

HOUSE BILL No. 4307

February 21, 2007, Introduced by Reps. Hildenbrand, Meekhof and Elsenheimer and referred to the Committee on Oversight and Investigations.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 503, 523, and 1311e (MCL 380.503, 380.523, and 380.1311e), section 503 as amended by 2003 PA 299, section 523 as added by 2003 PA 179, and section 1311e as added by 1999 PA 23.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 503. (1) An authorizing body is not required to issue a
2 contract to any person or entity. Public school academy contracts
3 shall be issued on a competitive basis taking into consideration
4 the resources available for the proposed public school academy, the
5 population to be served by the proposed public school academy, and
6 the educational goals to be achieved by the proposed public school
7 academy.

8 (2) If a person or entity applies to the board of a school

1 district for a contract to organize and operate 1 or more public
2 school academies within the boundaries of the school district and
3 the board does not issue the contract, the person or entity may
4 petition the board to place the question of issuing the contract on
5 the ballot to be decided by the school electors of the school
6 district. The petition shall contain all of the information
7 required to be in the contract application under section 502 and
8 shall be signed by a number of school electors of the school
9 district equal to at least 15% of the total number of school
10 electors of that school district. The petition shall be filed with
11 the school district filing official. If the board receives a
12 petition meeting the requirements of this subsection, the board
13 shall have the question of issuing the contract placed on the
14 ballot at its next regular school election held at least 60 days
15 after receiving the petition. If a majority of the school electors
16 of the school district voting on the question vote to issue the
17 contract, the board shall issue the contract.

18 (3) Within 10 days after issuing a contract for a public
19 school academy, the authorizing body shall submit to the
20 superintendent of public instruction a copy of the contract and of
21 the application under section 502.

22 (4) An authorizing body shall adopt a resolution establishing
23 the method of selection, length of term, and number of members of
24 the board of directors of each public school academy subject to its
25 jurisdiction.

26 (5) A contract issued to organize and administer a public
27 school academy shall contain at least all of the following:

1 (a) The educational goals the public school academy is to
2 achieve and the methods by which it will be held accountable. To
3 the extent applicable, the pupil performance of a public school
4 academy shall be assessed using at least a Michigan education
5 assessment program (MEAP) test or an assessment instrument
6 developed under section 1279 **OR 1279G**.

7 (b) A description of the method to be used to monitor the
8 public school academy's compliance with applicable law and its
9 performance in meeting its targeted educational objectives.

10 (c) A description of the process for amending the contract
11 during the term of the contract.

12 (d) All of the matters set forth in the application for the
13 contract.

14 (e) For a public school academy authorized by a school
15 district, an agreement that employees of the public school academy
16 will be covered by the collective bargaining agreements that apply
17 to employees of the school district employed in similar
18 classifications in schools that are not public school academies.

19 (f) Procedures for revoking the contract and grounds for
20 revoking the contract, including at least the grounds listed in
21 section 507.

22 (g) A description of and address for the proposed physical
23 plant in which the public school academy will be located.

24 (h) Requirements and procedures for financial audits. The
25 financial audits shall be conducted at least annually by a
26 certified public accountant in accordance with generally accepted
27 governmental auditing principles.

1 (6) A public school academy shall comply with all applicable
2 law, including all of the following:

3 (a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

4 (b) The freedom of information act, 1976 PA 442, MCL 15.231 to
5 15.246.

6 (c) 1947 PA 336, MCL 423.201 to 423.217.

7 ~~——(d) 1965 PA 166, MCL 408.551 to 408.558.~~

8 (D) ~~(e)~~ Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and
9 1274.

10 (7) A public school academy and its incorporators, board
11 members, officers, employees, and volunteers have governmental
12 immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An
13 authorizing body and its board members, officers, and employees are
14 immune from civil liability, both personally and professionally,
15 for an act or omission in authorizing a public school academy if
16 the authorizing body or the person acted or reasonably believed he
17 or she acted within the authorizing body's or the person's scope of
18 authority.

19 (8) A public school academy is exempt from all taxation on its
20 earnings and property. Instruments of conveyance to or from a
21 public school academy are exempt from all taxation including taxes
22 imposed by 1966 PA 134, MCL 207.501 to 207.513. A public school
23 academy may not levy ad valorem property taxes or another tax for
24 any purpose. However, operation of 1 or more public school
25 academies by a school district or intermediate school district does
26 not affect the ability of the school district or intermediate
27 school district to levy ad valorem property taxes or another tax.

1 (9) A public school academy may acquire by purchase, gift,
2 devise, lease, sublease, installment purchase agreement, land
3 contract, option, or by any other means, hold and own in its own
4 name buildings and other property for school purposes, and
5 interests therein, and other real and personal property, including,
6 but not limited to, interests in property subject to mortgages,
7 security interests, or other liens, necessary or convenient to
8 fulfill its purposes. For the purposes of condemnation, a public
9 school academy may proceed under the uniform condemnation
10 procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding
11 sections 6 to 9 of that act, MCL 213.56 to 213.59, or other
12 applicable statutes, but only with the express, written permission
13 of the authorizing body in each instance of condemnation and only
14 after just compensation has been determined and paid.

15 Sec. 523. (1) An authorizing body is not required to issue a
16 contract to any entity. Urban high school academy contracts shall
17 be issued on a competitive basis taking into consideration the
18 resources available for the proposed urban high school academy, the
19 population to be served by the proposed urban high school academy,
20 and the educational goals to be achieved by the proposed urban high
21 school academy. In evaluating if an applicant is qualified, the
22 authorizing body shall examine the proposed performance standards,
23 proposed academic program, financial viability of the applicant,
24 and the ability of the proposed board of directors to meet the
25 contract goals and objectives. An authorizing body shall give
26 priority to applicants that demonstrate all of the following:

27 (a) The proposed school will operate at least all of grades 9

1 through 12 within 3 years after beginning operation.

2 (b) The proposed school will occupy a building or buildings
3 that are newly constructed or renovated after January 1, 2003.

4 (c) The proposed school has a stated goal of increasing high
5 school graduation rates.

6 (d) The proposed school has received commitments for financial
7 and educational support from the entity applying for the contract.

8 (e) The entity that submits the application for a contract has
9 net assets of at least \$50,000,000.00.

10 (2) A contract issued to organize and administer an urban high
11 school academy shall contain at least all of the following:

12 (a) The educational goals the urban high school academy is to
13 achieve and the methods by which it will be held accountable. To
14 the extent applicable, the pupil performance of an urban high
15 school academy shall be assessed using at least a Michigan
16 education assessment program (MEAP) test or an assessment
17 instrument developed under section 1279 **OR 1279G**.

18 (b) A description of the method to be used to monitor the
19 urban high school academy's compliance with applicable law and its
20 performance in meeting its targeted educational objectives.

21 (c) A description of the process for amending the contract
22 during the term of the contract. An authorizing body may approve
23 amendment of the contract with respect to any provision contained
24 in the contract.

25 (d) A certification, signed by an authorized member of the
26 urban high school academy board of directors, that the urban high
27 school academy will comply with the contract and all applicable

1 law.

2 (e) Procedures for revoking the contract and grounds for
3 revoking the contract.

4 (f) A description of and address for the proposed building or
5 buildings in which the urban high school academy will be located.

6 (g) Requirements and procedures for financial audits. The
7 financial audits shall be conducted at least annually by an
8 independent certified public accountant in accordance with
9 generally accepted governmental auditing principles.

10 (h) A requirement that the board of directors shall ensure
11 compliance with the requirements of 1968 PA 317, MCL 15.321 to
12 15.330.

13 (i) A requirement that the board of directors shall prohibit
14 specifically identified family relationships between members of the
15 board of directors, individuals who have an ownership interest in
16 or who are officers or employees of an educational management
17 company involved in the operation of the urban high school academy,
18 and employees of the urban high school academy. The contract shall
19 identify the specific prohibited relationships consistent with
20 applicable law.

21 (j) A requirement that the board of directors of the urban
22 high school academy shall make information concerning its operation
23 and management available to the public and to the authorizing body
24 in the same manner as is required by state law for school
25 districts.

26 (k) A requirement that the board of directors of the urban
27 high school academy shall collect, maintain, and make available to

1 the public and the authorizing body, in accordance with applicable
2 law and the contract, at least all of the following information
3 concerning the operation and management of the urban high school
4 academy:

5 (i) A copy of the contract issued by the authorizing body for
6 the urban high school academy.

7 (ii) A list of currently serving members of the board of
8 directors of the urban high school academy, including name,
9 address, and term of office; copies of policies approved by the
10 board of directors; board meeting agendas and minutes; copy of the
11 budget approved by the board of directors and of any amendments to
12 the budget; and copies of bills paid for amounts of \$10,000.00 or
13 more as they were submitted to the board of directors.

14 (iii) Quarterly financial reports submitted to the authorizing
15 body.

16 (iv) A current list of teachers working at the urban high
17 school academy that includes their individual salaries; copies of
18 the teaching certificates or permits of current teaching staff; and
19 evidence of compliance with the criminal background and records
20 checks and unprofessional conduct check required under sections
21 1230, 1230a, and 1230b for all teachers and administrators working
22 at the urban high school academy.

23 (v) Curriculum documents and materials given to the
24 authorizing body.

25 (vi) Proof of insurance as required by the contract.

26 (vii) Copies of facility leases or deeds, or both, and of any
27 equipment leases.

1 (viii) Copies of any management contracts or services contracts
2 approved by the board of directors.

3 (ix) All health and safety reports and certificates, including
4 those relating to fire safety, environmental matters, asbestos
5 inspection, boiler inspection, and food service.

6 (x) Any management letters issued as part of the annual
7 financial audit under subdivision (g).

8 (xi) Any other information specifically required under this
9 act.

10 (l) A requirement that the authorizing body must review and may
11 disapprove any agreement between the board of directors and an
12 educational management company before the agreement is final and
13 valid. An authorizing body may disapprove an agreement described in
14 this subdivision only if the agreement is contrary to the contract
15 or applicable law.

16 (m) A requirement that the board of directors shall
17 demonstrate all of the following to the satisfaction of the
18 authorizing body with regard to its pupil admission process:

19 (i) That the urban high school academy has made a reasonable
20 effort to advertise its enrollment openings in a newspaper of
21 general circulation in the intermediate school district in which
22 the urban high school academy is located.

23 (ii) That the urban high school academy has made the following
24 additional efforts to recruit pupils who are eligible for special
25 education programs and services to apply for admission:

26 (A) Reasonable efforts to advertise all enrollment openings to
27 organizations and media that regularly serve and advocate for

1 individuals with disabilities within the boundaries of the
2 intermediate school district in which the urban high school academy
3 is located.

4 (B) Inclusion in all pupil recruitment materials of a
5 statement that appropriate special education services will be made
6 available to pupils attending the school as required by law.

7 (iii) That the open enrollment period for the urban high school
8 academy is for a duration of at least 2 weeks and that the
9 enrollment times include some evening and weekend times.

10 (n) A requirement that the board of directors shall prohibit
11 any individual from being employed by the urban high school academy
12 in more than 1 full-time position and simultaneously being
13 compensated at a full-time rate for each of those positions.

14 (o) A requirement that, if requested, the board of directors
15 shall report to the authorizing body the total compensation for
16 each individual working at the urban high school academy.

17 (3) An urban high school academy shall comply with all
18 applicable law, including all of the following:

19 (a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

20 (b) The freedom of information act, 1976 PA 442, MCL 15.231 to
21 15.246.

22 (c) 1947 PA 336, MCL 423.201 to 423.217.

23 ~~(d) 1965 PA 166, MCL 408.551 to 408.558.~~

24 (D) ~~(e)~~ 1978 PA 566, MCL 15.181 to 15.185.

25 (E) ~~(f)~~ 1968 PA 317, MCL 15.321 to 15.330.

26 (F) ~~(g)~~ The uniform budgeting and accounting act, 1968 PA 2,
27 MCL 141.421 to 141.440a.

1 (G) ~~(h)~~—The revised municipal finance act, 2001 PA 34, MCL
2 141.2101 to 141.2821.

3 (H) ~~(i)~~—The ~~federal~~ no child left behind act of 2001, Public
4 Law 107-110. , ~~115 Stat. 1425.~~

5 (I) ~~(j)~~—Sections 1134, 1135, 1146, 1153, 1263(3), 1267, 1274,
6 and 1280.

7 (4) An urban high school academy and its incorporators, board
8 members, officers, employees, and volunteers have governmental
9 immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An
10 authorizing body and its board members, officers, and employees are
11 immune from civil liability, both personally and professionally,
12 for any acts or omissions in authorizing or oversight of an urban
13 high school academy if the authorizing body or the person acted or
14 reasonably believed he or she acted within the authorizing body's
15 or the person's scope of authority.

16 (5) An urban high school academy is exempt from all taxation
17 on its earnings and property. Instruments of conveyance to or from
18 an urban high school academy are exempt from all taxation,
19 including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. An
20 urban high school academy may not levy ad valorem property taxes or
21 any other tax for any purpose.

22 (6) An urban high school academy may acquire by purchase,
23 gift, devise, lease, sublease, installment purchase agreement, land
24 contract, option, or any other means, hold, and own in its own name
25 buildings and other property for school purposes, and interests
26 therein, and other real and personal property, including, but not
27 limited to, interests in property subject to mortgages, security

1 interests, or other liens, necessary or convenient to fulfill its
2 purposes. For the purposes of condemnation, an urban high school
3 academy may proceed under the uniform condemnation procedures act,
4 1980 PA 87, MCL 213.51 to 213.75, excluding sections 6 to 9 of that
5 act, MCL 213.56 to 213.59, or other applicable statutes, but only
6 with the express, written permission of the authorizing body in
7 each instance of condemnation and only after just compensation has
8 been determined and paid.

9 Sec. 1311e. (1) An authorizing body is not required to issue a
10 contract to any person or entity. Contracts for strict discipline
11 academies shall be issued on a competitive basis taking into
12 consideration the resources available for the proposed strict
13 discipline academy, the population to be served by the proposed
14 strict discipline academy, and the educational goals to be achieved
15 by the proposed strict discipline academy.

16 (2) If a person or entity applies to the board of a school
17 district for a contract to organize and operate 1 or more strict
18 discipline academies within the boundaries of the school district
19 and the board does not issue the contract, the person or entity may
20 petition the board to place the question of issuing the contract on
21 the ballot to be decided by the school electors of the school
22 district. The petition shall contain all of the information
23 required to be in the contract application under section 1311d and
24 shall be signed by a number of school electors of the school
25 district equal to at least 15% of the total number of school
26 electors of that school district. The petition shall be filed with
27 the secretary of the board. If the board receives a petition

1 meeting the requirements of this subsection, the board shall place
2 the question of issuing the contract on the ballot at its next
3 annual school election held at least 60 days after receiving the
4 petition. If a majority of the school electors of the school
5 district voting on the question vote to issue the contract, the
6 board shall issue the contract.

7 (3) Within 10 days after issuing a contract for a strict
8 discipline academy, the board of the authorizing body shall submit
9 to the ~~state board~~ **SUPERINTENDENT OF PUBLIC INSTRUCTION** a copy of
10 the contract and of the application under section 1311d.

11 (4) An authorizing body shall adopt a resolution establishing
12 the method of selection, length of term, and number of members of
13 the board of directors of each strict discipline academy subject to
14 its jurisdiction.

15 (5) A contract issued to organize and administer a strict
16 discipline academy shall contain at least all of the following:

17 (a) The educational goals the strict discipline academy is to
18 achieve and the methods by which it will be held accountable. To
19 the extent applicable, the pupil performance of a strict discipline
20 academy shall be assessed using at least a Michigan education
21 assessment program (MEAP) test or an assessment instrument
22 developed under section 1279 ~~for a state-endorsed high school~~
23 ~~diploma~~ **OR 1279G**.

24 (b) A description of the method to be used to monitor the
25 strict discipline academy's compliance with applicable law and its
26 performance in meeting its targeted educational objectives.

27 (c) A description of the process for amending the contract

1 during the term of the contract.

2 (d) All of the matters set forth in the application for the
3 contract.

4 (e) For a strict discipline academy authorized by a school
5 district, an agreement that employees of the strict discipline
6 academy will be covered by the collective bargaining agreements
7 that apply to employees of the school district employed in similar
8 classifications in schools that are not strict discipline
9 academies.

10 (f) Procedures for revoking the contract and grounds for
11 revoking the contract, including at least the grounds listed in
12 section 1311/.

13 (g) A description of and address for the proposed physical
14 plant in which the strict discipline academy will be located.

15 (h) Requirements and procedures for financial audits. The
16 financial audits shall be conducted at least annually by a
17 certified public accountant in accordance with generally accepted
18 governmental auditing principles.

19 (6) A strict discipline academy shall comply with all
20 applicable law, including all of the following:

21 (a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

22 (b) The freedom of information act, 1976 PA 442, MCL 15.231 to
23 15.246.

24 (c) 1947 PA 336, MCL 423.201 to 423.217.

25 ~~—(d) 1965 PA 166, MCL 408.551 to 408.558.~~

26 (D) ~~(e)~~ Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and
27 1274.

1 (E) ~~(f)~~—Except for part 6a, all provisions of this act that
2 explicitly apply to public school academies established under part
3 6a.

4 (7) A strict discipline academy and its incorporators, board
5 members, officers, employees, and volunteers have governmental
6 immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An
7 authorizing body and its board members, officers, and employees are
8 immune from civil liability, both personally and professionally,
9 for any acts or omissions in authorizing a strict discipline
10 academy if the authorizing body or the person acted or reasonably
11 believed he or she acted within the authorizing body's or the
12 person's scope of authority.

13 (8) A strict discipline academy is exempt from all taxation on
14 its earnings and property. Instruments of conveyance to or from a
15 strict discipline academy are exempt from all taxation including
16 taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. A strict
17 discipline academy may not levy ad valorem property taxes or any
18 other tax for any purpose. However, operation of 1 or more strict
19 discipline academies by a school district or intermediate school
20 district does not affect the ability of the school district or
21 intermediate school district to levy ad valorem property taxes or
22 any other tax.

23 (9) A strict discipline academy may acquire by purchase, gift,
24 devise, lease, sublease, installment purchase agreement, land
25 contract, option, or by any other means, hold and own in its own
26 name buildings and other property for school purposes, and
27 interests therein, and other real and personal property, including,

1 but not limited to, interests in property subject to mortgages,
2 security interests, or other liens, necessary or convenient to
3 fulfill its purposes. For the purposes of condemnation, a strict
4 discipline academy may proceed under the uniform condemnation
5 procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding
6 sections 6 to 9 of that act, MCL 213.56 to 213.59, or other
7 applicable statutes, but only with the express, written permission
8 of the authorizing body in each instance of condemnation and only
9 after just compensation has been determined and paid.