

HOUSE BILL No. 4518

April 20, 1999, Introduced by Reps. Switalski, Bovin, Jacobs, Schauer, Schermesser, Woodward, Dennis, Lockwood, Scott, Brater, Hardman, Lemmons, DeHart, LaForge, Cherry, Hale, Bogardus, Rivet and Thomas and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 502, 503, and 504a (MCL 380.502, 380.503,
and 380.504a), as amended by 1995 PA 289, and by adding
sections 503b, 504d, and 1259.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 502. (1) A public school academy shall be organized
2 and administered under the direction of a board of directors in
3 accordance with this part and with bylaws adopted by the board of
4 directors. A public school academy corporation shall be orga-
5 nized under the nonprofit corporation act, ~~Act No. 162 of the~~
6 ~~Public Acts of 1982, being sections 450.2101 to 450.3192 of the~~
7 ~~Michigan Compiled Laws~~ 1982 PA 162, MCL 450.2101 TO 450.3192,
8 except that a public school academy corporation is not required
9 to comply with sections 170 to 177 of ~~Act No. 327 of the Public~~

~~1 Acts of 1931, being sections 450.170 to 450.177 of the Michigan~~
~~2 Compiled Laws~~ 1931 PA 327, MCL 450.170 TO 450.177. To the
3 extent disqualified under the state or federal constitution, a
4 public school academy shall not be organized by a church or other
5 religious organization and shall not have any organizational or
6 contractual affiliation with or constitute a church or other
7 religious organization.

8 (2) Any of the following may act as an authorizing body to
9 issue a contract to organize and operate 1 or more public school
10 academies under this part:

11 (a) The board of a school district that operates grades K to
12 12. However, the board of a school district shall not issue a
13 contract for a public school academy to operate outside the
14 school district's boundaries, and a public school academy autho-
15 rized by the board of a school district shall not operate outside
16 that school district's boundaries.

17 (b) An intermediate school board. However, the board of an
18 intermediate school district shall not issue a contract for a
19 public school academy to operate outside the intermediate school
20 district's boundaries, and a public school academy authorized by
21 the board of an intermediate school district shall not operate
22 outside that intermediate school district's boundaries.

23 (c) The board of a community college. However, except as
24 otherwise provided in this subdivision, the board of a community
25 college shall not issue a contract for a public school academy to
26 operate in a school district organized as a school district of
27 the first class, a public school academy authorized by the board

1 of a community college shall not operate in a school district
2 organized as a school district of the first class, the board of a
3 community college shall not issue a contract for a public school
4 academy to operate outside the boundaries of the community col-
5 lege district, and a public school academy authorized by the
6 board of a community college shall not operate outside the bound-
7 aries of the community college district. The board of a commu-
8 nity college also may issue a contract for not more than 1 public
9 school academy to operate on the grounds of an active or closed
10 federal military installation located outside the boundaries of
11 the community college district, or may operate a public school
12 academy itself on the grounds of such a federal military instal-
13 lation, if the federal military installation is not located
14 within the boundaries of any community college district and the
15 community college has previously offered courses on the grounds
16 of the federal military installation for at least 10 years.

17 (d) The governing board of a state public university.
18 However, the combined total number of contracts for public school
19 academies issued by all state public universities shall not
20 exceed 85 through 1996, and, after the initial evaluation under
21 section 501a, shall not exceed 100 through 1997, 125 through
22 1998, or 150 thereafter. Further, the total number of contracts
23 issued by any 1 state public university shall not exceed 50
24 through 1996, and thereafter shall not exceed 50% of the maximum
25 combined total number that may be issued under this subdivision.

26 (3) To obtain a contract to organize and operate 1 or more
27 public school academies, 1 or more persons or an entity may apply

1 to an authorizing body described in subsection (2). The
2 application shall include at least all of the following:

3 (a) Identification of the applicant for the contract.

4 (b) Subject to the resolution adopted by the authorizing
5 body under section 503(4), a list of the proposed members of the
6 board of directors of the public school academy and a description
7 of the qualifications and method for appointment or election of
8 members of the board of directors.

9 (c) The proposed articles of incorporation, which shall
10 include at least all of the following:

11 (i) The name of the proposed public school academy.

12 (ii) The purposes for the public school academy
13 corporation. This language shall provide that the public school
14 academy is incorporated pursuant to this part and that the public
15 school academy corporation is a governmental entity.

16 (iii) The name of the authorizing body.

17 (iv) The proposed time when the articles of incorporation
18 will be effective.

19 (v) Other matters considered expedient to be in the articles
20 of incorporation.

21 (d) A copy of the proposed bylaws of the public school
22 academy.

23 (e) Documentation meeting the application requirements of
24 the authorizing body, including at least all of the following:

25 (i) The governance structure of the public school academy.

26 (ii) A copy of the educational goals of the public school
27 academy and the curricula to be offered and methods of pupil

1 assessment to be used by the public school academy. To the
2 extent applicable, the progress of the pupils in the public
3 school academy shall be assessed using at least a Michigan educa-
4 tion assessment program (MEAP) test or an assessment instrument
5 developed under section 1279 for a state-endorsed high school
6 diploma.

7 (iii) The admission policy and criteria to be maintained by
8 the public school academy. The admission policy and criteria
9 shall comply with section 504. This part of the application also
10 shall include a description of how the applicant will provide to
11 the general public adequate notice that a public school academy
12 is being created and adequate information on the admission
13 policy, criteria, and process.

14 (iv) The school calendar and school day schedule.

15 (v) The age or grade range of pupils to be enrolled.

16 (f) Descriptions of staff responsibilities and of the public
17 school academy's governance structure.

18 (g) For an application to the board of a school district, an
19 intermediate school board, or board of a community college, iden-
20 tification of the local and intermediate school districts in
21 which the public school academy will be located.

22 (h) An agreement that the public school academy will comply
23 with the provisions of this part and, subject to the provisions
24 of this part, with all other state law applicable to public
25 bodies and with federal law applicable to public bodies or school
26 districts.

1 (i) For a public school academy authorized by a school
2 district, an assurance that employees of the public school
3 academy will be covered by the collective bargaining agreements
4 that apply to other employees of the school district employed in
5 similar classifications in schools that are not public school
6 academies.

7 (j) A description of and address for the proposed physical
8 plant in which the public school academy will be located.

9 (4) An authorizing body shall oversee, or shall contract
10 with an intermediate school district, community college, or state
11 public university to oversee, each public school academy operat-
12 ing under a contract issued by the authorizing body. The over-
13 sight shall be sufficient to ensure that the authorizing body can
14 certify that the public school academy is in compliance with
15 statute, rules, and the terms of the contract. AT LEAST ANNUAL-
16 LY, EACH AUTHORIZING BODY SHALL FILE AN OVERSIGHT REPORT WITH THE
17 STATE BOARD FOR EACH CONTRACT ISSUED BY THE AUTHORIZING BODY.
18 EACH OVERSIGHT REPORT SHALL BE ACCOMPANIED BY A WRITTEN CERTIFI-
19 CATION OF ITS ACCURACY SIGNED BY THE CHIEF ADMINISTRATOR OF THE
20 AUTHORIZING BODY AND BY THE PRESIDENT OF THE AUTHORIZING BODY'S
21 GOVERNING BOARD. AN OVERSIGHT REPORT SHALL CONTAIN AT LEAST ALL
22 OF THE FOLLOWING INFORMATION:

23 (A) NUMBER OF STAFF ASSIGNED TO OVERSIGHT ACTIVITIES, BOTH
24 GENERALLY AND FOR THE SPECIFIC CONTRACT, ON A FULL-TIME EQUATED
25 BASIS.

1 (B) QUALIFICATIONS, INCLUDING ANY PROFESSIONAL
2 CERTIFICATION, OF STAFF ASSIGNED TO OVERSIGHT ACTIVITIES, BOTH
3 GENERALLY AND FOR THE SPECIFIC CONTRACT.

4 (C) OVERSIGHT ACTIVITIES CONDUCTED AT THE SITE OF THE PUBLIC
5 SCHOOL ACADEMY.

6 (D) ANY NONCOMPLIANCE WITH STATUTE, RULES, OR THE TERMS OF
7 THE CONTRACT FOUND IN THE COURSE OF THE OVERSIGHT AND ANY AREAS
8 OF PERFORMANCE FOUND TO BE IN NEED OF IMPROVEMENT.

9 (E) A DESCRIPTION OF THE SPECIFIC EVIDENCE THAT LED TO EACH
10 FINDING DESCRIBED IN SUBDIVISION (D).

11 (F) SPECIFIC PLANS FOR REMEDIATION OF EACH NONCOMPLIANCE
12 DESCRIBED IN SUBDIVISION (D).

13 (G) SPECIFIC SUGGESTIONS AND PLANS FOR IMPROVEMENT OF
14 PERFORMANCE.

15 (H) AN ASSURANCE THAT THE AUTHORIZING BODY HAS MADE APPRO-
16 PRIATE INQUIRY AND HAS DETERMINED THAT THE PUBLIC SCHOOL ACADEMY
17 IS IN COMPLIANCE WITH THE PROVISIONS OF SUBSECTION (1) CONCERNING
18 RELIGIOUS AFFILIATIONS.

19 (I) AN ASSURANCE THAT THE AUTHORIZING BODY HAS MADE APPRO-
20 PRIATE INQUIRY AND HAS DETERMINED THAT THE PUBLIC SCHOOL ACADEMY
21 IS IN COMPLIANCE WITH ALL APPLICABLE LAW, INCLUDING, BUT NOT
22 LIMITED TO, THOSE PROVISIONS OF LAW SPECIFIED IN SECTION 503(6).

23 (J) ASSURANCE THAT THE AUTHORIZING BODY HAS EXAMINED STAN-
24 DARDIZED TEST SCORES DESCRIBED IN SECTION 503(5) AND OTHER RELE-
25 VANT DATA TO DETERMINE THAT THE PUBLIC SCHOOL ACADEMY IS FULFILL-
26 ING THE ACADEMIC GOALS SPECIFIED IN THE CONTRACT.

1 (K) ASSURANCE THAT THE AUTHORIZING BODY HAS EXAMINED THE
2 QUALIFICATIONS OF THE PUBLIC SCHOOL ACADEMY'S INSTRUCTIONAL STAFF
3 AND HAS DETERMINED THAT THE PUBLIC SCHOOL ACADEMY IS IN COMPLI-
4 ANCE WITH SECTION 505.

5 (5) If the state board finds that an authorizing body is not
6 engaging in appropriate continuing oversight of 1 or more public
7 school academies operating under a contract issued by the autho-
8 rizing body, the state board may suspend OR REVOKE the power of
9 the authorizing body to issue new contracts to organize and oper-
10 ate public school academies, AND MAY ORDER THE AUTHORIZING BODY
11 TO REPAY TO THIS STATE ANY FEE COLLECTED BY THE AUTHORIZING BODY
12 FOR ISSUING A CONTRACT OR FOR PROVIDING OVERSIGHT OF A CONTRACT.
13 A contract issued by the authorizing body during the suspension
14 OR AFTER THE REVOCATION is void. ~~—A—~~ THE VALIDITY OF A contract
15 issued by the authorizing body before the suspension OR
16 REVOCATION is not affected by the suspension OR REVOCATION. WITH
17 THE APPROVAL OF THE STATE BOARD, A CONTRACT MAY BE RENEWED BY THE
18 AUTHORIZING BODY DURING A SUSPENSION.

19 (6) An authorizing body shall not charge a fee, or require
20 reimbursement of expenses, for considering an application for a
21 contract, for issuing a contract, or for providing oversight of a
22 contract for a public school academy in an amount that exceeds a
23 combined total of 3% of the total state school aid received by
24 the public school academy in the school year in which the fees or
25 expenses are charged. An authorizing body may provide other
26 services for a public school academy and charge a fee for those
27 services, but shall not require such an arrangement as a

1 condition to issuing the contract authorizing the public school
2 academy.

3 (7) A public school academy shall be presumed to be legally
4 organized if it has exercised the franchises and privileges of a
5 public school academy for at least 2 years.

6 Sec. 503. (1) An authorizing body is not required to issue
7 a contract to any person or entity. Public school academy con-
8 tracts shall be issued on a competitive basis taking into consid-
9 eration the resources available for the proposed public school
10 academy, the population to be served by the proposed public
11 school academy, and the educational goals to be achieved by the
12 proposed public school academy.

13 (2) If a person or entity applies to the board of a school
14 district for a contract to organize and operate 1 or more public
15 school academies within the boundaries of the school district and
16 the board does not issue the contract, the person or entity may
17 petition the board to place the question of issuing the contract
18 on the ballot to be decided by the school electors of the school
19 district. The petition shall contain all of the information
20 required to be in the contract application under section 502(3)
21 and shall be signed by a number of school electors of the school
22 district equal to at least 15% of the total number of school
23 electors of that school district. The petition shall be filed
24 with the secretary of the board. If the board receives a peti-
25 tion meeting the requirements of this subsection, the board shall
26 place the question of issuing the contract on the ballot at its
27 next annual school election held at least 60 days after receiving

1 the petition. If a majority of the school electors of the school
2 district voting on the question vote to issue the contract, the
3 board shall issue the contract.

4 (3) Within 10 days after issuing a contract for a public
5 school academy, the board of the authorizing body shall submit to
6 the state board a copy of the contract and of the application
7 under section 502.

8 (4) An authorizing body shall adopt a resolution establish-
9 ing the method of selection, length of term, and number of mem-
10 bers of the board of directors of each public school academy
11 subject to its jurisdiction.

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

14 (a) The educational goals the public school academy is to
15 achieve and the methods by which it will be held accountable. To
16 the extent applicable, the pupil performance of a public school
17 academy shall be assessed using at least a Michigan education
18 assessment program (MEAP) test or an assessment instrument devel-
19 oped under section 1279 for a state-endorsed high school
20 diploma.

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

24 (c) A description of the process for amending the contract
25 during the term of the contract.

26 (d) All of the matters set forth in the application for the
27 contract.

1 (e) For a public school academy authorized by a school
2 district, an agreement that employees of the public school acad-
3 emy will be covered by the collective bargaining agreements that
4 apply to employees of the school district employed in similar
5 classifications in schools that are not public school academies.

6 (f) Procedures for revoking the contract and grounds for
7 revoking the contract, including at least the grounds listed in
8 section 507.

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

11 (h) Requirements and procedures for financial audits. The
12 financial audits shall be conducted at least annually by a certi-
13 fied public accountant in accordance with generally accepted gov-
14 ernmental auditing principles.

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

17 (a) The open meetings act, ~~Act No. 267 of the Public Acts~~
18 ~~of 1976, being sections 15.261 to 15.275 of the Michigan Compiled~~
19 ~~Laws~~ 1976 PA 267, MCL 15.261 TO 15.275.

20 (b) The freedom of information act, ~~Act No. 442 of the~~
21 ~~Public Acts of 1976, being sections 15.231 to 15.246 of the~~
22 ~~Michigan Compiled Laws~~ 1976 PA 442, MCL 15.231 TO 15.246.

23 (c) ~~Act No. 336 of the Public Acts of 1947, being~~
24 ~~sections 423.201 to 423.217 of the Michigan Compiled Laws~~ 1947
25 PA 336, MCL 423.201 TO 423.217.

1 (d) ~~Act No. 166 of the Public Acts of 1965, being~~
2 ~~sections 408.551 to 408.558 of the Michigan Compiled Laws 1965~~
3 PA 166, MCL 408.551 TO 408.558.

4 (e) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and
5 1274.

6 (7) A public school academy and its incorporators, board
7 members, officers, employees, and volunteers have governmental
8 immunity as provided in section 7 of ~~Act No. 170 of the Public~~
9 ~~Acts of 1964, being section 691.1407 of the Michigan Compiled~~
10 ~~Laws 1964 PA 170, MCL 691.1407.~~ An authorizing body and its
11 board members, officers, and employees are immune from civil
12 liability, both personally and professionally, for any acts or
13 omissions in authorizing a public school academy if the authoriz-
14 ing body or the person acted or reasonably believed he or she
15 acted within the authorizing body's or the person's scope of
16 authority.

17 (8) A public school academy is exempt from all taxation on
18 its earnings and property. Instruments of conveyance to or from
19 a public school academy are exempt from all taxation including
20 taxes imposed by ~~Act No. 134 of the Public Acts of 1966, being~~
21 ~~sections 207.501 to 207.513 of the Michigan Compiled Laws 1966~~
22 PA 134, MCL 207.501 TO 207.513. A public school academy may not
23 levy ad valorem property taxes or any other tax for any purpose.
24 However, operation of 1 or more public school academies by a
25 school district or intermediate school district does not affect
26 the ability of the school district or intermediate school
27 district to levy ad valorem property taxes or any other tax.

1 (9) ~~A~~ SUBJECT TO SECTION 503B, A public school academy may
2 acquire by purchase, gift, devise, lease, sublease, installment
3 purchase agreement, land contract, option, or by any other means,
4 hold and own in its own name buildings and other property for
5 school purposes, and interests therein, and other real and per-
6 sonal property, including, but not limited to, interests in prop-
7 erty subject to mortgages, security interests, or other liens,
8 necessary or convenient to fulfill its purposes. For the pur-
9 poses of condemnation, a public school academy may proceed under
10 the uniform condemnation procedures act, ~~Act No. 87 of the~~
11 ~~Public Acts of 1980, being sections 213.51 to 213.77 of the~~
12 ~~Michigan Compiled Laws~~ 1980 PA 87, MCL 213.51 TO 213.75, exclud-
13 ing sections 6 to 9 of that act, ~~being sections 213.56 to 213.59~~
14 ~~of the Michigan Compiled Laws~~ MCL 213.56 TO 213.59, or other
15 applicable statutes, but only with the express, written permis-
16 sion of the authorizing body in each instance of condemnation and
17 only after just compensation has been determined and paid.

18 SEC. 503B. (1) ALL PROPERTY OWNED BY A PUBLIC SCHOOL ACAD-
19 EMY IS STATE PROPERTY. IF A PUBLIC SCHOOL ACADEMY CEASES TO
20 OPERATE, TITLE TO ALL REAL AND PERSONAL PROPERTY, INTERESTS IN
21 REAL OR PERSONAL PROPERTY, AND OTHER ASSETS OF A PUBLIC SCHOOL
22 ACADEMY SHALL REVERT TO THIS STATE. ANY MONEY INCLUDED IN THOSE
23 ASSETS AND THE NET PROCEEDS FROM THE SALE OF THE PROPERTY OR
24 INTERESTS IN PROPERTY, AFTER PAYMENT OF ANY DEBT SECURED BY THE
25 PROPERTY OR INTEREST IN PROPERTY, SHALL BE DEPOSITED IN THE STATE
26 SCHOOL AID FUND.

1 (2) THIS SECTION DOES NOT IMPOSE ANY LIABILITY ON THIS STATE
2 FOR ANY DEBT INCURRED BY A PUBLIC SCHOOL ACADEMY.

3 Sec. 504a. In addition to other powers set forth in this
4 part, a public school academy may take action to carry out the
5 purposes for which it was incorporated under this part, includ-
6 ing, but not limited to, all of the following:

7 (a) To sue and be sued in its name.

8 (b) ~~To~~ SUBJECT TO SECTION 503B, TO acquire, hold, and own
9 in its own name real and personal property, or interests in real
10 or personal property, for educational purposes by purchase, gift,
11 grant, devise, bequest, lease, sublease, installment purchase
12 agreement, land contract, option, or condemnation, and subject to
13 mortgages, security interests, or other liens; and to sell or
14 convey the property as the interests of the public school academy
15 require.

16 (c) To receive and disburse funds for lawful purposes.

17 (d) To enter into binding legal agreements with persons or
18 entities as necessary for the operation, management, and mainte-
19 nance of the public school academy.

20 (e) To incur temporary debt in accordance with
21 section 1225.

22 (f) To solicit and accept any grants or gifts for educa-
23 tional purposes and to establish or permit to be established on
24 its behalf 1 or more nonprofit corporations the purpose of which
25 is to assist the public school academy in the furtherance of its
26 public purposes.

1 SEC. 504D. A PUBLIC SCHOOL ACADEMY SHALL NOTIFY THE PARENT
2 OR LEGAL GUARDIAN OF EACH APPLICANT FOR ENROLLMENT THAT THE
3 PUBLIC SCHOOL ACADEMY IS REQUIRED BY LAW TO PROVIDE SPECIAL EDU-
4 CATION PROGRAMS AND SERVICES DESIGNED TO DEVELOP THE MAXIMUM
5 POTENTIAL OF EACH PUPIL ENROLLED IN THE SCHOOL WHO IS ELIGIBLE
6 FOR SPECIAL EDUCATION.

7 SEC. 1259. AT LEAST ANNUALLY, EACH SCHOOL DISTRICT, INTER-
8 MEDIATE SCHOOL DISTRICT, AND PUBLIC SCHOOL ACADEMY SHALL SUBMIT
9 TO THE DEPARTMENT A LIST OF SCHOOL BUILDINGS OWNED BY THE SCHOOL
10 DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC SCHOOL ACADEMY
11 THAT ARE NOT BEING USED. IN ADDITION, AT LEAST ANNUALLY, THE
12 DIRECTOR OF THE DEPARTMENT OF MANAGEMENT AND BUDGET SHALL SUBMIT
13 TO THE DEPARTMENT A LIST OF BUILDINGS OWNED BY THIS STATE THAT
14 ARE NOT BEING USED. THE DEPARTMENT SHALL COMPILE THIS INFORMA-
15 TION, SORTED BY COUNTY, AND SHALL MAKE THIS INFORMATION AVAILABLE
16 TO ANY INTERESTED PERSON UPON REQUEST.