

HOUSE BILL No. 5462

April 23, 2014, Introduced by Reps. Nathan, Stanley and Phelps and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 12 (MCL 380.12), as amended by 2013 PA 96.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12. (1) A school district shall lose its organization and
2 shall be declared dissolved if any of the following conditions are
3 met:

4 (a) There are not enough persons residing in the school
5 district and qualified under law to hold all of the offices of the
6 school district or who will accept the offices of the school
7 district.

8 (b) After consultation with the intermediate school district
9 in which the district is located, the superintendent of public
10 instruction and state treasurer jointly determine that all of the

1 following apply:

2 (i) The school district was required to submit a deficit
3 elimination plan under the state school aid act of 1979 and the
4 school district either has failed to submit a plan or lacks the
5 capability to both implement a deficit elimination plan and meet
6 the school district's obligations to provide public educational
7 services to pupils and other residents of the school district in a
8 manner that complies with this act, the state school aid act of
9 1979, and rules promulgated by the department.

10 (ii) The school district is not financially viable and is
11 unable to educate pupils in grades K-12 residing in the school
12 district by operating schools for a full school year and providing
13 the required number of instructional hours under this act and the
14 state school aid act of 1979. As used in this subparagraph,
15 "financially viable" means that a school district has the financial
16 resources to carry out at least the educational program required by
17 law and pay its existing debts as they become due taking into
18 consideration the projected enrollment, cash flow, revenues, and
19 borrowing capability of the school district.

20 (iii) The school district has at least 300 and not more than
21 2,400 pupils in membership.

22 (iv) The number of pupils in membership in the school district
23 for the most recently completed school year was at least 10% less
24 than the number of pupils in membership in the school district for
25 the school year immediately preceding the most recently completed
26 school year.

27 (v) The school district began the school fiscal year ending in

1 the current state fiscal year with an operating fund deficit and is
2 projected to end the school fiscal year ending in the current state
3 fiscal year with a greater operating fund deficit or received a
4 loan approved by the local emergency financial assistance loan
5 board that had the effect of reducing the deficit for the school
6 year ending in the current state fiscal year.

7 (vi) The school district has not consolidated with another
8 school district during the immediately preceding 12 calendar
9 months.

10 (2) If a school district meets either or both of subsection
11 (1)(a) or (b), the intermediate school board of the intermediate
12 school district to which the school district is constituent, or the
13 superintendent of public instruction if that intermediate school
14 board requests the superintendent of public instruction to act in
15 its place, shall declare the school district dissolved and
16 immediately order attachment of the territory of the school
17 district, in whole or in part, to 1 or more other organized school
18 districts within the intermediate school district. In attaching the
19 territory of the dissolved school district to other school
20 districts, the intermediate school board or the superintendent of
21 public instruction shall take into account the number of pupils who
22 will become pupils of each of those other school districts relative
23 to the number of pupils already enrolled in the other school
24 district and the numbers of pupils who qualify for free and reduced
25 price lunch, special education services and at-risk funding among
26 the other school districts. For a school district that is declared
27 dissolved in 2013, within 21 days after the school district is

1 declared dissolved, and for a school district that is declared
2 dissolved after 2013, within 60 days after the school district is
3 declared dissolved, the dissolved school district shall account to
4 the intermediate school district for all records, funds, and
5 property of the school district and shall make an equitable
6 distribution of the records, funds, and property consistent with
7 the ordered attachment to each receiving school district. A school
8 building or other real property owned by and located in the
9 dissolved district shall become part of and owned by the receiving
10 school district in which it is located.

11 (3) A DISSOLVED SCHOOL DISTRICT RETAINS A SEPARATE IDENTITY
12 FOR THE PURPOSE OF ANNEXING OR TRANSFERRING FORMER TERRITORY OF THE
13 DISSOLVED SCHOOL DISTRICT TO THE SCHOOL DISTRICT BY ANNEXATION
14 UNDER PART 10 OR TRANSFER OF TERRITORY UNDER PART 11. THE
15 INTERMEDIATE SCHOOL BOARD AND OTHER OFFICERS OF THE INTERMEDIATE
16 SCHOOL DISTRICT IN WHICH THE GEOGRAPHIC AREA OF THE DISSOLVED
17 SCHOOL DISTRICT IS LOCATED SHALL PERFORM THE FUNCTIONS AND SATISFY
18 THE RESPONSIBILITIES OF THE BOARD AND OTHER OFFICERS OF THE
19 DISSOLVED SCHOOL DISTRICT RELATING TO AN ANNEXATION OR TRANSFER OF
20 TERRITORY, INCLUDING, BUT NOT LIMITED TO, OBTAINING ANY NECESSARY
21 APPROVAL OF THE SCHOOL ELECTORS OR THE SUPERINTENDENT OF PUBLIC
22 INSTRUCTION. IF FORMER TERRITORY OF THE DISSOLVED SCHOOL DISTRICT
23 IS ANNEXED OR TRANSFERRED BACK TO THE DISSOLVED SCHOOL DISTRICT,
24 THE INTERMEDIATE SCHOOL BOARD SHALL CAUSE A SCHOOL BOARD ELECTION
25 TO BE HELD IN THAT SCHOOL DISTRICT IN THE MANNER PROVIDED BY LAW.
26 THIS SUBSECTION APPLIES TO ANY DISSOLVED SCHOOL DISTRICT WITHOUT
27 REGARD TO WHETHER THE SCHOOL DISTRICT WAS DISSOLVED BEFORE OR AFTER

1 **THE EFFECTIVE DATE OF THIS SUBSECTION.**

2 (4) ~~(3)~~—If a dissolved school district has outstanding debt,
3 the dissolved school district ~~shall retain~~ **RETAINS** a limited
4 separate identity and the territory of the dissolved school
5 district ~~shall continue~~ **CONTINUES** as a separate taxing unit for the
6 limited purpose of the debt until the debt is retired or refunded.
7 The intermediate school board and other officers of the
8 intermediate school district in which the geographic area of the
9 dissolved school district is located shall perform the functions
10 and satisfy the responsibilities of the board and other officers of
11 the dissolved school district relating to the debt, including, but
12 not limited to, all of the following:

13 (a) Certifying and levying taxes for satisfaction of the debt
14 in the name of the dissolved school district.

15 (b) Holding debt retirement funds of the dissolved school
16 district separately from the funds of the receiving school
17 district.

18 (c) Doing all other things relative to the outstanding debt of
19 the dissolved school district required by law and by the terms of
20 the debt, including, but not limited to, levying or renewing a
21 school operating tax under section 1211. The question of renewal of
22 a school operating tax pledged to the repayment of debt of the
23 dissolved school district shall be submitted only to school
24 electors residing within the geographic area of the dissolved
25 school district and does not require approval by electors of a
26 receiving school district not residing within the geographic area
27 of the dissolved school district.

1 (5) ~~(4)~~—Upon the attachment of a dissolved school district to
2 another school district, the intermediate school board shall audit
3 the assets and liabilities of the dissolved school district. If a
4 considerable discrepancy is found, the intermediate school board
5 shall order the dissolved school district to pay the discrepancy to
6 1 or more appropriate receiving school districts. After first
7 satisfying debt obligations, the dissolved school district shall
8 repay that amount to 1 or more appropriate receiving school
9 districts from money available to the dissolved school district
10 including voted millage within a time to be determined by the
11 intermediate school board.

12 (6) ~~(5)~~—If a tax is authorized within a receiving school
13 district at a rate greater than the rate authorized within the
14 dissolved school district at the time of the dissolution, the tax
15 may not be levied within the geographic area of the dissolved
16 school district until approved by the school electors residing
17 within the geographic area of the dissolved school district or by
18 all school electors within the receiving school district, including
19 any expanded geographic area of the receiving school district
20 resulting from attachment under this section.

21 (7) ~~(6)~~—If a dissolved school district was authorized to levy
22 a sinking fund tax under section 1212 at the time of dissolution,
23 the identity of the dissolving school district as a legal entity
24 shall not be lost and its territory shall remain as a taxing unit
25 for the limited purpose of levying a sinking fund tax under section
26 1212 until the authorization to levy a sinking fund tax within the
27 dissolved school district expires. For purposes of this subsection,

1 the intermediate school board and other officers of the
2 intermediate school district in which the geographic area of the
3 dissolved school district is located shall perform the functions
4 and responsibilities of the board and other officers of the
5 dissolved school district relating to levying the sinking fund tax
6 and shall distribute the proceeds of the levy to each receiving
7 school district that operates a school building previously operated
8 by the dissolved school district. The proceeds of a sinking fund
9 tax levy under this subsection may be used only within the
10 geographic area of the dissolved school district for purposes
11 authorized under section 1212. A receiving school district may not
12 renew or authorize a new sinking fund tax that is levied only
13 within the geographic area of the dissolved school district.

14 (8) ~~(7)~~—To the extent permitted under federal law and any
15 applicable waiver approved by the United States department of
16 education, the department shall not include the test scores of
17 pupils from the dissolved school district for determining adequate
18 yearly progress status or for "top-to-bottom" rankings of the
19 receiving school districts for the first 3 school years after
20 dissolution.

21 (9) ~~(8)~~—For the same number of school years for which test
22 scores of pupils from the dissolved district are not used under
23 subsection ~~(7)~~, ~~(8)~~, a receiving school district shall not use the
24 test scores of pupils from the dissolved school district as a
25 factor in any performance evaluation of an employee of the
26 receiving school district.

27 (10) ~~(9)~~—The pupils formerly enrolled in the dissolved school

1 district have all the legal and constitutional rights and
2 privileges of the other pupils enrolled in the receiving school
3 districts.

4 (11) ~~(10)~~—As used in this section:

5 (a) "Debt" means that term as defined in section 103 of the
6 revised municipal finance act, 2001 PA 34, MCL 141.2103, and any
7 unpaid amounts payable by a dissolved school district to the
8 Michigan public school employees' retirement board under the public
9 school employees retirement act of 1979, 1980 PA 300, MCL 38.1301
10 to 38.1437.

11 (b) "Receiving school district" means a school district to
12 which all or part of the territory of a dissolved school district
13 is attached under this section.