

Act No. 284  
Public Acts of 1993  
Approved by the Governor  
December 22, 1993  
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December 28, 1993

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

Introduced by Reps. Bryant, Dalman, Horton, Kukuk, Bender, Bullard, DeLange, Bandstra, Dobb, Llewellyn, Munsell, Stille, Walberg, Gustafson and Martin

# **ENROLLED HOUSE BILL No. 5124**

AN ACT to amend section 1230 of Act No. 451 of the Public Acts of 1976, entitled as amended "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and classify the laws relating to elementary and secondary education; to provide for the classification, organization, regulation, and maintenance of schools, school districts, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, and intermediate school districts; to provide for the regulation of school teachers and school administrators; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal certain acts and parts of acts," as amended by Act No. 68 of the Public Acts of 1993, being section 380.1230 of the Michigan Compiled Laws; and to add part 6a and section 1701a.

*The People of the State of Michigan enact:*

Section 1. Section 1230 of Act No. 451 of the Public Acts of 1976, as amended by Act No. 68 of the Public Acts of 1993, being section 380.1230 of the Michigan Compiled Laws, is amended and part 6a and section 1701a are added to read as follows:

## **PART 6A**

### **PUBLIC SCHOOL ACADEMIES**

Sec. 501. (1) A public school academy is a public school under section 2 of article VIII of the state constitution of 1963, and is considered to be a school district for the purposes of section 11 of article IX of the state constitution of 1963. A public school academy is a body corporate, may sue and be sued in its name, may acquire and take real and personal property for educational purposes by purchase, gift, grant, devise, or bequest, and may sell and convey the property as the interests of the public school academy require. A public school academy is not a school corporation for the purposes of section 331. A public school academy may not levy ad valorem property taxes or any other tax for any purpose.

(2) As used in this part:

(a) "Certificated teacher" means an individual who holds a valid teaching certificate issued by the state board under section 1531 or 1233b.

(b) "Chartered educational clinic" means a specialty public school academy that serves pupils outside of and in addition to their normal school hours, as provided for in section 504a.

(c) "Chartering body" means the entity that grants a charter for a public school academy as provided in section 503.

(d) "Community college" means a community college organized under the community college act of 1966, Act No. 331 of the Public Acts of 1966, being sections 389.1 to 389.195 of the Michigan Compiled Laws, or a federal tribally controlled community college that is recognized under the tribally controlled community college assistance act of 1978, Public Law 95-471, 92 Stat. 1325, and is determined by the department to meet the requirements for accreditation by a recognized regional accrediting body.

(e) "Conversion public school academy" means a public school academy that has been issued a charter under this part to be a conversion public school academy under section 504.

(f) "State public university" means a university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

Sec. 502. (1) A public school academy shall be organized and operated by an entity described in subsection (2). A public school academy shall be organized and operated under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors.

(2) Any of the following may apply under subsection (5) for a charter to organize and operate 1 or more public school academies under this part:

(a) For a conversion public school academy, a public school academy corporation formed by 1 or more certificated teachers employed by the school district at the school to be converted as the sole incorporators, which public school academy corporation meets the requirements of subsection (3). A majority of the board of directors of the public school academy corporation shall be certificated teachers.

(b) For a public school academy that is not a conversion public school academy, any of the following:

(i) A public school academy corporation formed by any 1 or more certificated teachers as the sole incorporators, which public school academy corporation meets the requirements of subsection (3). A majority of the board of directors of the public school academy corporation shall be certificated teachers.

(ii) Subject to subsection (4), a public school academy corporation formed by an entity listed in subparagraphs (iii) to (vi), as the sole incorporator, which public school academy corporation meets the requirements of subsection (3).

(iii) A school district.

(iv) An intermediate school district.

(v) A state public university.

(vi) Subject to subsection (4), a community college that has not granted any charters under section 503 or 504.

(3) A public school academy corporation shall be organized under the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws. A public school academy corporation shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(4) A community college or a public school academy corporation formed by a community college may operate only 1 public school academy, which shall be located within the boundaries of the community college district. A public school academy organized and operated by a community college or by a public school academy corporation formed by a community college may operate any grade from kindergarten up to grade 12, or any combination of those grades. If such a public school academy operates different grades at each location, the public school academy may operate at more than 1 location, up to a maximum of 3 locations.

(5) An entity described in subsection (2) may apply to any of the following for a charter to organize and operate 1 or more public school academies under this part:

(a) The board of a school district. However, the board of a school district shall not issue a charter for a public school academy to operate outside the school district's boundaries, and a public school academy chartered by the board of a school district shall not operate outside that school district's boundaries.

(b) An intermediate school district. However, the board of an intermediate school district shall not issue a charter for a public school academy to operate outside the intermediate school district's boundaries, and a public school academy

chartered by the board of an intermediate school district shall not operate outside that intermediate school district's boundaries.

(c) A state public university.

(d) A community college. However, the board of a community college shall not issue a charter for a public school academy to operate outside the boundaries of the community college district, and a public school academy chartered by the board of a community college shall not operate outside the boundaries of the community college district.

(6) A chartering body shall report to the state board charters granted and shall file with the board a copy of any charter granted.

(7) An application for a charter shall include at least all of the following:

(a) Identification of the entity applying for the charter.

(b) If the application is for a conversion public school academy, a statement to that effect.

(c) A list of the proposed members of the board of directors of the public school academy or a description of the qualifications and method for appointment or election of members of the board of directors.

(d) A copy of the proposed bylaws of the public school academy, which shall include at least all of the following:

(i) The governance structure of the public school academy.

(ii) A copy of the educational goals of the public school academy and the curriculum to be offered and methods of pupil assessment to be used by the public school academy. To the extent applicable, academic achievements shall be assessed using Michigan education assessment program (MEAP) test or an assessment instrument developed under section 104a(9) of the state school aid act of 1979, being section 388.1704a of the Michigan Compiled Laws, for a state-endorsed high school diploma, and any nationally normed test of academic achievement or basic skill.

(iii) The admission policy and criteria to be maintained by the public school academy. The admission policy and criteria shall comply with section 505.

(iv) The school calendar and school day schedule.

(v) The age or grade range of pupils to be enrolled.

(e) Descriptions of staff responsibilities, of the role of parents and legal guardians, and of the public school academy's governance structure.

(f) Identification of the local and intermediate school districts in which the public school academy will be located and a description of the anticipated relationship between the public school academy and the local and intermediate school districts in which it is to be located.

(g) A description of how the public school academy will meet the requirements of sections 1204a, 1277, 1278, and 1280, commonly referred to as "Public Act 25 of 1990", and of section 1233 or 1233b and section 1230.

(h) An assurance that the public school academy will comply with all state and federal law applicable to public schools concerning church-state issues.

(i) If the application is for a conversion public school academy, evidence satisfactory to the chartering body that the requirements of section 504 are met.

Sec. 503. (1) Subject to section 504, a chartering body may grant a charter to an entity described in section 502(2) to organize and operate 1 or more public school academies in this state if the chartering body finds that the entity meets and that the proposed public school academy will meet the requirements of this part and that issuance of the charter will further the educational goals of this state. Subject to section 504, a chartering body is not required to issue a charter to any person or entity. A chartering body may not grant a charter to itself but may grant a charter to a public school academy corporation formed by the chartering body. Charters shall be granted on a competitive basis taking into consideration the resources available for the proposed public school academy, the population to be served by the proposed public school academy, and the educational outcomes to be achieved by the proposed public school academy. When the chartering body is not a local school district, the individual wealth of incorporators or families of probable students shall not be a consideration.

(2) A charter granted to an entity to organize and operate a public school academy is a contract between the public school academy and the chartering body and shall contain at least all of the following:

(a) A commitment by the public school academy to comply with this part.

(b) The educational outcomes the public school academy is to achieve and the standards to which it will be held accountable, which shall include at least compliance with section 1278 as to all of the outcomes included in the state board model core curriculum. To the extent applicable, the outcomes shall be assessed using at least a Michigan education assessment program (MEAP) test or an assessment instrument developed under section 104a(9) of the state

school aid act of 1979, being section 388.1704a of the Michigan Compiled Laws, for a state-endorsed high school diploma, and 1 or more of the following nationally normed tests: the California achievement test, the Stanford achievement test, or the Iowa test of basic skills.

(c) A description of the method to be used to monitor the public school academy's compliance with this part and its performance in meeting its targeted educational outcomes.

(d) A description of the process for amending the charter during the term of the charter.

(e) Specific operating requirements for the public school academy, which shall include at least all of the matters specified in section 502(7)(c), (d), (e), (f), (g), and (h).

(f) If the charter is for a conversion public school academy, identification of the existing school facilities to be occupied in whole or part by the conversion public school academy.

(g) Procedures for revoking the charter and grounds for revoking the charter, including at least the grounds listed in section 509.

(3) A charter issued under this section is valid for 7 years and shall be renewed for the same number of years by the chartering body if the chartering body determines that the public school academy has achieved the educational outcomes required in the charter and has complied with the other requirements specified in this part and in the charter.

Sec. 504. (1) Upon proper application, a chartering body shall issue a charter to a public school academy corporation described in section 502(2)(a) to establish a conversion public school academy if all of the following are met:

(a) The charter application to the chartering body is submitted by 1 or more certificated teachers employed by the school district at the school to be converted who have formed a public school academy corporation meeting the requirements of section 502(3).

(b) The charter application is supported by the affirmative vote of at least 75% of the certificated teachers employed at the school to be converted. The vote required under this subdivision shall be held within 60 days before the date the charter application is submitted.

(c) The charter application is supported by the affirmative vote of at least 75% of the parents or legal guardians of the pupils enrolled in the school to be converted who are present and vote on the question at a public meeting on the issue of converting all or a part of the school to a conversion public school academy. The meeting at which the vote is taken shall be held within 60 days before the date the charter application is submitted. Public notice shall be given for the meeting in the same manner as notice of a meeting of a school board under section 1201.

(2) If the charter for a conversion public school academy identifies existing school facilities to be occupied by the conversion public school academy, the school district in which the conversion public school academy is to be located shall allow the conversion public school academy to convert those school facilities to the use of the conversion public school academy, as specified in the charter. The school district and the conversion public school academy shall enter into a lease agreement charging a reasonable rent for the facilities. If the parties cannot agree to reasonable rent within 90 days after the teacher and parent votes for conversion, each party shall choose an appraiser, who together shall choose a third appraiser, and the appraisers shall determine a reasonable rent by majority vote of them. The determination of the appraisers is final and binding on the parties. Each party shall bear its own costs for this process. The lease agreement shall specify the party that has financial liability for all utilities, maintenance, improvements, and other costs for the facilities occupied by the conversion public school academy.

(3) A conversion public school academy and the school district shall enter into a contract or cooperative arrangement concerning reasonable general liability insurance for the conversion public school academy.

(4) A conversion public school academy shall offer at least the same grades, or nongraded education appropriate for the same ages and education levels of pupils, as offered by the school district school immediately before conversion, and may also provide additional grades and further educational offerings.

Sec. 504a. (1) The board of a school district may grant a charter to an eligible entity for a chartered educational clinic. The application requirements and procedures for such a charter are the same as for a charter for another public school academy. A chartered educational clinic is a specialty public school academy and shall only serve public school pupils described in this section during hours outside the pupil's normal class hours by providing special assistance for up to 3 hours per week, pursuant to a written prescription by the principal of the public school in which the pupil is regularly enrolled on recommendation of a teacher of the pupil. A public school pupil enrolled in grades K-12 who is in educational difficulty or is at risk of falling seriously behind other pupils of his or her age level, of not being advanced in grade level, or of dropping out or being expelled from school may be served by a chartered educational clinic.

(2) A chartered educational clinic shall receive state school aid for each full-time equated pupil who attends the chartered educational clinic, calculated by dividing the amount of per membership pupil state school aid due under the

state school aid act to a public school academy located in the same school district as the chartered educational clinic by 990 and multiplying the quotient by the number of hours of service provided to the pupil, as reported monthly to the department.

Sec. 505. (1) A public school academy shall not charge tuition and shall not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a handicapped person, or any other basis that would be illegal if used by a school district. However, a public school academy may limit admission to pupils who are within a particular range of age or grade level or on any other basis not specifically prohibited under this part that would be legal if used by a school district, including, but not limited to, a condition requiring a parent or legal guardian to provide reasonable volunteer services for the public school academy.

(2) A public school academy shall not enroll a pupil, except a foreign exchange student, who is not a resident of this state. Subject to subsection (3), enrollment in the public school academy shall be open to all pupils who reside in this state who meet the admission policy. If there are more applications to enroll in the public school academy than there are spaces available, pupils shall be selected to attend using a random selection process. However, a public school academy may give enrollment priority to a sibling of a pupil enrolled in the public school academy and a conversion public school academy shall give enrollment priority in the following order:

- (a) First, to a pupil who was enrolled in the school immediately before conversion.
- (b) Second, to a sibling of a pupil enrolled in the public school academy.
- (c) Third, to a pupil who resides within the attendance area in which the conversion public school academy is located.
- (d) Fourth, to a pupil who resides in the school district in which the conversion public school academy is located.

(3) A public school academy may include any grade from prekindergarten up to grade 12 or any combination of those grades, including early childhood education, as specified in its charter. If specified in its charter, a public school academy may also operate an adult basic education program, adult high school completion program, or general education development testing preparation program. The chartering body may approve amendment of a charter with respect to ages of pupils or grades offered.

Sec. 506. (1) Upon receiving a resolution adopted by the board of a public school academy requesting a waiver under this section, the state board in its discretion may grant a waiver for up to 3 years of the duty of the public school academy or board to comply with any state statute or rule applicable to school districts and school boards generally, except those listed in subsection (3). The state board may grant a waiver only if the public school academy demonstrates to the satisfaction of the state board that a waiver is needed for purposes of a valid innovation research study that is grounded in existing research and appears to offer a reasonable chance of improved learning or an improvement in cost efficiency without a diminution of learning.

(2) A waiver granted under this section may be renewed by the state board and may be revoked by the state board.

(3) The following statutes and rules are not subject to waiver under this section:

- (a) Health and safety requirements.
- (b) Civil rights requirements.
- (c) Reporting and testing requirements.
- (d) Special education requirements.

(e) Sections 1204a, 1277, 1278, and 1280, commonly referred to as "Public Act 25 of 1990" and sections 1169, 1173, 1201, 1202, 1203, 1217, 1230, 1232, 1233, 1236, 1246, 1249, 1281, and 1312.

(f) The open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(g) The freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(h) Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.216 of the Michigan Compiled Laws.

(i) The public school employees retirement act of 1979, Act No. 300 of the Public Acts of 1980, being sections 38.1301 to 38.1408 of the Michigan Compiled Laws.

(4) If a public school academy corporation described in section 502(2)(b)(ii) operates 1 or more public school academies, the school district, intermediate school district, state public university, or community college that formed the public school academy corporation is the fiscal agent for each public school academy operated by the public school academy corporation.

(5) A public school academy shall not use a test or other assessment instrument that assesses pupils' values, attitudes, or beliefs.

(6) A public school academy shall meet generally accepted accounting principles.

(7) A public school academy shall comply with all state and federal law applicable to public schools concerning church-state issues. A public school academy shall not have any organizational or contractual affiliation with or constitute a church or other religious organization.

(8) A public school academy shall perform the same functions and duties under article 3 as a local school district for the purpose of ensuring that a handicapped person enrolled in the public school academy is provided with special education programs and services under article 3.

(9) If a public school academy joins an athletic association, the public school academy and its pupils are subject to the rules of that athletic association.

Sec. 507. (1) A public school academy may employ or contract with or for personnel as necessary for the operation of the school, prescribe their duties, and fix their compensation. A public school academy has the same rights and responsibilities regarding personnel contracts as a school district.

(2) Upon written request by the employee, the board of a school district shall grant a leave of absence to an employee of the school district to teach in a public school academy unless the superintendent of the school district determines in his or her sole discretion that granting the leave of absence would not be in the best educational interest of children residing in the school district or this state.

Sec. 508. (1) A public school academy operating under this part shall receive state school aid per pupil in membership at the public school academy pursuant to the state school aid act of 1979. However, a public school academy shall not receive a per membership pupil foundation allowance for a pupil in membership in the public school academy that exceeds the amount of the foundation allowance that is paid to the pupil's school district of residence for a comparable pupil enrolled in that school district.

(2) In addition to the funding under subsection (1), a public school academy is considered a school district for funding under all other sections of the state school aid act of 1979, may apply for funding under federal law, and, to the extent permitted by law, may accept donations from other public or private sources.

(3) If a public school academy has a fiscal agent under section 506(4), state school aid for the public school academy shall be paid to the fiscal agent and the fiscal agent shall forward the state school aid to the public school academy.

(4) Except for a pupil enrolled in a chartered educational clinic under section 504a, a pupil enrolled in a public school academy shall not be counted in membership in a school district.

Sec. 509. A chartering body has responsibility for general oversight of the operations of a public school academy for which it has issued a charter under this part. A charter issued under this part may be revoked by the chartering body that issued the charter if the chartering body determines that 1 or more of the following have occurred:

(a) Failure of the public school academy to abide by and substantially meet the educational goals and outcomes set forth in its bylaws and the charter.

(b) Failure of the public school academy to maintain applicable health and safety standards.

(c) Failure of the public school academy to meet generally accepted accounting principles.

(d) The existence of 1 or more other grounds for revocation as specified in the charter.

Sec. 1230. (1) Beginning with hiring for the 1993-94 school year and subject to subsections (2), (4), and (5), upon an offer of initial employment being made by the board of a school district, local act school district, or intermediate school district or the governing body of a public school academy or nonpublic school to an individual for a position as a teacher or a school administrator or for a position requiring state board approval, the district, public school academy, or nonpublic school shall request from the criminal records division of the department of state police a criminal history check on the individual and, before employing the individual as a regular employee, shall have received from the department of state police the report described in subsection (8).

(2) If the board of a school district, local act school district, or intermediate school district or the governing body of a public school academy or nonpublic school determines it necessary to employ an individual for a position described in subsection (1) for a particular school year during that school year or within 30 days before the beginning of that school year, the board or governing body may employ the individual as a conditional employee under this subsection without first receiving the report described in subsection (8) if all of the following apply:

(a) The board or governing body requests the criminal history check required under subsection (1) before conditionally employing the individual.

(b) The individual signs a statement that identifies all crimes for which he or she has been convicted, if any, and agreeing that, if the report described in subsection (8) is not the same as the individual's statement, his or her employment contract will be voidable at the option of the board or governing body. Not later than July 28, 1993, the department shall develop and distribute to districts and nonpublic schools a model form for the statement required under this subdivision. The department shall make the model form available to public school academies. A district, public school academy, or nonpublic school shall use the model form for the purposes of this subsection.

(3) If an individual is employed as a conditional employee under subsection (2) and the report described in subsection (8) is not the same as the individual's statement under subsection (2), the board or governing body may void the individual's employment contract. If an employment contract is voided under this subsection, the individual's employment is terminated, a collective bargaining agreement that would otherwise apply to the individual's employment does not apply to the termination, and the district, public school academy, or nonpublic school or the board or governing body is not liable for the termination.

(4) For an applicant for a position as a substitute teacher, instead of requesting a criminal history check under subsection (1), a school district, local act school district, intermediate school district, public school academy, or nonpublic school may use a report received by another district, public school academy, or nonpublic school or maintained by the department to confirm that the individual does not have any criminal history. If that confirmation is not available, subsection (1) applies to an applicant for a position as a substitute teacher.

(5) If an applicant for a position described in subsection (1) is being considered for employment in such a position by more than 1 school district, local act school district, intermediate school district, public school academy, or nonpublic school and if the applicant agrees in writing to allow a district, public school academy, or nonpublic school to share the report described in subsection (8) with another district, public school academy, or nonpublic school, a district, public school academy, or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the report described in subsection (8) from another district, public school academy, or nonpublic school.

(6) An applicant for a position described in subsection (1) shall give written consent at the time of application for the criminal records division of the department of state police to conduct the criminal history check required under this section.

(7) A school district, local act school district, intermediate school district, public school academy, or nonpublic school shall make a request to the criminal records division of the department of state police for a criminal history check required under this section on a form and in a manner prescribed by the criminal records division of the department of state police.

(8) Within 30 days after receiving a proper request by a school district, local act school district, intermediate school district, public school academy, or nonpublic school for a criminal history check on an applicant under this section, the criminal records division of the department of state police shall conduct the criminal history check and, after conducting the criminal history check and within that time period, provide a report of the results of the criminal history check to the district, public school academy, or nonpublic school. The report shall contain any criminal history record information on the applicant maintained by the criminal records division of the department of state police.

(9) Criminal history record information received from the criminal records division of the department of state police under subsection (8) shall be used by a school district, local act school district, intermediate school district, public school academy, or nonpublic school only for the purpose of evaluating an applicant's qualifications for employment in the position for which he or she has applied and for the purposes of subsection (3). A member of the board of a district or of the governing body of a public school academy or nonpublic school or an employee of a district, public school academy, or nonpublic school shall not disclose the report or its contents except any felony conviction or a misdemeanor conviction involving sexual or physical abuse to any person who is not directly involved in evaluating the applicant's qualifications for employment. However, for the purposes of subsection (4), a person described in this subsection may confirm to an employee of another district, public school academy, or nonpublic school that a report under subsection (8) has revealed that an individual does not have any criminal history or may disclose that no report under subsection (8) has been received concerning the individual, and for the purposes of subsection (5), a person described in this subsection may provide a copy of the report under subsection (8) concerning the individual to an appropriate representative of another district, public school academy, or nonpublic school. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00, but is not subject to the penalties under section 1804.

(10) As used in this section:

(a) "Criminal history record information" means that term as defined in section 1a of Act No. 289 of the Public Acts of 1925, being section 28.241a of the Michigan Compiled Laws.

(b) "State board approval" means that term as defined in section 1539b.

Sec. 1701a. For the purposes of ensuring that a handicapped person enrolled in a public school academy created under part 6a is provided with special education programs and services, the public school academy is considered to be a local school district under this article.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

(a) House Bill No. 4366.

(b) House Bill No. 5125.

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Co-Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.