

Act No. 10
Public Acts of 1999
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STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 1999

**Introduced by Senators DeGrow, Emerson, Steil, Sikkema, Shugars, Schuette, Bennett, Stille,
McCotter, Schwarz, Gougeon, Rogers, Dunaskiss, Goschka and McManus**

ENROLLED SENATE BILL No. 297

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; 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 acts and parts of acts," by amending sections 402 and 471a (MCL 380.402 and 380.471a), section 471a as amended by 1982 PA 71, and by adding part 5A and section 449.

The People of the State of Michigan enact:

PART 5A

APPOINTMENT OF SCHOOL REFORM BOARDS

Sec. 371. As used in this part:

(a) "Chief executive officer" means the chief executive officer appointed for a qualifying school district under section 374.

(b) "Mayor" means the mayor of the city in which a qualifying school district is located.

(c) "Qualifying school district" means a school district of the first class under part 6.

Sec. 372. (1) Not later than 30 days after the effective date of the amendatory act that added this part, the mayor shall appoint a school reform board for a qualifying school district.

(2) A school reform board established under this section shall consist of the following 7 members:

(a) Six members appointed by the mayor.

(b) For a period of 5 years after the effective date of the amendatory act that added this part, the superintendent of public instruction or his or her designee. After this period, the mayor shall appoint the seventh member of the school reform board.

(3) A person who is a current member of the elected school board of a qualifying school district is not eligible for appointment as a member of the school reform board for that qualifying school district. Section 1101(1) does not disqualify any person from appointment to a school reform board under this section or from appointment as an officer under section 374. However, at least a majority of the appointed members of a school reform board must be school electors of the qualifying school district.

(4) Except for the superintendent of public instruction or his or her designee, members of a school reform board shall serve at the will of the mayor. The term of an appointed member shall be 4 years, except that of the members first appointed under subsection (2)(a), 2 shall be appointed for a term of 2 years, 2 shall be appointed for a term of 3 years, and 2 shall be appointed for a term of 4 years.

(5) If a member of a school reform board is removed from office by the mayor or is unable to complete his or her term, the mayor shall appoint a successor for the balance of the unexpired term. At the end of a member's term, the mayor shall appoint a successor or reappoint the member.

(6) The mayor shall call the first meeting of the school reform board and shall designate a chairperson of the school reform board from among its members. If there is a vacancy in the office of chairperson, the mayor shall designate a successor.

(7) At the first meeting of the school reform board, the school reform board may elect from among its members other officers as it considers necessary or appropriate. After the first meeting, the school reform board shall meet at least monthly, or more frequently at the call of the chairperson or if requested by 4 or more members.

(8) A majority of the members of the school reform board constitute a quorum for the transaction of business at a meeting of the school reform board. A majority of the members present and serving are required for official action of the school reform board.

(9) Members of the school reform board shall serve without compensation. However, members may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the school reform board.

Sec. 373. (1) Beginning on the effective date of the amendatory act that added this part, the powers and duties of the elected school board of the qualifying school district and of its secretary and treasurer are suspended unless and until a new school board is elected under section 375. However, until the expiration of each individual member's current term, the members of the elected school board of a qualifying school district may continue to meet as an advisory board to provide input to the school reform board on an advisory basis only. Notwithstanding section 417a or any board policy, bylaw, or resolution to the contrary, these advisory board members shall serve without compensation or reimbursement, and funds of the qualifying school district shall not be used to staff or otherwise support the advisory board in any way.

(2) Beginning on the effective date of the amendatory act that added this part, and until appointment of a school reform board for a qualifying school district under this part, all provisions of this act that would otherwise apply to the school board of the qualifying school district or to the school reform board or chief executive officer apply to the mayor, and the mayor immediately may exercise all the powers and duties otherwise vested by law in the board of the qualifying school district and in its secretary and treasurer, and all powers and duties of the school reform board or chief executive officer as provided under this part. Within 30 days after appointing a school reform board under this part, the mayor shall initiate a financial audit of the qualifying school district. The mayor shall provide the results of this audit to the school reform board.

(3) Upon appointment of a school reform board for a qualifying school district under this part, and until appointment of a chief executive officer under section 374, all provisions of this act that would otherwise apply to the school board of the qualifying school district or to the chief executive officer apply to the school reform board, and the school reform board immediately may exercise all the powers and duties otherwise vested by law in the board of the qualifying school district and in its secretary and treasurer, and all powers and duties of the chief executive officer as provided under this part.

(4) Upon appointment of a chief executive officer for a qualifying school district under section 374, all provisions of this act that would otherwise apply to the elected school board of the qualifying school district apply to the chief executive officer; the chief executive officer immediately may exercise all the powers and duties otherwise vested by law in the elected school board of the qualifying school district and in its secretary and treasurer, and all additional powers and duties provided under this part; and the chief executive officer accedes to all the rights, duties, and obligations of the elected school board of the qualifying school district. These powers, rights, duties, and obligations include, but are not limited to, all of the following:

(a) Authority over the expenditure of all school district funds, including proceeds from bonded indebtedness and other funds dedicated to capital projects.

(b) Rights and obligations under collective bargaining agreements and employment contracts entered into by the elected school board, except for employment contracts of those employees described in subsection (6).

- (c) Rights to prosecute and defend litigation.
- (d) Obligations under any judgments entered against the elected school board.
- (e) Rights and obligations under statute, rule, and common law.

(f) Authority to delegate any of the chief executive officer's powers and duties to 1 or more designees, with proper supervision by the school reform board.

(5) In addition to his or her other powers, the chief executive officer appointed under this part may terminate any contract entered into by the elected school board of the qualifying school district except for a collective bargaining agreement. However, this subsection does not allow any termination or diminishment of obligations to pay debt service on legally authorized bonds. A contract terminated by a chief executive officer under this subsection is void.

(6) Beginning on the effective date of the amendatory act that added this part, and until appointment of a school reform board for a qualifying school district under this part, each employee of the qualifying school district whose position is not covered by a collective bargaining agreement is employed at the will of the mayor. Upon appointment of a school reform board for a qualifying school district under this part, and until appointment of a chief executive officer under section 374, each employee of the qualifying school district whose position is not covered by a collective bargaining agreement is employed at the will of the school reform board. Upon appointment of a chief executive officer for a qualifying school district under section 374, each employee of the qualifying school district whose position is not covered by a collective bargaining agreement is employed at the will of the chief executive officer.

(7) Not later than 90 days after the initial appointment of a chief executive officer under this part, and at least annually thereafter, the chief executive officer with the approval of the school reform board shall develop and submit to the school district accountability board created in section 376 a school district improvement plan that includes at least detailed academic, financial, capital, and operational goals and benchmarks for improvement and a description of strategies to be used to accomplish those goals and benchmarks. The plan also shall include an assessment of available resources and recommendations concerning additional resources or changes in statute or rule, if any, needed to meet those goals and benchmarks. The plan also shall include an evaluation of local school governance issues, including criteria for establishing building-level governance.

(8) A chief executive officer with the approval of the school reform board for the qualifying school district shall submit an annual report to the mayor, governor, school district accountability board created in section 376, and legislature and shall make the annual report available to the community in the qualifying school district. The annual report shall contain at least all of the following:

(a) A summary of the initiatives that have been implemented to improve school quality in the qualifying school district.

(b) Measurements that may be useful in determining improvements in school quality in the qualifying school district. These measurements shall indicate changes from baseline data from the school year before the appointment of the school reform board, and shall include at least all of the following:

- (i) Standardized test scores of pupils.
- (ii) Dropout rates.
- (iii) Daily attendance figures.
- (iv) Enrollment figures.
- (v) High school completion and other pertinent completion rates.
- (vi) Changes made in course offerings.
- (vii) Proportion of school district resources devoted to direct educational services.

(c) A description of long-term performance goals that may include statewide averages or comparable measures of long-term improvement.

(9) A school reform board may organize and establish community assistance teams to work with the school reform board to implement a cohesive, full service community school program addressing the needs and concerns of the qualifying school district's population. The school reform board may delegate to a community assistance team the authority to devise and implement family, community, cultural, and recreational activities to assure that the academic mission of the schools is successful. The community assistance teams may also develop parental involvement activities that focus on the encouragement of voluntary parenting education, enhancing parent and family involvement in education, and promoting adult and family literacy.

(10) The mayor, superintendent of public instruction, state board, school district accountability board created in section 376, this state, the city in which a qualifying school district is located, a school reform board established under this part, or a chief executive officer or other officer appointed under section 374 is not liable for any obligation of or claim against a qualifying school district resulting from an action taken under this part.

Sec. 374. (1) Not later than 30 days after the school reform board is appointed, a school reform board established under this part shall appoint for the qualifying school district a chief executive officer. The appointment of a chief executive officer must be by a unanimous vote of the school reform board. The chief executive officer is employed at the will of the school reform board and has the powers and duties provided under this part.

(2) The chief executive officer, with the approval of the school reform board, shall appoint for the qualifying school district a chief financial officer, chief academic officer, chief operations officer, and chief purchasing officer. These officers are employed at the will of the chief executive officer.

(3) If a vacancy occurs in a position described in this section, a successor shall be appointed in the same manner as the original appointment.

Sec. 374a. For a period of 1 year after leaving office, a member of a school reform board appointed under this part or a chief executive officer of a qualifying school district or another officer appointed under section 374 is ineligible for election or appointment to any elective office of the qualifying school district or of the city in which the qualifying school district is located.

Sec. 375. (1) After the expiration of 5 years after the initial appointment of a school reform board in a qualifying school district under this part, the question of whether to retain the school reform board and the chief executive officer and the authority under this part to appoint the school reform board and the chief executive officer shall be placed on the ballot in the qualifying school district under this section.

(2) The question under subsection (1) shall be placed on the ballot in the qualifying school district at the next November general election occurring at least 90 days after the expiration of 5 years after the date of the initial appointment of the school reform board.

(3) The question under subsection (1) shall be in substantially the following form:

“Shall the school reform board and chief executive officer serving in _____ (name of qualifying school district) under part 5a of the revised school code be retained and shall the mayor of _____ (name of city in which the school district is located) retain the authority to appoint members of the school reform board? A vote in the affirmative continues the school reform board and chief executive officer in place in the school district and continues the authority of the mayor to appoint members of the school reform board. A vote in the negative will result in the election of a new elected school board as the governing body of the school district and will render the provisions of law establishing authority to appoint a school reform board inapplicable for this school district.

Yes ()

No ()”.

(4) If the question under subsection (1) is approved by a majority of the school electors voting on the question either under subsection (1) or pursuant to subdivision (c), all of the following apply:

(a) The school reform board and chief executive officer continue in place in the qualifying school district.

(b) The authority of the mayor to appoint members of the school reform board continues in the qualifying school district.

(c) The question may not be placed on the ballot again in the qualifying school district until the expiration of 5 years after the election at which the question was approved. The question may be placed on the ballot again in the qualifying school district under this subdivision if petitions calling for the question to be placed on the ballot are filed with the county clerk for the county in which the qualifying school district is located not sooner than 4 years after the question was most recently on the ballot and if the petitions are signed by a number of school electors of the qualifying school district at least equal to 10% of the number of votes cast within the city in which the qualifying school district is located for secretary of state in the most recent November general election in which a secretary of state was elected. If those petitions are submitted and verified, the question shall be placed on the ballot in the qualifying school district at the next November general election occurring at least 5 years after the question was most recently on the ballot and at least 90 days after the petitions are submitted and verified.

(5) If the question under subsection (1) is not approved by a majority of the school electors voting on the question either under subsection (1) or pursuant to subsection (4)(c), all of the following apply:

(a) The school reform board shall arrange with local elections officials for election of a new elected school board for the school district. This election shall be at a special election held as soon as practicable, but not sooner than 90 days after the election under subsection (1). This election shall be conducted in the manner otherwise provided under this act for an initial school board election in a newly formed first class school district.

(b) Effective on the next July 1 following the election under subdivision (a), the new elected school board of the qualifying school district shall serve as the governing body of the qualifying school district and this elected school board and its secretary and treasurer shall be fully vested with all powers and duties that those officials had before the appointment of the school reform board.

(c) Effective on the next July 1 following the election under subdivision (a), the powers of the school reform board established for the qualifying school district under this part, of the chief executive officer, and of all other officers appointed under section 374 cease.

(d) Effective on the next July 1 following the election under subdivision (a), the provisions of this part do not apply to that qualifying school district.

Sec. 376. (1) The school district accountability board is created in the department. The school district accountability board consists of the following 5 members:

(a) The superintendent of public instruction.

(b) The state treasurer.

(c) The state budget director.

(d) Two members of the general public appointed by the governor with the advice and consent of the senate.

(2) The state treasurer shall serve as chairperson of the school district accountability board.

(3) The school district accountability board shall do all of the following with respect to a qualifying school district in which a school reform board has been established under this part:

(a) Receive and review the district improvement plan submitted under section 373.

(b) Monitor the progress being made by the school reform board in achieving the goals and benchmarks identified in the district improvement plan submitted under section 373.

(c) Based on the experience of the school reform board in its efforts to achieve reform, make recommendations to the governor for additional resources for the qualifying school district and on changes in statute or rule, if any, needed to achieve reform.

(4) The powers and duties of the school district accountability board are limited to a qualifying school district in which a school reform board is in place.

(5) The business that the school district accountability board may perform shall be conducted at a public meeting of the school district accountability board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) A writing prepared, owned, used, in the possession of, or retained by the school district accountability board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 402. A school district that has a pupil membership of at least 100,000 enrolled on the most recent pupil membership count day is a single first class school district governed by this part.

Sec. 449. All powers and duties of the school board of the first class school district and of its officers are subject to part 5a.

Sec. 471a. (1) The first class school district board may appoint a superintendent of schools for a term not exceeding 6 years pursuant to the first class school district board's bylaws. The board may employ assistant superintendents, principals, assistant principals, guidance directors, and other administrators who do not assume tenure in position for a term, not to exceed 3 years, fixed by the board and shall define their duties. Administrative and personnel services shall be provided on a centralized basis throughout the first class school district and shall not be established on a voting district basis. The employment shall be under written contract. Notification of nonrenewal of contract shall be given in writing not less than 90 days before the termination date of the contract of a superintendent of schools, and at least 60 days before the termination date of the contract of other administrators described in this subsection. If notification of nonrenewal is not given as required in this subsection, the contract is renewed for an additional 1-year period.

(2) A notification of nonrenewal of a contract of a person described in this section may be given only for a reason that is not arbitrary or capricious. The board shall not issue a notice of nonrenewal under this section unless the affected person has been provided with not less than 30 days' advance notice that the board is considering the nonrenewal together with a written statement of the reasons the board is considering the nonrenewal. After the issuance of the written statement, but before the nonrenewal statement is issued, the affected person shall be given the opportunity to meet with not less than a majority of the board to discuss the reasons stated in the written statement. The meeting shall be open to the public or a closed session as the affected person elects under section 8 of the open meetings act, 1976 PA 267, MCL 15.268. The failure to provide for a meeting with the board or the finding of a court that the reason for nonrenewal is arbitrary or capricious shall result in the renewal of the affected person's contract for an additional 1-year period. This subsection does not apply to the nonrenewal of the contract of a superintendent of schools.

(3) Except for certification requirements determined by the state board, the first class school district board shall have full power over employees and may specify the duties to be performed by them and fix the qualifications necessary for a position. The qualifications shall not conflict with the rules, regulations, or licensing laws of the state, county, or municipality governing qualifications of engineers or members of other trades.

(4) This section is subject to part 5a.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Sam E. Randall

Clerk of the House of Representatives.

Approved _____

Governor.