

Act No. 362
Public Acts of 1993
Approved by the Governor
January 14, 1994
Filed with the Secretary of State
January 14, 1994

STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993

Introduced by Senator Posthumus

ENROLLED SENATE BILL No. 896

AN ACT to amend 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, being sections 380.1 to 380.1852 of the Michigan Compiled Laws, by adding part 6a; and to repeal certain parts of the act.

The People of the State of Michigan enact:

Section 1. Act No. 451 of the Public Acts of 1976, as amended, being sections 380.1 to 380.1852 of the Michigan Compiled Laws, is amended by adding part 6a 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 and is a governmental agency. The powers granted to a public school academy under this part constitute the performance of essential public purposes and governmental functions of this state. A public school academy 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.

(2) As used in this part:

(a) "Authorizing body" means any of the following that grants a contract as provided in this part:

(i) The board of a school district.

(ii) An intermediate school board.

(iii) The board of a community college.

(iv) The governing board of a state public university.

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

(c) "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 federally 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.

(d) "Contract" means the written instrument executed by an authorizing body conferring certain rights, franchises, privileges, and obligations of a public school academy, as provided by this part, and confirming the status of a public school academy as a public school in this state.

(e) "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 administered under the direction of a board of directors in accordance with this part and with bylaws adopted by the board of directors. A public school academy 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, except that a public school academy corporation is not required to comply with sections 170 to 177 of Act No. 327 of the Public Acts of 1931, being sections 450.170 to 450.177 of the Michigan Compiled Laws. To the extent disqualified under the state or federal constitution, a public school academy 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.

(2) Any of the following may act as an authorizing body to grant a contract 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 contract for a public school academy to operate outside the school district's boundaries, and a public school academy authorized by the board of a school district shall not operate outside that school district's boundaries.

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

(c) The board of a community college. However, the board of a community college shall not grant a contract for more than 1 public school academy; the board of a community college shall not grant a contract for a public school academy to operate in a school district organized as a school district of the first class, and a public school academy authorized by the board of a community college shall not operate in a school district organized as a school district of the first class; and the board of a community college shall not issue a contract for a public school academy to operate outside the boundaries of the community college district, and a public school academy authorized by the board of a community college shall not operate outside the boundaries of the community college district.

(d) The governing board of a state public university.

(3) To obtain a contract to organize and operate 1 or more public school academies, an applicant shall apply to an authorizing body described in subsection (2). The application shall include at least all of the following:

(a) Identification of the applicant for the contract.

(b) Subject to the resolution adopted by the authorizing body under section 503(3), 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.

(c) The proposed articles of incorporation, which shall include at least all of the following:

(i) The name of the proposed public school academy.

(ii) The purposes for the public school academy corporation. This language shall provide that the public school academy is incorporated pursuant to this part and that the public school academy corporation is a governmental entity.

(iii) The name of the authorizing body.

(iv) The proposed time when the articles of incorporation will be effective.

(v) Other matters considered expedient to be in the articles of incorporation.

(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, the progress of the pupils in the public school academy shall be assessed using at least a Michigan education assessment program (MEAP) test or an

assessment instrument developed under section 104a of the state school aid act of 1979, being section 388.1704a of the Michigan Compiled Laws, for a state-endorsed high school diploma, or 1 or more of the following nationally normed tests: the California achievement test, the Stanford achievement test, or the Iowa test of basic skills.

(iii) The admission policy and criteria to be maintained by the public school academy. The admission policy and criteria shall comply with section 504.

(iv) The school calendar and school day schedule.

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

(e) Descriptions of staff responsibilities and of the public school academy's governance structure.

(f) For an application to the board of a school district, an intermediate school board, or board of a community college, identification of the local and intermediate school districts in which the public school academy will be located.

(g) An agreement that the public school academy will comply with the provisions of this part and, subject to the provisions of this part, with all other state law applicable to public bodies and with federal law applicable to public bodies or school districts.

(h) For a public school academy authorized by a school district, an assurance that employees of the public school academy will be covered by the collective bargaining agreements that apply to other employees of the school district employed in similar classifications in schools that are not public school academies.

(i) A description of and address for the physical plant in which the public school academy will be located.

Sec. 503. (1) An authorizing body is not required to issue a contract to any person or entity. Public school academy contracts shall be issued 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 goals to be achieved by the proposed public school academy.

(2) If a person or entity applies to the board of a school district for a contract to organize and operate 1 or more public school academies within the boundaries of the school district and the board does not grant the contract, the person or entity may petition the board to place the question of granting the contract on the ballot to be decided by the school electors of the school district. The petition shall contain all of the information required to be in the contract application under section 502(3) and shall be signed by a number of school electors of the school district equal to at least 15% of the total number of school electors of that school district. The petition shall be filed with the secretary of the board. If the board receives a petition meeting the requirements of this subsection, the board shall place the question of granting the contract on the ballot at its next annual school election held at least 60 days after receiving the petition. If a majority of the school electors of the school district voting on the question vote to grant the contract, the board shall grant the contract.

(3) An authorizing body shall adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each public school academy subject to its jurisdiction.

(4) A contract granted to a person or entity to organize and administer a public school academy shall contain at least all of the following:

(a) The educational goals the public school academy is to achieve and the methods by which it will be held accountable. The pupil outcomes of a public school academy shall be assessed using a Michigan education assessment program (MEAP) test or an assessment instrument developed under section 104a of the state school aid act of 1979, being section 388.1704a of the Michigan Compiled Laws, for a state-endorsed high school diploma, or 1 or more of the following nationally normed tests: the California achievement test, the Stanford achievement test, or the Iowa test of basic skills.

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

(c) A description of the process for amending the contract during the term of the contract.

(d) Specific operating requirements for the public school academy, which shall include at least all of the matters set forth in the application for the contract.

(e) For a public school academy authorized by a school district, an agreement that employees of the public school academy will be covered by the collective bargaining agreements that apply to employees of the school district employed in similar classifications in schools that are not public school academies.

(f) Procedures for revoking the contract and grounds for revoking the contract, including at least the grounds listed in section 507.

(g) A description of and address for the physical plant in which the public school academy will be located.

(5) A public school academy shall comply with all applicable law including, but not limited to:

(a) That it is a public body as provided in 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.

(b) 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.

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

(d) Act No. 166 of the Public Acts of 1965, being sections 408.551 to 408.558 of the Michigan Compiled Laws.

(e) Sections 1267 and 1274.

(6) A public school academy and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of Act No. 170 of the Public Acts of 1964, being section 691.1407 of the Michigan Compiled Laws.

(7) A public school academy is exempt from all taxation on its earnings and property. Instruments of conveyance to or from a public school academy are exempt from all taxation including taxes imposed by Act No. 134 of the Public Acts of 1966, being sections 207.501 to 207.513 of the Michigan Compiled Laws.

(8) A public school academy may acquire by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or by any other means, hold, and own in its own name buildings and other property for school purposes, and interests therein, and other real and personal property, including, but not limited to, interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, a public school academy may proceed under the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, excluding sections 6 to 9 of that act, being sections 213.56 to 213.59 of the Michigan Compiled Laws, or other applicable statutes, but only with the express, written permission of the authorizing body in each instance of condemnation and only after just compensation has been determined and paid.

Sec. 504. (1) A public school academy shall not operate at a site other than the single site requested for the configuration of grades that will use the site, as specified in the application required under section 502 and in the contract.

(2) 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 that would be legal if used by a school district.

(3) Except for a foreign exchange student who is not a United States citizen, a public school academy shall not enroll a pupil who is not a resident of this state. Enrollment in the public school academy shall be open to all pupils who reside within the geographic boundaries, if any, of the authorizing body as described in section 502(2)(a) to (c) who meet the admission policy. For a public school academy authorized by a state public university, enrollment 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. A public school academy shall allow any pupil who was enrolled in the public school academy in the immediately preceding school year to enroll in the public school academy in the appropriate grade unless the appropriate grade is not offered at that public school academy.

(4) A public school academy may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, 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 authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

Sec. 505. (1) A public school academy operated by a state public university or community college may use noncertificated individuals to teach as follows:

(a) If the public school academy is operated by a state public university, the public school academy may use as a classroom teacher in any grade a faculty member who is employed full-time by the state public university and who has been granted institutional tenure, or has been designated as being on tenure track, by the state public university.

(b) For a public school academy operated by a community college, the public school academy may use as a classroom teacher a full-time member of the community college faculty who has at least 5 years' experience at that community college in teaching the subject matter that he or she is teaching at the public school academy.

(c) In any other situation in which a school district is permitted under this act to use noncertificated teachers.

(2) If a public school academy develops new teaching techniques or methods or significant revisions to known teaching techniques or methods, the public school academy shall report those to the authorizing body to be made available to the public.

Sec. 506. A public school academy, with the approval of the authorizing body, may employ or contract with personnel as necessary for the operation of the public school academy, prescribe their duties, and fix their compensation.

Sec. 507. The authorizing body for a public school academy is the fiscal agent for the public school academy. A state school aid payment for a public school academy shall be paid to the authorizing body that is the fiscal agent for that public school academy, which shall then forward the payment to the public school academy. An authorizing body has the responsibility to oversee a public school academy's compliance with the contract and all applicable law. A contract issued under this part may be revoked by the authorizing body that issued the contract if the authorizing body determines that 1 or more of the following has occurred:

- (a) Failure of the public school academy to abide by and meet the educational goals set forth in the contract.
- (b) Failure of the public school academy to comply with all applicable law.
- (c) Failure of the public school academy to meet generally accepted public sector accounting principles.
- (d) The existence of 1 or more other grounds for revocation as specified in the contract.

Section 2. Part 6a of Act No. 451 of the Public Acts of 1976, as added by Enrolled House Bill No. 5124 of 1993, is repealed.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.