



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536


 BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 618 (as enacted)
Sponsor: Senator Phil Pavlov
Senate Committee: Education
House Committee: Education

PUBLIC ACT 277 of 2011

Date Completed: 1-4-12

CONTENT

The bill amends the Revised School Code to do the following with respect to public school academies (PSAs), urban high school academies, and schools of excellence (SOEs):

- Delete numerical and geographical limits on the issuance of contracts for PSAs, urban high school academies, and SOEs.
- Allow two or more authorizing bodies to issue a contract for a PSA or an SOE under an interlocal agreement.
- Require educational goals to include demonstrated pupil academic achievement for all groups of pupils.
- Permit contracts for the operation of the same configuration of age or grade levels at more than one site.
- Delete requirements for a PSA or SOE to comply with a school district's collective bargaining agreement.
- Exempt property of a PSA, urban high school academy, or SOE from property taxes levied for school operating purposes, and from the State Education Tax.
- Require a petition to be signed by at least 5%, rather than 15%, of the electors in a school district, in order to place the question of issuing a PSA or SOE contract on the ballot.
- Revise provisions concerning the responsibilities of an authorizing body and the revocation of a contract.

- Require a management agreement with an educational management organization to require the disclosure and posting of certain budgetary information.

The bill also requires PSAs, urban high school academies, and schools of excellence to comply with laws concerning participation in State assessments, data collection systems, State level student growth models, State accountability and accreditation systems, and other public comparative data collection required for public schools.

In addition, the bill does the following:

- Requires a bipartisan workgroup to be convened and recommend measures to improve educational quality in all public schools.
- Requires the board of a school district, intermediate school district, or PSA to post on its website a notice of the adequate yearly progress status and accreditation status of each school it operates.

The bill will take effect on March 28, 2012.

Public School Academies

"Authorizing Body". Currently, one of the following may be an authorizing body that issues a contract for the operation of a PSA:

- The board of a school district that operates grades K to 12.
- An intermediate school board.
- The board of a community college.
- The governing board of a State public university.

The bill also includes two or more of those public agencies exercising power, privilege, or authority jointly pursuant to an interlocal agreement under the Urban Cooperation Act.

Limits on Contracts Issuance. Currently, the combined total number of contracts for PSAs issued by all State public universities may not exceed 150. The bill increases this limit to 300 through December 31, 2012, and to 500 through December 31, 2014. After that date, there will be no limit on the combined total number of contracts for PSAs issued by all State public universities.

The bill deletes a provision under which the total number of contracts issued by any one university may not exceed 50% of the maximum combined total number.

Criteria for Issuing a Contract. The Code requires an authorizing body to consider various factors when deciding whether to issue a contract for a PSA. These include the resources available for the PSA, the population to be served, and the educational goals. The bill also requires an authorizing body to consider the following:

- The graduation rate of a school district in which the PSA is proposed to be located.
- The population of a county where the PSA is proposed to be located.
- The number of schools in the proximity of a proposed location that are among the lowest-achieving 5% of all public schools in the State.
- The number of pupils on waiting lists of PSAs in the proximity of a proposed location.

Educational Goals. An application for a PSA contract must include, among other things, a copy of the educational goals of the PSA, the curricula to be offered, and the methods of pupil assessment to be used. A contract for a PSA also must include the educational goals it is to achieve and the methods by which it will be held accountable. The bill requires the educational goals to include

demonstrated improved pupil academic improvement for all groups of pupils.

Collective Bargaining Agreement. For a PSA authorized by a school district, the application must include an assurance that employees of the PSA will be covered by the collective bargaining agreements that apply to other employees of the district employed in similar classifications in schools that are not PSAs. The contract for a PSA authorized by a school district also must include an agreement to this effect. The bill deletes these requirements.

Board of Directors. The Code requires an authorizing body to adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each PSA subject to its jurisdiction. The bill requires this resolution to be written or amended as necessary to include a requirement that each member of the board be a citizen of the United States.

Multiple Sites. The bill allows a contract applicant to request the authorizing body to issue a contract allowing the PSA board of directors to operate the same configuration of age or grade levels at more than one site. An authorizing body may include such a provision in the contract as long as the PSA is operating in compliance with its contract and is making measurable progress toward meeting its educational goals.

For a contract for a new PSA, an authorizing body may permit it to operate the same configuration of age or grade levels at more than one site if the applicant presents documentation demonstrating that its proposed educational model has resulted in schools' making measurable progress toward meeting their educational goals.

Oversight Responsibility. Under the Code, an authorizing body is responsible for overseeing, or contracting with an intermediate school district (ISD), community college, or university to oversee, each PSA operating under a contract issued by that authorizing body. The bill deletes a requirement that the oversight be sufficient to ensure that the authorizing body can certify that the PSA is in compliance with statute, rules, and the terms of the contract.

The bill provides that the authorizing body is responsible for overseeing compliance by

the board of directors with the contract and all applicable law. These provisions will not relieve any other government entity of its enforcement or supervisory responsibility.

Ballot Petition. Under the Code, if a person applies to the board of a school district for a contract to organize one or more PSAs within the boundaries of the district, and the board does not issue the contract, the person may petition the board to place the question on the ballot to be decided by the school electors. The petition must be signed by the number of electors equal to at least 15% of the total number of school electors of the district. The bill reduces that percentage to 5%.

Additional Contract Provisions. In addition to the provisions that currently must be in a contract for a PSA, the bill requires the following:

- A certification, signed by an authorized member of the board of directors of the PSA, that it will comply with the contract and all applicable law.
- A requirement that the board ensure compliance with Public Act 317 of 1968 (which governs contracts between public servants and public entities).
- A requirement that the board prohibit specifically identified family relationships between board members, individuals with an ownership interest in an educational management organization involved in the PSA's operation, officers or employees of such an organization, and employees of the PSA.
- A requirement that the board make information concerning its operation and management available to the public and to the authorizing body in the same manner as required by State law for school districts.
- A provision requiring the authorizing body to review, and allowing it to disapprove, any agreement between the board and an educational management organization before the agreement is final and valid.
- A requirement that the board prohibit any individual from being employed by the PSA in more than one full-time position and simultaneously being compensated at a full-time rate for each of those positions.

The contract also must require the board to collect, maintain, and make available to the public and the authorizing body at least all of the following information concerning the PSA's operation and management:

- A copy of the contract.
- A list of currently serving board members; copies of policies approved by the board; board meeting agendas and minutes; a copy of the budget approved by the board; and copies of bills paid for \$10,000 or more.
- Quarterly financial reports submitted to the authorizing body.
- A current list of teachers and administrators working at the school, including their individual salaries, and copies of their teaching or school administrator's certificates or permits.
- Evidence of compliance with the criminal background and records checks and unprofessional conduct check required under the Code for all teachers and administrators working at the PSA.
- Curriculum documents and materials given to the authorizing body.
- Copies of any management contracts or services contracts approved by the board.
- Copies of facility leases or deeds, or both, and of any equipment leases.
- All health and safety reports and certificates.
- Any management letters issued as part of the annual financial audit.
- Any other information specifically required under the Code.

Tax Exemption. Under the bill, unless the property is already fully exempt from real and personal property taxes under the General Property Tax Act, property occupied by a PSA and used exclusively for educational purposes will be exempt from real and personal property taxes levied for school operating purposes and from the State Education Tax.

Enrollment. Currently, enrollment in a PSA may be open to all individuals who reside in this State who meet the admission policy, and must be open to all pupils who reside within the geographic boundaries of the authorizing body. Under the bill, this applies to a PSA authorized by a school district, an ISD, or a community college.

As currently provided, for a PSA authorized by a State public university, enrollment must be open to all pupils who reside in the State who meet the admission policy.

The Code allows a PSA to give enrollment priority to a pupil who transfers to the PSA from another PSA pursuant to a matriculation agreement between them. The bill, instead, allows a PSA to give enrollment priority to a pupil who transfers to the PSA from another public school pursuant to a matriculation agreement between the PSA and the other public school.

The bill also allows a PSA to give enrollment priority to a child of a person who is employed by or at the PSA or who is on its board of directors.

Authorizing Body Responsibilities. The bill requires an authorizing body that issues a PSA contract to do all of the following:

- Ensure that the contract and the application for it comply with the Code.
- Within 10 days after issuing the contract, submit a copy to the Department of Education.
- Establish the method of selection, length of term, and number of members of the board of directors of each PSA it authorizes, and ensure that the board includes representatives from the local community.
- Oversee each PSA sufficiently to ensure that the board of directors is in compliance with the contract and applicable law.
- Develop and implement a process for holding a PSA accountable for meeting applicable academic performance standards set forth in the contract and for implementing corrective action for a PSA that does not meet the standards.
- Take necessary measures to ensure that the board operates independently of any educational management company involved in the PSA's operations.
- Oversee and ensure that the pupil admission process used by the PSA is operated in a fair and open manner and is in compliance with the contract and the Code.
- Ensure that the board maintains and releases information as necessary to comply with applicable law.

Contract Revocation. The Code allows an authorizing body to revoke a PSA contract if it determines that any of the following have occurred:

- Failure of the PSA to abide by and meet the educational goals set forth in the contract.
- Failure of the PSA to comply with all applicable law.
- Failure of the PSA to meet generally accepted public sector accounting principles.
- The existence of one or more other grounds for revocation as specified in the contract.

The bill retains these provisions but refers to failure to demonstrate improved pupil academic achievement for all groups of pupils or meet the educational goals set forth in the contract; and failure to meet generally accepted public sector accounting principles and demonstrate sound fiscal stewardship.

Currently, except for a PSA that is an alternative school serving a special student population, if the Superintendent of Public Instruction determines that a PSA site that has been operating for at least four years is among the lowest-achieving 5% of all public schools in the State, and is in year two of restructuring sanctions under the No Child Left Behind Act, the Superintendent must notify the authorizing body. Under the bill, this will not apply if the PSA is undergoing reconstitution.

Currently, if an authorizing body receives this notice, it must revoke the PSA's contract and the PSA must be closed at the end of the school year. Under the bill, instead, the authorizing body must amend the PSA's contract to eliminate its authority to operate the existing age and grade levels at the site and the PSA must cease operating those age and grade levels at the site, effective at the end of the school year. If the PSA operates at only one site, the authorizing body must revoke the PSA's contract.

Except as provided above, the bill allows an authorizing body, before revoking a contract, to consider and take corrective measures to avoid revocation. An authorizing body may reconstitute the PSA in a final attempt to improve student

educational performance or to avoid interruption of the educational process. An authorizing body must include a reconstituting provision in the contract that identifies these corrective measures, including canceling a contract with an educational management organization, if any, withdrawing approval of an employment contract, or appointing a new board of directors or a trustee to take over operation of the PSA.

The bill requires an authorizing body, if it revokes a contract, to work with a school district or another public school, or both, to ensure a smooth transition for the affected pupils. If the revocation occurs during the school year, the authorizing body, as fiscal agent, will have to return to the State Treasurer any school aid funds it holds that are attributable to the affected pupils, for deposit in the State School Aid Fund. The State Treasurer must distribute funds to the public school in which the pupils enroll after the revocation according to a methodology established by the Department of Education and the Center for Educational Performance and Information.

Within 10 days after a PSA's contract terminates or is revoked, the authorizing body will have to notify the Superintendent of Public Instruction of the name of the PSA and the date of the termination or revocation.

Educational Management Agreement. Beginning with agreements that are entered into or renewed after the bill's effective date, if a PSA's board of directors enters into or renews a management agreement with an educational management organization to carry out the operations of the PSA, the agreement must require the organization to give the board, at least annually, all of the information that a school district is required to disclose under Section 18(2) of the State School Aid Act (described below), for the most recent school fiscal year for which that information is available.

The agreement also must require the board, within 30 days after receiving the information, to make all of it available through a link on the PSA's website homepage, as prescribed by the Department.

As used in these provisions, "management agreement" means an agreement to provide comprehensive educational, administrative, management, or instructional services or staff to a PSA.

(Section 18(2) of the State School Aid Act requires a district to disclose: its annual operating budget and subsequent budget revisions; a summary of district expenditures; the total salary and fringe benefits for the superintendent and for each employee whose salary exceeds \$100,000; the annual amounts spent on dues paid to associations and on lobbying; and links to collective bargaining agreements, health care benefits plans offered to employees, the most recent audit report, and the bids required under the Public Employee Health Benefits Act.)

Certificated Teachers. The Code requires PSAs to use certificated teachers, subject to exceptions for PSAs "operated" by a university or community college. The bill refers, instead, to PSAs "authorized" by a university or community college.

Annual Report. The bill repeals Section 501a, which requires the State Board of Education, at least annually, to submit to the House and Senate Education Committees a report evaluating PSAs generally, and containing specific information for each PSA.

Urban High School Academies

Contract Issuance; Priority. The Code allows the governing board of a State public university to act as an authorizing body to issue a contract for the organization and operation of an urban high school academy. Not more than 15 contracts may be issued for an urban high school academy that will be located in a county with a population of at least 1.0 million, and an urban high school academy may not operate outside the boundaries of such a county. The bill deletes those limitations.

The Code requires an authorizing body to give priority to applicants for a contract that demonstrate specific conditions, including that the proposed school will operate at least all of grades 9 through 12 within three years after beginning operation. The bill changes this to five years after beginning operation.

Multiple Sites. Under the Code, an urban high school academy may not operate at a site other than the single site requested for the configuration of grades that will use the site, except as allowed in its contract.

If an urban high school academy operates the same configuration of grades at more than one site, each of those sites must be considered to be operated under a separate contract, and the operation must be equivalent to the issuance of a contract for the purposes of the limitation on the number of contracts that may be issued. If an urban high school academy operates classes at more than one location, it must be considered to be operating at a single site if all of the locations are within a one-mile radius of the academy's central administrative office and if the total number of pupils enrolled in any particular grade at all locations does not exceed 135. The bill deletes these provisions.

As provided for a PSA, the bill includes language allowing an authorizing body to permit an urban high school academy to operate the same configuration of age or grade levels at more than one site, subject to requirements for contract compliance and progress toward educational goals.

Educational Goals. Under the bill, urban high school academies will be subject to the same requirements concerning educational goals as provided for PSAs.

Contract Revocation. As provided for a PSA, the Code allows an authorizing body to revoke the contract for an urban high school academy if particular grounds exist. The bill revises these in the same manner as provided for PSAs.

The bill also adds language regarding an urban high school academy that is among the lowest-achieving 5% of public schools. The language is the same as provided for PSAs, subject to the bill's amendments.

Currently, before an authorizing body revokes a contract, it must consider and take corrective measures to avoid revocation, and must reconstitute the academy in a final attempt to improve student educational performance or to avoid interruption of the educational process. Under the bill, these actions will be permissive.

Power of Authorizing Body. Currently, if the State Board finds that an authorizing body is not engaging in appropriate continuing oversight of one or more urban high school academies, the Board by unanimous vote may suspend the power of the authorizing body to issue new contracts. The bill transfers this responsibility from the Board to the Superintendent of Public Instruction.

Tax Exemption. Under the bill, unless the property already is fully exempt from real and personal property taxes, property occupied by an urban high school academy and used exclusively for educational purposes will be exempt from real and personal property taxes levied for school operating purposes and from the State Education Tax.

Educational Management Contract. Under the bill, an urban high school academy will be subject to the same requirements concerning a management agreement with an educational management organization, as the bill provides for a PSA.

Board of Directors. The Code requires an authorizing body to adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each urban high school academy that it authorizes. The bill requires this resolution to be written or amended as necessary to include a requirement that each member of the board be a citizen of the United States.

Schools of Excellence

"Authorizing Body". Currently, one of the following may be an authorizing body that issues a contract for the operation of an SOE:

- The board of a school district that operates grades K to 12.
- An intermediate school board.
- The board of a community college.
- The governing board of a State public university.

The bill also includes two or more of those public agencies exercising power, privilege, or authority jointly pursuant to an interlocal agreement under the Urban Cooperation Act.

Limits on SOE Contracts. Currently, except as provided for SOEs that are cyber schools and for PSAs that convert to SOEs, not more than a combined total of 10 contracts to organize and operate a school of excellence may be issued by all authorizing bodies, and an SOE contract may not be issued after January 1, 2015. The bill deletes these provisions.

Oversight Fee. The Code allows an authorizing body to charge a fee, or require the reimbursement of expenses, for considering a contract application, issuing a contract, or providing oversight of a contract, in an amount that does not exceed a combined total of 3% of the total State school aid received by the SOE in the school year in which the fees or expenses are charged.

The authorizing body may use the fee only for purposes specified in the Code and other purposes that assist the SOE or traditional public schools in achieving improved academic performance. The bill deletes this provision.

Other Provisions. With respect to schools of excellence, the bill makes the same changes as provided for PSAs concerning the following:

- Educational goals.
- Contracts to operate the same configuration of age or grade levels at more than one site.
- An authorizing body's oversight responsibilities.
- Collective bargaining agreements.
- Petition signatures.
- Exemptions from school operating taxes and the State Education Tax.
- Revocation of a contract.
- Certificated teachers.
- Enrollment preference.
- Agreements with educational management organizations.
- Citizenship of board members.

Workgroup Recommendations

The bill requires the Senate Majority Leader and the Speaker of the House of Representatives to convene a bipartisan workgroup to recommend to the Senate and House Education Committees measures to improve educational quality in all public schools for all pupils. The workgroup must

focus on student growth and submit its recommendations by March 30, 2012.

AYP & Accreditation Status

The bill requires the board of a school district or ISD or the board of directors of a PSA to post a notice of the adequate yearly progress (AYP) status of each school it operates on the homepage of its website, within 20 days after the board is informed of the AYP status of its schools for purposes of the No Child Left Behind Act, for the most recent school year for which it is available.

Also, within 20 days after Department of Education informs the board or board of directors of the accreditation status of its schools for the most recent school year for which it is available, the board must post a notice of the accreditation status of each school it operates on the homepage of its website.

MCL 380.501 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

State – State costs may increase in the short term if the removal of various restrictions and caps on the numbers of various forms of charter schools (public school academies, urban high school academies, and schools of excellence) leads to the creation of more charter schools. When a new charter school opens, the formula to pay for the first two years that the school is open typically yields a slightly higher pupil membership count than the blending formula used for older charter schools and local districts, which in turn means somewhat higher foundation allowance costs for the State. The magnitude will depend upon the additional charter schools that open as a result of this bill, and the number of pupils enrolled.

Also, the bill requires a bipartisan workgroup to be convened and recommend measures to improve educational quality in all public schools. Depending on the magnitude and scope of the workgroup's efforts, additional State costs may accrue, but by an indeterminate amount.

In addition, the bill will have a fiscal impact by exempting from taxation real and

personal property at charter schools. The bill will reduce State and local revenue by an unknown amount that will depend on the number of properties affected as well as their specific characteristics. Any reduction in revenue from mills levied for school operating purposes by local schools will require increased expenditures from the School Aid Fund if per-pupil funding guarantees are to be maintained or, when combined with the reduced revenue from the State Education Tax, will require per-pupil funding guarantees to be less than they would be absent the bill.

Local - The bill removes assurances that employees of a public school academy or a school of excellence authorized by a school district be covered by the collective bargaining agreement of the district. This will allow the PSA or SOE to set wages and benefits at levels other than those specified by existing collective bargaining agreements. There will be a fiscal impact if the wages and benefits offered to employees at these district-authorized PSAs or SOEs differ from those in place at the district. In addition, the bill allows PSAs and SOEs "authorized" (rather than "operated") by a community college or university to use noncertificated teachers in certain situations; depending on the wages and benefits offered, this may result in fiscal implications when compared with the hiring of certificated teachers. This last change is likely technical in nature, since universities and community colleges do not operate charter schools, but do authorize them.

The bill might result in some efficiencies at the charter school level by allowing for one charter agreement to be issued for multiple sites covering the same grades, as long as the PSA is operating in compliance with its contract and making measurable progress toward meeting its educational goals, where current law requires separate charter agreements. The legislation does include some additional reporting requirements, however, which may lead to some additional administrative costs.

By requiring an educational management organization to disclose to a PSA board of directors all of the same information as required of a local school district, the bill might enable the board to operate more efficiently with that additional information.

Whether this will have a fiscal impact is unclear.

Fiscal Analyst: Kathryn Summers

S1112\S618es

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.