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Senate Bill 393 (as enrolled)  
Sponsor: Senator Wayne Kuipers  
Senate Committee: Education  
House Committee: Education

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### **RATIONALE**

Charter schools, or public school academies as they are called under the Revised School Code, have existed in Michigan for a decade. In 1993, Public Act 362 added Part 6A to the Code to authorize public school academies (PSAs), requiring them to be independent, nonprofit public schools, funded on a per-pupil basis from the State School Aid Fund.

Under Part 6A, a contract to organize and operate a new charter school may be issued by the boards of the following educational bodies, or "authorizers": school districts, intermediate school districts (ISDs), community colleges, and State public universities. To receive a charter, individuals or entities must apply to an authorizer and meet its requirements. The authorizing body then must oversee the charter school, ensuring that it is in compliance with Michigan law and the terms of the contract. Some schools engage private educational management companies such as Edison, the Leona Group, and National Heritage Academies to provide some or all of the schools' curricular, staffing, administrative, or management services.

In Michigan, the majority of charters are issued by public universities. According to amendments enacted in 1996, universities combined may not issue more than 150 charter school contracts, and no single university may issue more than half of that number. As of June 2003, 148 charters were authorized by State universities (including Central Michigan University, which authorized 57, and Grand Valley State University, which authorized 30), while 12 charters were issued by local school districts, 28 by ISDs, and 12 by community colleges. Community colleges are limited to chartering schools within their jurisdiction, which is the entire State in the

case of Bay Mills, a Federal tribally controlled community college.

Charter schools are subject to the "leadership and general supervision" of the State Board of Education, and must comply with the same laws as traditional public schools. Charter schools may not charge tuition, for example, or discriminate in their admissions policies. Although charter schools are independent of school districts, a charter school authorized by a local district must abide by its collective bargaining agreements.

Unlike traditional public schools, public school academies may not borrow money or issue bonds to pay for school infrastructure. Instead, charter schools fund the majority of their capital projects from their general budget, the source of which is State aid. Under the State School Aid Act, each charter school receives from the State either the per-pupil foundation allowance of the district in which it resides, or the current average foundation allowance (\$6,700 in 2002-2003), plus \$500, whichever is less. Therefore, the maximum amount any charter received in 2002-2003 was \$7,200 per pupil. To raise additional funds, many charter schools turn to private sources, and they may borrow money from financial institutions for operating expenses. One-time start-up grants of up to \$150,000 also are available from the U.S. Department of Education and the Michigan Department of Education. To date, most charter school contracts have been issued to K-8 schools, largely because high schools students are more expensive to educate. (The costs of science labs, athletic fields, and auditoriums are among the additional expenses borne by high schools.) This trend is changing gradually: In July 2003, about 72 of all 200 charters encompassed grades

beyond 8th, because many charter schools add one grade per year as their students advance. Only 24 of the 200 charters, however, are stand-alone high schools for students in grades 9-12 or 10-12.

In 2002, philanthropist and businessman Robert Thompson pledged \$200 million toward construction of 15 Detroit charter high schools focused on increasing graduation rates. Some believe that the State should take advantage of this opportunity to establish new PSAs.

## **CONTENT**

**The bill would add Part 6C (Urban High School Academies) to the Revised School Code to do the following:**

- Permit State public universities to issue up to 15 contracts for "urban high school academies" in the Detroit school district, valid for 10 years and automatically renewable for subsequent 10-year terms under certain conditions.**
- Require an urban high school academy to operate at least grades 9-12 within five years of beginning operation.**
- Specify that contract priority would have to be given to applicants with net assets of at least \$50 million, that had a stated goal of increasing high school graduation rates, and that would operate at least grades 9-12 within three years of beginning operation.**
- Require the authorizing body of an urban high school academy to hold the academy's board of directors accountable for the school's academic performance.**
- Permit an urban high school academy to issue bonds.**
- Require an urban high school academy's board of directors to make available to the public information about its membership, and the school's operation and management, financial standing, teacher salary and certification, and health and safety.**
- Allow urban high school academies to give enrollment priority to children of employees and board members.**
- Limit the fee an authorizing body could charge for reviewing an application for a contract, issuing a contract, or providing oversight of a contract, and restrict the use of the fee revenue.**

- Specify that the Michigan Department of Education (MDE) would have to assign a district code to a newly authorized urban high school academy within 30 days, or the State Treasurer would have to assign a temporary code.**
- Require a unanimous vote by the State Board of Education to suspend an authorizing body's power to issue new urban high school academy contracts.**

**In addition, the bill would amend Part 6A of the Code to permit public school academies to issue bonds.**

## **Urban High School Academies**

The bill would permit the governing board of a State public university to act as an authorizing body to issue a contract for the organization and operation of an urban high school academy in the Detroit school district. A maximum of 15 urban high school academy contracts could be issued for initial terms of 10 years. If an urban high school academy met the educational goals set forth in the contract and operated in substantial compliance with Part 6C, the authorizing body would have to renew the contract automatically for subsequent 10-year terms.

An urban high school academy would have to include at least grades 9 through 12 within five years after beginning operation, and could include other grades or any configuration of these grades, as specified in its contract.

Like standard PSAs, an urban high school academy would be considered a public school under Article VIII, Section 2, of the State Constitution, and a school district for the purposes of Article IX, Section 11 of the Constitution. (Article VIII, Section 2 requires the Legislature to maintain and support a system of free public elementary and secondary schools, and requires school districts to provide for pupil education without discrimination as to religion, creed, race, color, or national origin. Article IX, Section 11 requires the establishment of the State School Aid Fund.)

An urban high school academy also would be a school district for purposes of Sections 1225 and 1351a of the Code (which allow school districts to borrow money for operating purposes and issue bonds for capital expenditures). An urban high school would be

subject to the leadership and general supervision of the State Board over all public education under Article VIII, Section 3 of the Constitution. The bill states that an urban high school academy would be a body corporate and a governmental agency, and that the powers granted to it would constitute the performance of essential public purposes and governmental functions of the State.

The bill provides that an urban high school academy would be presumed to be legally organized if it had exercised the franchises and privileges of an urban high school academy for at least two years.

#### Application

To obtain a contract to organize and operate one or more urban high school academies, an entity could apply to the governing board of a State public university. The contract would have to be issued to an urban high school academy corporation designated by the entity applying for the contract. (Under Part 6C, an "entity" would be a nonprofit corporation organized under the Nonprofit Corporation Act that had been granted tax-exempt status under Section 509(a) of the Internal Revenue Code.) An authorizing body would not be required to issue a contract to any entity.

An application for an urban high school academy would have to include at least all of the following:

- The name of the entity applying for the contract.
- A list of the proposed members of the board of directors, a description of their qualifications, and a description of the method for appointment or election of the board.
- The proposed articles of incorporation, which would have to include at least all of the following: the name of the proposed academy; the purposes for the corporation; the name of the authorizing body; the proposed time when the articles would be effective; and other matters considered expedient to be in the articles.
- A copy of the academy's proposed bylaws.
- Descriptions of staff responsibilities and of the academy's governance structure.
- A description of and address for the proposed building or buildings in which the academy would be located, and a financial commitment by the applicant to construct or renovate the building or buildings.

An application also would have to contain documentation meeting the application requirements of the authorizing body, including at least the governance structure of the academy and a copy of its educational goals, curricula, and methods of pupil assessment. (To the extent applicable, pupil progress would have to be assessed using at least a Michigan Educational Assessment Program (MEAP) test or a similar assessment instrument developed under Section 1279 of the Code.)

Further, an application would have to include documentation of the admission policy and criteria to be maintained by the academy (which would have to comply with proposed admission requirements; a description of how the applicant would give the general public adequate notice that an urban high school academy was being created and adequate information on the admission policy, criteria, and process; and documentation of the school calendar and school day schedule, and the age or grade range of pupils to be enrolled).

#### Contracts

Issuance. Urban high school academy contracts would have to be issued on a competitive basis, taking into consideration the resources available for a proposed academy, the population to be served by it, and the educational goals to be achieved by the academy. In evaluating an applicant's qualifications, the authoring body would have to examine the proposed academy standards and program, the applicant's financial viability, and the ability of the proposed board of directors to meet the contract goals and objectives. An authorizing body would have to give priority to applicants that demonstrated all of the following:

- The proposed school would operate at least all of grades 9 through 12 within three years of beginning operation.
- The proposed school would occupy a building or buildings that were newly constructed or renovated after January 1, 2003.
- The proposed school had a stated goal of increasing high school graduation rates.
- The proposed school had received commitments for financial and educational support from the applicant.
- The applicant had net assets of at least \$50 million.

Nonprofit Entity Participation. The contract between an authorizing body and an urban high school academy could permit the entity that applied for the contract to do any of the following:

- Participate in the recruiting, interviewing, and nominating process for academy board members.
- Conduct an independent educational review, on a periodic basis, to determine whether the academy was successful in implementing the educational goals set forth in the contract.
- Serve as contract administrator between the academy board of directors and any educational management company contracted to operate the academy.
- Make recommendations to the authorizing body and the academy on how to improve the academy's operation.

General Provisions. A contract issued to organize and administer an urban high school academy would have to contain at least all of the following:

- The educational goals the academy was to achieve and the methods by which it would be held accountable.
- A description of the method to be used to monitor the academy's compliance with applicable law and its performance in meeting its targeted educational objectives.
- A description of the process for amending the contract during its term. (An authorizing body could approve amendment of the contract with respect to any provision contained in it.)
- A certification, signed by an authorized member of the academy board of directors, that the academy would comply with the contract and all applicable law.
- Procedures for revoking the contract and grounds for revocation.
- A description of and address for the proposed building or buildings in which the academy would be located.
- Requirements and procedures for financial audits, which would have to be conducted at least annually by an independent certified public accountant in accordance with generally accepted governmental auditing principles.

Conflict of Interest. A contract would have to contain a requirement that the board of directors ensure compliance with the requirements of Public Act 317 of 1968, which

governs contracts of public servants with public entities.

Antinepotism Clause. A contract would have to contain a requirement that the board of directors prohibit specifically identified family relationships between members of the board, persons who had an ownership interest in or were officers or employees of an educational management company involved in the operation of the academy, and academy employees. The contract would have to identify the specific prohibited relationships consistent with applicable law. (The bill would define "educational management company" as an entity that entered into an agreement with the governing board of a public school to provide comprehensive educational, administrative, management, or instructional services or staff to the public school.)

Public Disclosure. A contract would have to require the urban high school academy's board of directors to make information concerning the school's operation and management available to the public and to the authorizing body in the same manner as State law requires for school districts. Also, the contract would have to require the board to collect, maintain, and make available to the public and the authorizing body, in accordance with applicable law and the contract, at least all of the following information:

- A copy of the contract issued by the authorizing body for the academy.
- A list of currently serving members of the board, including their name, address, and term of office; copies of policies approved by the board; board meeting agendas and minutes; a copy of the budget approved by the board and of any amendments to the budget; and copies of bills paid for amounts of \$10,000 or more as submitted to the board.
- Quarterly financial reports submitted to the authorizing body.
- A current list of teachers working at the academy that included their individual salaries; copies of the teaching certificates or permits of current teaching staff; and evidence of compliance with the criminal background and records checks and unprofessional conduct check required under the Code for all teachers and administrators working at the academy.
- Curriculum documents and materials given to the authorizing body.

- Proof of insurance as required by the contract.
- Copies of facility mortgages, leases, or deeds, and of any equipment leases.
- Copies of any management contract or services contract approved by the board.
- All health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspection, boiler inspection, and food service.
- Any management letters issued as part of the annual financial audit required under the Code.
- Any other information specifically required under the Code.

Pupil Admission & Recruitment. A contract issued by an authorizing body would have to require the board of the urban high school academy to demonstrate to the authorizing body's satisfaction that the academy had made a reasonable effort to advertise its enrollment openings in a newspaper of general circulation in the ISD in which the academy was located; and that the open enrollment period for the academy lasted at least two weeks and the enrollment times included some evenings and weekends.

The contract also would have to require the board to demonstrate, to the authorizer's satisfaction, that the academy had done the following to recruit pupils who were eligible for special education programs and services to apply for admission: made reasonable efforts to advertise all enrollment openings to organizations and media that regularly serve and advocate for individuals with disabilities within the boundaries of that ISD; and include in all pupil recruitment materials a statement that appropriate special education services would be made available to pupils attending the school as required by law.

Employee Compensation. An urban high school academy contract would have to require the board of directors to prohibit an individual from being employed by the academy in more than one full-time position and simultaneously being compensated at a full-time rate for each of those positions. A contract also would have to require that, upon request, the board of directors report to the authorizing body the total compensation for each individual working at the academy.

## District Codes

Within 30 days after a contract was submitted to the MDE, the Department would have to issue a district code to the urban high school academy for which the contract was issued. If the Department failed to do so, the State Treasurer would have to assign a temporary district code in order for the academy to receive funding under the State School Aid Act.

## Fees

An authorizing body would be prohibited from charging a fee, or requiring reimbursement of expenses, for considering an application for a contract, issuing a contract, or providing oversight of a contract for an urban high school academy in an amount that exceeded a combined total of 3% of the total State school aid received by the academy in the school year in which the fees or expenses were charged. An authorizer could use this fee only for the following purposes:

- Considering applications and issuing or administering contracts.
- Compliance monitoring and oversight of urban high school academies.
- Training for academy applicants, administrators, and boards of directors.
- Technical assistance to urban high school academies.
- Academic support to urban high school academies, or to their pupils or graduates.
- Evaluation of academy performance.
- Training of teachers, including supervision of teacher interns.
- Other purposes that assisted urban high school academies or traditional public schools in achieving improved academic performance.

An authorizing body could provide other services for an urban high school academy and charge a fee for those services, but could not require such an arrangement as a condition to issuing the contract authorizing the academy.

## Statutory Compliance

An urban high school academy would have to comply with all applicable law, including the following: the Open Meetings Act, the Freedom of Information Act, the public employment relations Act, the prevailing wage law, Public Act 566 of 1978 (incompatible

public offices), Public Act 317 of 1968 (conflict of interest), the Uniform Budgeting and Accounting Act, the Revised Municipal Finance Act, the Federal No Child Left Behind Act, and Sections 1134 (records of missing students), 1135 (proof of student identity), 1146 (discrimination, separate schools), 1153 (bilingual instruction), 1263(3) (construction requirements), 1267 (competitive bids on school maintenance or construction), 1274 (competitive bids on supplies and materials), and 1280 (school accreditation) of the Revised School Code.

#### Governmental Immunity

An urban high school academy and its incorporators, board members, officers, employees, and volunteers would have governmental immunity as provided in Section 7 of Public Act 170 of 1964. An authorizing body and its board members, officers, and employees would be immune from civil liability, both personally and professionally, for any acts or omissions in authorizing or overseeing of an urban high 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.

#### Sites; Grade Configuration

If a particular State public university issued a contract that permitted an urban high school academy to operate the same configuration of grades at more than one site, each of those sites would have to be under the direction of the board of directors that was party to the contract.

An urban high school academy could be located in all or part of an existing public school building. It would be prohibited from operating at a site other than the single site requested for the configuration of grades that would use the site, as specified in the contract, although its authorizing body could allow the academy to operate the same configuration of grades at more than one site. In this case, each of the sites would be considered to be operated under a separate contract, and the operation would be equivalent to the issuance of a contract, for the purposes of the 15-contract limitation under the bill.

If an urban high school academy operated classes at more than one location, it would be

considered to be operating at a single site if all of the locations were within a one-mile radius of the academy's central administrative office, and if the total number of pupils enrolled in any particular grade at all of the locations did not exceed 125.

Subject to the terms of its contract, an urban high school academy would have to include at least grades 9 through 12 within five years after beginning operations, and could include other grades or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. An urban high school academy could also operate an adult basic education program, adult high school completion program, or general education development testing preparation program, if specified in its contract.

#### Tuition; Enrollment

An urban high school academy would be prohibited from charging tuition, and could 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. An academy could, however, limit admission to pupils who were within a particular range of age or grade level, or on any other basis that would be legal if used by a school district, and could give enrollment priority as provided below.

Except for a foreign exchange student who was not a United States citizen, an urban high school academy would be prohibited from enrolling a pupil who was not a State resident. Enrollment would have to be open to all pupils who resided in the State and met the admission policy. If there were more enrollment applications than spaces available, pupils would have to be selected using a random selection process. An urban high school academy would have to allow any pupil enrolled in the academy in the immediately preceding school year to enroll in the appropriate grade, unless the appropriate grade was not offered at that academy.

Further, an urban high school academy could give enrollment priority to a sibling of a pupil enrolled in the academy, as well as to a child (including an adopted child or legal ward) of a person employed by or at the academy or on the academy board.

## Teachers

An urban high school academy would have to use certified teachers, according to State Board of Education rule. It could use a noncertified classroom teacher, however, if that teacher were a full-time faculty member of the State public university that was the authorizing body for the academy, and if he or she had been granted institutional tenure or were on a tenure track. Further, an urban high school academy could use a noncertified teacher in any other situation in which a school district may do so under the Code.

An urban high school academy could develop and implement new teaching techniques or methods, or significant revisions to known teaching techniques or methods, and would have to report those to the authorizing body and State Board to be made available to the public. An urban high school academy also could use any instructional technique or delivery method that could be used by a school district.

An urban high school academy, with the approval of the authorizer, could employ or contract with personnel, or enter into a contract with another party to furnish teachers or other personnel, as necessary for the operation of the academy, prescribe their duties, and fix their compensation.

## Authorizing Bodies

School Aid Payment. The authorizing body for an urban high school academy would be the fiscal agent for the academy. A State school aid payment for the academy would have to be paid to the authorizer, which would then have to forward the payment to the academy.

Oversight Responsibility. An authorizing body that issued a contract for an urban high school academy would have to oversee the operations of each academy, sufficient to ensure that it was in compliance with the terms of the contract and with applicable law. An authorizing body could enter into an agreement with one or more other authorizing bodies to oversee an urban high school academy operating under a contract issued by the authorizing body.

If the State Board of Education found that an authorizing body was not engaging in

appropriate continuing oversight of one or more urban high school academies operating under a contract issued by the authorizer, the Board, by unanimous vote, could suspend the power of the authorizing body to issue new contracts to organize and operate urban high school academies. A contract issued before the suspension would not be affected by it.

Academic Standards. The bill would require authorizing bodies to develop and implement a process for holding an urban high school academy board of directors accountable for meeting applicable academic performance standards set forth in the contract, and for implementing corrective action for an academy that did not meet those standards.

Other Requirements. The bill would require an authorizing body to take measures to ensure that an academy board of directors operated independently of any educational management company involved in the operation of the academy; oversee and ensure that the pupil admission process was operated in a fair and open manner, and was in compliance with the contract and Part 6C; and ensure that the board maintained and released information as necessary to comply with applicable law. Within 10 days of issuing a contract, the authorizer would have to submit to the Department a copy of the contract, and adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each urban high school academy that it authorized.

## Contract Revocation

Authority to Revoke & Reissue. An authorizing body could revoke a contract it had issued under Part 6C if the authorizer determined that one or more of the following had occurred: the academy failed to abide by and meet the educational goals set forth in the contract; the academy failed to comply with the law; the academy failed to meet generally accepted public sector accounting principles; or the academy met other grounds for revocation, as specified in the contract. The decision to revoke, issue, reissue, or reconstitute a contract would be solely within the discretion of the authorizer; would be final; and would not be subject to review by a court or any State agency. An authorizer that revoked a contract, or that did not issue, reissue, or reconstitute a contract under Part

6C, would not be liable for that action to the urban high school academy, the academy corporation, an academy pupil, the parent or guardian of a pupil, or any other person.

Corrective Measures. The bill would require an authorizing body, before revoking a contract, to consider and take corrective measures to avoid revocation. The authorizer would have to reconstitute the urban high school academy in a final attempt to improve student educational performance, or to avoid interruption of the educational process. An authorizing body would have to include in the contract a reconstituting provision that identified these corrective measures, including removing one or more board members, withdrawing approval to contract with other entities for the operation, management, financing, and maintenance of the academy, or appointing a new board of directors or a trustee to take over operation of the academy.

Transition; Return of State Funds. If it revoked a contract, an authorizing body would have to work with a school district or another public school, or with a combination of those entities, to ensure a smooth transition for the affected pupils. If the revocation occurred during the school year, the authorizing body, as the fiscal agent for the academy, would have to return to the State Treasurer any school aid funds attributable to the affected pupils, for deposit into the State School Aid Fund. The State Treasurer would have to distribute funds to the public school in which the pupils enrolled after the revocation, under a methodology established by the MDE and the Center for Educational Performance and Information (CEPI).

New Contract. If an authorizing body revoked a contract, it could issue a new contract within one year after the revocation, and the cap on the total number of urban high school academy contracts would not apply.

Notification. Within 10 days after an academy's contract terminated or was revoked, the authorizing body would have to give the Superintendent of Public Instruction written notice of the name of the urban high school academy, and the date of the termination or revocation.

Distribution of Assets. In the event of a contract termination or revocation, title to and

interests in all real and personal property, and other assets owned by the urban high school academy, would revert to the State. The property would have to be distributed according to the following requirements:

- Within 30 days following the termination or revocation, the academy's board of directors would have to hold a public meeting to adopt a plan of distribution of assets and to approve the dissolution of the academy corporation, in accordance with Chapter 8 of the Nonprofit Corporation Act.
- The academy would have to file a certificate of dissolution with the Department of Consumer and Industry Services within 10 business days following board approval.
- Simultaneous with the filing of the certificate of dissolution, the academy's board of directors would have to give a copy of its plan of distribution of assets to the State Treasurer for approval. Within 30 days, the State Treasurer would have to review and approve the plan. If the proposed plan were not approved within 30 days, the State Treasurer would have to give the board an acceptable plan of distribution.
- The State Treasurer would have to monitor the academy's winding up of the dissolved corporation in accordance with the approved plan of distribution.
- As part of the plan of distribution, the academy board would have to designate the Director of the Department of Management and Budget, or his or her designee, to dispose of all real property of the academy corporation in accordance with the directives developed for disposition of surplus land and facilities under Section 251 of the Management and Budget Act (MCL 18.1251).
- If the academy board failed to take any necessary action as required by the bill, the State Treasurer could suspend the board and appoint a trustee to carry out the plan of distribution. The trustee would have all the rights, powers, and privileges under law that the academy board had before being suspended.
- Following the sale of the real or personal property, or the interests in it, and after payment of any academy debt secured by the property or interests in it, the academy board, or the appointed trustee, would have to forward any remaining money to



the State Treasurer, who would have to deposit the money in the State School Aid Fund.

(Responsibilities of the State Treasurer also could be performed by his or her designee.)

### Incorporation

An urban high school academy could take action to carry out the purposes for which it was incorporated under Part 6C, including all of the following:

- To sue and be sued in its name.
- To acquire, hold, and own in its own name real and personal property, or interests in real or personal property, for educational purposes by purchase, gift, bequest, lease, installment purchase agreement, land contract, option, or condemnation, and subject to mortgages, security interests, or other liens; and to sell or convey the property as the interest of the academy required.
- To receive, disburse, and pledge funds for lawful purposes.
- To enter into binding legal agreements with persons or entities as necessary for the operation, management, financing, and maintenance of the academy.
- To incur temporary debt in accordance with Section 1225 of the Code (which authorizes school districts to borrow money for operating purposes).
- To solicit and accept any grants or gifts for educational purposes, and to establish, or permit to be established on its behalf, one or more nonprofit corporations to assist the academy in furthering its public purposes.

For the purposes of condemnation, an urban high school academy could proceed under the Uniform Condemnation Procedures Act, excluding Sections 6 to 9 of that Act (owner challenge, vesting of title in agency, payment by escrowees, surrendering property), or other applicable statutes, but only with the express, written permission of the authorizer in each instance of condemnation, and only after just compensation had been determined and paid.

An urban high school academy would be exempt from all taxation on its earnings and property. Instruments of conveyance to or from an urban high school academy would be

exempt from all taxation, including real estate transfer taxes. An urban high school academy would be prohibited from levying ad valorem property taxes or any other tax for any purpose.

### Bonds; Indebtedness

The bill would permit both standard PSAs and urban high school academies to issue bonds under Section 1351a of the Code (which permits districts to borrow money and issue bonds for capital expenditures, such as building a new school or remodeling, but not for maintenance expenditures). The bonds would be full faith and credit obligations of the academy, pledging the general funds or any other money available for such a purpose. The bonds would be subject to the Revised Municipal Finance Act.

The bill states that an agreement, mortgage, loan, or other instrument of indebtedness entered into by a PSA or an urban high school academy and a third party would not constitute an obligation, either general, special, or moral, of the State or an authorizing body. The full faith and credit or the taxing power of the State or any agency of the State, or the full faith and credit of an authorizing body, could not be pledged for the payment of any academy bond, note, agreement, mortgage, loan, or other instrument of indebtedness. The bill specifies that Part 6A and Part 6C would not impose any liability on the State or an authorizing body for any debt incurred by a PSA or by an urban high school academy.

MCL 380.5 et al.

### ARGUMENTS

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Parents and students are demanding more school choice. According to a column in the *Detroit News* (8-24-03), more than 12,000 Michigan children are on waiting lists to enter a charter school. Detroit, in particular, needs more high schools that focus on increasing graduation rates. In 2002, Detroit public schools' drop-out rate, 10.6%, exceeded that of other districts with higher percentages of

economically disadvantaged students: According to Standard and Poor's website, Benton Harbor's drop-out rate was 9.8%, Muskegon Heights' was 7.0%, and River Rouge's, 8.3%. Under the Federal No Child Left Behind Act, students in schools that fail to meet "adequate yearly progress" standards established by the State Department of Education may transfer, at the failing district's expense, to another public school. Secondary students in Detroit need to be able to exercise their right to transfer to a successful, local public school. The bill would offer multiple options to students trapped in failing public schools. By providing statutory authority for 15 new university-authorized charter schools in Detroit, the bill would enable the State to take advantage of philanthropist Bob Thompson's offer of \$200 million for that purpose.

**Response:** While Detroit's drop-out rate may be higher than that of other economically disadvantaged districts, Detroit public schools' 2002 standardized test scores were superior to the scores of the other districts mentioned above. Detroit's MEAP and ACT scores (the passing and participation rates, as well as the MEAP excelling rate) all surpassed the other districts' scores. This was accomplished with a total operating revenue, per student, lower than that of the other districts. Further, it may be futile to compare Detroit with other districts, as it far exceeds them in terms of size, with a total of 263 schools.

### **Supporting Argument**

In 2001, the Michigan Legislature established the Commission on Charter Schools to conduct a complete and objective review of all aspects of Michigan public school academies. Many of the educational reforms recommended for standard charter schools by the Commission would be enacted under the bill for urban high school academies. These include measures that would require public disclosure of the schools' financial records, limit the use of contract application fees, require schools to recruit students with disabilities, and prohibit nepotism between school stakeholders. While these requirements would not apply to other charter schools, they could create a critical mass for important reforms, as 15 urban high school academies would increase the current number of stand-alone charter high schools by more than 50%.

**Response:** A comprehensive approach to charter school reform, adopting the

accountability measures recommended by the Commission for all PSAs, would be preferable to creating a special class of charters for Detroit.

### **Supporting Argument**

The bill would enable current charter schools, as well as the proposed urban high school academies, to borrow money and issue bonds for capital expenditures such as purchasing, building, or remodeling school buildings. This would correct the current financial disparity between charter schools and traditional public schools, and allow charter schools to focus on their educational mission instead of fund-raising.

### **Opposing Argument**

According to a column in the *Detroit Free Press* (8-18-03), 15 new high school academies in Detroit could lure as many as 7,500 students away from the existing public schools, costing them \$53 million in State aid. Detroit schools' operating revenue is very low already; loss of additional funds could only harm reform efforts currently under way.

**Response:** Detroit public schools might improve themselves even more if they faced increased competition. In order to retain students, traditional public high schools might adopt some of the successful techniques used by the urban high school academies, thus improving education for everyone.

### **Opposing Argument**

While well-meaning, the bill would permit a fleet of charter schools to be built in Detroit without input from city leaders and community members. Under the bill, university authorizers would have to give contract priority to nonprofit entities with net assets of at least \$50 million. This provision effectively singles out philanthropist Bob Thompson, leaving no room for Detroiters to open urban high school academies for their own children. Further, there would be little room for local control of these schools once they were up and running, as the bill would not require that board members live inside the city.

In effect, the bill would permit the issuance of no-bid contracts. Equally troubling is a provision that would require an authorizer to issue a 10-year contract for an urban high school academy, to be automatically renewed after 10 years, as long as it met its goals. In contrast, the Code does not prescribe the

length of contracts for other charter schools, or require renewal. No-bid, long-term, and automatically renewed contracts created problems at Detroit metropolitan airport; it would be unacceptable to do the same with education and tax dollars.

**Response:** At a time when nearly all residents of the State are affected by the stalled economy, and schools have had to reduce staff and operating expenses, it would be a mistake to turn away a generous offer to build or renovate 15 schools for Detroit school children.

Legislative Analyst: Claire Layman

### **FISCAL IMPACT**

The State would experience a fiscal impact under the bill by paying additional foundation allowance funds for new pupils in membership due to the establishment of urban high school academies. A total of 15 new academies would be allowed to open in the Detroit school district under the bill. The School Aid Act defines a pupil in membership as 80% weighted on the current year fall pupil count, plus 20% weighted on the previous-year February count. However, during a PSA's first two full years of operation, the PSA is paid for pupils weighted on a current-year basis: 50% of the pupils counted in the current fall plus 50% of the pupils counted in the following February. Combining this method of paying for a new PSA's pupils with a historical survey that 25% of a PSA's pupils come from outside of the existing public school system (i.e., from private schools or home schools), leads to an additional cost to the State from increasing the charter school "cap" by 15 in Detroit. Estimating this cost (assuming an average urban high school academy size of 350 students, a per-pupil payment of \$6,700, and that all 15 new schools would open in the first year) yields an additional foundation allowance payout from the School Aid budget of \$14 million in each of the first two years, and \$8.5 million yearly thereafter. This estimate hinges on the assumptions that all 15 urban high school academies would open in the first year, that the size of each school would be 350 pupils, and that 25% of those 350 pupils would come from outside of the existing public school system.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

For all PSAs, the bill includes a provision that carries potential fiscal impacts. The bill would allow PSAs to borrow money by issuing bonds for capital needs. Though the PSAs still would not have taxing authority, it is anticipated that by having bonding authority, PSAs could possibly see decreased capital costs through increased borrowing flexibility, though estimating an actual fiscal impact is not practicable.

Fiscal Analyst: Kathryn Summers-Coty