

# HOUSE BILL No. 4412

February 24, 2005, Introduced by Rep. Elsenheimer and referred to the Committee on Education.

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.

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

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

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

27           (5) A contract issued to organize and administer a public

1 school academy shall contain at least all of the following:

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

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

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

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

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

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

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

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

1 governmental auditing principles.

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

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

5 (b) The freedom of information act, 1976 PA 442, MCL 15.231 to  
6 15.246.

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

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

9 **(D)** ~~—(e)~~ Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and  
10 1274.

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

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

1 school district to levy ad valorem property taxes or another tax.

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

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

1 (a) The proposed school will operate at least all of grades 9  
2 through 12 within 3 years after beginning operation.

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

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

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

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

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

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

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

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

26 (d) A certification, signed by an authorized member of the  
27 urban high school academy board of directors, that the urban high

1 school academy will comply with the contract and all applicable  
2 law.

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

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

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

11 (h) A requirement that the board of directors shall ensure  
12 compliance with the requirements of 1968 PA 317, MCL 15.321 to  
13 15.330.

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

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

27 (k) A requirement that the board of directors of the urban

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

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

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

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

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

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

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

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



1 equipment leases.

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

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

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

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

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

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

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

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

27 (A) Reasonable efforts to advertise all enrollment openings to

1 organizations and media that regularly serve and advocate for  
2 individuals with disabilities within the boundaries of the  
3 intermediate school district in which the urban high school academy  
4 is located.

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

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

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

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

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

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

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

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

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

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

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

27 (F) ~~—(g)~~ The uniform budgeting and accounting act, 1968 PA 2,

1 MCL 141.421 to 141.440a.

2 (G) ~~—(h)—~~ The revised municipal finance act, 2001 PA 34, MCL  
3 141.2101 to 141.2821.

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

6 (I) ~~—(j)—~~ Sections 1134, 1135, 1146, 1153, 1263(3), 1267,  
7 1274, and 1280.

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) A description of the process for amending the contract  
2 during the term of the contract.

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

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

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

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

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

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

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

23 (b) The freedom of information act, 1976 PA 442, MCL 15.231 to  
24 15.246.

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

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

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

1 1274.

2 (E) ~~-(f)-~~ Except for part 6a, all provisions of this act that  
3 explicitly apply to public school academies established under part  
4 6a.

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

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

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

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