



**House
Legislative
Analysis
Section**

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CHARTER SCHOOL FUNDING

**Senate Bill 887 (Substitute H-11)
First Analysis (12-12-94)**

**Sponsor: Sen. Joel Gougeon
First Senate Committee: School Finance
Reform
Second Senate Committee: Education
Reform
Third Senate Committee: Appropriations
(discharged)
House Committee: Appropriations**

THE APPARENT PROBLEM:

One of the many school reform measures that accompanied the overhaul of Michigan's school finance system was the authorization of the development of public school academies (more commonly known as charter schools). People interested in operating a charter school, under amendments to the School Code, could gain authorization from any of several sources, including a local school district, a community college, and a public university. Such a school would be an independent public school organized as a nonprofit corporation and funded from state school aid, with the amount based on the size of its enrollment. It could not accept tuition or discriminate in its admission policies. The charter school concept has grown in popularity in recent years as a means of creating a new set of schools where innovation can flourish, where new teaching and learning strategies can be developed, or where a particular kind of approach (whether experimental or traditional) not typically found in the public schools can be employed. Such schools, proponents say, could aim at helping particular kinds of students not well served in the existing public schools, could provide a different kind of curriculum (perhaps theme-based), could organize the school day, week, or year differently, could involve teachers and/or students actively in the management of the school, and could find new ways of using classroom space or even using the community as a classroom.

However, the law creating the new section of the School Code was ruled unconstitutional in a November 1, 1994, ruling by an Ingham County Circuit Court judge. The judge's opinion said,

essentially, that 1) public academies could not be considered "public schools" as defined by Michigan law because they were not under the immediate, exclusive control of the state; and 2) the act usurped the power of the state board of education to oversee and supervise public education and placed it in the hands of others. Prior to issuing the decision, the judge had halted funding to a number of charter schools that the superintendent of public instruction had found eligible for state aid. Proponents of charter schools are developing legislation to address the court ruling. In the meantime, a stopgap measure has been proposed to allow the charter schools already organized and operating to receive funding for the current school year.

THE CONTENT OF THE BILL:

The bill would amend the State School Aid Act (MCL 388.1603 et al.) to provide for funding in the 1994-95 school year for certain charter schools (called alternative public schools) and for a school operated by a public university (Wayne State) and to make a number of other alterations in the funding of the K-12 system.

Charter Schools. The bill would create a new section of the act under which the board of an intermediate school district could, with the approval of the superintendent of public instruction, establish and operate, for 1994-95 only, one or more alternative public schools, and receive funding for that purpose, as provided and limited in the bill. The section would be repealed effective June 30, 1995.

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The following ISDs could establish and operate such schools within their districts (with the approval and under the supervision of the state superintendent):

-- The Kent ISD could establish and operate no more than four such schools with a combined total membership of not more than 455 students.

-- The Wayne County Regional Education Service Agency could establish and operate no more than two such schools with a combined total membership of not more than 130 students.

-- The Macomb ISD could have one alternative school with a membership of not more than 50 students.

-- The Midland County ISD could have one such school with a membership of not more than 85 students.

-- The Saginaw ISD could have one such school with a membership of not more than 40 students.

An ISD that established and operated an alternative public school would have to: assign, hire, or contract with teachers and other necessary staff; lease or otherwise provide suitable facilities and equipment; establish or select curricula; and perform other acts considered necessary to provide appropriate educational programs.

The bill would allocate to an ISD an amount per student in an alternative school equal to 75 percent of the ISD's weighted average foundation allowance or \$4,125, whichever was less. In addition, an alternative public school could receive federal funds and categorical aid under any other section of the state school aid act (and would be considered a school district for those purposes), except that the maximum amount it could receive under another section would be 75 percent of the amount it could receive under that section if it were a district.

Membership of an alternative public school would be considered to be the number of full-time equated students in grades K-12 actually enrolled and in regular daily attendance on the supplemental count day.

A start-up grant of 50 percent of the estimated total amount due would have to be paid to an ISD for an alternative public school before January 23, 1994. The remainder would be paid in five equal

installments February through June, no later than the first business day following the 20th of the month.

Until the pupil count was available, the Department of Education would make estimated payments based on an estimated student census submitted by the ISD. Adjustments would be made as necessary once the official pupil count was available.

An alternative public school would be required to comply with the requirements of sections of the School Code commonly referred to as Public Act 25 of 1990 (regarding school improvement efforts).

School Operated by a Public University (Wayne State). The bill would permit, for the 1994-95 year only, an instructional program operated by a public university for students in grades K-6, 6-8, or 9-12, or in a combination of those grades, to be funded as a school district, if certain requirements were met. The requirements, in brief, are: the public university submitted an application to the Department of Education in a prior fiscal year under previous enabling legislation; the instructional program had been planned in the 1992-93 school year and implemented in the 1993-94 school year; and the instructional program complied with the school improvement program requirements of Public Act 25 of 1990. The instructional program would be eligible in the same manner as a school district for all applicable categorical and federal aid. An employee of the public university employed in the instructional program would not be an employee of a school district for the purposes of the teachers' tenure act and would not be eligible to be a member of the public school employees retirement system (unless other employees of the university were eligible).

Other School Aid Provisions. The following are among the other amendments contained in the bill.

-- The definition of "tuition pupil" in the act refers to a student of school age attending school in a district other than his or her district of residence. The bill would specify that the term would not include a special education student; a student in a cooperative education program; a student in an ISD schools-of-choice pilot program; or a student in an area vocational-technical or a vocational education program supported by a millage levied over more than one school district. Also a school district would no longer be required to charge tuition to the

district of residence for tuition pupils. The bill says a district could charge tuition, with the rates to be reduced by the district's foundation allowance. The tuition rate charged by a district would have to be uniform within each category of tuition pupils enrolled in the district.

-- The State School Aid Act says that for a student in membership in a district other than his or her district of residence, the per pupil allocation is to be based on the lesser of the foundation allowance of the district of residence and the district of enrollment. The bill would specify that, for a student in a cooperative education program operating during the school year ending in the current fiscal year pursuant to an agreement entered into before October 7, 1994, the allocation would be based on the foundation allowance of the educating district.

-- A supplemental payment of up to \$500,000 for 1994-95 would be provided to school districts in certain specified consortiums that contain a member district with a foundation allowance below the basic foundation allowance of \$5,000 per pupil. The bill would provide that for qualified consortiums, the foundation allowance would be the average of the allowances of the member districts, weighted by the percentage of pupils in total membership in the consortium. However, if a member district's foundation allowance was less than the basic foundation allowance (\$5,000 per pupil), it could use the basic foundation allowance for purposes of the weighted average calculation. The total statewide amount of additional funding resulting from this provision could only be used for direct instructional purposes and could not exceed \$500,000 in 1994-95. (The foundation allowance of consortiums would have to be adjusted as necessary to remain within than amount.) To qualify a consortium would have to: consist of all the districts within an ISD with fewer than 5,000 students; submit a written agreement to the Department of Education entered into by the school board of each district that the consortium will remain in existence for at least five years; and submit resolutions agreeing that students from a particular district will not be counted in future years unless, by June 30, 1997, either the district achieved summary accreditation for each school building or the board of the district submitted to voters the question of consolidating with all of the other districts in the consortium. Also, a consortium would have to provide to its member districts management and budget services;

staff recruitment, allied management, consultant, and supervisory services; integrated curriculum planning and course offerings; management and maintenance of physical plant and transportation; and student instruction at sites anywhere in the consortium area.

-- The 1993-94 base of a school district that had revenue of less than \$6,500 per pupil and that did not receive low-income funding payments under former Section 27 would be adjusted to include 60 percent of its 1993-94 compensatory education payments under former Section 31.

-- Districts would be allowed to count for purposes of "at-risk" funding, for 1994-95 only, individuals enrolled in educational programs, whether or not they were counted as pupils (e.g. pre-schoolers), who met the income eligibility criteria for free lunch and reported to the department by October 31. Beginning in 1995-96, the additional (at-risk) allowance would be based on the number of actual students in membership.

-- An established mathematics and science center would be required to address two or more of the six basic services specified in the state master plan rather than all six. (The services are pupil services, curriculum support, community involvement measures, professional development, resource clearinghouse services, and leadership.)

-- The participant count for an adult education program operated by a district or consortium could not be adjusted if the program demonstrated to the satisfaction of the Department of Education that it conducted a 900-hour program of alternative education through adult education in 1993-94.

-- A student who was dually enrolled in a postsecondary institution would not be considered less than a full-time equated pupil, which means a district's foundation allowance would not be affected by dual enrollment.

BACKGROUND INFORMATION:

The charter school (or alternative public school) provisions would provide funding for nine schools: New Branches and West Michigan Academy for Environmental Science in Grand Rapids, Horizons High School Community in Wyoming, the Caledonia Charter Academy, the Macomb Academy in Clinton Township, Windover High School in Midland,

Northlane Math and Science Academy in Freeland, and the Academy of Casa Maria and Aisha Shule/W.E.B. Dubois Preparatory Academy, both in Detroit. The school operated by Wayne State University, commonly referred to as a charter school, is covered by another section of the State School Aid Act. Its existence as a charter school pre-dated the charter school legislation and organizers did not apply for funding under that legislation.

FISCAL IMPLICATIONS:

According to a the House Fiscal Agency, most of the provisions in this bill do not involve the authorization of additional state funds because they apply to capped categoricals or are to be contained within the Section 20 foundation allowance spending cap. The cost of funding the nine alternative public schools (or charter schools) is put at about \$3 million, but this amount was included in the previously approved overall K-12 budget. (12-8-94)

ARGUMENTS:

For:

The bill would provide for funding in the current school year for existing charter schools that had been approved for state funding. Court action invalidating the charter school (or public school academy) legislation has prevented the funding from proceeding. The funding would be for the remainder (about three-quarters) of the school year. Without this legislation, schools already serving public school students would be denied the funding necessary to operate. This is a temporary measure while the legislature sets about addressing the court's concerns regarding the statutory provisions authorizing the creation of charter schools. The bill would implement the legislature's clearly stated intent that charter schools be part of the overall public school system in the state.

Against:

Opponents of charter schools have consistently maintained that the concept inevitably leads to sending tax dollars to private schools. Several of the schools that would be guaranteed state funding under this legislation were private schools last year. What is accomplished in such cases, except to siphon off state tax dollars? Some people believe the charter school concept weakens both public education and private education, and particularly

threatens the future of religious schools. This legislation in particular sets a bad precedent. It essentially designates -- in an appropriations bill -- certain schools as public schools (without a valid underlying statute) and sends them state tax dollars. At the very least, the funding should be limited to schools that previously were part of a public school system.

POSITIONS:

There are no positions on the bill.