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Senate Bill 618 (as introduced 9-7-11)  
Sponsor: Senator Phil Pavlov  
Committee: Education

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## **CONTENT**

**The bill would amend 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 real and personal property taxes.**
- **Require enrollment at a PSA or an SOE authorized by a community college to be open to all pupils in the State meeting the admission policy.**
- **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.**

**The bill also would allow the board of a school district to contract with a person or entity to furnish qualified teachers, and would require a contract to include specific assurances.**

The bill is tie-barred to Senate Bills 619, 620, 621, and 624. Senate Bill 619 would amend the Code to delete the limit on the number of cyber schools that may be formed, and revise requirements for cyber schools. Senate Bill 620 would amend the Code to provide for the formation of "conversion schools". Senate Bill 621 would make changes in the State School Aid Act concerning the provision of State aid for the instruction of nonpublic students by public schools. Senate Bill 624 would amend that Act to delete the geographic requirement for schools of choice participation. All of those bills are tie-barred to Senate Bill 618, which is described in detail below.

### 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 would include 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. The bill would delete provisions under which the board of a community college may not issue a contract for a PSA to operate in a first class school district or for a PSA to operate outside the boundaries of the community college district. The bill also would delete provisions that allow a community college to issue a contract for a PSA to operate on the grounds of a Federal military installation outside the boundaries of the community college district.

Currently, the combined total number of contracts for PSAs issued by all State public universities may not exceed 150, and the total number of contracts issued by any one university may not exceed 50% of the maximum combined total number. The bill would delete this provision.

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 would require 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 would delete these requirements.

Multiple Sites. The bill would allow 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 could include such a provision in the contract if each configuration of age or grade levels and each site identified in the contract were under the direction and control of the board of directors.

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 would delete 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 would be responsible for overseeing compliance by the board of directors with the contract and all applicable law. These provisions would 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 would reduce that percentage to 5%.

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

- A certification, signed by an authorized member of the board of directors of the PSA, that it would 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 was 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 would have to 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 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, property occupied by a PSA and used exclusively for educational purposes would be exempt from real and personal property taxes.

Enrollment. Currently, enrollment in a PSA may be open to all individuals who reside in this State who meet the admission policy. Under the bill, this would apply to a PSA authorized by a school district or an ISD.

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 bill would extend this requirement to a PSA authorized by a community college.

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, would allow a PSA to give enrollment priority to a pupil who transferred to the PSA from another public school pursuant to a matriculation agreement between the PSA and the other public school.

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

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

- Ensure that the contract and the application for it complied 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 authorized, and ensure that the board included representatives from the local community.
- Oversee each PSA sufficiently to ensure that the board of directors was 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 did not meet the standards.
- Take necessary measures to ensure that the board operated independently of any educational management company involved in the PSA's operations.

- Oversee and ensure that the pupil admission process used by the PSA was operated in a fair and open manner and was in compliance with the contract and the Code.
- Ensure that the board maintained and released 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 would retain these provisions but would refer to failure to demonstrate improved public 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 would not apply if the PSA were undergoing reconstitution.

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. The bill, instead, would require the authorizing body to amend the PSA's contract to eliminate its authority to operate the existing age and grade levels at the site and the PSA would have to cease operating those age and grade levels at the site, effective at the end of the school year. If the PSA operated at only one site, the

authorizing body would have to revoke the PSA's contract.

Except as provided above, the bill would allow an authorizing body, before revoking a contract, to consider and take corrective measures to avoid revocation. An authorizing body could reconstitute the PSA in a final attempt to improve student educational performance or to avoid interruption of the educational process. An authorizing body would have to include a reconstituting provision in the contract that identified 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.

If an authorizing body revoked a contract, it would have to work with a school district or another public school, or both, to ensure a smooth transition for the affected pupils. If the revocation occurred during the school year, the authorizing body, as fiscal agent, would have to return to the State Treasurer any school aid funds it held that were attributable to the affected pupils, for deposit in the State School Aid Fund. The State Treasurer would have to distribute funds to the public school in which the pupils enrolled 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 terminated or was revoked, the authorizing body would have to notify the Superintendent of Public Instruction of the name of the PSA and the date of the termination or revocation.

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

Annual Report. The bill would repeal 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 would delete 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 would change this to five years after beginning operation.

Multiple Sites. 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 would delete these provisions.

Educational Goals. Under the bill, urban high school academies would be subject to the same requirements concerning educational goals as proposed 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 would revise these in the same manner as proposed for PSAs.

The bill also would add language regarding an urban high school academy that was among the lowest-achieving 5% of public schools. The language would be the same as currently provided for PSAs, subject to the proposed 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 would 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 would transfer this responsibility from the Board to the Superintendent of Public Instruction.

Tax Exemption. Under the bill, property occupied by an urban high school academy and used exclusively for educational purposes would be exempt from real and personal property taxes.

### 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 would include 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. The bill would delete a provision under which the board of a community college may not issue a contract for an SOE to operate outside the

boundaries of the community college district. The bill also would delete a provision that allows a community college to issue a contract for an SOE to operate on the grounds of a Federal military installation outside the boundaries of the community college district.

Enrollment. Currently, for an SOE authorized by a State public university, enrollment must be open to all pupils who reside in the State who meet the admission policy. Under the bill, this also would apply to an SOE authorized by a community college.

The Code allows an SOE to give enrollment priority to certain pupils. The bill also would allow an SOE to give priority to a child of a person who was employed by or at the school or on its board of directors.

Oversight Fee. An authorizing body may 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 would delete this provision.

Cyber School SOE. The Code allows schools of excellence to operate as cyber schools under certain conditions. The bill would delete a requirement that the authorizing body of such a school submit a report to the Superintendent of Public Instruction and the Legislature at the end of the school's second full school year.

Other Provisions. With respect to schools of excellence, the bill would make the same changes as proposed 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.
- Property tax exemption.
- Revocation of a contract.
- Certificated teachers.

#### Contracting for Teachers

The Code requires the board of a school district to hire and contract with qualified teachers. The bill would make an exception to this, as provided below.

The bill would allow the board of a school district to enter into a contract with a person or entity to furnish qualified teachers to the district as necessary to carry out its operations. A contract would have to include the following provisions:

- Assurance that the person or entity would furnish the district with qualified teachers in accordance with the Code and rules promulgated under it.
- Assurance that the person or entity would not furnish any teacher who, if employed directly by the district, would be ineligible for employment by the district as a teacher under the Code.
- A description of the level of compensation and fringe benefits to be provided to employees of the person or entity who were assigned to the district as teachers.
- A description of the type and amounts of insurance coverage to be secured and maintained by the person or entity and the district under the contract.

The contract also would have to include assurance that the person or entity, before assigning an individual to serve as a teacher in the school, would comply with requirements of the Code for a criminal history check and a criminal records check with respect to that individual to the same extent as if the person or entity were a school district employing the individual as a teacher, and would give the school board the criminal history record information obtained and the results of the criminal records check. The Department of State Police would have to provide information to a person or entity requesting it under this provision to the same extent as if the person or entity were a school district making the request.

A school district that contracted with a person or entity to furnish teachers could purchase liability insurance to indemnify and protect the district and the person or entity against losses or liabilities they incurred arising out of any claim for personal injury or property damage caused by the district or its officers, employees, or agents.

As used in these provisions, "entity" would mean a partnership, nonprofit or business corporation, labor organization, limited liability company, or any other association, corporation, trust, or other legal entity.

MCL 380.501 et al.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

State – State costs could 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) led 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 would depend upon the additional charter schools that would open as a result of this bill, and the number of pupils enrolled.

The bill also would have a fiscal impact by exempting from taxation real and personal property at charter schools. The bill would reduce State and local revenue by an unknown amount that would 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 would require increased expenditures from the School Aid Fund if per-pupil funding guarantees were to be maintained or, when combined with the reduced revenue from the State Education Tax, would require per-pupil funding guarantees to be less than they would be absent the bill.

Local - The bill would remove 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 would allow the PSA or SOE to set wages and benefits at levels other than those specified by existing collective bargaining agreements. There would be a fiscal impact if the wages and benefits offered to employees at these district-authorized PSAs or SOEs differed from those in place at the district. In addition, the bill would allow 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 could 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 could 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, where current law requires separate charter agreements. The legislation does propose some additional reporting requirements, however, which could lead to some additional administrative costs.

Finally, by allowing local school districts to contract for teachers, rather than directly employing them as required under current law, the bill could have fiscal impacts at the local level. There would be a fiscal impact if the wages and benefits offered to contracted teachers differed from those in place before the teaching staff was contracted, or from the levels that would otherwise be offered if the teachers were directly employed.

In addition, if teachers were contracted out, it appears they would no longer be part of the Michigan Public School Employees' Retirement System (MPSERS). Each time membership within that system declines (due to privatization, retirements, conversion schools, etc.), the cost of the existing accrued unfunded liabilities is spread among remaining payrolls of all participating entities, and the contribution percentages remitted by the remaining payrolls increase. Therefore, the resulting

fiscal implications are not uniform. Districts that privatized teachers would see a relative gain compared with districts that did not (by losing payroll subject to MPSERS retirement contribution rates). Again, the unfunded liabilities are a fixed number, to be paid off by spreading the cost over total payroll. When MPSERS payroll declines in a nonuniform fashion, entities or their payrolls remaining in the system will be adversely affected by having to pay for the liabilities that were stranded by the payrolls that exited the system.

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