

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5639

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 623a, 1267, and 1274 (MCL 380.623a, 380.1267,
and 380.1274), section 623a as amended by 2007 PA 45, section 1267
as amended by 2004 PA 232, and section 1274 as amended by 2004 PA
588.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 623a. (1) An intermediate school board shall adopt
2 written policies governing the procurement of supplies, materials,
3 and equipment.

4 (2) Except as otherwise provided in subsection ~~(3)~~ **(4) OR (5)**,
5 an intermediate school district shall not purchase an item or a
6 group of items purchased in a single transaction costing ~~\$19,211.00~~
7 **\$20,959.00** or more unless competitive bids are obtained for those

1 items and the purchase of those items is approved by the
2 intermediate school board. The maximum amount specified in this
3 section shall be adjusted each year by multiplying the amount for
4 the immediately preceding year by the percentage by which the
5 average consumer price index for all items for the 12 months ending
6 August 31 of the year in which the adjustment is made differs from
7 that index's average for the 12 months ending on August 31 of the
8 immediately preceding year and adding that product to the maximum
9 amount that applied in the immediately preceding year, rounding to
10 the nearest whole dollar.

11 (3) THE INTERMEDIATE SCHOOL BOARD OF AN INTERMEDIATE SCHOOL
12 DISTRICT MAY ADOPT AND IMPLEMENT A LOCAL POLICY THAT GIVES A
13 PREFERENCE TO A MICHIGAN-BASED BUSINESS IN AWARDING A CONTRACT
14 UNDER THIS SECTION. THE POLICY MAY PROVIDE FOR A PREFERENCE BASED
15 ON THE STATUS OF THE PRIMARY CONTRACTOR AS A MICHIGAN-BASED
16 BUSINESS OR BASED ON THE STATUS OF 1 OR MORE SUBCONTRACTORS OF THE
17 PRIMARY CONTRACTOR AS MICHIGAN-BASED BUSINESSES, OR BOTH. A POLICY
18 ADOPTED UNDER THIS SUBSECTION SHALL BE CONSISTENT WITH FEDERAL
19 STATUTES AND REGULATIONS AND SHALL NOT BE APPLIED TO A CONTRACT
20 THAT IS TO BE PAID WITH FEDERAL FUNDS. UPON REQUEST BY AN
21 INTERMEDIATE SCHOOL DISTRICT THAT HAS ADOPTED AND IMPLEMENTED A
22 POLICY DESCRIBED IN THIS SUBSECTION, THE DEPARTMENT OF TREASURY
23 SHALL DISCLOSE TO THAT INTERMEDIATE SCHOOL DISTRICT VERIFYING
24 INFORMATION AS DESCRIBED IN SECTION 268(3) OF THE MANAGEMENT AND
25 BUDGET ACT, 1984 PA 431, MCL 18.1268. THE ADOPTION, IMPLEMENTATION,
26 OR APPLICATION OF A POLICY DESCRIBED IN THIS SUBSECTION, OR A
27 DECISION NOT TO ADOPT, IMPLEMENT, OR APPLY SUCH A POLICY, DOES NOT

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1 **CREATE A CAUSE OF ACTION << >>.**

2 (4) ~~(3)~~—An intermediate school district is not required to
3 obtain competitive bids for items purchased through the cooperative
4 bulk purchasing program operated by the department of management
5 and budget under section 263(3) of the management and budget act,
6 1984 PA 431, MCL 18.1263.

7 (5) **AN INTERMEDIATE SCHOOL DISTRICT IS NOT REQUIRED TO OBTAIN**
8 **COMPETITIVE BIDS FOR PURCHASING FOOD UNLESS THE FOOD IS PURCHASED**
9 **IN A SINGLE TRANSACTION COSTING \$100,000.00 OR MORE.**

10 (6) ~~(4)~~—The intermediate school board of an intermediate
11 school district may acquire by purchase, lease, or rental, with or
12 without option to purchase, equipment necessary for the operation
13 of intermediate school district programs, including, but not
14 limited to, heating, water heating, and cooking equipment for
15 school buildings, and may pay for the equipment from operating
16 funds of the intermediate school district. Heating and cooking
17 equipment may be purchased on a title retaining contract or other
18 form of agreement creating a security interest and pledging in
19 payment money in the general fund or funds received from state
20 school aid. The contracts may extend for not more than 10 years.

21 (7) **AS USED IN THIS SECTION, "MICHIGAN-BASED BUSINESS" MEANS A**
22 **BUSINESS THAT WOULD QUALIFY FOR A PREFERENCE IN A PROCUREMENT**
23 **CONTRACT WITH THIS STATE AS DETERMINED UNDER SECTION 268 OF THE**
24 **MANAGEMENT AND BUDGET ACT, 1984 PA 431, MCL 18.1268.**

25 Sec. 1267. (1) Before commencing construction of a new school
26 building, or addition to or repair or renovation of an existing
27 school building, except repair in emergency situations, the board

1 of a school district or intermediate school district or board of
2 directors of a public school academy, shall obtain competitive bids
3 on all the material and labor required for the complete
4 construction of a proposed new building or addition to or repair or
5 renovation of an existing school building.

6 (2) The board, intermediate school board, or board of
7 directors shall advertise for the bids required under subsection
8 (1) by placing an advertisement for bids at least once in a
9 newspaper of general circulation in the area where the building or
10 addition is to be constructed or where the repair or renovation of
11 an existing building is to take place and by posting an
12 advertisement for bids for at least 2 weeks on the department of
13 management and budget website on a page on the website maintained
14 for this purpose or on a website maintained by a school
15 organization and designated by the department of management and
16 budget for this purpose. If the department of management and budget
17 designates a school organization website for this purpose, the
18 department of management and budget shall indicate this fact on its
19 website and include a link on its website to the school
20 organization website.

21 (3) The advertisement for bids shall do all of the following:

22 (a) Specify the date and time by which all bids must be
23 received by the board, intermediate school board, or board of
24 directors.

25 (b) State that the board, intermediate school board, or board
26 of directors will not consider or accept a bid received by the
27 board, intermediate school board, or board of directors after the

1 date and time specified for bid submission.

2 (c) Identify the time, date, and place of a public meeting at
3 which the board, intermediate school board, or board of directors
4 or its designee will open and read aloud each bid received by the
5 board, intermediate school board, or board of directors by the date
6 and time specified in subdivision (a).

7 (d) State that the bid shall be accompanied by a sworn and
8 notarized statement disclosing any familial relationship that
9 exists between the owner or any employee of the bidder and any
10 member of the board, intermediate school board, or board of
11 directors or the superintendent of the school district,
12 intermediate superintendent of the intermediate school district, or
13 chief executive officer of the public school academy. A board,
14 intermediate school board, or board of directors shall not accept a
15 bid that does not include this sworn and notarized disclosure
16 statement.

17 (4) The board, intermediate school board, or board of
18 directors shall require each bidder for a contract under this
19 section to file with the board, intermediate school board, or board
20 of directors security in an amount not less than 1/20 of the amount
21 of the bid conditioned to secure the school district from loss or
22 damage by reason of the withdrawal of the bid or by the failure of
23 the bidder to enter a contract for performance, if the bid is
24 accepted by the board, intermediate school board, or board of
25 directors.

26 (5) The board, intermediate school board, or board of
27 directors shall not open, consider, or accept a bid that the board,

1 intermediate school board, or board of directors receives after the
2 date and time specified for bid submission in the advertisement for
3 bids described in subsection (3).

4 (6) At a public meeting identified in the advertisement for
5 bids described in subsection (3), the board, intermediate school
6 board, or board of directors or its designee shall open and read
7 aloud each bid that the board, intermediate school board, or board
8 of directors received at or before the time and date for bid
9 submission specified in the advertisement for bids. The board,
10 intermediate school board, or board of directors may reject any or
11 all bids, and if all bids are rejected, shall readvertise in the
12 manner required by this section.

13 (7) THE BOARD OF A SCHOOL DISTRICT OR INTERMEDIATE SCHOOL
14 DISTRICT OR BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY MAY ADOPT
15 AND IMPLEMENT A LOCAL POLICY THAT GIVES A PREFERENCE TO A MICHIGAN-
16 BASED BUSINESS IN AWARDING A CONTRACT UNDER THIS SECTION. THE
17 POLICY MAY PROVIDE FOR A PREFERENCE BASED ON THE STATUS OF THE
18 PRIMARY CONTRACTOR AS A MICHIGAN-BASED BUSINESS OR BASED ON THE
19 STATUS OF 1 OR MORE SUBCONTRACTORS OF THE PRIMARY CONTRACTOR AS
20 MICHIGAN-BASED BUSINESSES, OR BOTH. A POLICY ADOPTED UNDER THIS
21 SUBSECTION SHALL BE CONSISTENT WITH FEDERAL STATUTES AND
22 REGULATIONS AND SHALL NOT BE APPLIED TO A CONTRACT THAT IS TO BE
23 PAID WITH FEDERAL FUNDS. UPON REQUEST BY A SCHOOL DISTRICT,
24 INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC SCHOOL ACADEMY THAT HAS
25 ADOPTED AND IMPLEMENTED A POLICY DESCRIBED IN THIS SUBSECTION, THE
26 DEPARTMENT OF TREASURY SHALL DISCLOSE TO THAT SCHOOL DISTRICT,
27 INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC SCHOOL ACADEMY VERIFYING

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1 INFORMATION AS DESCRIBED IN SECTION 268(3) OF THE MANAGEMENT AND
 2 BUDGET ACT, 1984 PA 431, MCL 18.1268. THE ADOPTION, IMPLEMENTATION,
 3 OR APPLICATION OF A POLICY DESCRIBED IN THIS SUBSECTION, OR A
 4 DECISION NOT TO ADOPT, IMPLEMENT, OR APPLY SUCH A POLICY, DOES NOT
 5 CREATE A CAUSE OF ACTION << >>.

6 (8) ~~(7)~~—This section does not apply to buildings, renovations,
 7 or repairs costing less than ~~\$17,932.00~~ \$20,959.00 or to repair
 8 work normally performed by school district, intermediate school
 9 board, or public school academy employees. The maximum amount
 10 specified in this subsection shall be adjusted each year by
 11 multiplying the amount for the immediately preceding year by the
 12 percentage by which the average consumer price index for all items
 13 for the 12 months ending August 31 of the year in which the
 14 adjustment is made differs from that index's average for the 12
 15 months ending on August 31 of the immediately preceding year and
 16 adding that product to the maximum amount that applied in the
 17 immediately preceding year, rounding to the nearest whole dollar.

18 (9) AS USED IN THIS SECTION, "MICHIGAN-BASED BUSINESS" MEANS A
 19 BUSINESS THAT WOULD QUALIFY FOR A PREFERENCE IN A PROCUREMENT
 20 CONTRACT WITH THIS STATE UNDER SECTION 268 OF THE MANAGEMENT AND
 21 BUDGET ACT, 1984 PA 431, MCL 18.1268.

22 Sec. 1274. (1) The board of a school district or board of
 23 directors of a public school academy shall adopt written policies
 24 governing the procurement of supplies, materials, and equipment.

25 (2) Except as otherwise provided in subsection ~~(3)~~ (4) OR (5),
 26 a school district or public school academy shall not purchase an
 27 item or a group of items in a single transaction costing ~~\$17,932.00~~

1 \$20,959.00 or more unless competitive bids are obtained for those
2 items and the purchase of those items is approved by the school
3 board or board of directors. The maximum amount specified in this
4 subsection shall be adjusted each year by multiplying the amount
5 for the immediately preceding year by the percentage by which the
6 average consumer price index for all items for the 12 months ending
7 August 31 of the year in which the adjustment is made differs from
8 that index's average for the 12 months ending on August 31 of the
9 immediately preceding year and adding that product to the maximum
10 amount that applied in the immediately preceding year, rounding to
11 the nearest whole dollar.

12 (3) THE BOARD OF A SCHOOL DISTRICT OR BOARD OF DIRECTORS OF A
13 PUBLIC SCHOOL ACADEMY MAY ADOPT AND IMPLEMENT A LOCAL POLICY THAT
14 GIVES A PREFERENCE TO A MICHIGAN-BASED BUSINESS IN AWARDING A
15 CONTRACT UNDER THIS SECTION. THE POLICY MAY PROVIDE FOR A
16 PREFERENCE BASED ON THE STATUS OF THE PRIMARY CONTRACTOR AS A
17 MICHIGAN-BASED BUSINESS OR BASED ON THE STATUS OF 1 OR MORE
18 SUBCONTRACTORS OF THE PRIMARY CONTRACTOR AS MICHIGAN-BASED
19 BUSINESSES, OR BOTH. A POLICY ADOPTED UNDER THIS SUBSECTION SHALL
20 BE CONSISTENT WITH FEDERAL STATUTES AND REGULATIONS AND SHALL NOT
21 BE APPLIED TO A CONTRACT THAT IS TO BE PAID WITH FEDERAL FUNDS.
22 UPON REQUEST BY A SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY THAT HAS
23 ADOPTED AND IMPLEMENTED A POLICY DESCRIBED IN THIS SUBSECTION, THE
24 DEPARTMENT OF TREASURY SHALL DISCLOSE TO THAT SCHOOL DISTRICT OR
25 PUBLIC SCHOOL ACADEMY VERIFYING INFORMATION AS DESCRIBED IN SECTION
26 268(3) OF THE MANAGEMENT AND BUDGET ACT, 1984 PA 431, MCL 18.1268.
27 THE ADOPTION, IMPLEMENTATION, OR APPLICATION OF A POLICY DESCRIBED

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1 IN THIS SUBSECTION, OR A DECISION NOT TO ADOPT, IMPLEMENT, OR APPLY
2 SUCH A POLICY, DOES NOT CREATE A CAUSE OF ACTION << >>.

3 (4) ~~(3)~~—A school district or public school academy is not
4 required to obtain competitive bids for items purchased through the
5 cooperative bulk purchasing program operated by the department of
6 management and budget under section 263(3) of the management and
7 budget act, 1984 PA 431, MCL 18.1263.

8 (5) A SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY IS NOT REQUIRED
9 TO OBTAIN COMPETITIVE BIDS FOR PURCHASING FOOD UNLESS THE FOOD IS
10 PURCHASED IN A SINGLE TRANSACTION COSTING \$100,000.00 OR MORE.

11 (6) ~~(4)~~—The board of a school district or local act school
12 district or board of directors of a public school academy may
13 acquire by purchase, lease, or rental, with or without option to
14 purchase, equipment necessary for the operation of the school
15 program, including, but not limited to, heating, water heating, and
16 cooking equipment for school buildings, and may pay for the
17 equipment from operating funds of the district or public school
18 academy. Heating and cooking equipment may be purchased on a title
19 retaining contract or other form of agreement creating a security
20 interest and pledging in payment money in the general fund or funds
21 received from state school aid. The contracts may extend for not
22 more than 10 years.

23 (7) AS USED IN THIS SECTION, "MICHIGAN-BASED BUSINESS" MEANS A
24 BUSINESS THAT WOULD QUALIFY FOR A PREFERENCE IN A PROCUREMENT
25 CONTRACT WITH THIS STATE AS DETERMINED UNDER SECTION 268 OF THE
26 MANAGEMENT AND BUDGET ACT, 1984 PA 431, MCL 18.1268.