

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senator Colbeck

ENROLLED SENATE BILL No. 619

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” by amending section 552 (MCL 380.552), as amended by 2011 PA 277.

The People of the State of Michigan enact:

Sec. 552. (1) An authorizing body may issue contracts under this subsection to organize and operate a school of excellence. All of the following apply to the issuance of a contract by an authorizing body under this subsection:

(a) The issuance of the contract must be approved by the superintendent of public instruction. The superintendent of public instruction shall approve issuance of a contract if he or she determines that the proposed school of excellence is modeled after a high-performing school or program.

(b) The first 5 contracts issued by all authorizing bodies under this subsection shall be for schools of excellence that offer 1 or more of high school grades 9 to 12, or any combination of those grades, as specified in the contract.

(c) A school of excellence authorized under this subsection shall not be located in a school district that has a graduation rate of over 75%, on average, for the most recent 3 school years for which the data are available, as determined by the department.

(2) Subject to the limitations in this subsection and subsection (14), an authorizing body may issue contracts under this subsection for 1 or more schools of excellence that are cyber schools. Until December 31, 2013, the combined total number of contracts that may be issued by all statewide authorizing bodies under this subsection for schools of excellence that are cyber schools shall not exceed 5. Until December 31, 2014, the combined total number of contracts that may be issued by all statewide authorizing bodies under this subsection for schools of excellence that are cyber schools shall not exceed 10. After December 31, 2014, the combined total number of contracts issued by all statewide authorizing bodies under this subsection for schools of excellence that are cyber schools shall not exceed 15. The board of a school district, an intermediate school board, the board of a community college that is not a statewide authorizing body, or 2 or more public agencies acting jointly as described in subsection (6)(e) may not act as the authorizing body for more than 1 school of excellence that is a cyber school. An authorizing body shall not issue a contract for a school of excellence that is a cyber school unless the school of excellence that is a cyber school meets all of the following requirements:

(a) Is available for enrollment to all pupils in this state.

(b) Offers some configuration of or all of grades K to 12.

(c) The entity applying for the school of excellence that is a cyber school demonstrates experience in delivering a quality education program that improves pupil academic achievement. In determining whether this requirement is met, an authorizing body shall refer to the standards for quality online learning established by the national association of charter school authorizers or other similar nationally recognized standards for quality online learning.

(d) The enrollment in the school of excellence that is a cyber school is limited to not more than 2,500 pupils in membership for the first school year of operation of the school of excellence that is a cyber school, not more than 5,000 pupils in membership for the second school year of operation of the school of excellence that is a cyber school, and not more than 10,000 pupils in membership for the third and subsequent school years of operation of the school of excellence that is a cyber school. As used in this subdivision, "membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(e) The school of excellence that is a cyber school offers each pupil's family a computer and subsidizes the cost of internet access.

(3) For a public school academy operating under part 6a that meets the requirements of subsection (4), with the approval of its authorizing body, the board of directors of the public school academy may adopt a resolution choosing to convert the public school academy to a school of excellence under this part. If the board of directors of a public school academy that meets the requirements of subsection (4) is issued a contract as a school of excellence under this subsection, all the following apply:

(a) The public school academy shall cease to operate as a public school academy under part 6a and shall operate as a school of excellence upon the issuance of a contract or at another time as determined by the authorizing body.

(b) The public school academy shall be considered to be a school of excellence for all purposes upon the issuance of a contract or at another time as determined by the authorizing body, but shall retain its corporate identity.

(c) The conversion of a public school academy under part 6a to a school of excellence operating under this part shall not impair any agreement, mortgage, loan, bond, note or other instrument of indebtedness, or any other agreement entered into by a public school academy while it was operating under part 6a.

(d) The contract issued to the public school academy under part 6a shall automatically terminate upon the issuance of a contract or at another time as determined by the authorizing body.

(4) Subsection (3) applies to a public school academy that is determined by the department to meet all of the following, as applicable:

(a) If the public school academy operates only some or all of grades K to 8, meets at least 1 of the following:

(i) On average over a 3-year period, at least 90% of the pupils enrolled in the public school academy achieved a score of proficient or better on the Michigan education assessment program mathematics and reading tests or successor state assessment program.

(ii) On average over a 3-year period, at least 70% of the pupils enrolled in the public school academy achieved a score of proficient or better on the Michigan education assessment program mathematics and reading tests or successor state assessment program and at least 50% of the pupils enrolled in the public school academy met the income eligibility criteria for the federal free or reduced-price lunch program, as determined under the Richard B. Russell national school lunch act, 42 USC 1751 to 1769i, and reported to the department.

(b) If the public school academy operates grades 9 to 12, at least 80% of the school's pupils graduate from high school or are determined by the department to be on track to graduate from high school, the school has at least 80% average attendance, and the school has at least an 80% postsecondary enrollment rate.

(5) A school of excellence shall be organized and administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. A school of excellence shall be organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, except that a school of excellence is not required to comply with sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177. To the extent disqualified under the state or federal constitution, a school of excellence shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(6) Any of the following may act as an authorizing body to issue a contract to organize and operate 1 or more schools of excellence under this part:

(a) The board of a school district that operates grades K to 12. However, except as otherwise provided in this subdivision, the board of a school district shall not issue a contract for a school of excellence to operate outside the school district's boundaries, and a school of excellence authorized by the board of a school district shall not operate outside that school district's boundaries. If the board of a school district issues a contract for a school of excellence that is a cyber school, the contract may authorize the school of excellence that is a cyber school to operate outside that school district's boundaries.

(b) An intermediate school board. However, except as otherwise provided in this subdivision, the board of an intermediate school district shall not issue a contract for a school of excellence to operate outside the intermediate school district's boundaries, and a school of excellence authorized by the board of an intermediate school district shall

not operate outside that intermediate school district's boundaries. If the board of an intermediate school district issues a contract for a school of excellence that is a cyber school, the contract may authorize the school of excellence that is a cyber school to operate outside that intermediate school district's boundaries.

(c) The board of a community college. Except as otherwise provided in this subdivision, the board of a community college shall not issue a contract for a school of excellence to operate outside the boundaries of the community college district, and a school of excellence authorized by the board of a community college shall not operate outside the boundaries of the community college district. If the board of a community college issues a contract for a school of excellence that is a cyber school, the contract may authorize the school of excellence that is a cyber school to operate outside the boundaries of the community college district. The board of a community college also may issue a contract for not more than 1 school of excellence to operate on the grounds of an active or closed federal military installation located outside the boundaries of the community college district, or may operate a school of excellence itself on the grounds of such a federal military installation, if the federal military installation is not located within the boundaries of any community college district and the community college has previously offered courses on the grounds of the federal military installation for at least 10 years.

(d) The governing board of a state public university.

(e) Two or more of the public agencies described in subdivisions (a) to (d) exercising power, privilege, or authority jointly pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(7) To obtain a contract to organize and operate 1 or more schools of excellence, 1 or more persons or an entity may apply to an authorizing body described in this section. The application shall include at least all of the following:

(a) Identification of the applicant for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 553(4), a list of the proposed members of the board of directors of the school of excellence and a description of the qualifications and method for appointment or election of members of the board of directors.

(c) The proposed articles of incorporation, which shall include at least all of the following:

(i) The name of the proposed school of excellence.

(ii) The purposes for the school of excellence corporation. This language shall provide that the school of excellence is incorporated pursuant to this part and that the school of excellence is a governmental entity.

(iii) The name of the authorizing body.

(iv) The proposed time when the articles of incorporation will be effective.

(v) Other matters considered expedient to be in the articles of incorporation.

(d) A copy of the proposed bylaws of the school of excellence.

(e) Documentation meeting the application requirements of the authorizing body, including at least all of the following:

(i) The governance structure of the school of excellence.

(ii) A copy of the educational goals of the school of excellence and the curricula to be offered and methods of pupil assessment to be used by the school of excellence. The educational goals shall include demonstrated improved pupil academic achievement for all groups of pupils. To the extent applicable, the progress of the pupils in the school of excellence shall be assessed using at least a Michigan education assessment program (MEAP) test or the Michigan merit examination under section 1279g, as applicable.

(iii) The admission policy and criteria to be maintained by the school of excellence. The admission policy and criteria shall comply with section 556. This part of the application also shall include a description of how the applicant will provide to the general public adequate notice that a school of excellence is being created and adequate information on the admission policy, criteria, and process.

(iv) Except for a school of excellence that is a cyber school, the school calendar and school day schedule.

(v) The age or grade range of pupils to be enrolled.

(f) Descriptions of staff responsibilities and of the school of excellence governance structure.

(g) For an application to the board of a school district, an intermediate school board, or board of a community college, identification of the school district and intermediate school district in which the school of excellence will be located.

(h) An agreement that the school of excellence will comply with the provisions of this part and, subject to the provisions of this part, with all other state law applicable to public bodies and with federal law applicable to public bodies or school districts.

(i) A description of and address for the proposed physical plant in which the school of excellence will be located. An applicant may request the authorizing body to issue a contract allowing the board of directors of the school of excellence to operate the same configuration of age or grade levels at more than 1 site.

(8) An authorizing body shall oversee, or shall contract with an intermediate school district, community college, or state public university to oversee, each school of excellence operating under a contract issued by the authorizing body. The authorizing body is responsible for overseeing compliance by the board of directors with the contract and all applicable law. This subsection does not relieve any other government entity of its enforcement or supervisory responsibility.

(9) If the superintendent of public instruction finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more schools of excellence operating under a contract issued by the authorizing body, the superintendent of public instruction may suspend the power of the authorizing body to issue new contracts to organize and operate schools of excellence. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension.

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

(11) A school of excellence shall be presumed to be legally organized if it has exercised the franchises and privileges of a public school academy for at least 2 years.

(12) A member of the board of directors of a school of excellence is a public officer and shall, before entering upon the duties of the office, take the constitutional oath of office for public officers under section 1 of article XI of the state constitution of 1963.

(13) A school of excellence that is a cyber school may make available to other public schools for purchase any of the course offerings that the cyber school offers to its own pupils.

(14) If the department determines that the combined total statewide final audited membership for all pupils in membership in schools of excellence that are cyber schools for the 2012-2013 state fiscal year exceeds a number equal to 1% of the combined total statewide final audited membership for all pupils in membership in public schools for the 2011-2012 state fiscal year, then all of the following apply:

(a) An authorizing body may not issue a new contract for a new school of excellence that is a cyber school to begin operations in the 2013-2014 school year.

(b) A school of excellence that is a cyber school may not enroll any new pupils in the school of excellence that is a cyber school in the 2013-2014 school year.

(15) Beginning July 1, 2013, if the department determines that the combined total statewide final audited membership for all pupils in membership in schools of excellence that are cyber schools for a state fiscal year exceeds a number equal to 2% of the combined total statewide final audited membership for all pupils in membership in public schools for the 2011-2012 state fiscal year, then all of the following apply:

(a) Subject to subdivision (c), an authorizing body may not issue a new contract for a new school of excellence that is a cyber school to begin operations in a school year that begins after that determination is made.

(b) Subject to subdivision (c), a school of excellence that is a cyber school may not enroll any new pupils in the school of excellence that is a cyber school in a school year that begins after that determination is made.

(c) If the department determines that the combined total statewide final audited membership for all pupils in membership in schools of excellence that are cyber schools for a state fiscal year does not exceed a number equal to 2% of the combined total statewide final audited membership for all pupils in membership in public schools for the 2011-2012 state fiscal year, then subdivisions (a) and (b) do not apply for a school year that begins after that determination is made unless the department makes a new determination that the membership limits under this subsection have been exceeded.

(16) For the purposes of subsections (14) and (15), not later than July 1, 2012, and by not later than July 1 of each year thereafter, the department shall determine the percentage of the combined total statewide final audited membership for all pupils in membership in public schools that are pupils in membership in schools of excellence that are cyber schools for the state fiscal year that includes that July 1.

(17) As used in this section:

(a) "Membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(b) "Statewide authorizing body" means the governing board of a state public university or the board of a federal tribally controlled community college that is recognized under the tribally controlled colleges and universities assistance act of 1978, 25 USC 1801 to 1852, and is determined by the department to meet the requirements for accreditation by a recognized regional accrediting body.

(18) Not later than October 1, 2012, if a district, an intermediate school district, a public school academy, or the education achievement system offers online learning, the board or board of directors of the district, intermediate school

district, or public school academy, or the education achievement system, shall submit to the department a report that details the per-pupil costs of operating the online learning. The report shall include, on a per-pupil basis, at least all of the following costs:

- (a) Textbooks, instructional materials, and supplies, including electronic instructional material.
- (b) Computer and other electronic equipment, including internet and telephone access.
- (c) Salaries and benefits for the online learning employees.
- (d) Purchased courses and curricula.
- (e) Fees associated with oversight and regulation.
- (f) Travel costs associated with school activities and testing.
- (g) Facilities costs.
- (h) Costs associated with special education.

(19) Not later than December 31, 2012, the department shall issue a report to the legislature including the following:

- (a) A review of the data submitted under subsection (14).
- (b) A comparison with costs of substantially similar programs in other states and relevant national research on the costs of online learning.
- (c) Any conclusions concerning factors or characteristics of online learning programs that make a difference in the costs of operating the programs.

(20) The board of directors of a school of excellence that is a cyber school, or the board of a school district, intermediate school district, or public school academy that operates an online or other distance learning program, shall submit a monthly report to the department, in the form and manner prescribed by the department, that reports the number of pupils enrolled in the school of excellence that is a cyber school, or in the online or other distance learning program, during the immediately preceding month.

(21) The board of directors of a school of excellence that is a cyber school shall ensure that, when a pupil enrolls in the school of excellence that is a cyber school, the pupil and his or her parent or legal guardian are provided with a parent-student orientation. If the pupil is at least age 18 or is an emancipated minor, the orientation may be provided to just the pupil.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor