

HOUSE BILL No. 6146

September 22, 1998, Introduced by Rep. Law and referred to the Committee on Appropriations.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 4, 6, 1701, 1711, and 1751 (MCL 380.4,
380.6, 380.1701, 380.1711, and 380.1751), section 6 as amended by
1995 PA 289, and by adding section 1704.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) "Educational media center" means a program
2 operated by an intermediate school district and approved by the
3 state board, which provides services to local school districts or
4 constituent districts under section 671.

5 (2) "Handicapped person" OR "PERSON WITH DISABILITIES" shall
6 be defined by rules promulgated by the state board. Handicaps OR
7 DISABILITIES include, but are not limited to, mental, physical,
8 emotional, behavioral, sensory, and speech handicaps OR
9 DISABILITIES. BEGINNING JULY 1, 2004, HANDICAPPED PERSON OR

1 PERSON WITH DISABILITIES DOES NOT INCLUDE A PERSON WHO IS OLDER
2 THAN AGE 21.

3 (3) "Intermediate school board" means the board of an inter-
4 mediate school district.

5 (4) "Intermediate school district" means a corporate body
6 established under part 7.

7 (5) "Intermediate school district election" means an elec-
8 tion called by an intermediate school board and held on the date
9 of the annual school elections of constituent districts or on a
10 date determined by the intermediate school board under sections
11 661 and 662.

12 (6) "Intermediate school elector" means a person who is a
13 school elector of a constituent district and who is registered in
14 the city or township in which the person resides.

15 (7) "Intermediate superintendent" means the superintendent
16 of an intermediate school district.

17 Sec. 6. (1) "School district" or "local school district"
18 means a general powers school district organized under this act,
19 regardless of previous classification, or a school district of
20 the first class.

21 (2) "School elector" means a person qualified as an elector
22 under section 492 of the Michigan election law, ~~Act No. 116 of~~
23 ~~the Public Acts of 1954, being section 168.492 of the Michigan~~
24 ~~Compiled Laws~~ 1954 PA 116, MCL 168.492, registered as provided
25 in part 12, and resident of the school district, local act school
26 district, or intermediate school district on or before the

1 thirtieth day before the next ensuing annual or special school
2 election.

3 (3) "School month" means a 4-week period of 5 days each
4 unless otherwise specified in the teacher's contract.

5 (4) "Special education building and equipment" means a
6 structure or portion of a structure or personal property accept-
7 ed, leased, purchased, or otherwise acquired, prepared, or used
8 for special education programs and services.

9 (5) "Special education personnel" means persons engaged in
10 and having professional responsibility for the training, care,
11 and education of ~~handicapped~~ persons WITH DISABILITIES in spe-
12 cial education programs and services including, but not limited
13 to, teachers, aides, school social workers, diagnostic personnel,
14 physical therapists, occupational therapists, audiologists,
15 teachers of speech and language, instructional media-curriculum
16 specialists, mobility specialists, teacher consultants, supervi-
17 sors, and directors.

18 (6) "Special education programs and services" means, SUBJECT
19 TO SECTION 1704, educational and training services designed for
20 ~~handicappers~~ PERSONS WITH DISABILITIES and operated by local
21 school districts, local act school districts, intermediate school
22 districts, the Michigan school for the blind, the Michigan school
23 for the deaf, the department of mental health, the department of
24 social services, or a combination thereof, and ancillary profes-
25 sional services for ~~handicappers~~ PERSON WITH DISABILITIES
26 rendered by agencies approved by the state board. ~~The~~ SUBJECT
27 TO SECTION 1704, THE programs shall include vocational training,

1 but need not include academic programs of college or university
2 level.

3 (7) "State approved nonpublic school" means a nonpublic
4 school that complies with ~~Act No. 302 of the Public Acts of~~
5 ~~1921, being sections 388.551 to 388.558 of the Michigan Compiled~~
6 ~~Laws~~ 1921 PA 302, MCL 388.551 TO 388.558.

7 (8) "State board" means the state board of education unless
8 clearly otherwise stated.

9 (9) "Department" means the department of education created
10 and operating under sections 300 to 305 of the executive organi-
11 zation act of 1965, ~~Act No. 380 of the Public Acts of 1965,~~
12 ~~being sections 16.400 to 16.405 of the Michigan Compiled Laws~~
13 1965 PA 380, MCL 16.400 TO 16.405.

14 (10) "State school aid" means allotments from the general
15 appropriating act for the purpose of aiding in the support of the
16 public schools of the state.

17 (11) "The state school aid act of 1979" means ~~Act No. 94 of~~
18 ~~the Public Acts of 1979, being sections 388.1601 to 388.1772 of~~
19 ~~the Michigan Compiled Laws~~ 1979 PA 94, MCL 388.1601 TO
20 388.1772.

21 Sec. 1701. ~~The~~ SUBJECT TO SECTION 1704, THE state board
22 shall:

23 (a) Develop, establish, and continually evaluate and modify
24 in cooperation with intermediate school boards, a state plan for
25 special education which shall provide for the delivery of special
26 education programs and services designed to develop the maximum
27 potential of every ~~handicapped~~ person WITH DISABILITIES. The

1 plan shall coordinate all special education programs and
2 services.

3 (b) Require each intermediate school board to submit a plan
4 pursuant to section 1711, in accordance with the state plan, to
5 be approved by the state board.

6 (c) Promulgate rules setting forth the requirements of the
7 plans and procedures for submitting them.

8 SEC. 1704. NOTWITHSTANDING ANY OTHER SECTION OF THIS ACT OR
9 ANY RULE OF THE STATE BOARD, BEGINNING JULY 1, 2004, A SCHOOL
10 DISTRICT, LOCAL ACT SCHOOL DISTRICT, INTERMEDIATE SCHOOL DIS-
11 TRICT, OR PUBLIC SCHOOL ACADEMY IS NOT REQUIRED TO PROVIDE SPE-
12 CIAL EDUCATION PROGRAMS AND SERVICES TO AN INDIVIDUAL WHO IS
13 OLDER THAN AGE 21. THE STATE BOARD SHALL NOT PROMULGATE OR
14 ENFORCE A RULE THAT CONFLICTS WITH THIS SECTION.

15 Sec. 1711. (1) ~~The~~ SUBJECT TO SECTION 1704, THE interme-
16 diate school board shall:

17 (a) Develop, establish, and continually evaluate and modify
18 in cooperation with its constituent districts, a plan for special
19 education which shall provide for the delivery of special educa-
20 tion programs and services designed to develop the maximum poten-
21 tial of each ~~handicapped~~ person WITH DISABILITIES of whom the
22 intermediate school board is required to maintain a record under
23 subdivision (f). The plan shall coordinate the special education
24 programs and services operated or contracted for by the constitu-
25 ent districts and shall be submitted to the state board for its
26 approval.

1 (b) Contract for the delivery of a special education program
2 or service, in accordance with the intermediate school district
3 plan in compliance with section 1701. Under the contract the
4 intermediate school board may operate special education programs
5 or services and furnish transportation services and room and
6 board.

7 (c) Employ or engage special education personnel in accord-
8 ance with the intermediate school district plan, and appoint a
9 director of special education meeting the qualifications and
10 requirements of the rules promulgated by the state board.

11 (d) Accept and use available funds or contributions from
12 governmental or private sources for the purpose of providing spe-
13 cial education programs and services consistent with this
14 article.

15 (e) Lease, purchase, or otherwise acquire vehicles, sites,
16 buildings, or portions thereof, and equip them for its special
17 education staff, programs, and services.

18 (f) Maintain a record of each ~~handicapped~~ person WITH
19 DISABILITIES under 26 years of age, who is a resident of 1 of its
20 constituent districts and who has not completed a normal course
21 of study and graduated from high school, and the special educa-
22 tion programs or services in which the ~~handicapped~~ person WITH
23 DISABILITIES is participating on the fourth Friday after Labor
24 day and Friday before Memorial day. The sole basis for determin-
25 ing the local school district in which a ~~handicapped~~ person
26 WITH DISABILITIES is a resident shall be the rules promulgated by
27 the state board notwithstanding the provisions of section 1148.

1 The records shall be maintained in accordance with rules
2 promulgated by the state board. BEGINNING JULY 1, 2004, THIS
3 SUBDIVISION APPLIES ONLY TO A PERSON WITH DISABILITIES WHO IS
4 UNDER 21 YEARS OF AGE.

5 (g) Have the authority to place in appropriate special edu-
6 cation programs or services a ~~handicapped~~ person WITH
7 DISABILITIES for whom a constituent district is required to pro-
8 vide special education programs or services under section 1751.

9 (h) Investigate special education programs and services
10 operated or contracted for by the intermediate school board or
11 constituent district boards and report in writing failures to
12 comply with the provisions of a contract, statute, or rule gov-
13 erning the special education programs and services or with the
14 intermediate school district plan, to the local school district
15 board and to the state board.

16 (i) Operate the special education programs or services or
17 contract for the delivery of special education programs or serv-
18 ices by local school district boards, in accordance with section
19 1702, as if a local school district under section 1751. The con-
20 tract shall provide for items stated in section 1751 and shall be
21 approved by the state board. The intermediate school board shall
22 contract for the transportation, or room and board, or both, or
23 persons participating in the program or service as if a local
24 school district board under sections 1756 and 1757.

25 (j) Receive the report of a parent or guardian or, with the
26 consent of a parent or guardian, receive the report of a licensed
27 physician, registered nurse, social worker, or school or other

1 appropriate professional personnel whose training and
2 relationship to ~~handicapped~~ persons WITH DISABILITIES provide
3 competence to judge same and who in good faith believes that a
4 person under 26 years of age examined by the professional is or
5 may be ~~handicapped~~ A PERSON WITH DISABILITIES, and immediately
6 evaluate the person pursuant to rules promulgated by the state
7 board. BEGINNING JULY 1, 2004, THIS REQUIREMENT APPLIES ONLY IF
8 THE PERSON IN QUESTION IS UNDER 21 YEARS OF AGE. A person making
9 or filing this report or a local school district board shall not
10 incur liability to a person by reason of filing the report or
11 seeking the evaluation, unless lack of good faith is proven.

12 (k) Evaluate pupils in accordance with section 1311.

13 (2) The intermediate school board may expend up to 10% of
14 the annual budget but not to exceed \$12,500.00, for special edu-
15 cation programs approved by the intermediate school board without
16 having to secure the approval of the state board.

17 Sec. 1751. (1) ~~The~~ SUBJECT TO SECTION 1704, THE board of
18 a local school district shall provide special education programs
19 and services designed to develop the maximum potential of each
20 ~~handicapped~~ person WITH DISABILITIES in its district on record
21 under section 1711 for whom an appropriate educational or train-
22 ing program can be provided in accordance with the intermediate
23 school district special education plan, in either of the follow-
24 ing ways or a combination thereof:

25 (a) Operate the special education program or service.

26 (b) Contract with its intermediate school board, another
27 intermediate school board, another local school district board,

1 an adjacent school district board in a bordering state, the
2 Michigan school for the blind, the Michigan school for the deaf,
3 the department of mental health, the department of social serv-
4 ices, or any combination thereof, for delivery of the special
5 education programs or services, or with an agency approved by the
6 state board for delivery of an ancillary professional special
7 education service. The intermediate school district of which the
8 local school district is constituent shall be a party to each
9 contract even if the intermediate school district does not par-
10 ticipate in the delivery of the program or services.

11 (2) A local school district contract for the provision of a
12 special education program or service shall provide specifically
13 for:

14 (a) Special education buildings, equipment, and personnel
15 necessary for the operation of the subject program or service.

16 (b) Transportation or room and board, or both, for persons
17 participating in the programs or services as required under sec-
18 tions 1756 and 1757.

19 (c) The contribution to be made by the sending local school
20 district if the program or service is to be operated by another
21 party to the contract. The contribution shall be in accordance
22 with rules promulgated by the state board.

23 (d) Other matters ~~which~~ the parties ~~deem~~ CONSIDER
24 appropriate.

25 (3) Each program or service operated or contracted for by a
26 local school district shall be in accordance with the

1 intermediate school district's plan established pursuant to
2 section 1711.

3 (4) A local school district may provide additional special
4 education programs and services not included in, or required by,
5 the intermediate school district plan.

6 (5) This section shall be construed to allow operation of
7 programs by departments of state government without local school
8 district contribution.