

SENATE BILL No. 1140

February 23, 2010, Introduced by Senator GILBERT and referred to the Committee on Education.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending section 101 (MCL 388.1701), as amended by 2009 PA 121.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 101. (1) To be eligible to receive state aid under this
2 act, not later than the fifth Wednesday after the pupil membership
3 count day and not later than the fifth Wednesday after the
4 supplemental count day, each district superintendent shall submit
5 to the center, in the form and manner prescribed by the center, the
6 number of pupils enrolled and in regular daily attendance in the
7 district as of the pupil membership count day and as of the
8 supplemental count day, as applicable, for the current school year.
9 In addition, a district maintaining school during the entire year,

1 as provided under section 1561 of the revised school code, MCL
2 380.1561, shall submit to the center, in the form and manner
3 prescribed by the center, the number of pupils enrolled and in
4 regular daily attendance in the district for the current school
5 year pursuant to rules promulgated by the superintendent. Not later
6 than the seventh Wednesday after the pupil membership count day and
7 not later than the seventh Wednesday after the supplemental count
8 day, the district shall certify the data in a form and manner
9 prescribed by the center. If a district fails to submit and certify
10 the attendance data, as required under this subsection, the center
11 shall notify the department and state aid due to be distributed
12 under this act shall be withheld from the defaulting district
13 immediately, beginning with the next payment after the failure and
14 continuing with each payment until the district complies with this
15 subsection. If a district does not comply with this subsection by
16 the end of the fiscal year, the district forfeits the amount
17 withheld. A person who willfully falsifies a figure or statement in
18 the certified and sworn copy of enrollment shall be punished in the
19 manner prescribed by section 161.

20 (2) To be eligible to receive state aid under this act, not
21 later than the twenty-fourth Wednesday after the pupil membership
22 count day and not later than the twenty-fourth Wednesday after the
23 supplemental count day, an intermediate district shall submit to
24 the center, in a form and manner prescribed by the center, the
25 audited enrollment and attendance data for the pupils of its
26 constituent districts and of the intermediate district. If an
27 intermediate district fails to submit the audited data as required

1 under this subsection, state aid due to be distributed under this
2 act shall be withheld from the defaulting intermediate district
3 immediately, beginning with the next payment after the failure and
4 continuing with each payment until the intermediate district
5 complies with this subsection. If an intermediate district does not
6 comply with this subsection by the end of the fiscal year, the
7 intermediate district forfeits the amount withheld.

8 (3) All of the following apply to the provision of pupil
9 instruction:

10 (a) Except as otherwise provided in this section, each
11 district shall provide at least 1,098 hours and, beginning in 2010-
12 2011, the required minimum number of days of pupil instruction. For
13 2010-2011 and for 2011-2012, the required minimum number of days of
14 pupil instruction is 165. Beginning in 2012-2013, the required
15 minimum number of days of pupil instruction is 170. However,
16 beginning in 2010-2011, a district **THAT PROVIDED FEWER THAN 175**
17 **DAYS OF PUPIL INSTRUCTION FOR 2009-2010** shall not provide fewer
18 days of pupil instruction than **THE NUMBER** the district provided for
19 2009-2010, **AND A DISTRICT THAT PROVIDED AT LEAST 175 DAYS OF PUPIL**
20 **INSTRUCTION FOR 2009-2010 SHALL NOT PROVIDE FEWER THAN 175 DAYS OF**
21 **PUPIL INSTRUCTION.**

22 (B) Except as otherwise provided in this act, a district
23 failing to comply with the required minimum hours and days of pupil
24 instruction under this subsection shall forfeit from its total
25 state aid allocation an amount determined by applying a ratio of
26 the number of hours or days the district was in noncompliance in
27 relation to the required minimum number of hours and days under

1 this subsection. Not later than August 1, the board of each
2 district shall certify to the department the number of hours and,
3 beginning in 2010-2011, days of pupil instruction in the previous
4 school year. If the district did not provide at least the required
5 minimum number of hours and days of pupil instruction under this
6 subsection, the deduction of state aid shall be made in the
7 following fiscal year from the first payment of state school aid. A
8 district is not subject to forfeiture of funds under this
9 subsection for a fiscal year in which a forfeiture was already
10 imposed under subsection (6).

11 (C) Hours or days lost because of strikes or teachers'
12 conferences shall not be counted as hours or days of pupil
13 instruction.

14 (D) If a collective bargaining agreement that provides a
15 complete school calendar is in effect for employees of a district
16 as of the effective date of ~~the 2009 amendatory act that amended~~
17 ~~this subsection~~ **OCTOBER 19, 2009**, and if that school calendar is
18 not in compliance with this subsection, then this subsection does
19 not apply to that district until after the expiration of that
20 collective bargaining agreement.

21 (E) ~~(b)~~ Except as otherwise provided in subdivision ~~(e)~~ **(F)**, a
22 district not having at least 75% of the district's membership in
23 attendance on any day of pupil instruction shall receive state aid
24 in that proportion of 1/180 that the actual percent of attendance
25 bears to the specified percentage.

26 (F) ~~(c) Beginning in 2005-2006, at~~ **AT** the request of a
27 district that operates a department-approved alternative education

1 program and that does not provide instruction for pupils in all of
2 grades K to 12, the superintendent shall grant a waiver for a
3 period of 3 school years from the requirements of subdivision ~~(b)~~
4 **(E)** in order to conduct a pilot study. The waiver shall indicate
5 that an eligible district is subject to the proration provisions of
6 subdivision ~~(b)~~ **(E)** only if the district does not have at least 50%
7 of the district's membership in attendance on any day of pupil
8 instruction. In order to be eligible for this waiver, a district
9 must maintain records to substantiate its compliance with the
10 following requirements during the pilot study:

11 (i) The district offers the minimum hours of pupil instruction
12 as required under this section.

13 (ii) For each enrolled pupil, the district uses appropriate
14 academic assessments to develop an individual education plan that
15 leads to a high school diploma.

16 (iii) The district tests each pupil to determine academic
17 progress at regular intervals and records the results of those
18 tests in that pupil's individual education plan.

19 **(G)** ~~(d)~~ The superintendent shall promulgate rules for the
20 implementation of this subsection.

21 (4) Except as otherwise provided in this subsection, the first
22 30 hours or 6 days for which pupil instruction is not provided
23 because of conditions not within the control of school authorities,
24 such as severe storms, fires, epidemics, utility power
25 unavailability, water or sewer failure, or health conditions as
26 defined by the city, county, or state health authorities, shall be
27 counted as hours and days of pupil instruction. With the approval

1 of the superintendent of public instruction, the department shall
2 count as hours and days of pupil instruction for a fiscal year not
3 more than 30 additional hours or 6 additional days for which pupil
4 instruction is not provided in a district after April 1 of the
5 applicable school year due to unusual and extenuating occurrences
6 resulting from conditions not within the control of school
7 authorities such as those conditions described in this subsection.
8 Subsequent such hours or days shall not be counted as hours or days
9 of pupil instruction.

10 (5) A district shall not forfeit part of its state aid
11 appropriation because it adopts or has in existence an alternative
12 scheduling program for pupils in kindergarten if the program
13 provides at least the number of hours required under subsection (3)
14 for a full-time equated membership for a pupil in kindergarten as
15 provided under section 6(4).

16 (6) Not later than April 15 of each fiscal year, the board of
17 each district shall certify to the department the planned number of
18 hours and days of pupil instruction in the district for the school
19 year ending in the fiscal year. In addition to any other penalty or
20 forfeiture under this section, if at any time the department
21 determines that 1 or more of the following has occurred in a
22 district, the district shall forfeit in the current fiscal year
23 beginning in the next payment to be calculated by the department a
24 proportion of the funds due to the district under this act that is
25 equal to the proportion below the required minimum number of hours
26 and days of pupil instruction under subsection (3), as specified in
27 the following:

1 (a) The district fails to operate its schools for at least the
2 required minimum number of hours and days of pupil instruction
3 under subsection (3) in a school year, including hours and days
4 counted under subsection (4).

5 (b) The board of the district takes formal action not to
6 operate its schools for at least the required minimum number of
7 hours and days of pupil instruction under subsection (3) in a
8 school year, including hours and days counted under subsection (4).

9 (7) In providing the minimum number of hours and days of pupil
10 instruction required under subsection (3), a district shall use the
11 following guidelines, and a district shall maintain records to
12 substantiate its compliance with the following guidelines:

13 (a) Except as otherwise provided in this subsection, a pupil
14 must be scheduled for at least the required minimum number of hours
15 of instruction, excluding study halls, or at least the sum of 90
16 hours plus the required minimum number of hours of instruction,
17 including up to 2 study halls.

18 (b) The time a pupil is assigned to any tutorial activity in a
19 block schedule may be considered instructional time, unless that
20 time is determined in an audit to be a study hall period.

21 (c) Except as otherwise provided in this subdivision, a pupil
22 in grades 9 to 12 for whom a reduced schedule is determined to be
23 in the individual pupil's best educational interest must be
24 scheduled for a number of hours equal to at least 80% of the
25 required minimum number of hours of pupil instruction to be
26 considered a full-time equivalent pupil. A pupil in grades 9 to 12
27 who is scheduled in a 4-block schedule may receive a reduced

1 schedule under this subsection if the pupil is scheduled for a
2 number of hours equal to at least 75% of the required minimum
3 number of hours of pupil instruction to be considered a full-time
4 equivalent pupil.

5 (d) If a pupil in grades 9 to 12 who is enrolled in a
6 cooperative education program or a special education pupil cannot
7 receive the required minimum number of hours of pupil instruction
8 solely because of travel time between instructional sites during
9 the school day, that travel time, up to a maximum of 3 hours per
10 school week, shall be considered to be pupil instruction time for
11 the purpose of determining whether the pupil is receiving the
12 required minimum number of hours of pupil instruction. However, if
13 a district demonstrates to the satisfaction of the department that
14 the travel time limitation under this subdivision would create
15 undue costs or hardship to the district, the department may
16 consider more travel time to be pupil instruction time for this
17 purpose.

18 (e) In grades 7 through 12, instructional time that is part of
19 a junior reserve officer training corps (JROTC) program shall be
20 considered to be pupil instruction time regardless of whether the
21 instructor is a certificated teacher if all of the following are
22 met:

23 (i) The instructor has met all of the requirements established
24 by the United States department of defense and the applicable
25 branch of the armed services for serving as an instructor in the
26 junior reserve officer training corps program.

27 (ii) The board of the district or intermediate district

1 employing or assigning the instructor complies with the
2 requirements of sections 1230 and 1230a of the revised school code,
3 MCL 380.1230 and 380.1230a, with respect to the instructor to the
4 same extent as if employing the instructor as a regular classroom
5 teacher.

6 (8) The department shall apply the guidelines under subsection
7 (7) in calculating the full-time equivalency of pupils.

8 (9) Upon application by the district for a particular fiscal
9 year, the superintendent may waive for a district the minimum
10 number of hours and days of pupil instruction requirement of
11 subsection (3) for a department-approved alternative education
12 program or another innovative program approved by the department.
13 If a district applies for and receives a waiver under this
14 subsection and complies with the terms of the waiver, for the
15 fiscal year covered by the waiver the district is not subject to
16 forfeiture under this section for the specific program covered by
17 the waiver. If the district does not comply with the terms of the
18 waiver, the amount of the forfeiture shall be calculated based upon
19 a comparison of the number of hours and days of pupil instruction
20 actually provided to the minimum number of hours and days of pupil
21 instruction required under subsection (3).

22 (10) If at least 5 of the hours of professional development
23 are provided online by the Michigan virtual university under
24 section 98 or by another department-approved intermediate district
25 provider of online professional development, a district may count
26 up to 38 hours of qualifying professional development for teachers
27 as hours of pupil instruction. However, if a collective bargaining

1 agreement that provides more than 38 but not more than 51 hours of
2 professional development for teachers is in effect for employees of
3 a district as of October 1, 2006, then until the fiscal year that
4 begins after the expiration of that collective bargaining agreement
5 a district may count up to 51 hours of qualifying professional
6 development for teachers, including the 5 hours of online
7 professional development, as hours of pupil instruction. A district
8 that elects to use this exception shall notify the department of
9 its election. As used in this subsection, "qualifying professional
10 development" means professional development that is focused on 1 or
11 more of the following:

12 (a) Achieving or improving adequate yearly progress as defined
13 under the no child left behind act of 2001, Public Law 107-110.

14 (b) Achieving accreditation or improving a school's
15 accreditation status under section 1280 of the revised school code,
16 MCL 380.1280.

17 (c) Achieving highly qualified teacher status as defined under
18 the no child left behind act of 2001, Public Law 107-110.

19 (d) Maintaining teacher certification.