

# Legislative Analysis

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## **EXEMPT SCHOOL FOOD PURCHASES UNDER \$100,000 FROM COMPETITIVE BIDDING**

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### **House Bill 6365**

**Sponsor: Rep. Lee Gonzales**

### **House Bill 6366**

**Sponsor: Rep. Goeff Hansen**

**Committee: Agriculture**

**Complete to 9-8-08**

## **A SUMMARY OF HOUSE BILLS 6365 AND 6366 AS INTRODUCED 8-13-08**

House Bills 6365 and 6366 would allow school districts, public school academies, and intermediate school districts (ISDs) to make food purchases costing less than \$100,000 without competitive bids.

The Revised School Code requires school districts, public school academies, and intermediate school districts (ISDs) to adopt written procurement policies and to obtain competitive bids and board approval for purchases of supplies, materials, and equipment (single items or groups of items) exceeding a specified dollar threshold for a single transaction, sometimes called the "small purchase threshold." In addition, schools using money from their food service accounts to purchase food for school lunches are subject to federal procurement rules. The federal small purchase threshold amount is currently \$100,000. The state small purchase threshold is much lower, currently \$19,650. (Local districts may also have a lower threshold.) Purchases exceeding the state small purchase threshold must be made after competitive bidding. (Purchases made through the cooperative bulk purchasing program operated by the Department of Management and Budget do not require competitive bids.)

House Bills 6365 and 6366 would amend the Revised School Code to create an additional exception allowing school districts, public school academies, and ISDs to make food purchases costing less than \$100,000 without competitive bids and would update the generally-applicable small purchase threshold amount to \$19,650 to reflect the actual current level after previously-made adjustments for inflation. The small purchase threshold would continue to be adjusted annually for inflation. House Bill 6365 applies to school districts and charter schools. House Bill 6366 applies to intermediate school districts.

MCL 380.1274 (House Bill 6365)

MCL 380.623a (House Bill 6366)

## **BACKGROUND INFORMATION:**

According to the United States Department of Agriculture (USDA), \$100,000 is the current federal small purchase threshold under applicable federal regulations. In other words, school food authorities can purchase food costing \$100,000 or less without using formal competitive bidding proposals unless a lower small purchase threshold exists at the state level, as it does in Michigan, or at the local level.

A school cannot intentionally split purchases to fall below the federal small purchase threshold. An example provided by the USDA is that if a school food authority plans to purchase \$150,000 worth of lettuce for its salad bar, it may not split the purchase into two purchases of \$75,000 each. But it could specify different varieties of lettuce it wants to purchase and award two or more lettuce contracts to more than one supplier.

For more information about food-to-school programs, including a section on applicable procurement rules, see *"Eat Smart-Farm Fresh! A Guide to Buying and Serving Locally-Grown Produce in School Meals,"* Working Draft, December 2005, published by the USDA, Food and Nutrition Service, available online at:  
[http://www.fns.usda.gov/cnd/Guidance/Farm-to-School-Guidance\\_12-19-2005.pdf](http://www.fns.usda.gov/cnd/Guidance/Farm-to-School-Guidance_12-19-2005.pdf).

## **FISCAL IMPACT:**

The bills would have an indeterminate fiscal impact on intermediate districts, school districts, and public school academies. The proposed change in the competitive bidding threshold for food purchases could create savings by allowing increased flexibility and allowing districts to take advantage of certain purchase deals without having to go through a competitive bid process. However, the proposed threshold could also increase costs if districts increasingly enter contracts for goods at a higher price than would have been achieved through competitive bidding.

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■ 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.