

# HOUSE BILL No. 5955

April 24, 2002, Introduced by Reps. Vander Roest, Mans and Meyer and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
by amending sections 502, 503, and 507 (MCL 380.502, 380.503, and  
380.507), as amended by 1995 PA 289, and by adding section 503b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 502. (1) A public school academy shall be organized  
2 and administered under the direction of a board of directors in  
3 accordance with this part and with bylaws adopted by the board of  
4 directors. A public school academy corporation shall be orga-  
5 nized under the nonprofit corporation act, ~~Act No. 162 of the~~  
6 ~~Public Acts of 1982, being sections 450.2101 to 450.3192 of the~~  
7 ~~Michigan Compiled Laws~~ 1982 PA 162, MCL 450.2101 TO 450.3192,  
8 except that a public school academy corporation is not required  
9 to comply with sections 170 to 177 of ~~Act No. 327 of the Public~~  
10 ~~Acts of 1931, being sections 450.170 to 450.177 of the Michigan~~

1 ~~Compiled Laws~~ 1931 PA 327, MCL 450.170 TO 450.177. To the  
2 extent disqualified under the state or federal constitution, a  
3 public school academy shall not be organized by a church or other  
4 religious organization and shall not have any organizational or  
5 contractual affiliation with or constitute a church or other  
6 religious organization.

7 (2) Any of the following may act as an authorizing body to  
8 issue a contract to organize and operate 1 or more public school  
9 academies under this part:

10 (a) The board of a school district that operates grades K to  
11 12. However, the board of a school district shall not issue a  
12 contract for a public school academy to operate outside the  
13 school district's boundaries, and a public school academy autho-  
14 rized by the board of a school district shall not operate outside  
15 that school district's boundaries.

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

22 (c) The board of a community college. However, except as  
23 otherwise provided in this subdivision, the board of a community  
24 college shall not issue a contract for a public school academy to  
25 operate in a school district organized as a school district of  
26 the first class, a public school academy authorized by the board  
27 of a community college shall not operate in a school district

1 organized as a school district of the first class, the board of a  
2 community college shall not issue a contract for a public school  
3 academy to operate outside the boundaries of the community col-  
4 lege district, and a public school academy authorized by the  
5 board of a community college shall not operate outside the bound-  
6 aries of the community college district. The board of a commu-  
7 nity college also may issue a contract for not more than 1 public  
8 school academy to operate on the grounds of an active or closed  
9 federal military installation located outside the boundaries of  
10 the community college district, or may operate a public school  
11 academy itself on the grounds of such a federal military instal-  
12 lation, if the federal military installation is not located  
13 within the boundaries of any community college district and the  
14 community college has previously offered courses on the grounds  
15 of the federal military installation for at least 10 years.

16 (d) The governing board of a state public university.  
17 However, the combined total number of contracts for public school  
18 academies issued by all state public universities shall not  
19 exceed ~~85 through 1996, and, after the initial evaluation under~~  
20 ~~section 501a, shall not exceed 100 through 1997, 125 through~~  
21 ~~1998, or 150 thereafter~~ 150. Further, the total number of con-  
22 tracts FOR PUBLIC SCHOOL ACADEMIES issued by any 1 state public  
23 university shall not exceed ~~50 through 1996, and thereafter~~  
24 ~~shall not exceed 50% of the maximum combined total number that~~  
25 ~~may be issued under this subdivision~~ 75.

26 (3) To obtain a contract to organize and operate 1 or more  
27 public school academies, 1 or more persons or an entity may apply

1 to an authorizing body described in subsection (2). The  
2 application shall include at least all of the following:

3 (a) Identification of the applicant for the contract.

4 (b) Subject to the resolution adopted by the authorizing  
5 body under section ~~503(4)~~ 503, a list of the proposed members  
6 of the board of directors of the public school academy and a  
7 description of the qualifications and method for appointment or  
8 election of members of the board of directors.

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

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

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

16 (iii) The name of the authorizing body.

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

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

21 (d) A copy of the proposed bylaws of the public school  
22 academy.

23 (e) Documentation meeting the application requirements of  
24 the authorizing body, including at least all of the following:

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

26 (ii) A copy of the educational goals of the public school  
27 academy and the curricula to be offered and methods of pupil

1 assessment to be used by the public school academy. To the  
2 extent applicable, the progress of the pupils in the public  
3 school academy shall be assessed using at least a Michigan educa-  
4 tion assessment program (MEAP) test or an assessment instrument  
5 developed under section 1279. ~~for a state-endorsed high school~~  
6 ~~diploma.~~

7 (iii) The admission policy and criteria to be maintained by  
8 the public school academy. The admission policy and criteria  
9 shall comply with section 504. This part of the application also  
10 shall include a description of how the applicant will provide to  
11 the general public adequate notice that a public school academy  
12 is being created and adequate information on the admission  
13 policy, criteria, and process.

14 (iv) The school calendar and school day schedule.

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

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

18 (g) For an application to the board of a school district, an  
19 intermediate school board, or board of a community college, iden-  
20 tification of the local and intermediate school districts in  
21 which the public school academy will be located.

22 (h) An agreement that the public school academy will comply  
23 with the provisions of this part and, subject to the provisions  
24 of this part, with all other state law applicable to public  
25 bodies and with federal law applicable to public bodies or school  
26 districts. THIS AGREEMENT DOES NOT RELIEVE ANOTHER GOVERNMENTAL

1 ENTITY OF ITS ENFORCEMENT OR SUPERVISORY RESPONSIBILITY UNDER ANY  
2 OTHER LAW.

3 (i) For a public school academy authorized by a school dis-  
4 trict, an assurance that employees of the public school academy  
5 will be covered by the collective bargaining agreements that  
6 apply to other employees of the school district employed in simi-  
7 lar classifications in schools that are not public school  
8 academies.

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

11 (K) THE NAME AND PRINCIPAL OFFICERS OF ANY EDUCATIONAL MAN-  
12 AGEMENT ORGANIZATION EXPECTED TO BE INVOLVED IN OPERATING THE  
13 PUBLIC SCHOOL ACADEMY.

14 (4) An authorizing body shall oversee, or shall contract  
15 with an intermediate school district, community college, or state  
16 public university to oversee, each public school academy operat-  
17 ing under a contract issued by the authorizing body. The over-  
18 sight shall be sufficient to ensure that the authorizing body can  
19 certify that the public school academy is in compliance with  
20 statute, rules, and the terms of the contract.

21 (5) If the state board finds that an authorizing body is not  
22 engaging in appropriate continuing oversight of 1 or more public  
23 school academies operating under a contract issued by the autho-  
24 rizing body, the state board may suspend the power of the autho-  
25 rizing body to issue new contracts to organize and operate public  
26 school academies. A contract issued by the authorizing body  
27 during the suspension is void. A contract issued by the

1 authorizing body before the suspension is not affected by the  
2 suspension.

3 (6) An authorizing body shall not charge a fee, or require  
4 reimbursement of expenses, for considering an application for a  
5 contract, for issuing a contract, or for providing oversight of a  
6 contract for a public school academy in an amount that exceeds a  
7 combined total of 3% of the total state school aid received by  
8 the public school academy in the school year in which the fees or  
9 expenses are charged. An authorizing body may provide other  
10 services for a public school academy and charge a fee for those  
11 services, but shall not require such an arrangement as a condi-  
12 tion to issuing the contract authorizing the public school  
13 academy.

14 (7) A public school academy shall be presumed to be legally  
15 organized if it has exercised the franchises and privileges of a  
16 public school academy for at least 2 years.

17 Sec. 503. (1) An authorizing body is not required to issue  
18 a contract to any person or entity. Public school academy con-  
19 tracts shall be issued on a competitive basis taking into consid-  
20 eration the resources available for the proposed public school  
21 academy, the population to be served by the proposed public  
22 school academy, THE QUALIFICATIONS OF THE APPLICANT AND THE PRO-  
23 POSED BOARD OF DIRECTORS, and the educational goals to be  
24 achieved by the proposed public school academy.

25 (2) If a person or entity applies to the board of a school  
26 district for a contract to organize and operate 1 or more public  
27 school academies within the boundaries of the school district and

1 the board does not issue the contract, the person or entity may  
2 petition the board to place the question of issuing the contract  
3 on the ballot to be decided by the school electors of the school  
4 district. The petition shall contain all of the information  
5 required to be in the ~~contract~~ application under section  
6 ~~502(3)~~ 502 and shall be signed by a number of school electors  
7 of the school district equal to at least 15% of the total number  
8 of school electors of that school district. The petition shall  
9 be filed with the secretary of the board. If the board receives  
10 a petition meeting the requirements of this subsection, the board  
11 shall place the question of issuing the contract on the ballot at  
12 its next ~~annual~~ REGULAR school election held at least 60 days  
13 after receiving the petition. If a majority of the school elec-  
14 tors of the school district voting on the question vote to issue  
15 the contract, the board shall issue the contract.

16 (3) Within 10 days after issuing a contract for a public  
17 school academy, the ~~board of the~~ authorizing body shall submit  
18 to the state board a copy of the contract and of the application  
19 under section 502.

20 (4) An authorizing body shall adopt a resolution establish-  
21 ing the method of selection, THE METHOD OF REMOVAL OR  
22 REPLACEMENT, length of term, and number of members of the board  
23 of directors of each public school academy subject to its  
24 jurisdiction.

25 (5) A contract issued to organize and administer a public  
26 school academy shall contain at least all of the following:



1       (a) The educational goals the public school academy is to  
2 achieve and the methods by which it will be held accountable. To  
3 the extent applicable, the pupil performance of a public school  
4 academy shall be assessed using at least a Michigan education  
5 assessment program (MEAP) test or an assessment instrument devel-  
6 oped under section 1279. ~~for a state-endorsed high school~~  
7 ~~diploma.~~

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

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

13       (d) All of the matters set forth in the application for the  
14 contract.

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

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

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

25       (h) Requirements and procedures for financial audits. The  
26 financial audits shall be conducted at least annually by a  
27 certified public accountant in accordance with generally accepted

1 governmental auditing principles. THE CONTRACT ALSO MAY REQUIRE  
2 EDUCATIONAL MANAGEMENT COMPANIES INVOLVED IN OPERATION OF THE  
3 PUBLIC SCHOOL ACADEMY TO SUBMIT TO AUDITS BY THE PUBLIC SCHOOL  
4 ACADEMY OR BY THE AUTHORIZING BODY.

5 (I) IF THE PUBLIC SCHOOL ACADEMY CONTRACTS WITH AN EDUCA-  
6 TIONAL MANAGEMENT ORGANIZATION, AT LEAST ALL OF THE FOLLOWING:

7 (i) THAT THE PUBLIC SCHOOL ACADEMY HAS CONDUCTED SUFFICIENT  
8 DUE DILIGENCE TO ASSURE THAT THE EDUCATIONAL MANAGEMENT ORGANIZA-  
9 TION HAS SUFFICIENT FINANCIAL RESOURCES, EDUCATIONAL SERVICES  
10 CAPACITY, AND MANAGERIAL EXPERIENCE TO PROVIDE THE CONTRACTED  
11 SERVICES.

12 (ii) THAT THE PUBLIC SCHOOL ACADEMY WILL RETAIN INDEPENDENT  
13 LEGAL COUNSEL IN ALL NEGOTIATIONS WITH THE EDUCATIONAL MANAGEMENT  
14 ORGANIZATION.

15 (iii) AGREEMENTS THAT THE FINANCIAL, EDUCATIONAL, AND STU-  
16 DENT RECORDS PERTAINING TO THE PUBLIC SCHOOL ACADEMY AND PUBLIC  
17 SCHOOL ACADEMY PUPILS ARE PROPERTY OF THE PUBLIC SCHOOL ACADEMY  
18 AND THAT ALL OF THESE RECORDS ARE SUBJECT TO THE FREEDOM OF  
19 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

20 (iv) THAT THE INDEPENDENT AUDITOR FOR THE PUBLIC SCHOOL  
21 ACADEMY SHALL NOT BE THE SAME AUDITOR AS THE AUDITOR FOR THE EDU-  
22 CATIONAL MANAGEMENT ORGANIZATION.

23 (6) A public school academy shall comply with all applicable  
24 law, including all of the following:

25 (a) The open meetings act, ~~Act No. 267 of the Public Acts~~  
26 ~~of 1976, being sections 15.261 to 15.275 of the Michigan Compiled~~  
27 ~~Laws~~ 1976 PA 267, MCL 15.261 TO 15.275.

(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~~ 1976 PA 442, MCL 15.231 TO 15.246.

(c) ~~Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.217 of the Michigan Compiled Laws~~ 1947 PA 336, MCL 423.201 TO 423.217.

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

(e) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274.

(7) 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~~ 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for any acts or omissions in authorizing a public school academy if the authorizing body or the person acted or reasonably believed he or she acted within the authorizing body's or the person's scope of authority.

(8) 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~~ 1966

1 PA 134, MCL 207.501 TO 207.513. A public school academy may not  
2 levy ad valorem property taxes or any other tax for any purpose.  
3 However, operation of 1 or more public school academies by a  
4 school district or intermediate school district does not affect  
5 the ability of the school district or intermediate school dis-  
6 trict to levy ad valorem property taxes or any other tax.

7 (9) A public school academy may acquire by purchase, gift,  
8 devise, lease, sublease, installment purchase agreement, land  
9 contract, option, or by any other means, hold and own in its own  
10 name buildings and other property for school purposes, and inter-  
11 ests therein, and other real and personal property, including,  
12 but not limited to, interests in property subject to mortgages,  
13 security interests, or other liens, necessary or convenient to  
14 fulfill its purposes. For the purposes of condemnation, a public  
15 school academy may proceed under the uniform condemnation proce-  
16 dures act, ~~Act No. 87 of the Public Acts of 1980, being sections~~  
17 ~~213.51 to 213.77 of the Michigan Compiled Laws~~ 1980 PA 87,  
18 MCL 213.51 TO 213.75, excluding sections 6 to 9 of that act,  
19 ~~being sections 213.56 to 213.59 of the Michigan Compiled Laws~~  
20 MCL 213.56 TO 213.59, or other applicable statutes, but only with  
21 the express, written permission of the authorizing body in each  
22 instance of condemnation and only after just compensation has  
23 been determined and paid.

24 (10) A MEMBER OF THE BOARD OF DIRECTORS OF A PUBLIC SCHOOL  
25 ACADEMY IS A PUBLIC OFFICER AND, BEFORE ENTERING UPON THE DUTIES  
26 OF THE OFFICE, SHALL TAKE THE CONSTITUTIONAL OATH OF OFFICE FOR

1 PUBLIC OFFICERS PRESCRIBED UNDER SECTION 1 OF ARTICLE XI OF THE  
2 STATE CONSTITUTION OF 1963.

3 SEC. 503B. (1) IF A PUBLIC SCHOOL ACADEMY IS NO LONGER  
4 AUTHORIZED TO OPERATE AS A PUBLIC SCHOOL ACADEMY UNDER THIS PART,  
5 TITLE TO ALL REAL AND PERSONAL PROPERTY, INTERESTS IN REAL OR  
6 PERSONAL PROPERTY, AND OTHER ASSETS OWNED BY THE PUBLIC SCHOOL  
7 ACADEMY SHALL REVERT TO THIS STATE. ANY MONEY INCLUDED IN THOSE  
8 ASSETS AND THE NET PROCEEDS FROM THE SALE OF THE PROPERTY OR  
9 INTERESTS IN PROPERTY, AFTER PAYMENT OF ANY DEBT SECURED BY THE  
10 PROPERTY OR INTEREST IN PROPERTY, SHALL BE DEPOSITED IN THE STATE  
11 SCHOOL AID FUND.

12 (2) THIS SECTION DOES NOT IMPOSE ANY LIABILITY ON THIS STATE  
13 OR ON AN AUTHORIZING BODY FOR ANY DEBT INCURRED BY A PUBLIC  
14 SCHOOL ACADEMY.

15 Sec. 507. (1) The authorizing body for a public school  
16 academy is the fiscal agent for STATE SCHOOL AID FUNDS OF the  
17 public school academy. A state school aid payment for a public  
18 school academy shall be paid to the authorizing body that is the  
19 fiscal agent for that public school academy, which shall then  
20 forward the payment to the public school academy. An authorizing  
21 body has the responsibility to oversee ~~a public school~~  
22 ~~academy's~~ compliance BY A PUBLIC SCHOOL ACADEMY'S BOARD OF  
23 DIRECTORS with the contract and all applicable law. A contract  
24 issued under this part may be revoked by the authorizing body  
25 that issued the contract if the authorizing body determines that  
26 1 or more of the following has occurred:

1 (a) Failure of the public school academy to abide by and  
2 meet the educational goals set forth in the contract.

3 (b) Failure of the public school academy to comply with all  
4 applicable law.

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

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

9 (2) The decision of an authorizing body to revoke a contract  
10 under this section is solely within the discretion of the autho-  
11 rizing body, is final, and is not subject to review by a court or  
12 any state agency. An authorizing body that revokes a contract  
13 under this section is not liable for that action to the public  
14 school academy, public school academy corporation, a pupil of the  
15 public school academy, the parent or guardian of a pupil of the  
16 public school academy, or any other person.

17 (3) AN AUTHORIZING BODY MAY REMOVE OR SUSPEND A MEMBER OF A  
18 BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY FROM OFFICE FOR  
19 GROSS NEGLIGENCE OF DUTY, CORRUPT CONDUCT IN OFFICE, KNOWING VIOLA-  
20 TION OF A CONTRACT, OR FOR ANY OTHER MISFEASANCE OR MALFEASANCE  
21 AND SHALL REPORT THE REASONS FOR A REMOVAL OR SUSPENSION UNDER  
22 THIS SUBSECTION TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION.