



**House
Legislative
Analysis
Section**

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CHARTER SCHOOL REVISIONS

**House Bill 4148 (Substitute H-7)
First Analysis (3-20-03)**

**Sponsor: Rep. Brian Palmer
Committee: Education**

THE APPARENT PROBLEM:

Legislation authorizing the creation of public school academies, or charter schools, was an experimental school reform measure that accompanied the overhaul of Michigan’s school finance system in 1993-94. In their original conception, charter schools were thought to hold particular promise among a number of thoughtful educational reforms in school governance and structure. It was hoped that charter schools would be smaller and less bureaucratic schools, free of excessive regulation; places where adults and children could learn together more easily than was the case in larger, anonymous settings. In return for its charter, it was assumed a smaller school would demonstrate a capacity to innovate, and that, in turn, would lead to higher academic achievement and richer student performance. It also was assumed the charter schools would catalyze change in nearby schools, as teachers and students in them exchanged their knowledge and know-how with their counterparts elsewhere in the public school system.

In Michigan, a public school academy or charter school is an independent public school organized as a nonprofit organization, funded on a per-pupil basis from the state school aid fund, and operated under a contract issued by an authorizing body. An academy is also subject to the "leadership and general supervision" of the State Board of Education and must comply with the same laws as traditional public schools.

People interested in operating a charter school must apply to an authorizing body. Contracts can be issued by the boards of local and intermediate school districts, community colleges, and state public universities. Generally, the schools receive the per-pupil grant available to schools in the local district in which they operate plus \$500, subject to a maximum amount (currently capped at \$6,931 or the district’s foundation grant, whichever is the lower amount), and then they also raise funds from other granting foundations and borrow from financial institutions. Charter schools cannot charge tuition and they are required to fill seats by lottery. However, they

choose their location and hence the overall socio-economic status of their students, and they can and do turn away students after the official “count” days which set their total population, and hence determine the amount of their per-pupil state financial aid.

According to the Department of Education, there were 189 charter schools operating in Michigan as of August 2002, and the teachers in them guide the learning of about 70,000 students.

While there is no overall limit on the number of charter school contracts that can be issued in Michigan, the universities (considered to be one set of authorizing agents) are limited to a total of 150, and no single university can issue more than one-half of the total issued by all universities as a whole. Unlike other states, most charter schools in Michigan hold contracts that have been issued by universities. Boards of public universities authorize 150 charter schools, while in contrast local school districts authorize 13; intermediate school districts authorize 23; and community college boards authorize four public school academies. About 40 percent of all charter school students attend school in academies that have been chartered by one university, Central Michigan University. Because the total number of university-authorized charter schools has reached the maximum number allowed under the law, the public and press often talk about a charter school “cap.”

Supporters of the charter school concept say that there is great demand for additional charter schools, from organizers and parents. Many would like to see the cap on university-chartered schools lifted so that public demand will not be frustrated. According to the Western Michigan University Evaluation Center report of charter schools published in 1999, new charter schools are categorized in four ways—as converted private schools, converted public schools, “Mom and Pop” schools, or as franchise or “cookie cutter” schools---and at their start they are difficult to capitalize. See *BACKGROUND INFORMATION* below. To help schools raise start-up capital, some have argued they should be able to borrow and to sell

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bonds to finance their debt. Further, proponents of both charter schools and intra-district school choice also say that the schools should be explicitly exempt from collective bargaining agreements, since collectively bargained contracts thwart innovative practices and sometimes stand in the way of parent-teacher conferencing, arrangements for students' independent studies, and after-school tutoring. Proponents also have argued that some leeway should be provided in admission policies to enable siblings to attend school together.

Others, those generally more wary and sometimes vigorously opposed to the development of more charter schools, have noted the proliferation of for-profit franchise schools operated by education management organizations (or EMOs, similar in their early conception to HMOs, or health management organizations), and have expressed alarm at this move toward privatization. Indeed, in Michigan, about 70 percent of the charter schools have contracts with private for-profit companies such as Edison, the Leona Group, National Heritage Academies, or Mosaica, and others. As private groups have refused state officials access to their records and information, investigations and at least one court suit have been undertaken in order to learn how state tax dollars are spent. Those critical of these sorts of arrangements argue that private franchise groups that get tax dollars to operate should be required to open their records in ways that make them accountable to taxpayers. They also note that the authorizing authorities for charter schools (most especially Central Michigan University) have had difficulty removing the board members of financially mismanaged charter schools. Consequently they propose that the oversight functions of authorizing agencies be strengthened. Finally, competitors of charter schools note that charter schools should be required to enroll and educate high-cost students, such as special education students, in the same ways that public schools meet this challenge.

During the last two legislative sessions, the positions of proponents and opponents of charter schools have reached an impasse on several issues: collective bargaining; lifting the cap for university-authorized charters; public accountability for education management corporations; and, oversight of authorizing bodies and public school academy governing boards. At the request of the governor and legislature an eight-member panel was convened, called the Charter School Commission, chaired by Peter McPherson, the president of Michigan State University. Other members included the superintendent of public instruction Tom Watkins,

the president of the Michigan Education Association, a member of a public school board, a member of a Detroit charter school, an assistant professor of educational leadership from Western Michigan University, and an attorney appointed by the governor. The commission members convened two four-hour public hearings (one in Grand Rapids and the second in Detroit), and then met privately to consider points of compromise during about three months. In April 2002, the commission issued a report called Charter Schools in Michigan, signed by all members but the superintendent of public instruction. That report and others concerning charter schools and the impact of consumer choice in an educational system are available at the web site of the Education Policy Center at Michigan State University (www.epc.msu.edu).

To implement some of the recommendations of the Charter School Commission, legislation has been introduced.

THE CONTENT OF THE BILL:

House Bill 4148 would amend the Revised School Code to revise its provisions concerning public school academies (more customarily referred to as charter schools). The bill would revise the current provisions concerning charter school authorization to encourage more oversight by authorizing bodies; to increase the charter school cap for state public university authorizing bodies and include new public school academies authorized by Bay Mills Community College within that cap; to allow a community college to charter public school academies in Detroit; to allow enrollment priorities in limited circumstances; to allow charter schools to borrow money and issue bonds, as well as to allow legal agreements to finance operations; and, to provide for more disclosure by educational management organization corporations when they operate public schools or public school academies. A more complete description of the proposed revisions follows.

Increasing the "cap" on charters authorized by universities. Currently, the following entities may authorize a charter school: i) the board of a school district that operates grades K to 12; ii) an intermediate school district; iii) the board of a community college; or, iv) the governing board of a state public university. Current law specifies that no more than 150 public school academies can be authorized by the governing boards of state public universities, and the total number of contracts issued by any one state public university cannot exceed 50

percent of the maximum combined total number that may be issued by public universities. The bill would revise the list of authorizing bodies to include an “institution of higher education with statewide jurisdiction”, rather than a “state public university”, and include within this term a federal tribally controlled community college that is recognized under the federal Tribally Controlled Community College Assistance Act and is determined by the Department of Education to meet the requirements for accreditation. This is understood to apply to Bay Mills Community College (a tribal community college currently authorizing charter schools statewide through what is considered a “loophole” in the law).

The “cap” on charter contracts authorized by universities would be increased, and would apply instead to contracts authorized by “institutions of higher education with statewide jurisdiction”, including new contracts authorized by Bay Mills Community College. (The bill specifies that contracts issued by Bay Mills Community College before the bill’s effective date would not fall under the cap.) The limit would be increased from 150 to:

- 200 through 2003;
- 250 through 2004;
- 300 through 2005;
- 350 through 2006;
- 400 through 2007;
- 450 through 2008; and,
- 500 thereafter.

Allow community college authorized charters in Detroit. Under current law, the board of a community college cannot issue a contract for a public school academy to operate in a school district of the first class (Detroit), and any charter school so authorized is prohibited from operating. House Bill 4148 would eliminate this prohibition.

Articles of Incorporation. Currently under the law, a charter school’s proposed articles of incorporation must provide that the charter school is incorporated and that it is a governmental entity. This provision would be retained, and in addition the articles of incorporation would have to provide that the charter school also is a political subdivision of the state.

Public school academy sites. The bill would revise language in several instances to change references to a public school academy’s “physical plant” to refer instead to the “site or sites” for a public school academy. (Presumably, this would allow an academy to operate at more than one site. However, another provision of current law [section 504 (1)], which would not be changed by the bill, specifically says that “a public school academy shall not operate at a site other than the single site” specified in its contract.)

Collective bargaining agreements. Currently the law specifies that an entity that wishes to obtain a contract to organize a charter school must apply to an authorizing body, and the application must include, among other things, the identification of the applicant; a list of the proposed members of the board of directors; the proposed articles of incorporation; a copy of the bylaws; documentation about governance; educational goals (including curricular and assessment opportunities, admission policies, school calendar and school day schedule, and the age or grade range of the students); descriptions of staff responsibilities and of the academy’s governance structure; identification of the local and intermediate school districts in which the academy will be located; an agreement that the academy will comply with state and federal law applicable to public bodies or school districts; for academies authorized by school districts, an assurance that employees will be covered by the collective bargaining agreements that apply to other employees of the school district employed in similar classifications; and, a description of and address for the physical plant.

The bill would retain these provisions, and also require for a contract issued by an intermediate school district (ISD) that is a conversion of an existing program of the ISD, is a substantially similar program to an existing program of the ISD, or is a program or class managed by the ISD, an assurance that employees of the public school academy will be covered by the collective bargaining agreements that applied to other employees of the ISD employed in similar classifications in schools or programs that are not public school academies.

Authorizing fees. Under the law an authorizing body can charge a fee of up to three percent of the total state school aid received by the public school academy in the school year in which the fees or expenses are charged. The bill specifies that, as set forth in the contract, an authorizing body could use a portion of the fee to provide technical assistance to the public school academy; and, an authorizing body

would be prohibited from using any portion of the fee for any purpose other than considering applications and issuing contracts, or for oversight of, technical assistance to, and direct academic support to the public school academy.

Consolidation, merger, or dissolution of authorizing body. Under the bill, if an authorizing body of a public school academy consolidated or merged with another entity that was eligible to serve as an authorizing body, the contract for the academy would remain valid and the successor entity would be considered to be the authorizing body and would have to perform all the duties of the authorizing body. Further, if the authorizing body of a public school academy was dissolved or otherwise ceased to exist, the contract for the academy would continue to be valid and the academy could continue to operate for 90 days. The board of directors could arrange for the contract to be reauthorized during this period by another authorizing body. The superintendent of public instruction could extend this period in his or her discretion upon a determination that this would be in the best interests of the students. If the contract was not reauthorized within this period, the contract would be void.

Public school academy contract. Currently the law specifies the components that must be included in the contract that is issued by an authorizing body, in order that a public school academy be organized. Generally, the provisions address the new academy's educational goals, contract compliance procedures, and a statement that the employees be covered by the collective bargaining agreement. The bill would add these additional required components:

- 1) assurances that employees of public school academies authorized by intermediate school districts (ISDs) will be covered by the collective bargaining agreements that apply to intermediate school districts under certain conditions,
- 2) a requirement that the board ensure compliance with conflict of interest laws applicable to public bodies,
- 3) a requirement that if the board entered into an agreement with an educational management company for operation or management of the academy, that agreement would have to comply with section 1320 of the bill (a new section adding requirements pertaining to educational management companies, described below),

4) a requirement that the authorizing body review and if necessary disapprove any agreement between the board and an educational management company before the agreement was final and valid,

5) a requirement that the board of directors demonstrate to the satisfaction of the authorizing body that the public school academy had made a reasonable effort to advertise its enrollment openings in a newspaper of general circulation in the ISD in which the public school academy is located; had made additional efforts to recruit students who are eligible for special education programs and services to apply for admission, including reasonable efforts to advertise all enrollment openings to organizations and media that regularly serve and advocate for individuals with disabilities within the ISD area, and inclusion in all student recruitment materials of a statement that appropriate special education services would be made available to students attending the school as required by law; and, that the open enrollment period for the public school academy would be for a duration of at least four weeks, and

6) if requested, that the board report to the authorizing body the total compensation for each individual employee of the academy.

Property reversion to School Aid Fund; no state obligation for debt. Under the bill if an academy was no longer authorized to operate, title to all real personal property, interests in real or personal property, and other assets owned by the academy would revert to the state. Any money included in the assets and the net proceeds from the sale of the property or interests in the property, after payment of any debt, would be deposited in the School Aid Fund. Further and under the bill, an agreement, mortgage, loan, or other instrument of indebtedness entered into by a public school academy and a third party would not constitute an obligation, either general, special, or moral, of this state or an authorizing body. In addition, the full faith and credit or the taxing power of the state or any agency of the state, or the full faith and credit of an authorizing body, could not be pledged for the payment of any academy bond, note, agreement, mortgage, loan, or other instrument of indebtedness. Finally, the bill specifies that this part would not impose any liability on the state or on an authorizing body for any debt incurred by a public school academy.

Enrollment priority. Under the law, a public school academy cannot charge tuition and cannot discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic

ability, measures of achievement or aptitude, status as a handicapped person, or any other basis that would be illegal if used by a school district. However, an academy can limit admission to students who are within a particular range of age or grade level, or on any other basis that would be legal if used by a school district, and may give enrollment priority to a sibling of a student enrolled in the academy. The bill would, in addition, allow enrollment priority to be given to a child of a person who is employed by or at the public school academy or who is on the board of directors of the public school academy (as used here, “child” would include an adopted child or legal ward); and, if the academy is a joint high school created by two or more public school academies, to a student who attended and had completed the grade levels offered by one of those public school academies.

Academies for drop-outs. Under the bill, authorizing bodies would be encouraged to issue contracts for academies for students who had dropped out of school, or otherwise had failed to complete high school.

Joint high schools. The bill would permit two or more public school academies to form a consortium or enter into a cooperative arrangement to establish and operate a joint high school. A copy of the consortium agreement or cooperative agreement would have to be incorporated into the contract of each participating public school academy. A joint high school could be established in this manner without the issuance of a new contract. This provision would not prohibit an academy that did not operate grades 9 to 12 (or any combination) from offering some or all of those grades under an existing contract with an authorizing body.

Borrowing; issuing bonds. Under the law, a public school academy can take action to carry out its purposes, including, among other things, to enter into binding legal agreements with persons or entities as necessary for the operation, management, and maintenance of the academy. Under the bill, these specifications would be retained, and in addition, the bill would allow a public school academy to pledge funds for lawful purposes, and to enter into binding legal agreements for financing. Further, the bill specifies that an academy could take action to borrow money and issue bonds in accordance with section 1351a of the code [which concerns the borrowing of money and issuing of bonds by school districts, as well as restrictions on bond proceeds], except that the borrowing of money and issuance of bonds by an academy would not be subject to section 1351a(4)

[which says a resident of a school district has standing to bring suit against the school district to enforce these provisions in a court having jurisdiction] or section 1351(2) to (4) [which places restrictions on bond amounts and caps on bonded indebtedness tied to the equalized valuation of taxable property; requires votes of the people when limits are exceeded; sets the maximum term of bonds; provides for refunding; and, provides that the bonds or notes issued by a school district or intermediate school district be full faith and credit tax limited obligations that pledge available levies, but that do not allow the levying of additional debt millage without a vote of the electorate].

Authorizing body oversight and responsibilities. The bill would require an authorizing body that issued a contract for a public school academy to do all of the following: a) ensure that the contract and the application for the contract comply with the requirements of this section of the law; b) within 10 days after issuing the contract, submit to the superintendent of public instruction a copy of the contract and of the application for the contract; c) adopt a resolution establishing the method of selection, length of term, and number of members of the board of each public school academy; d) oversee the operations of each public school academy operating under a contract issued by the authorizing body where the oversight is sufficient to ensure that the authorizing body can certify that the public school academy is in compliance with statutes, rules, and terms of the contract (however, an authorizing body could enter into an agreement with another authorizing body to oversee an academy operating under a contract issued by the authorizing body); e) develop and implement a process for holding a public school academy board accountable for meeting performance standards and for implementing corrective action when an academy failed to meet those standards; g) take necessary measures to ensure that a public school academy board operated independently of any educational management company involved in the operations of the academy; g) oversee and ensure that the student admission process used by the academy was operated in a fair and open manner, and was in compliance with the contract; h) ensure that the board of the academy maintained and released information as necessary to comply with applicable law; and i) comply with provisions in the School Code governing Bay Mills Community College, if applicable.

School district code. The bill would require the Department of Education to issue a school district code to a public school academy within 30 days after

a contract is submitted to the department by an authorizing body. If the department fails to do this, the state treasurer would have to assign a temporary district code in order for the academy to receive funding under the State School Aid Act.

Revocation of contract; reconstitution of academy.

The bill specifies that before an authorizing body revoked a contract, it could take corrective measures to avoid revocation. If it were appropriate considering the overall circumstances, the authorizing body could reconstitute the academy to improve student educational performance, or to avoid interruption of the educational process. An authorizing body could include a reconstitution provision in the contract that identified corrective measures, including but not limited to appointing a new board of directors or a trustee to take over operation of the academy. If an authorizing body revoked a contract, then it would be required to work with a school district or another academy (or a combination of the two) to ensure a smooth transition for the affected students. If the revocation occurred during the school year, the authorizing body, as the fiscal agent for the academy, would be required to return any school aid funds received that were attributable to the affected students to the state treasurer for deposit into the School Aid Fund, and the treasurer would be required to distribute funds to the school district or academy in which the students enrolled after revocation, following a methodology that would be established by the Department of Education and the Center for Educational Performance and Information.

Educational management companies. Beginning with contracts entered into after the effective date of the bill, if the governing board of a public school enters into a contract with an educational management company to carry out the operations of a public school, the governing board would be required to ensure all of the following:

- a) that the board had conducted sufficient due diligence to conclude that the management company had sufficient educational expertise and management experience to provide the agreed services;
- b) that the governing board would obtain independent legal counsel in all negotiations with the educational management company; and,
- c) if the governing board were the board of directors of an academy, that, under the contract between the board of directors and the educational management company, the company would provide to the board

all financial and other information required to comply with the requirements concerning reporting that were contained in the contract between the board and its authorizing body under section 503 of the legislation.

The bill also specifies that, beginning with contracts that were entered into after its effective date, if the governing board of a public school entered into a contract with an educational management company to carry out the operations of a public school, the contract between the governing board and the company would be required to contain at least all of the following:

- a) a provision requiring the management company to provide the governing board with information regarding any teachers, administrators, and support staff employed by the management company, including at least all of the following personal information: i) name; ii) education, including highest degree attained; iii) salary; iv) copy of teaching certificate or other required permit or credential, if required for the position; v) description of relevant experience; and, vi) employment record;
- b) a provision requiring the management company to provide to the governing board information regarding the business operations of the public school, including at least all of the following: i) financial records and information concerning the operation of the school, including, but not limited to, budgets and detailed records of funds received from the state and other entities, expenditure of those funds, investment of those funds, carryover, and contractual arrangements or agreements entered into by the management company as an agent of the governing board; ii) financial records and information concerning leases to which the governing board was a party, including, but not limited to, leases for equipment, physical facility space, or institutional and educational materials; and iii) financial records and information concerning mortgages and loans to which the governing board was a party; and,
- c) if the governing board was the board of directors of a public school academy, a provision requiring the management company to make information available to the board of directors concerning the operation and management of the public school academy, including at least all of the information necessary to comply with the requirements concerning reporting that were contained in the contract between the board of directors and its authorizing body under section 503 of this legislation.

References to state board of education. The bill would change references to the state board of education, in several instances throughout the bill, to refer instead to the Department of Education.

MCL 380.501 et al.

BACKGROUND INFORMATION:

Charter school growth. Charter schools are public schools that have autonomy from selected state and local rules in exchange for accepting greater responsibility for student performance. Some say they are part of a 30-year trend toward privatization that seeks to alter the size and scope of publicly operated service organizations. A decade ago in 1991, Minnesota became the first state to pass a charter school law. A year later an educational management organization (or, EMO) called Educational Alternatives, Inc. (now called the TessaracT Group, Inc.) contracted to operate one school in Miami, Florida. By 1999-2000, thirty-six states and the District of Columbia had adopted legislation enabling charter schools, and almost 1,800 charter schools were operating across the nation. Here in Michigan the first charter law was overturned by the Michigan Supreme Court on several constitutional grounds. A modified bill was enacted in 1994.

As of January 2003, there were nearly 2,700 charter schools operating in 36 states, the District of Columbia, and Puerto Rico, and serving more than 684,000 students. Three other states - Iowa, New Hampshire, and Tennessee - also have laws regarding charters schools, although there aren't any charter schools operating in those states during the 2002-2003 school year. According to the Department of Education, as of January 2003, there were 190 charter schools in Michigan, serving approximately 70,000 students, placing the state fifth in terms of the total number of charter schools, behind Arizona (464), California (428), Florida (227), and Texas (221).

Charter school research and evaluation. Since 1995, the U.S. Department of Education has funded a number of national studies designed to ascertain where charter schools are located, whom they serve, what programs they offer, and how well they serve students. The effort includes a National Study of Charter Schools (begun in 1995), a National Evaluation of the Federal Public Charter School Program (begun in 1998), and since 1999, a survey of all charter schools as a special component of the department's Schools and Staffing Survey (SASS). The department also has sponsored three major

studies of special issues affecting charter schools: research to determine charter schools' accountability (a two-year study begun in 1997 by the Center on Reinventing Public Education at the University of Washington in Seattle); research to determine charter schools' effectiveness serving students with disabilities (a two-year study begun in 1997 at Westat, Inc. in Durham, North Carolina); and, a two-year research project begun in 1998 to study charter school finance undertaken by Policy Associates, Inc. and the American Federation of Teachers.) Further, research has been funded to evaluate growth in student achievement, undertaken by the Center for School Change at the University of Minnesota's Humphrey Institute of Public Affairs.

For information about each of the studies and more, visit the U.S. Department of Education research web site at www.ed.gov/pubs/ResearchToday.

In addition, an up to date overview of 34 research reports about charter school effects is available on the Phi Delta Kappa Public School Advocacy web site, www.pdkintl.org. That site reviews charter school developments throughout the nation and provides analyses by state, including summaries of more in-depth research reports undertaken in the states of California, Colorado, Minnesota (which had the earliest charter school law in 1991), Arizona, Massachusetts, and Michigan.

Michigan's charter schools have been the subject of two kinds of research oversight, and both published reports about the Michigan experience received national attention in 1999. The first report stratifies statistics that measure the achievement (using 7th grade MEAP math tests) and the location of charter school students, and contrasts those findings to the students' counterparts in public schools. These relationships are then used to provide a geographic image, or map, of particular charter school effects. Further, the report notes the low incidence of intellectual innovation in charter schools (that is, experimentation in teaching, learning, curriculum and assessment), and the higher incidence of innovation in charter school governance, especially the proliferation of private educational management organizations. The report's findings are accompanied by policy recommendations that would alter some of the charter schools' effects. This report, published by three researchers at Michigan State University, is available at www.epc.msu.edu.

A second comprehensive report uses both formative and summative evaluation techniques (and both quantitative and qualitative research methods) to

study 51 of Michigan's charter schools, about half of all charter schools in the state when the study was undertaken between October 1997 and December 1998. The evaluation consists of the following: a three-part charter school survey (directed to teachers and staff, students in grades 5 through 12, and parents and guardians); a three-part school climate survey (directed to the same three groups, except that in this instance the students were in grades 6 through 12); interviews with stakeholders including traditional public school superintendents and school personnel, MDE officials, representatives of authorizing agencies, management companies, and community representatives; demographic data, financial data, and MEAP test scores analysis for the last three years for the charter schools and their host districts; and, a review of documents, school portfolios, and student work. The report was published in 1999 by two researchers at the Western Michigan University Evaluation Center, and is available at www.libofmich.lib.mi.us/services/bibs/choice.

Charter school student achievement; graduation and dropout rates. There are no definitive studies to compare student achievement between Michigan charter school students with comparable students in their host school districts. Very preliminary findings about academic achievement and other educational indicators are reported in the charter schools evaluation conducted by the Evaluation Center at Western Michigan University and published in 1999. These findings are reported on pages 19 through 22 of the report summary under sections called "Demonstrating Success" and "MEAP Test Scores." The evaluation report notes that "as a group, the public school academies have significantly lower MEAP scores than their host districts. However, a school-by-school comparison showed that students in some PSAs have higher scores the students in their host districts. When comparing two- and three-year gains, we find that the schools in the host districts have larger gains, on the whole, than do the PSAs. *It is important to note that the overall picture is very mixed.* [emphasis added] Even while one school is far behind its host district in grade 4 reading, for example, it may be outperforming the host district in reading at another grade level or in another subject area." The evaluation report also notes that "several schools employ only standardized tests to measure student achievement success," and reports that "there is a trend toward greater use of standardized tests to demonstrate success in PSAs."

The evaluation also notes that generally, graduation rates are not available because few PSAs provide instruction at the high school level. Among the ten

that did report graduation rates during the 1996-97 school year, four had higher graduation rates and six PSAs had lower graduation rates than their host districts. Further, the evaluation report notes that "on the whole, the PSAs had higher dropout rates than did their host districts. Three of the 11 PSAs for which comparable data were available for the 1996-97 school year had lower rates of dropouts than their host districts. These three schools reported 0 percent dropouts, and were the only schools that had dropout rates lower than the state average of 6.1 percent. The other eight schools had dropout rates that ranged from seven to 51 percent, with most falling between 19 and 33 percent."

Teacher experience in charter schools. According to the evaluation of Michigan charter schools published in 1999 by the Evaluation Center at Western Michigan University, the teachers in Michigan's charter schools are young and inexperienced. Although nearly all are certified and working in their major or minor learning discipline with a bachelor's degree, the report notes, "on average, the teachers and staff had 6.4 years of experience as educators." The report continues: "There is clearly a large gap between the teachers, with an average of 5.9 years, and the principals/directors, with 19.5 years of experience. A considerable percentage of the teachers (most in their twenties) are in their first or second year of teaching. About 40 percent of the accrued experience of teachers and staff was in private and/or parochial schools. The bulk of the experienced teachers in the Michigan charter schools are in the conversion schools. Charter school teachers in Michigan are relatively weak when compared with the directors, who have considerably more experience, education, authority, and salary than teachers." The evaluation concludes: "The relative age, formal education levels, and amount of working experience of these charter school teachers is markedly lower than charter school teachers in other states. (In Connecticut, where we are conducting a similar evaluation, the classroom teachers had, on average, nearly 30 percent more experience than the classroom teachers in Michigan's PSAs.)"

Small innovative schools that work. When small innovative schools work, they do so because they allow well-qualified teachers to engage learners in ways that enable them to demonstrate intellectual integrity, as well as high levels of scholarly achievement and meaningful community performance. In order to ensure this kind of success, Chicago education reformers support the growth of small public high schools, having 500 or fewer

students. When these schools get underway, they rely on a governing faculty—a group of veteran teachers with urban education experience who are deeply knowledgeable about their learning disciplines and human development. The reformers have selected this reform strategy because research and experience have demonstrated that teachers teach best only what they know best. Further, recent research shows that high quality curriculum actually delivered to students in the classroom is the variable with the single greatest impact on student achievement. The ‘learned curriculum’ is what counts. High quality curriculum generally means curriculum having five characteristics: high quality materials (sometimes called the ‘intended curriculum’); coherence of educational content (buffered from disruptive influences); high and appropriate academic expectations for all students; well prepared teachers; and a positive school culture. The research demonstrates, too, that changes in school governance, however innovative, seldom increase achievement. However, school governance can interfere with achievement. Nonetheless, removing negative influences on school effectiveness is not the same as providing positive influence.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill could result in approximately 3,125 additional students in the public school system enrolling in 50 new public school academies in fiscal year 2003-2004. Of these, 25 percent are assumed to be transferring from nonpublic schools, from home schooling, or be new kindergarten students, resulting in new state school aid costs of \$21.7 million. The HFA estimates that the remaining 75 percent of these students will transfer from existing public schools, resulting in a revenue transfer of approximately \$65 million from the existing public schools to the new charter schools.

The costs of schools that open in fiscal year 2003-2004 would continue into subsequent fiscal years, and the costs of new schools opening each year through fiscal year 2008-2009 would be expected to be equal to 2003-2004 costs and would be added to the ongoing costs. (3-19-03)

ARGUMENTS:

For:

Proponents argue that more charter schools are needed in order to jump-start educational innovation. Public school systems are generally large, bureaucratic organizations that are difficult to

change, and in which uniform approaches to teaching, learning, and assessment are the norm. Changes in school structures and governance can spur innovation in public schools, and among the most promising experimental school reforms of this kind are those embodied in the charter school movement.

In its brochure entitled “Despair and Hope”, the Michigan Association of Public School Academies notes an excerpt from a column called “Accountability Via Transparency” that was written by Chester Finn, Bruno Manno and Gregg Vanourek and published by *Education Week* on 2-26-00. The authors say that today’s modal form of public school accountability depends on rules and compliance: schools are made to follow lots of regulations, their activities are micro-managed, and enforcers and bureaucratic controls keep anyone from doing anything untoward. These advocates of charter schools and parental choice say that charter schools invite a different approach: accountability propelled mostly by public marketplaces in which a school’s clients and stakeholders reward its success, punish its failure, and send it signals about what needs to change.

Proponents of charter schools say that smaller and less bureaucratic schools, free of excessive regulation, are more likely to be places where adults and children can learn together more easily than is customarily the case in larger, anonymous settings. Public school academies, in return for a charter from an authorizing body, can demonstrate a capacity to innovate, and that, in turn, leads to higher academic achievement and richer student performance. In addition to higher intellectual standards for students, the adults in smaller innovative school settings have more stimulating learning and working conditions, and are better able to establish collegial norms among faculty and staff.

Further, as educational innovators, Michigan’s 190 charter schools catalyze change in nearby schools, as teachers and students in public school academies exchange their knowledge and know-how with their counterparts elsewhere in the public school system.

For:

The proponents of charter schools argue that more schools are needed in order to give parents more educational choice. Parents know what’s best for their children, including the best kinds of educational programs, and in Michigan, parents’ demand for more charter schools outstrips the supply. More charter schools would give parents more say in the

education of their children. An array of educational choices allows parents to declare their market preferences, and in making a choice among the options, to increase their satisfaction with the educational product they select. Parents who are satisfied with their educational choice tend to become involved in their children's educational experience, and children with supportive parents tend to like school and earn high marks in achievement.

Indeed, the evaluation of Michigan charter schools published by the Evaluation Center at Western Michigan University in 1999 notes in the school climate portion of the evaluation that "In the parent survey, 75.1 percent of the respondents agreed or strongly agreed with the statement 'I am satisfied with the school's curriculum'." Further, "among parents surveyed, 69.1 percent agreed or strongly agreed that they 'were satisfied with the instruction,' and 71.8 percent agreed or strongly agreed that 'Teachers are challenged to be effective'."

For:

Proponents of charter schools have urged that the "cap" on university-issued charters be lifted. This version of the bill would not completely lift the cap, but it would increase the allowed numbers of charters that may be authorized under the law in order to meet the pent up demand of parents and students for more of these schools, as evidenced by the many schools with waiting lists for enrollment. In addition, the legislation would address the situation of Bay Mills Community College, which is operating under what is described as a "loophole" in the law that allows it (as a community college) to charter schools anywhere in the state, instead of only in a local community college district. This version has been described as a more moderate approach to allowing growth in charter schools than completely lifting the cap.

As more charter schools are created, parents will have more choices, and children will have more educational opportunity. Having a choice is an all-important characteristic of school success. "It promises solutions to a variety of educational problems, including problems of cost and efficiency, quality and effectiveness, and issues of diversity," according to Michigan State University researchers David Plank and Gary Sykes in their paper "How Choice Changes the Education System: A Michigan Case Study," published in December 1998. They continue, "It is consequently politically appealing to a wide variety of constituencies, while opposition to expanding choice remains fragmented and incoherent." In their view, "the array of educational choices available to U.S. parents is likely to continue

to expand, with vouchers on the not-very distant horizon in Michigan and other states."

Response:

Plank and Sykes observe, however, that "considered in terms of reform strategy, expanding opportunities for choice is a relatively weak intervention for two main reasons. First, we have uncovered no evidence that providing parents with the opportunity to choose the schools their children attend brings about improvement in the quality of schooling that children receive. Choice enables parents to bring about a closer match between their own preferences about schooling and the values or pedagogical practices of the schools that their children attend, which is in itself a powerful argument in its favor. For now, however, the case that choice and the ensuing competition among schools will increase the efficiency and effectiveness of all schools at best remains open. Second, 'choice' is a profoundly conservative reform strategy in its failure to address the larger issues of social and economic context within which parents in fact make choices . . . allowing parents to make choices does not in itself affect the array of choices available to them, and the most desirable choices may remain unattainable for reasons of transportation, distance, or exclusion." Plank and Sykes conclude, ". . . choice may make the worst schools somewhat better than before, but they will nevertheless remain the worst schools . . . the current enthusiasm for educational choice strikes us as an instance of a broader effort to shift the responsibility for addressing deeply-rooted social and economic problems out of the public sphere . . . both by disparaging the capacity of public institutions to solve public problems and by simultaneously depriving them of the resources that would be required to bring about significant improvement in their performance."

For:

This legislation provides for more oversight of educational management companies when public school academies enter into a contract with a private company for their services. It would require a governing board of a public school to exercise due diligence to conclude that the educational management company has sufficient educational expertise and management experience to provide the agreed services, and in addition requires the governing board to obtain independent legal counsel in all negotiations with the management company. Further, contracts for public school academies will have to require such companies to provide to boards all financial and other information necessary to comply with state reporting requirements, and will

have to include provisions to supply the boards with specific information about employees' qualifications and compensation. Further, the bill requires management companies to provide information about business operations of the schools, including budgets, state funds, investments, expenditures, and contracts, leases for equipment and space, mortgages and loans, and the like. This should solve some of the most egregious problems and help account for public funds being used to support public school academies.

Against:

Michigan State University researchers David Arsen and David Plank of the Education Policy Center at MSU have cited the need for public accountability in Michigan's charter school laws, and also the need to rein in for-profit companies. In columns that appeared in the *Detroit News* (2-9-01) and the *Lansing State Journal* (3-5-01), Arsen and Plank argue that if Bay Mills Community College, a tribal college, continues to charter public school academies anywhere in the state, there will be an enormous loophole in the law. That loophole would remain, even if Bay Mills is brought in under the cap imposed on higher education institutions as is proposed by the bill. The loophole that would remain is this: charter schools were intended to be community schools--schools chartered by home-town people and governed by adults who would be accountable to the parents of the children who selected them. The governing board and the parents would work together to provide alternative educational opportunity for some of the community's children who had little or no success in the traditional public school.

However, the Bay Mills statewide charter capability would be a wide-open invitation to for-profit management companies to choose sites anywhere in the state, rather than be chosen by the governing board of a charter school whose members were accountable to the parents of those who attend. When a for-profit management company selects a city, and then owns the school building, to whom is the school's governing board most accountable? The corporation, or the parents? As the researchers point out, "clear lines of accountability get tangled . . . when private management companies take the lead in obtaining charters. Companies often own the building in which the school is located. The company, not the school, employs the teachers and administrators. The company many even take an active role in choosing members of the charter school board. Under these circumstances, it's not clear how there can be an arms-length performance-based contract between the school board and the management company. The board has almost no

leverage. After all, it's tough for a board to terminate a management contract if the company owns the school building."

As Plank and Arsen note, "Private companies manage the vast majority of the schools chartered by universities in Michigan. Lots of states have charter schools, but no other state is as attractive to for-profit management companies as Michigan. The big role assumed by for-profit companies . . . raises troubling questions about accountability."

Against:

Some who favor charter school innovation but who oppose an increase in charter schools now, argue that charter school growth should be slowed until the private companies that manage schools open their books and records to the taxpayers, and where necessary, remove their bad actors. Further, they argue for slow and controlled growth, until there is substantial evidence of improved academic achievement for students, and more educational innovation demonstrated by faculty and administrators. More evidence of academic achievement and innovation can best be accomplished if the smaller charter schools compete on the same playing field as other public schools—following the same laws and rules.

Michigan is among the top five states in the number of charter schools it authorizes. The speed of the movement's growth in Michigan has created two unintended consequences: the proliferation of charter school competition overwhelms public schools located in the poorest urban areas of the state; and, fully 70 percent of the charter schools are managed by private companies that often claim they are not accountable to explain how they spend public tax dollars. At least one private company has been taken to court, and other investigations are pending. According to the evaluation of charter schools published in 1999 by the Evaluation Center at Western Michigan University, there are five kinds of private management companies and they vary in the kinds of services they offer. Some schools expressed concern with the management companies, primarily due to the issue of control over the curriculum and focus of the school. At a few schools, the staff and parents were angry and upset that their management companies had assumed a tight control over the schools. Finally, the evaluation report notes that increasingly, parents and board members do not choose management companies, but instead, management companies go in search of a 'community' to host its schools. In fact, at several schools the evaluators were informed that the impetus

behind the school was not a local group of parents or educators; rather, it was the management company.

Some opponents of further growth also fear the proliferation of state-funded, taxpayer supported religious charter schools, and question their constitutionality. A front-page article in *The Wall Street Journal* (9-15-99) noted the problem in an article entitled “Old-Time Religion Gets a Boost at a Chain of Charter Schools: Many Christian Parents Opt for No-Cost Academies Run by J. C. Huizenga, Backlash from Evangelicals.” The report describes the growth of National Heritage Academies, which operate in Michigan as charter schools, and notes the competition the academies provide for Grand Rapids Christian Schools where enrollment has fallen nearly 10 percent in six years.

These problems—excessive competition and lack of accountability—can be managed if the growth of charter schools is slowed, and if those charter schools already authorized operate under the same laws as do public schools.

Response:

The bill would add significantly to requirements for oversight and accountability, both by public school academy boards and by educational management companies.

Against:

Public charter schools have come at a high cost to the public school system that prepares youngsters for the responsibility of citizenship in an highly pluralistic democracy. When too many school academies compete with the public schools in the poorest areas of the state, the academies divert the per pupil foundation allowance from the neediest school systems. The public funds are diverted from school buildings that serve the many, to a single charter school building that serves the few. Further, the public school community becomes balkanized, as children learn to suspect diversity and distrust integration. If the growth of charter schools in Michigan continues unchecked, the weakened public schools will become increasingly unable to compete and they will be left behind, under-financed and unable to serve the very neediest of students in the state’s urban areas.

Already, charter school competition in the state’s poorest urban areas is draining badly needed financial resources from public schools in precisely the manner that some researchers predicted. Those who opposed using market-based accountability to measure public schools said throughout the 1990s that the worldwide

emergence of accountability movements in education would account for a shift to uniform standards, niche markets, standardized testing, and entrepreneurship. Today, they note that the consequence of these market concepts applied in an educational setting is an over-reliance on uniform curriculum, rote learning, and on standardized testing, and they are sharply critical of the effects of these test-dependent kinds of accountability measures on equity in school settings. In particular, researchers at universities in the United States (for example, at Wisconsin, Harvard, Columbia, and Georgia), as well as in Britain and Australia, who study the impact of standardized curriculum and the effects of standardized testing assert that the market does not encourage diversity in curriculum, pedagogy, organization, clientele, or even image, and, what is of equal significance, markets consistently exacerbate differences in access and outcome based on race, ethnicity, and class.

POSITIONS:

Representatives of the following testified in support of the bill (3-11-03, 3-18-03, 3-19-03):

- Michigan Association of Public School Academies
- Detroit Chapter of the Black Alliance for Educational Options (BAEO)
- National Federal of Independent Business – Michigan
- Michigan Manufacturers Association
- Creative Technologies Academy (in Cedar Springs)
- Allen Academy (in Detroit)
- Linden Charter Academy (in Flint)
- Conner Creek Academy East
- Huron Academy (in Sterling Heights)

Representatives of the following testified in opposition to the bill (3-11-03, 3-18-03, 3-19-03):

- Michigan Education Association
- Michigan Federation of Teachers and School Related Personnel
- Michigan Small and Rural Schools
- International Union - UAW

- Michigan State AFL-CIO
- Oakland Schools
- Michigan Association of School Administrators
- Michigan Association of School Boards
- Middle Cities Education Association
- Service Employees International Union (SEIU)
- Calhoun, Branch, Genesee, Ottawa, and Muskegon intermediate school districts and Kalamazoo RESA
- Flint Community Schools
- Warren Consolidated Schools
- Milan Area Schools

Analyst: J. Hunault/D. Martens

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.