

SUBSTITUTE FOR
HOUSE BILL NO. 6255

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 12b (MCL 380.12b), as added by 2016 PA 192.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12b. (1) Beginning on ~~the effective date of the~~
2 ~~amendatory act that added this section,~~ **June 21, 2016**, if a school
3 district is or becomes a qualifying school district, the school
4 district shall lose its organization and be dissolved as provided
5 in this section.

6 (2) If a school district loses its organization under
7 subsection (1), except as otherwise provided in this section, all
8 records, funds, and property of the qualifying school district are
9 transferred on the transfer date to a community district created

1 with the same geographic boundaries of the qualifying school
2 district under part 5b. Except as otherwise provided in this
3 section, proceeds from bonds, notes, or emergency loans, taxes
4 levied by or payable to the qualifying school district, money
5 payable to the qualifying school district under the state school
6 aid act of 1979, and advances or other payments relating to any of
7 these, and all of the qualifying school district functions
8 described under subsection (3), ~~shall~~**must** be retained by the
9 qualifying school district and are not transferred to the community
10 district. A school building or other real property owned by the
11 qualifying school district becomes part of and owned by the
12 community district. If a qualifying school district has outstanding
13 debt on the transfer date, the qualifying school district shall
14 retain a limited separate identity as a school district and the
15 territory of the qualifying school district shall continue as a
16 separate taxing unit only for the limited public purposes of the
17 repayment of the debt until the debt is retired ~~—~~satisfying
18 liability from legal claims filed before the transfer date, and
19 protecting the credit of this state and of its school districts.

20 (3) Before the transfer date, the governor shall designate an
21 individual who is authorized by law to act for and in the place and
22 stead of the school board and superintendent of schools of the
23 qualifying school district as the transition manager for the
24 community district to perform functions and satisfy
25 responsibilities of the community district, of the school board and
26 superintendent of schools of the community district, and of the
27 transition manager under this section until the elected members of
28 the school board of the community district are elected and take
29 office under section 384. Until that time, the transition manager

1 shall exercise the powers, perform the functions, and satisfy the
 2 responsibilities of the school board and superintendent of schools
 3 of the community district, except that the transition manager shall
 4 not negotiate or enter into any collective bargaining agreement
 5 that would bind the elected school board of the community district.
 6 Until that date, the transition manager also shall perform the
 7 functions and satisfy the responsibilities of the school board and
 8 superintendent of schools of the qualifying school district
 9 relating to the repayment of debt and the dissolution of the
 10 qualifying school district, including, but not limited to, all of
 11 the following:

12 (a) Certifying and levying taxes for satisfaction of the debt
 13 in the name of the qualifying school district.

14 (b) Doing all other things relative to the repayment of
 15 outstanding debt of the qualifying school district required by law
 16 and by the terms of the debt, including, but not limited to, ~~filing~~
 17 **all of the following:**

18 (i) **Filing** draw requests and borrowing from the **school loan**
 19 revolving loan fund ~~for debt service on qualified bonds under~~
 20 **created in section 16c of the shared credit rating act, 1985 PA**
 21 **227, MCL 141.1066c, in accordance with** the school bond
 22 qualification, approval, and loan act, 2005 PA 92, MCL 388.1921 to
 23 388.1939, **for debt service on qualified bonds.** ~~τ~~

24 (ii) **Subject to subsection (12),** levying or seeking voter
 25 approval for a renewal of a school operating tax under section
 26 1211. ~~τ or refunding~~

27 (iii) **Refunding** or refinancing debt.

28 (c) Doing all other things relative to the dissolution of the
 29 qualifying school district.

1 (4) An individual designated as a transition manager under
2 subsection (3) shall perform the functions and satisfy the
3 responsibilities of a transition manager under this section from
4 the time of the designation until the elected members of the school
5 board of the community district are elected and take office under
6 section 384. Officers, employees, agents, and contractors of the
7 community district are subject to direction and supervision by the
8 transition manager and shall actively cooperate with the transition
9 manager in the transition manager's performance of functions and
10 responsibilities under this section. The functions and
11 responsibilities of the transition manager under this section
12 include, but are not limited to, all of the following before, on,
13 and after the transfer date:

14 (a) Appointing an interim superintendent of schools for the
15 community district to perform the functions of the superintendent
16 of schools for the community district only until a superintendent
17 of schools is selected by the school board of the community
18 district and takes office.

19 (b) Subject to the control of the financial review commission
20 under section 387, adopting the initial budget and general
21 appropriations act for the community district for the first fiscal
22 year of the community district. The initial budget and general
23 appropriations act are subject to amendment by the school board of
24 the community district after the school board is elected and takes
25 office under section 384.

26 (c) Subject to the control of the financial review commission
27 under section 387, establishing financial and accounting systems
28 for the community district and transferring financial records from
29 the qualifying school district to the community district.

1 (d) Transferring student records from the qualifying school
2 district in a manner that complies with laws applicable to student
3 records.

4 (e) Taking action necessary to ensure that state or federal
5 grants payable and expendable by the qualifying school district
6 before the transfer date are payable and expendable by the
7 community district as a successor entity to the qualifying school
8 district after the transfer date.

9 (f) Taking action necessary to ensure that school buildings
10 and other school property transferred to the community district by
11 operation of law under this section are ready for use in the first
12 school year that begins after the transfer date and preparing a
13 schedule of all fixed assets transferred from the qualifying school
14 district to the community district.

15 (g) Taking action necessary to ensure the continuity of
16 ongoing educational programs operational both before and after the
17 transfer date and properly accounting for the funding of the
18 educational programs.

19 (h) Subject to the control of the financial review commission
20 under section 387, negotiating and approving amended or new
21 agreements with vendors of the qualifying school district to assure
22 that the necessary services are available to be provided to the
23 community district. This does not include a collective bargaining
24 agreement.

25 (i) Adopting on behalf of the community district any policy or
26 operating procedure required by law for a school district as
27 necessary to ensure the community district's compliance with this
28 act and other applicable law.

29 (5) As permitted under federal law, on the transfer date the

1 superintendent of public instruction shall allocate to a community
2 district receiving the functions and responsibilities of a
3 qualifying school district for a public school under subsection (2)
4 all applicable grants under 20 USC 6333, 20 USC 6334, 20 USC 6335,
5 and 20 USC 6337, and other federal funds that would otherwise be
6 made available for grants to or federal funding for the public
7 school or make other adjustments in the allocation of federal funds
8 to implement the transfer of functions and responsibilities for the
9 public school. The community district is the successor entity of
10 the qualifying school district for purposes of receiving and
11 expending federal grants.

12 (6) For a community district's first school year of operations
13 only, until the department is able to calculate the community
14 district's membership, the department shall use the membership of
15 the qualifying school district for the purposes of making state
16 school aid allocations to the community district under the state
17 school aid act of 1979.

18 (7) Effective on the transfer date for a qualifying school
19 district and the community district created with the same
20 geographic boundaries of the qualifying school district under part
21 5b, all of the following apply:

22 (a) The community district acquires, succeeds to, and assumes
23 the exclusive right, responsibility, and authority to own, occupy,
24 operate, control, use, lease, and convey the facilities of the
25 qualifying school district existing as of the transfer date,
26 including all lands, buildings, improvements, structures,
27 easements, rights of access, and all other privileges and
28 appurtenances. The officers of the qualifying school district shall
29 execute any instruments of conveyance, assignment, and transfer

1 that are necessary or appropriate to accomplish the acquisition and
2 succession under this subdivision. Occupancy of a facility by a
3 community district under this subdivision is not considered to be a
4 change in occupancy for any purpose under state or local law.

5 (b) Except as otherwise provided in this section, the
6 community district acquires, succeeds to, and assumes all rights,
7 title, and interests in and to the fixtures, equipment, materials,
8 furnishings, and other personal property owned and used by the
9 qualifying school district as of the transfer date. The officers of
10 the qualifying school district shall execute any instruments of
11 conveyance, assignment, and transfer that are necessary or
12 appropriate to accomplish the acquisition and succession under this
13 subdivision.

14 (c) Except as otherwise provided in this section, the
15 community district acquires, succeeds to, and assumes all of the
16 rights of the qualifying school district relating to the qualifying
17 school district under any ordinances, agreements, or other
18 instruments and under law. This includes, but is not limited to, a
19 contract issued by the qualifying school district under this act to
20 organize and operate a public school academy. This succession
21 includes, and there is transferred to the community district, all
22 licenses, permits, approvals, or awards related to the qualifying
23 school district along with all grant agreements, grant pre-
24 applications, and the right to receive the balance of any funds
25 payable under the agreements.

26 (d) The community district has the right and authority to own,
27 occupy, operate, control, use, lease, and convey the facilities
28 transferred by the qualifying school district, subject to any liens
29 on the real property.

1 (e) Except for debt or other obligations retained by the
2 qualifying school district under this section, the community
3 district has the qualifying school district's right, title, and
4 interest in and all of the qualifying school district's
5 responsibilities and authority arising under leases, concessions,
6 and other contracts for facilities.

7 (f) All records and files, software, and software licenses
8 required for financial management, personnel management, accounting
9 and inventory systems, or general administration of the qualifying
10 school district are transferred to the community district without
11 reversion or impairment to the maximum extent permitted by law.

12 (g) A community district acquires, succeeds to, and assumes
13 all of the rights, duties, and obligations under a collective
14 bargaining agreement applicable to the qualifying school district
15 on the transfer date. The terms and conditions of that collective
16 bargaining agreement applicable to employees of the qualifying
17 school district on the transfer date ~~shall~~**must** be the terms and
18 conditions applicable to employees of the community district and
19 except for the superintendent of schools, the community district
20 shall be the successor employer for employees of the qualifying
21 school district on the transfer date. Except for the superintendent
22 of schools, an individual who is entitled to employment by the
23 qualifying school district on the transfer date ~~shall be~~**is**
24 entitled to employment by the community district following the
25 transfer to the community district.

26 (h) For individuals who become employed by a community
27 district by the operation of subdivision (g), the transition
28 manager shall take all steps necessary to ensure that all personnel
29 records are transferred from the qualifying school district to the

1 community district. For an individual who becomes employed by a
2 community district by the operation of subdivision (g), the
3 community district is not required to obtain a criminal history
4 check under section 1230 or a criminal records check under section
5 1230a or to request information concerning unprofessional conduct
6 under section 1230b before employing the individual.

7 (i) On the transfer date, a pupil enrolled in the qualifying
8 school district in the immediately preceding school year other than
9 an individual who has completed grade 12 is automatically enrolled
10 by operation of law in the community district for the next school
11 year. The transition manager shall use best efforts to assign a
12 pupil to the appropriate grade at the school the pupil attended in
13 the preceding school year, or to another school that the pupil has
14 applied and been admitted to before the transfer date, unless the
15 appropriate grade is not offered at that school or that school is
16 closed. The transition manager shall ensure that all pupil records
17 are transferred from the qualifying school district to the
18 community district in accordance with sections 1134 and 1135. This
19 section does not diminish or limit the right of a pupil to attend a
20 school of ~~his or her~~ **the pupil's** choice.

21 (8) A transfer to a community district under this section does
22 not impair a contract with a party in privity with the qualifying
23 school district.

24 (9) ~~Upon~~ **On** the transfer to a community district, the
25 community district assumes and the qualifying school district is
26 relieved from all operational jurisdiction over the qualifying
27 school district and facilities and is relieved from all further
28 costs and responsibility arising from or associated with operating
29 a public school or providing public education services, except as

1 otherwise required under obligations retained by the qualifying
2 school district under this section, including, but not limited to,
3 debt.

4 (10) A qualifying school district shall do all of the
5 following:

6 (a) Refrain from any action that would impair a community
7 district's exercise of the powers granted to the community district
8 under this section or part 5b, or that would impair the efficient
9 operation and management of the community district.

10 (b) Take all action reasonably necessary to cure any defects
11 in title to property transferred from the qualifying school
12 district to the community district.

13 (c) ~~Upon~~**On** creation of a community district and before the
14 transfer date, conduct operations of the qualifying school district
15 in the ordinary and usual course of business.

16 (d) Comply with the terms and conditions of any loan agreement
17 between the qualifying school district and the local financial
18 emergency assistance loan board under the emergency municipal loan
19 act, 1980 PA 243, MCL 141.931 to 141.942, including, but not
20 limited to, any terms and conditions providing for the payment of
21 transitional operating costs incurred by a community district.

22 (e) Notify the state treasurer upon the repayment of all
23 outstanding operating obligations of the qualifying school
24 district.

25 (f) Notify the state treasurer upon the repayment of all
26 outstanding debt of the qualifying school district.

27 (11) ~~Upon~~**On** the election and assumption of duties by the
28 members of the initial elected school board of the community
29 district, the school board of the qualifying school district is

1 dissolved and the functions and responsibilities of the qualifying
2 school district shall be exercised by the community district on
3 behalf of the qualifying school district until the qualifying
4 school district is fully dissolved under subsection (14).

5 (12) If the state treasurer is notified that all outstanding
6 operating obligations of the qualifying school district have been
7 repaid, the state treasurer shall verify whether all outstanding
8 obligations of the qualifying school district have been repaid. The
9 state treasurer also may determine that the outstanding operating
10 obligations of a qualifying school district have been satisfied on
11 ~~his or her~~ **the state treasurer's** own without notice. If the state
12 treasurer determines that all outstanding operating obligations of
13 the qualifying school district have been repaid, the state
14 treasurer shall certify in a written notice to a community district
15 that has the same geographic boundaries as the qualifying school
16 district that the outstanding operating obligations of the
17 qualifying school district have been repaid. **After certification by**
18 **the state treasurer under this subsection, the qualifying school**
19 **district shall not levy a mill for school operating purposes under**
20 **section 1211 beginning with the tax year immediately succeeding the**
21 **tax year in which the certification described in this subsection**
22 **occurred.**

23 (13) If the state treasurer is notified that all outstanding
24 debt of the qualifying school district has been repaid, the state
25 treasurer shall verify whether all of the outstanding debt of the
26 qualifying school district has been repaid. The state treasurer
27 also may determine that the outstanding debt of a qualifying school
28 district has been repaid on ~~his or her~~ **the state treasurer's** own
29 without notice. If the state treasurer determines that all of the

1 outstanding debt of the qualifying school district has been repaid,
2 the state treasurer shall certify in a written notice to a
3 community district that has the same geographic boundaries as the
4 qualifying district that all outstanding debt of the qualifying
5 school district has been repaid.

6 (14) ~~Upon~~**On** certification by the state treasurer under
7 subsection (13), the qualifying school district is fully dissolved
8 and any remaining assets of the qualifying school district are
9 transferred to the community district.

10 (15) As used in this section:

11 (a) "Debt" means that term as defined in section 103 of the
12 revised municipal finance act, 2001 PA 34, MCL 141.2103, and also
13 includes any of the following:

14 (i) Obligations of the qualifying school district under an
15 energy installment purchase contract.

16 (ii) Obligations of the qualifying school district under a
17 capital lease.

18 (iii) Any unpaid amounts payable by the qualifying school
19 district to the Michigan public school employees' retirement board
20 under the public school employees retirement act of 1979, 1980 PA
21 300, MCL 38.1301 to 38.1437.

22 (iv) The repayment of any loan or obligations under any loan
23 agreement between the qualifying school district and the local
24 financial emergency assistance loan board under the emergency
25 municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

26 (v) The repayment of any school financing stability bonds
27 under section 1356.

28 (vi) Any other monetary obligations of the qualifying school
29 district.

1 (b) "Operating obligation" means debt of a school district
 2 incurred for purposes of financing the operation of a school
 3 district or public schools operated by a school district,
 4 including, but not limited to, fiscal stability bonds under section
 5 1356 and an emergency loan under the emergency municipal loan act,
 6 1980 PA 243, MCL 141.931 to 141.942, ~~and~~ transitional operating
 7 costs as defined in section 3 of the emergency municipal loan act,
 8 1980 PA 243, MCL 141.933, **and loans incurred from the school loan**
 9 **revolving fund established under section 16c of the shared credit**
 10 **rating act, 1985 PA 227, MCL 141.1066c, in accordance with the**
 11 **school bond qualification, approval, and loan act, 2005 PA 92, MCL**
 12 **388.1921 to 388.1939.** Operating obligation does not include **other**
 13 debt of a school district incurred for the purpose of constructing,
 14 renovating, maintaining, or otherwise improving school facilities
 15 unless the debt is incurred as transitional operating costs as
 16 defined in section 3 of the emergency municipal loan act, 1980 PA
 17 243, MCL 141.933.

18 (c) "School operating purposes" means that term as defined in
 19 section 1211.

20 (d) ~~(e)~~—"Transfer date" means the first July 1 after the date
 21 a school district becomes a qualifying school district. For a
 22 school district that became a qualifying school district on ~~the~~
 23 ~~effective date of the amendatory act that added this subdivision,~~
 24 **June 21, 2016,** the transfer date is July 1, 2016.