

HOUSE BILL No. 5323

October 17, 2007, Introduced by Reps. Miller, Moss, Hopgood, Polidori, Angerer, Rick Jones, Hammel, Vagnozzi, Bieda, Meisner, Alma Smith, Accavitti, Corriveau, Sak, LeBlanc, Knollenberg, Hoogendyk, David Law, Meltzer, Emmons, Amos, Opsommer, Stahl, Donigan, Lemmons, Sheen, Leland, Gonzales, McDowell, Wenke, Palsrok, Clack, Cushingberry, Ebli, Kathleen Law, Young, Sheltroun, Condino, Constan, Dean, Warren, Pastor, Gillard, Farrah, Mayes, Bennett, Tobocman, Meadows, Bauer, Wojno, Espinoza, Hammon, Steil, LaJoy, Hansen, Moolenaar, Scott, Jackson and Virgil Smith and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1701, 1702, 1703, 1704, 1711, 1741, 1751, and
1761 (MCL 380.1701, 380.1702, 380.1703, 380.1704, 380.1711,
380.1741, 380.1751, and 380.1761), section 1703 as amended by 1995
PA 289 and section 1704 as added by 2000 PA 129.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1701. The state board shall **DO ALL OF THE FOLLOWING:**

2 (a) Develop, establish, and continually evaluate and modify in
3 cooperation with intermediate school boards, a state plan for
4 special education which shall provide for the delivery of special
5 education programs and services designed to develop the maximum
6 potential of every handicapped person. The plan shall coordinate
7 all special education programs and services.

1 (b) Require each intermediate school board to submit a plan
2 pursuant to section 1711, in accordance with the state plan, to be
3 approved by the state board.

4 (c) Promulgate rules setting forth the requirements of the
5 plans and procedures for submitting them.

6 Sec. 1702. (1) If a local school district board claims the
7 existence of an emergency due to extreme financial conditions
8 because of insufficient operating funds or due to a severe
9 classroom shortage, which emergency the local school district
10 claims renders it unable to provide special education programs and
11 services in compliance with section 1751, the local school district
12 board shall apply in writing to the state board before July 1 of
13 the particular school year for approval to provide special
14 education programs or services ~~which~~**THAT** do not comply with
15 section 1751. The state board may extend the filing date for good
16 cause.

17 (2) In its application the local school district board shall
18 demonstrate the need to provide noncomplying special education
19 programs and services and shall include the proposed programs and
20 services it is able to provide and the efforts to be undertaken to
21 alleviate the emergency. If the state board finds an emergency
22 exists in the local school district for the school year, the state
23 board may approve the providing of noncomplying special education
24 programs or services and prescribe conditions for those programs
25 and services.

26 (3) If the state board determines that a local school district
27 is not providing special education programs and services in

1 compliance with section 1751, and the local school district has not
2 obtained prior approval from the state board, the state board shall
3 give the local school district board written notice of the
4 noncompliance. Unless the local school district board submits proof
5 of compliance or of an unforeseen emergency within 30 days after
6 receipt of the notice, the state board shall direct the
7 intermediate school board of which the local school district is
8 constituent to provide complying programs or services. The state
9 board shall direct the intermediate school board to provide only
10 those programs or services which the state board determines the
11 local school district is not providing in compliance with section
12 1751.

13 (4) Special education programs or services ~~which~~ **THAT** the
14 state board directs an intermediate school district to provide
15 shall be funded as if provided by the local school district and the
16 local school district board shall contribute to the intermediate
17 school district the unreimbursed cost of the programs or services.

18 Sec. 1703. (1) Special education personnel shall meet the
19 qualifications and requirements of rules promulgated by the state
20 board.

21 (2) Curriculum, eligibility of specific persons for special
22 education programs and services and for each particular program or
23 service, review procedures regarding the placement of persons in
24 the programs or services, size of classes, size of programs,
25 quantity and quality of equipment, supplies and housing, adequacy
26 of methods of instruction, and length and content of school day
27 shall be in accordance with rules promulgated by the state board

1 relative to special education programs and services.

2 (3) Not later than September 30, 1996, the state board shall
3 ~~conduct~~**COMPLETE** a review of all rules promulgated by the state
4 board or department pertaining to special education. The review
5 shall consider at least all of the following:

6 (a) The need to eliminate unnecessary separation and
7 duplication between regular education and special education
8 facilities, staff, programs, services, and pupils.

9 (b) Potential benefits from coordination between all relevant
10 federal, state, regional, and local organization services,
11 including public and private organization services, for pupils with
12 special needs, and encouragement of the provision of comprehensive
13 necessary services delivered by the most appropriate organization
14 or person in the most cost-effective and programmatically effective
15 manner.

16 (c) The advisability of simplification of rules or regulations
17 and processes relating to identification of need and provision of
18 services to special needs pupils, avoidance of barriers and cost
19 and other penalties or discouragements to effective programming,
20 and avoidance of requirements as to staff or program criteria that
21 are not research based; allowing and encouraging reasonably
22 flexible, workable, and, if appropriate, cooperatively operated
23 comprehensive services, including reasonable endorsement or other
24 qualification categories for personnel, to be delivered to pupils
25 with related or similar special needs, as may be consistent with
26 research.

27 (d) A goal of providing educational and training services in a

1 manner that maximizes for the benefit of the pupil the combination
2 of the provisions of this act and federal law relating to
3 inclusion, while avoiding, to the degree reasonably possible,
4 requiring by rule an overall increase in a program or service
5 beyond that required before December 23, 1978.

6 Sec. 1704. (1) This section shall be known and may be cited as
7 the "blind pupil's Braille literacy law".

8 (2) The ~~department~~**STATE BOARD** shall adopt Braille reading and
9 writing standards for teachers of blind and visually impaired
10 pupils and shall disseminate these standards to all **LOCAL** school
11 districts, intermediate school districts, and teacher preparation
12 programs. These standards shall be included in the rules governing
13 special education programs and services. In establishing these
14 standards, the ~~department~~**STATE BOARD** shall consider the standards
15 adopted by the national library service for the blind and
16 physically handicapped of the United States library of congress.

17 (3) When a local or intermediate school district receives
18 information from the department, or information that is approved by
19 the department from a consumer organization that advocates for the
20 blind, describing the benefits of instruction in Braille reading
21 and writing, the local or intermediate school district shall
22 provide this information to each person on the blind pupil's
23 individualized educational planning committee.

24 (4) The department shall accept and respond to requests from
25 local and intermediate school districts and shall work with
26 textbook publishers to obtain electronic file format versions of
27 textbooks or Braille versions of textbooks, or both. The department

1 may also, on behalf of local and intermediate school districts,
2 request and arrange for converting an electronic file format
3 version of a textbook to a Braille version. The department shall
4 process and make these requests in a timely manner.

5 (5) Upon request, a publisher of a textbook that is adopted
6 for instructional use by a school district shall furnish the
7 department with an electronic version of the textbook if the
8 textbook is for a literary subject or, for a textbook for a
9 nonliterary subject, if the technology is available to convert the
10 textbook directly to a format compatible with Braille translation
11 software. A publisher shall not charge a price for this electronic
12 version that exceeds the price it charges for the print or
13 electronic media version of the textbook.

14 (6) A local or intermediate school district or an
15 individualized educational planning committee shall not deny a
16 pupil the opportunity for instruction in Braille reading and
17 writing solely because the pupil has some remaining vision.

18 (7) Instruction for blind pupils shall be consistent with the
19 goals and standards established by this state for all pupils.

20 (8) As used in this section:

21 (a) "Blind pupil" means a pupil who is determined to manifest
22 1 or more of the following:

23 (i) A visual acuity of 20/200 or less in the better eye after
24 routine refractive correction.

25 (ii) A field of vision that is limited so that the widest
26 diameter of the visual field subtends an angle not greater than 20
27 degrees.

1 (iii) A medically indicated expectation of visual deterioration
2 that is expected to result in 1 or both of the conditions described
3 in subparagraphs (i) and (ii).

4 (b) "Individualized education program" means that term as
5 defined in section 614 of part B of title VI of the individuals
6 with disabilities education act, Public Law 91-230, 20 ~~U.S.C.~~ **USC**
7 1414, or in R 340.1701A of the Michigan administrative code.

8 (c) "Individualized educational planning committee" means that
9 term as defined in R 340.1701A of the Michigan administrative code
10 or an individualized education program team as defined in section
11 614 of part B of title VI of the individuals with disabilities
12 education act, Public Law 91-230, 20 ~~U.S.C.~~ **USC** 1414.

13 (d) "Textbook" includes a text published in electronic media
14 that is used for instructional purposes.

15 Sec. 1711. (1) The intermediate school board shall **DO ALL OF**
16 **THE FOLLOWING:**

17 (a) Develop, establish, and continually evaluate and modify in
18 cooperation with its constituent districts, a plan for special
19 education which shall provide for the delivery of special education
20 programs and services designed to develop the maximum potential of
21 each handicapped person of whom the intermediate school board is
22 required to maintain a record under subdivision (f). The plan shall
23 coordinate the special education programs and services operated or
24 contracted for by the constituent districts and shall be submitted
25 to the state board for its approval.

26 (b) Contract for the delivery of a special education program
27 or service, in accordance with the intermediate school district

1 plan in compliance with section 1701. Under the contract the
2 intermediate school board may operate special education programs or
3 services and furnish transportation services and room and board.

4 (c) Employ or engage special education personnel in accordance
5 with the intermediate school district plan, and appoint a director
6 of special education meeting the qualifications and requirements of
7 the rules promulgated by the state board.

8 (d) Accept and use available funds or contributions from
9 governmental or private sources for the purpose of providing
10 special education programs and services consistent with this
11 article.

12 (e) Lease, purchase, or otherwise acquire vehicles, sites,
13 buildings, or portions thereof, and equip them for its special
14 education staff, programs, and services.

15 (f) Maintain a record of each handicapped person under 26
16 years of age, who is a resident of 1 of its constituent districts
17 and who has not completed a normal course of study and graduated
18 from high school, and the special education programs or services in
19 which the handicapped person is participating on the fourth Friday
20 after Labor day and Friday before Memorial day. The sole basis for
21 determining the local school district in which a handicapped person
22 is a resident shall be the rules promulgated by the state board
23 notwithstanding the provisions of section 1148. The records shall
24 be maintained in accordance with rules promulgated by the state
25 board.

26 (g) Have the authority to place in appropriate special
27 education programs or services a handicapped person for whom a

1 constituent district is required to provide special education
2 programs or services under section 1751.

3 (h) Investigate special education programs and services
4 operated or contracted for by the intermediate school board or
5 constituent district boards and report in writing failures to
6 comply with the provisions of a contract, statute, or rule
7 governing the special education programs and services or with the
8 intermediate school district plan, to the local school district
9 board and to the state board.

10 (i) Operate the special education programs or services or
11 contract for the delivery of special education programs or services
12 by local school district boards, in accordance with section 1702,
13 as if a local school district under section 1751. The contract
14 shall provide for items stated in section 1751 and shall be
15 approved by the state board. The intermediate school board shall
16 contract for the transportation, or room and board, or both, or
17 persons participating in the program or service as if a local
18 school district board under sections 1756 and 1757.

19 (j) Receive the report of a parent or guardian or, with the
20 consent of a parent or guardian, receive the report of a licensed
21 physician, registered nurse, social worker, or school or other
22 appropriate professional personnel whose training and relationship
23 to handicapped persons provide competence to judge ~~same~~**HANDICAPPED**
24 **PERSONS** and who in good faith believes that a person under 26 years
25 of age examined by the professional is or may be handicapped, and
26 immediately evaluate the person pursuant to rules promulgated by
27 the state board. A person making or filing this report or a local

1 school district board shall not incur liability to a person by
2 reason of filing the report or seeking the evaluation, unless lack
3 of good faith is proven.

4 (k) Evaluate pupils in accordance with section 1311.

5 (2) The intermediate school board may expend up to 10% of the
6 annual budget but not to exceed \$12,500.00, for special education
7 programs approved by the intermediate school board without having
8 to secure the approval of the state board.

9 Sec. 1741. An intermediate school board operating or
10 contracting for the operation of special education programs or
11 services may carry pupils in membership in the same manner as a
12 local school district and ~~shall be~~ **IS** entitled to its proportionate
13 share of state school aid available for these programs. Membership
14 shall be calculated on the basis provided in rules promulgated by
15 the state board.

16 Sec. 1751. (1) The board of a local school district shall
17 provide special education programs and services designed to develop
18 the maximum potential of each handicapped person in its district on
19 record under section 1711 for whom an appropriate educational or
20 training program can be provided in accordance with the
21 intermediate school district special education plan, in either of
22 the following ways or a combination ~~thereof~~ **OF THEM:**

23 (a) Operate the special education program or service.

24 (b) Contract with its intermediate school board, another
25 intermediate school board, another local school district board, an
26 adjacent school district board in a bordering state, the Michigan
27 school for the blind , ~~the Michigan school for the~~ **AND** deaf, the

1 department of ~~mental~~**COMMUNITY** health, the department of ~~social~~
2 **HUMAN** services, or any combination thereof ~~thereof~~**OF THEM**, for delivery of
3 the special education programs or services, or with an agency
4 approved by the state board for delivery of an ancillary
5 professional special education service. The intermediate school
6 district of which the local school district is constituent shall be
7 a party to each contract even if the intermediate school district
8 does not participate in the delivery of the program or services.

9 (2) A local school district contract for the provision of a
10 special education program or service shall provide specifically
11 for:

12 (a) Special education buildings, equipment, and personnel
13 necessary for the operation of the subject program or service.

14 (b) Transportation or room and board, or both, for persons
15 participating in the programs or services as required under
16 sections 1756 and 1757.

17 (c) The contribution to be made by the sending local school
18 district if the program or service is to be operated by another
19 party to the contract. The contribution shall be in accordance with
20 rules promulgated by the state board.

21 (d) Other matters which the parties deem appropriate.

22 (3) Each program or service operated or contracted for by a
23 local school district shall be in accordance with the intermediate
24 school district's plan established pursuant to section 1711.

25 (4) A local school district may provide additional special
26 education programs and services not included in, or required by,
27 the intermediate school district plan.

1 (5) This section shall be construed to allow operation of
2 programs by departments of state government without local school
3 district contribution.

4 Sec. 1761. The board of a local school district shall not
5 solicit ~~nor~~ OR seek reimbursement from a handicapped person or
6 person otherwise liable for the care of the handicapped person for
7 cost of a special education program or service attributable to the
8 expense for room and board. The board of a local school district
9 ~~shall have~~ HAS the right to reimbursement for room and board in an
10 amount which may be paid reasonably by the person in accordance
11 with rules promulgated by the state board.

12 Enacting section 1. This amendatory act is intended to
13 transfer back to the state board of education certain powers,
14 duties, and functions that were transferred to the superintendent
15 of public instruction by Executive Reorganization Order No. 1996-7,
16 MCL 388.994.