997-98 school year, at least two days in the 1998-99 school year, at least three days in the 1999-2000 school year, at least four days in the 2000-2001 school year, and at least five days in the 2001-2002 school year and each school year

thereafter. These professional development days may not be counted toward the intensive professional development required under the Code during the first three years of a teacher's employment in classroom teaching.

Attendance/Home Schooling

The Code specifies cases in which a child is not required to attend a public school. The bill includes a child who has graduated from high school or has fulfilled all requirements for high school graduation. The bill also includes a child who is being educated by his or her parent or legal guardian at the child's home in an organized educational program that is appropriate given the age, intelligence, ability, and any psychological limitations of the child, in the following subject areas: reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar.

The bill also deletes the current provision that a child does not have to attend public school if he or she is regularly employed as a page or messenger in either house of the Legislature during the period of the employment.

School Breakfast

Currently, the board of a K to 12 school district may establish a program under which lunch is made available to all full-time pupils enrolled and in regular daily attendance at each public school of the district, and must establish and operate a breakfast program unless no more than 20% of the lunches served the immediately preceding year were free or reduced priced lunches. Under the bill, a breakfast program must be operated at each public school of a district if not more than 20% of the pupils enrolled in the school building in the immediately preceding school year met the income eligibility criteria for free or reduced-price lunch under the Federally funded school lunch program, as determined using October claims reported to the Department of Education by December 31 of the immediately preceding school year.

The Code permits the board of a primary or a fourth class school district that does not operate a K to 12 program to establish and operate a school lunch or breakfast program. The bill deletes references to primary and fourth class districts and permits, instead, the board of "another school district" to establish and operate lunch and breakfast programs.

Interscholastic Athletics

The bill deletes the Code's provisions permitting the board of a school district or public school academy to join an organization or association that promotes and regulates sports and other contests by or between pupils.

Currently, female pupils are permitted to participate in all noncontact interscholastic activities, including archery, badminton, baseball, bowling, fencing, golf, gymnastics, riflery, shuffleboard, skiing, swimming, diving, table tennis, track and field, and tennis. If a school has a girls' team in a noncontact interscholastic athletic activity, a female may compete for a position on any other team for that activity. The bill deletes references to noncontact, and deletes references to specific noncontact interscholastic activities.

Noncurriculum-Related Student Groups

Under a bill, a public school that has a limited open forum may not deny equal access or a fair opportunity to, or discriminate against, any pupil or pupils who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at the meeting. A public school has a limited open forum whenever it grants an offering to or opportunity for one or more noncurriculum-related student groups to meet on school premises during "noninstructional time". A public school must be considered to offer a fair opportunity to pupils who wish to conduct a meeting within the limited open forum if the school uniformly provides for all of the following: the meeting is voluntary and student-initiated; there is no sponsorship of the meeting by the school, the government, or either's agents or employees; employees or agents of the public school or government are present at religious meetings only in a nonparticipatory capacity; the meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and, persons not affiliated with the public school may not direct, conduct, control, or regularly attend activities of student groups.

The bill states that these provisions do not authorize the State or any political subdivision of the State to do any of the following: influence the form or content of any prayer or other religious activity; require any person to participate in prayer or other religious activity; spend public funds beyond the incidental cost of providing the space

for student-initiated meetings; compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee; sanction meetings that are otherwise unlawful; limit the rights of groups of pupils that are not of a specified numerical size; or, abridge the constitutional rights of any person. These provisions also do not limit the authority of a public school to maintain order and discipline on school premises, to protect the well-being of pupils and faculty, and to assure that attendance of pupils at meetings is voluntary.

(Under the bill, “meeting” includes student group activities that are permitted under a public school’s limited open forum and are not directly related to the school curriculum. “Noninstructional time” means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends. “Public school” includes a public school’s employees and persons or entities under contract with the public school. “Sponsorship” includes the act of promoting, leading, or participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.)

Other Provisions

Currently, a school administrator, teacher, or other designated school employee who administers medication to a pupil in the presence of another adult pursuant to written permission of the pupil’s

parents or guardian and complies with a physician’s written instructions is not liable in a criminal action or for civil damages resulting from the administration of the medication, except for gross negligence or willful and wanton misconduct. The bill applies this exemption from criminal or civil liability to those persons who administer medication in an emergency that threatens the life or health of a pupil.

Currently, a school board may pay the actual and necessary expenses incurred by its members and employees in the discharge of official duties or in the performance of functions approved by the board. Under the bill, this provision also applies to an ISD board. In addition, a local or ISD board may not approve payment of an expense unless one or both of the following conditions are met: the board, by a majority vote of its members at an open meeting, approves reimbursement of the

specific expense before the expense is incurred; and/or the expense is consistent with a policy adopted by the board, by a majority of its members at a regular board meeting, establishing specific categories of reimbursable expenses and the board, by a majority vote of its members at an open meeting, approves the reimbursement before it is actually paid. The bill also prohibits the board of any school district from providing, allowing, or obtaining credit cards for, issuing credit cards to, or providing to a school board member a debit card or similar instrument that pledges payment of funds from a school district account except in compliance with law.

Currently under the Code, a school board or ISD board, unless approved by the State Board, may not impose any deed restriction prohibiting property sold or transferred by the board from being used for any lawful public education purpose. The bill adds that if a school board or ISD board offers property for lease or rent, the board may not refuse to lease or rent the property to a person solely because the person intends to use it for an educational purpose, if the intent of the person is to use the property for a lawful educational purpose.

The Code requires a school board or the board of directors of a public school academy, except the board of a first class school district, to obtain competitive bids on material and labor before beginning construction of a new school building, or repairing or renovating an existing school building, except repair in emergency situations. The bill deletes reference to a first class school district.

The bill provides that a school district or ISD has the power of eminent domain for acquiring title in fee or interest in sites for new schools, athletic fields, parks, playgrounds, or other school facilities, or for the improvement or expansion of existing school facilities, and must exercise that power according to the Uniform Condemnation Procedures Act.

The Code describes specific days on which a school officer or teacher must have each school under his or her control observe the day by a commemorative exercise. The bill deletes reference to October 21, Carleton’s birthday, and October 27, Roosevelt’s birthday.

Currently, a school board may not permit any pupil to carry a pocket pager or electronic communication device in school except for health or other unusual reasons approved by the board,

and may develop penalties it considers appropriate for a pupil who violates this prohibition. The bill adds to the prohibition other personal communication devices.

The bill also deletes references in the Code to academic “outcomes” and specifies, instead, academic “objectives”.

The bill prohibits the State Board or Department of Education from promulgating rules, if the Supreme Court rules that provisions on rules promulgation and adoption in the Administrative Procedures Act are unconstitutional and a statute requiring legislative review of rules is not enacted within 90 days.

Repeals

Part 2. Primary School Districts

The bill repeals the entire part, including provisions governing school districts that do not operate a grade above the eighth grade. This includes provisions regarding the selection of board members; a district’s annual meeting; discontinuance of a school or grade; board of education meetings; duties of board officers; transportation of pupils within the school district; and, authorization for a district to obtain voter approval for the acquisition, lease, or disposal of real property (MCL 380.71-380.87).

Part 3. Districts of the Fourth Class

The bill repeals the entire part, including provisions governing school districts with a pupil membership of more than 75 and less than 2,400. This includes provisions on reclassification of primary school districts to fourth class districts; board member elections and terms; duties of the board and board officers; authority for operations such as employing a superintendent and establishment of a high school; transportation within the district; acquisition of sites or buildings; board borrowing power; and, annual elections (MCL 380.101-380.155).

Part 3a. Joint High School Districts

The bill repeals the entire part, including provisions providing authorization and procedures for fourth class school districts jointly to operate a high school that will serve the participating school districts. This includes provisions on the administration of this district; the appointment of a

governing board; the employment of employees from participating districts; employment of a principal or director for the joint high school; dissolution of a joint district; consolidation of participating districts to form a single district; and, additional participants in a joint high school district (MCL 380.171-380.187).

Part 4. Districts of the Third Class

The bill repeals the entire part, including provisions governing school districts with a pupil membership of more than 2,400 and less than 30,000. This includes provisions on the reclassification of fourth class districts as third class districts; the election and terms of board members; employment of a superintendent and other administrators; borrowing powers of the board; the levy of school taxes; and, the establishment and maintenance of a library and/or museum (MCL 380.201-380.260).

Part 5. School Districts of the Second Class

The bill repeals the entire part, including provisions governing school districts with a pupil membership of more than 30,000 and less than 120,000. This includes provisions on the reclassification of third class districts as second class districts; board nominations, elections, officers, and meetings; board borrowing powers; the submission of propositions to the voters; certification of taxes; employment of a superintendent and administrative staff; and, funds for maintenance of school district or public libraries (MCL 380.301-380.362).

Part 8. Reclassification of School Districts

The bill repeals the entire part, including provisions for the reclassification of school districts, including changing the membership of the board of a reclassified district; and for the continuance of a district operating under a special or local act that had been repealed (MCL 380.805-380.812).

Part 9. Consolidation of School Districts

The bill repeals provisions on districts participating in a joint high school district merging to form a single district (MCL 380.862a).

Part 15. School Districts; Powers and Duties Generally

The bill repeals certain sections of this part, which concern the following: requiring a school district to

be a corporate body (MCL 380.1132); meeting the needs of a diverse pupil population (MCL 380.1147b); providing special assistance to pupils falling behind or not advancing in grade level (MCL 380.1149); permitting a public higher educational institution to offer courses at a school district and permit a pupil to receive college and high school credit (MCL 380.1150); requiring a full-time bilingual instruction program (MCL 380.1154); establishing a school district advisory board on bilingual instruction (MCL 380.1156); and, specifying State Board of Education duties in complying with the bilingual provisions (MCL 380.1158).

The bill also repeals provisions on: requiring the State Board to develop guidelines on the teaching of dispute management and resolution (MCL 380.1167); requiring the State Board to develop a curriculum guide for teaching consumer economics (MCL 380.1168); requiring time to be devoted to teaching about the humane treatment and protection of animals and birds (MCL 380.1171); permitting a school district to develop a nature study area (MCL 380.1171a); requiring appropriate authorities of a public school to consider the degree to which instructional materials reflect the pluralistic, multiracial, and multiethnic nature of society (MCL 380.1173); permitting the State Board to develop guidelines for expanding curricula to include materials on the culture of ethnic, religious, and racial minority peoples, and the contributions of women (MCL 380.1174); permitting a school board, by the 1995-96 school year, to develop and implement a curriculum to ensure multicultural education in all grade levels (MCL 380.1174a); permitting voters in a local act district to adopt applicable provisions of the Code (MCL 380.1176); and, permitting school electors to vote a one-year tax to provide funds for the purchase or lease sites for homes, to lease, build, or purchase homes, and to furnish and equip the homes for the use of superintendents, administrators, and teachers employed in the district (MCL 380.1186).

Part 16. Boards of Education; Powers and Duties Generally

The bill repeals certain sections of this part, which concern the following: requiring a school board to ensure that decisions made at a school building level are made by using site-based decision-making (MCL 380.1202a); requiring a school board and ISD board to publish a financial report (MCL 380.1203); requiring a school board to make an annual report to the State Board (MCL 380.

1204); providing for the administration of oaths (MCL 380.1205); and, permitting a school board to receive real or personal property for scholarships or other educational purposes (MCL 380.1210). In addition, the bill repeals sections concerning terminating teachers' contracts and substituting a new contract with increased benefits (MCL 380.1232).

Sections that do the following also are repealed: provide for the hiring of principals, assistants and other employees; require a school board or ISD board to permit each secondary school teacher to review a copy of the official transcript of each pupil the teacher taught (MCL 380.1247-380.1249); permit a school board to employ an attorney (MCL 380.1253); and, allow the use of a district's general fund to provide employee economic benefits (MCL 380.1255).

Provisions that do the following also are repealed: permit a school board to acquire property and to enter into contracts to purchase telecommunication and technology-related services; require that visual inspections and environmental assessments be made for certain construction projects (MCL 380.1261-380.1262a); provide for renovation of a leased building (MCL 380.1263a); require a school board to provide for the care and management of a library or museum it established, and provide for the establishment of district library media centers (MCL 380.1264-380.1264a); permit the acquisition of school sites through urban renewal programs (MCL 380.1265); permit a school district to use Federal funds for neighborhood facilities projects (MCL 380.1266); permit the use of school property for community centers (MCL 380.1268); and, permit a school board to participate in a pupil accident or medical insurance program (MCL 380.1270).

The bill also repeals provisions that permit a school district to enter into agreements with other districts or local governments to provide individual and family counseling services on the use of controlled substances and alcoholism (MCL 380.1275).

In addition, the bill repeals academic requirements pertaining to: establishing pupil performance standards and requiring the State Board to appoint an academic performance standards committee (MCL 380.1278a-380.1278b); requiring the use of criteria-based strategies in assessing pupils (MCL 380.1279a); providing and maintaining student portfolios (MCL 380.1279d); permitting a school board to establish attendance areas within the

district (MCL 380.1283); permitting an ISD to develop a common calendar for the public schools within the ISD (MCL 380.1284a); permitting a local or ISD board to establish child care centers (MCL 380.1285); permitting a school board to provide facilities and employ teachers for kindergarten classes (MCL 380.1286); permitting the establishment of vocational education programs (MCL 380.1287); permitting a school board to provide adult education courses (MCL 380.1293); requiring a school board or the board of directors of a public school academy to make regulations for the proper establishment, maintenance, and management of public schools, including regulating the conduct of pupils attending school or en route to and from school, as well as establishing a student dress code (MCL 380.1300); permitting a school board or governing board of a nonpublic school to establish academic and/or attendance standards as eligibility requirements for driver education courses (MCL 380.1302); permitting the boarding of a pupil (MCL 380.1334); permitting the purchase of school buses, requiring the cost of vehicle purchase or rehabilitation to conform to Department of Education rules to provide State aid for the purchase of pupil transportation vehicles; requiring the determination of an additional allowance for vehicle rental; permitting contracting for bus storage and maintenance; and, permitting a board to operate a recreational and instructional camp for resident and nonresident pupils (MCL 380.1341-380.1346); permitting the adoption of policies for information flow between a board and community (MCL 380.1348); and, permitting a board to contract with a photographer to take pupil yearbook pictures (MCL 380.1349).

Part 19. Textbooks

The bill repeals certain sections of this part including provisions that: require a person, firm, or corporation wanting to offer school textbooks for adoption, sale, or exchange in the State to file with the State Board or a designee a copy of each textbook along with statement providing price information (MCL 380.1431); and prohibit a person from securing the sale of a textbook by rewarding a teacher or by securing for the teacher a position in another school district (MCL 380.1437).

Part 20. Libraries

The bill repeals a provision permitting a school district, in which a library is established, to have charge of the library (MCL 380.1452).

Part 21. Health and Physical Education

The bill repeals sections of this part, including provisions: defining “sex education” (MCL 380.1501); requiring certain boards to employ qualified instructors in health and physical education (MCL 380.1503); requiring the State Board to aid in the establishment of educational programs to provide pupils with wholesome and comprehensive education and instruction in sex education (MCL 380.1508); permitting a school board to operate a public recreational system and community swimming pool (MCL 380.1511-380.1512); permitting a board or the board of directors of a public school academy to join an organization that promotes sports and the adoption of rules for athletic contests (MCL 380.1521); and, permitting a board to provide medical care for students injured while participating in interscholastic athletic activities (MCL 380.1522).

Part 22a. Administrators’ Certificates

The bill repeals the entire part, which requires the State Board to develop a school administrator’s certificate and certificate endorsements; and requires certain State departmental personnel to possess a valid school administrator’s certificate (MCL 380.1536-380.1536a).

Part 23. Count of Resident Children

The bill repeals the section that makes up this part, which permits a school board to provide for the taking of a school census (MCL 380.1541).

Part 24. Compulsory School Attendance

The bill repeals one section of this part, which requires the secretary of the board of a primary school district at the beginning of school to provide the teacher with a copy of the last school census (MCL 380.1576).

Part 27. Condemnation

The bill repeals sections of this part, which specify procedures for the condemnation of real estate required by a school district, including the following: jury determination of compensation (MCL 380.1621); summoning a jury to determine just compensation and notification of the real estate owner (MCL 380.1622); providing notice of a hearing (MCL 380.1623); requiring the judge, jurors, and sheriff to attend at the place and time specified in the summons (MCL 380.1624); determining just compensation for the real estate

and permitting the jury to visit the premises (MCL 380.1625); rendering and collecting a judgment (MCL 380.1626); permitting the deposit of the judgment with the county treasurer if the real estate owner cannot be found (MCL 380.1627); requiring the vesting in the school district of the title of the real estate (MCL 380.1628); permitting a school district, after making the required deposit or payment, to enter upon and take possession of the real estate (MCL 380.1629); providing for the summoning of another jury upon disagreement of the first jury (MCL 380.1630); requiring that parties claiming to have interest in the title in the school site or its enlargement, if the site is encumbered by mortgage, levy or tax sale, to be made a party in the procedure (MCL 380.1631); requiring an order for payment of money (MCL 380.1632); providing for juror and sheriff fees (MCL 380.1633); and, providing for a substitute judge (MCL 380.1634).

MCL 380.1 et al. Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill will have a fiscal impact on State and local government. Provisions of this bill may contain a mandated cost to units of local government pursuant to Section 29 of Article IX of the State Constitution of 1963. Individual provisions are discussed below.

General Powers for School Districts. A local district may incur administrative and legal costs to develop the bylaws required by the bill for the district’s operation.

Days and Hours of Instruction. The bill creates a schedule of increases in the required number of days and hours of pupil instruction as follows:

Required Days and Hours of Instruction		
<u>School Year</u>	<u>Days</u>	<u>Hours</u>
1995-1996	180	990
1996-1997	180	990
1997-1998	181	1041
1998-1999	182	1047
1999-2000	183	1098
2000-2001	184	1104
2001-2002	185	1110
2002-2003	186	1116
2003-2004	187	1122
2004-2005	188	1128
2005-2006	189	1134
2006-2007	190	1140

The bill requires that school districts satisfy these increases in instructional time in order to receive State school aid. The bill also provides, however, that no increase in days or hours of instructions will be required in a year in which the percentage increase in the basic foundation allowance is less than the percentage increase in the consumer price index. Local school districts, public school academies, and intermediate school districts (ISDs) might incur additional costs in complying with this provision depending on the length of their current school calendars.

Districts have the option to operate less than the required number of days, as long as the required number of hours of instruction is provided.

Professional Development. The bill requires the addition of professional development days for teachers. These will be as follows:

<u>School Year</u>	<u>Required Additional Professional Development Days</u>
1997-1998	1
1998-1999	2
1999-2000	3
2000-2001	4
2001-2002	5

This appears to be a new State mandate. The cost of the provision begins in 1997-98 and increases each year to the estimated full cost of \$22 million to \$30 million annually, when the full five additional days are implemented in 2001-2002.

Public School Academy Authorizations by Universities and Community Colleges. The increase in the cap on the number of public school academies that can be authorized by State public universities and community colleges may accelerate the creation of public school academies. The limit on the total number of public school academies that may be authorized by universities increases under the bill from 75 to 85 in 1996, 100 in 1997, 125 in 1998, and 150 thereafter. There is no longer any limit on the number of public school academies that may be authorized by community colleges.

Authorizing Bodies--Limit on Fees. An authorizer may not charge fees for considering an application, issuing a contract, or overseeing operations of its public school academies in

excess of 3% of the total State school aid received by the academy in that school year. The authorizing body may provide additional services to an academy on a fee basis, but this may not be required as a condition of issuing a contract.

Additional Requirements for Public School Academies. The bill imposes a number of requirements on public school academies that will tend to increase their operating costs. A public school academy's application must now specify how the public is to be informed of the creation of the public school academy and the enrollment process and the procedures to be used for annual financial audits. In addition, there are a number of provisions that now will apply explicitly to public school academies. Previously, there had been some uncertainty over which parts of the School Code applied to public school academies. The following provisions that apply to local school districts are extended to public school academies:

- Short-term school aid anticipation borrowing requirements and limitations.
- Michigan Education Assessment Program (MEAP) and high school proficiency testing.
- Awarding endorsed diplomas to eligible students.
- Tagging records of missing students.
- Identification requirements for enrolling students.
- Prohibition of race- or gender-based schools.
- Limitations on school construction policies and required approval of plans by the State Superintendent of Public Instruction.
- Required insurance of public school academy property.
- Reporting days and hours of instruction.

Use of Property Taxes of Public School Academies. The bill provides an option for local or intermediate districts to use property tax revenue or the proceeds of a bond issue to support a public school academy authorized by the district.

Waivers. The bill permits the State Board of Education to approve a waiver of a rule that implements the School Code. The waivers may be granted to a local school district, university school, public school academy, or ISD that demonstrates that it can address the intent of the rule in a more efficient or economical manner, or that the change would improve pupil performance.

An educational authority granted a waiver might achieve cost savings as a result.

Bilingual Education. The bill changes bilingual education from a mandated State program to an optional program. It specifies that State funding should continue at least at the current level; however, this will depend on the school aid appropriation process. In FY 1995-96, the State School Aid Act provides \$4,212,000 to fund the mandated program. While the bill does not affect the FY 1995-96 appropriation, eliminating the mandate might make funding available for other programs.

State Board of Education. There will be costs to the State Board of Education ranging from minimal to about \$78,500 for having to hire and equip 1.0 FTE to review requests for waivers from rules (Section 1881(3)). The range will depend upon the number of requests. There will be minimal costs to the State Board of Education to conduct a review of all rules pertaining to special education; minimal costs to prepare a report on public school academies; and minimal costs to prepare a report on State mandates. All items taken together could total \$15,000 to \$50,000 for contractual services, supplies, and materials. There probably will not be any cost savings from the provisions restricting a settlement with a Superintendent of Public Instruction who has been removed, as the Superintendent, if removed, could merely bring a lawsuit and then settle.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.