

HOUSE BILL No. 5695

June 12, 2014, Introduced by Reps. Tlaib, Brown, Brunner, Smiley, Phelps, Switalski, Faris, Greimel, Yanez, Lamonte, Stanley, Segal, Clemente, Brinks, LaVoy, Geiss, Barnett, Slavens, Singh, Dianda, Dillon, Hovey-Wright, Kandrevas, Knezek, Darany, Zemke, Lipton, Lane, Abed, Schor, Cochran, Driskell, Durhal and Rutledge and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 504a, 525, 553a, 557, and 1311h (MCL 380.504a, 380.525, 380.553a, 380.557, and 380.1311h), section 504a as amended and section 525 as added by 2003 PA 179, section 553a as amended by 2011 PA 277, section 557 as added by 2009 PA 205, and section 1311h as amended by 2012 PA 620.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 504a. (1) In addition to other powers set forth in this
2 part, a public school academy may take action to carry out the
3 purposes for which it was incorporated under this part, including,
4 but not limited to, all of the following:

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

6 (b) Subject to **SUBSECTION (2) AND** section 503b, to acquire,

1 hold, and own in its own name real and personal property, or
2 interests in real or personal property, for educational purposes by
3 purchase, gift, grant, devise, bequest, lease, sublease,
4 installment purchase agreement, land contract, option, or
5 condemnation, and subject to mortgages, security interests, or
6 other liens; and to sell or convey the property as the interests of
7 the public school academy require.

8 (c) To receive, disburse, and pledge funds for lawful
9 purposes.

10 (d) To enter into binding legal agreements with persons or
11 entities as necessary for the operation, management, financing, and
12 maintenance of the public school academy.

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

14 (f) To solicit and accept any grants or gifts for educational
15 purposes and to establish or permit to be established on its behalf
16 1 or more nonprofit corporations the purpose of which is to assist
17 the public school academy in the furtherance of its public
18 purposes.

19 (g) To borrow money and issue bonds in accordance with section
20 1351a and in accordance with part VI of the revised municipal
21 finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the
22 borrowing of money and issuance of bonds by a public school academy
23 is not subject to section 1351a(4) or section 1351(2) to (4). Bonds
24 issued under this section shall be full faith and credit
25 obligations of the public school academy, pledging the general
26 funds or any other money available for such a purpose. Bonds issued
27 under this section are subject to the revised municipal finance

act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) IF A PUBLIC SCHOOL ACADEMY LEASES REAL PROPERTY, ALL OF THE FOLLOWING APPLY TO THE LEASE TRANSACTION:

(A) THE BOARD OF DIRECTORS OF THE PUBLIC SCHOOL ACADEMY SHALL NEGOTIATE THE TERMS OF THE LEASE AND SHALL ENSURE THAT THE TERMS OF THE LEASE REFLECT THE MARKET CONDITIONS THAT EXIST AT THE TIME OF THE LEASE, AS DETERMINED BY AN APPRAISAL CONDUCTED BY AN INDEPENDENT REAL ESTATE APPRAISER.

(B) THE BOARD OF DIRECTORS SHALL NOT ENTER INTO A LEASE UNLESS IT IS REVIEWED AND APPROVED BY THE PUBLIC SCHOOL ACADEMY'S AUTHORIZING BODY. AN AUTHORIZING BODY SHALL NOT APPROVE A LEASE THAT DOES NOT REFLECT MARKET CONDITIONS AS REQUIRED UNDER SUBDIVISION (A).

(C) THE BOARD OF DIRECTORS SHALL NOT LEASE REAL PROPERTY FROM AN EDUCATIONAL MANAGEMENT ORGANIZATION WITH WHICH THE PUBLIC SCHOOL ACADEMY HAS A MANAGEMENT AGREEMENT AS PROVIDED IN SECTION 503C OR FROM A REAL ESTATE HOLDING COMPANY THAT IS AFFILIATED WITH THAT EDUCATIONAL MANAGEMENT ORGANIZATION. AS USED IN THIS SUBDIVISION, "EDUCATIONAL MANAGEMENT ORGANIZATION" AND "MANAGEMENT AGREEMENT" MEAN THOSE TERMS AS DEFINED IN SECTION 503C.

Sec. 525. (1) In addition to other powers set forth in this part, an urban high school academy may take action to carry out the purposes for which it was incorporated under this part, including, but not limited to, all of the following:

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

(b) Subject to **SUBSECTION (2) AND** section 523a, to acquire, hold, and own in its own name real and personal property, or

1 interests in real or personal property, for educational purposes by
2 purchase, gift, grant, devise, bequest, lease, sublease,
3 installment purchase agreement, land contract, option, or
4 condemnation, and subject to mortgages, security interests, or
5 other liens; and to sell or convey the property as the interests of
6 the urban high school academy require.

7 (c) To receive, disburse, and pledge funds for lawful
8 purposes.

9 (d) To enter into binding legal agreements with persons or
10 entities as necessary for the operation, management, financing, and
11 maintenance of the urban high school academy.

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

13 (f) To solicit and accept any grants or gifts for educational
14 purposes and to establish or permit to be established on its behalf
15 1 or more nonprofit corporations the purpose of which is to assist
16 the urban high school academy in the furtherance of its public
17 purposes.

18 (g) To borrow money and issue bonds in accordance with section
19 1351a and in accordance with part VI of the revised municipal
20 finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the
21 borrowing of money and issuance of bonds by an urban high school
22 academy are not subject to section 1351a(4) or section 1351(2) to
23 (4). Bonds issued under this section shall be full faith and credit
24 obligations of the urban high school academy, pledging the general
25 funds or any other money available for such a purpose. Bonds issued
26 under this section are subject to the revised municipal finance
27 act, 2001 PA 34, MCL 141.2101 to 141.2821.

1 (2) IF AN URBAN HIGH SCHOOL ACADEMY LEASES REAL PROPERTY, ALL
2 OF THE FOLLOWING APPLY TO THE LEASE TRANSACTION:

3 (A) THE BOARD OF DIRECTORS OF THE URBAN HIGH SCHOOL ACADEMY
4 SHALL NEGOTIATE THE TERMS OF THE LEASE AND SHALL ENSURE THAT THE
5 TERMS OF THE LEASE REFLECT THE MARKET CONDITIONS THAT EXIST AT THE
6 TIME OF THE LEASE, AS DETERMINED BY AN APPRAISAL CONDUCTED BY AN
7 INDEPENDENT REAL ESTATE APPRAISER.

8 (B) THE BOARD OF DIRECTORS SHALL NOT ENTER INTO A LEASE UNLESS
9 IT IS REVIEWED AND APPROVED BY THE URBAN HIGH SCHOOL ACADEMY'S
10 AUTHORIZING BODY. AN AUTHORIZING BODY SHALL NOT APPROVE A LEASE
11 THAT DOES NOT REFLECT MARKET CONDITIONS AS REQUIRED UNDER
12 SUBDIVISION (A).

13 (C) THE BOARD OF DIRECTORS SHALL NOT LEASE REAL PROPERTY FROM
14 AN EDUCATIONAL MANAGEMENT ORGANIZATION WITH WHICH THE URBAN HIGH
15 SCHOOL ACADEMY HAS A MANAGEMENT AGREEMENT AS PROVIDED IN SECTION
16 523C OR FROM A REAL ESTATE HOLDING COMPANY THAT IS AFFILIATED WITH
17 THAT EDUCATIONAL MANAGEMENT ORGANIZATION. AS USED IN THIS
18 SUBDIVISION, "EDUCATIONAL MANAGEMENT ORGANIZATION" AND "MANAGEMENT
19 AGREEMENT" MEAN THOSE TERMS AS DEFINED IN SECTION 523C.

20 Sec. 553a. (1) An authorizing body may issue a contract to
21 establish a school of excellence that is a cyber school. A cyber
22 school shall provide full-time instruction to pupils through online
23 learning or otherwise on a computer or other technology, and this
24 instruction and learning may occur remote from a school facility.

25 (2) A contract for a school of excellence that is a cyber
26 school shall include all of the provisions required under section
27 553 and all of the following:

1 (a) A requirement that a teacher who holds appropriate
2 certification according to state board rule will be responsible for
3 all of the following for each course in which a pupil is enrolled:

4 (i) Improving learning by planned instruction.

5 (ii) Diagnosing the pupil's learning needs.

6 (iii) Assessing learning, assigning grades, and determining
7 advancement.

8 (iv) Reporting outcomes to administrators and parents or legal
9 guardians.

10 (b) A requirement that the cyber school will make educational
11 services available to pupils for a minimum of at least 1,098 hours
12 during a school year and will ensure that each pupil participates
13 in the educational program for at least 1,098 hours during a school
14 year.

15 (3) Notwithstanding any other provision of this act or any
16 rule, if a school of excellence that is a cyber school is in
17 compliance with the requirements of subsection (2)(a) regarding a
18 certificated teacher, any other adult assisting with the oversight
19 of a pupil during the pupil's participation in the cyber school's
20 education program is not required to be a certificated teacher or
21 an employee of the school.

22 (4) Notwithstanding any rule to the contrary, a cyber school
23 is not required to comply with any rule that would require a
24 pupil's physical presence or attendance in a classroom.

25 (5) At the end of a cyber school's second complete school year
26 of operations, the authorizing body of a school of excellence that
27 is a cyber school shall submit to the superintendent of public

1 instruction and the legislature, in the form and manner prescribed
2 by the superintendent of public instruction, a report detailing the
3 operation of the cyber school, providing statistics of pupil
4 participation and academic performance, and making recommendations
5 for any further statutory or rule change related to cyber schools
6 and online learning in this state.

7 (6) IN MAKING APPROPRIATIONS FOR STATE SCHOOL AID FOR PUBLIC
8 SCHOOLS, THE LEGISLATURE SHALL ENSURE THAT THE PER PUPIL PAYMENT
9 FOR A SCHOOL OF EXCELLENCE THAT IS A CYBER SCHOOL, AS CALCULATED
10 UNDER SECTION 20 OF THE STATE SCHOOL AID ACT OF 1979, MCL 388.1620,
11 DOES NOT EXCEED 50% OF THE FOUNDATION ALLOWANCE OF THE SCHOOL
12 DISTRICT IN WHICH THE CYBER SCHOOL IS LOCATED, AS CALCULATED UNDER
13 SECTION 20 OF THE STATE SCHOOL AID ACT OF 1979, MCL 388.1620.

14 Sec. 557. (1) In addition to other powers set forth in this
15 part, a school of excellence may take action to carry out the
16 purposes for which it was incorporated under this part, including,
17 but not limited to, all of the following:

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

19 (b) Subject to **SUBSECTION (2) AND** section 555, to acquire,
20 hold, and own in its own name real and personal property, or
21 interests in real or personal property, for educational purposes by
22 purchase, gift, grant, devise, bequest, lease, sublease,
23 installment purchase agreement, land contract, option, or
24 condemnation, and subject to mortgages, security interests, or
25 other liens; and to sell or convey the property as the interests of
26 the school of excellence require.

27 (c) To receive, disburse, and pledge funds for lawful

1 purposes.

2 (d) To enter into binding legal agreements with persons or
3 entities as necessary for the operation, management, financing, and
4 maintenance of the school of excellence.

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

6 (f) To solicit and accept any grants or gifts for educational
7 purposes and to establish or permit to be established on its behalf
8 1 or more nonprofit corporations the purpose of which is to assist
9 the school of excellence in the furtherance of its public purposes.

10 (g) To borrow money and issue bonds in accordance with section
11 1351a and in accordance with part VI of the revised municipal
12 finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the
13 borrowing of money and issuance of bonds by a school of excellence
14 is not subject to section 1351a(4) or section 1351(2) to (4). Bonds
15 issued under this section shall be full faith and credit
16 obligations of the school of excellence, pledging the general funds
17 or any other money available for such a purpose. Bonds issued under
18 this section are subject to the revised municipal finance act, 2001
19 PA 34, MCL 141.2101 to 141.2821.

20 (2) IF A SCHOOL OF EXCELLENCE LEASES REAL PROPERTY, ALL OF THE
21 FOLLOWING APPLY TO THE LEASE TRANSACTION:

22 (A) THE BOARD OF DIRECTORS OF THE SCHOOL OF EXCELLENCE SHALL
23 NEGOTIATE THE TERMS OF THE LEASE AND SHALL ENSURE THAT THE TERMS OF
24 THE LEASE REFLECT THE MARKET CONDITIONS THAT EXIST AT THE TIME OF
25 THE LEASE, AS DETERMINED BY AN APPRAISAL CONDUCTED BY AN
26 INDEPENDENT REAL ESTATE APPRAISER.

27 (B) THE BOARD OF DIRECTORS SHALL NOT ENTER INTO A LEASE UNLESS

1 IT IS REVIEWED AND APPROVED BY THE SCHOOL OF EXCELLENCE'S
 2 AUTHORIZING BODY. AN AUTHORIZING BODY SHALL NOT APPROVE A LEASE
 3 THAT DOES NOT REFLECT MARKET CONDITIONS AS REQUIRED UNDER
 4 SUBDIVISION (A).

5 (C) THE BOARD OF DIRECTORS SHALL NOT LEASE REAL PROPERTY FROM
 6 AN EDUCATIONAL MANAGEMENT ORGANIZATION WITH WHICH THE SCHOOL OF
 7 EXCELLENCE HAS A MANAGEMENT AGREEMENT AS PROVIDED IN SECTION 553C
 8 OR FROM A REAL ESTATE HOLDING COMPANY THAT IS AFFILIATED WITH THAT
 9 EDUCATIONAL MANAGEMENT ORGANIZATION. AS USED IN THIS SUBDIVISION,
 10 "EDUCATIONAL MANAGEMENT ORGANIZATION" AND "MANAGEMENT AGREEMENT"
 11 MEAN THOSE TERMS AS DEFINED IN SECTION 553C.

12 Sec. 1311h. (1) In addition to other powers set forth in
 13 sections 1311b to ~~1311f~~, **1311M**, a strict discipline academy may take
 14 action to carry out the purposes for which it was incorporated
 15 under sections 1311b to ~~1311f~~, **1311M**, including, but not limited to,
 16 all of the following:

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

18 (b) ~~To~~ **SUBJECT TO SUBSECTION (2)**, TO acquire, hold, and own in
 19 its own name real and personal property, or interests in real or
 20 personal property, for educational purposes by purchase, gift,
 21 grant, devise, bequest, lease, sublease, installment purchase
 22 agreement, land contract, option, or condemnation, and subject to
 23 mortgages, security interests, or other liens; and to sell or
 24 convey the property as the interests of the strict discipline
 25 academy require.

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

27 (d) To enter into binding legal agreements with persons or

1 entities as necessary for the operation, management, financing, and
2 maintenance of the strict discipline academy.

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

4 (f) To solicit and accept any grants or gifts for educational
5 purposes and to establish or permit to be established on its behalf
6 1 or more nonprofit corporations the purpose of which is to assist
7 the strict discipline academy in the furtherance of its public
8 purposes.

9 (g) To borrow money and issue bonds in accordance with section
10 1351a and in accordance with part VI of the revised municipal
11 finance act, 2001 PA 34, MCL 141.2601 to 141.2613, except that the
12 borrowing of money and issuance of bonds by a strict discipline
13 academy is not subject to section 1351a(4) or section 1351(2) to
14 (4). Bonds issued under this section shall be full faith and credit
15 obligations of the strict discipline academy, pledging the general
16 funds or any other money available for such a purpose. Bonds issued
17 under this section are subject to the revised municipal finance
18 act, 2001 PA 34, MCL 141.2101 to 141.2821.

19 **(2) IF A STRICT DISCIPLINE ACADEMY LEASES REAL PROPERTY, ALL**
20 **OF THE FOLLOWING APPLY TO THE LEASE TRANSACTION:**

21 **(A) THE BOARD OF DIRECTORS OF THE STRICT DISCIPLINE ACADEMY**
22 **SHALL NEGOTIATE THE TERMS OF THE LEASE AND SHALL ENSURE THAT THE**
23 **TERMS OF THE LEASE REFLECT THE MARKET CONDITIONS THAT EXIST AT THE**
24 **TIME OF THE LEASE, AS DETERMINED BY AN APPRAISAL CONDUCTED BY AN**
25 **INDEPENDENT REAL ESTATE APPRAISER.**

26 **(B) THE BOARD OF DIRECTORS SHALL NOT ENTER INTO A LEASE UNLESS**
27 **IT IS REVIEWED AND APPROVED BY THE STRICT DISCIPLINE ACADEMY'S**

1 AUTHORIZING BODY. AN AUTHORIZING BODY SHALL NOT APPROVE A LEASE
2 THAT DOES NOT REFLECT MARKET CONDITIONS AS REQUIRED UNDER
3 SUBDIVISION (A) .

4 (C) THE BOARD OF DIRECTORS SHALL NOT LEASE REAL PROPERTY FROM
5 AN EDUCATIONAL MANAGEMENT ORGANIZATION WITH WHICH THE STRICT
6 DISCIPLINE ACADEMY HAS A MANAGEMENT AGREEMENT OR FROM A REAL ESTATE
7 HOLDING COMPANY THAT IS AFFILIATED WITH THAT EDUCATIONAL MANAGEMENT
8 ORGANIZATION. AS USED IN THIS SUBDIVISION:

9 (i) "EDUCATIONAL MANAGEMENT ORGANIZATION" MEANS AN ENTITY THAT
10 ENTERS INTO A MANAGEMENT AGREEMENT WITH A STRICT DISCIPLINE
11 ACADEMY.

12 (ii) "ENTITY" MEANS A PARTNERSHIP, NONPROFIT OR BUSINESS
13 CORPORATION, OR ANY OTHER ASSOCIATION, CORPORATION, TRUST, OR OTHER
14 LEGAL ENTITY.

15 (iii) "MANAGEMENT AGREEMENT" MEANS AN AGREEMENT TO PROVIDE
16 COMPREHENSIVE EDUCATIONAL, ADMINISTRATIVE, MANAGEMENT, OR
17 INSTRUCTIONAL SERVICES OR STAFF TO A STRICT DISCIPLINE ACADEMY.