

SUBSTITUTE FOR
HOUSE BILL NO. 5921

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 611, 612, 614, 614a, 616, 617, and 701 (MCL
380.611, 380.612, 380.614, 380.614a, 380.616, 380.617, and
380.701), section 611 as amended by 1981 PA 87, section 614 as
amended by 2004 PA 233, section 614a as added by 2004 PA 234, and
sections 616, 617, and 701 as amended by 2003 PA 299, and by
adding section 634.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 611. (1) ~~An~~ **Except as otherwise provided in this**
2 **section, an** intermediate school district shall be under the
3 supervision and control of an intermediate school board composed
4 of 5 members elected under this part. ~~—, except that in~~
5 (2) **In** an intermediate school district ~~—which—~~ **that** adopts
6 sections 615 to 617 for popular election of its members, or in an

1 intermediate school district reorganized under section 701, the
2 number of intermediate school board members shall be 7.

3 (3) In an intermediate school district whose boundaries are
4 enlarged by a dissolution under section 703, the number of
5 intermediate school board members, at the option of the
6 intermediate school board, may be 7.

7 (4) Beginning on the effective date of this subsection, an
8 intermediate school board may by resolution change the number of
9 intermediate school board members to 7. Before adopting the
10 resolution to change the number of intermediate school board
11 members to 7, an intermediate school board shall hold at least 2
12 public hearings on the resolution. If an intermediate school
13 board determines that the terms of intermediate school board
14 members should be staggered differently than provided under this
15 act or any bylaws of the intermediate school board due to a
16 change in the number of board members under this subsection, the
17 intermediate school board may adopt bylaws or amend its bylaws to
18 change the way that intermediate school board members' terms are
19 staggered. The bylaws may alter the current terms of members
20 serving at the time the bylaws are adopted to implement the
21 change in the way that terms are staggered. If an intermediate
22 school board adopts or amends bylaws under this subsection that
23 alter a member's existing term, the member's term is subject to
24 that action.

25 Sec. 612. (1) ~~A~~ Subject to subsection (2), a school
26 elector of a constituent district ~~shall be~~ is eligible to
27 election or appointment to membership on the intermediate school

1 board. ~~A~~

2 **(2) Until the 2005 intermediate school board election, a**
3 member of a board of a constituent district ~~shall be~~ **is**
4 eligible to election or appointment to membership on the
5 intermediate school board. **Beginning with the 2005 intermediate**
6 **school board election, not more than 3 members of the**
7 **intermediate school board may also be serving at the same time as**
8 **a member of the board of a constituent district or board of**
9 **directors of a public school academy. However, if an**
10 **intermediate school board has more than 3 members serving as of**
11 **September 1, 2004 who are also serving at the same time as**
12 **members of the board of a constituent district, this limitation**
13 **does not apply to that intermediate school board until the**
14 **expiration of the current terms of those intermediate school**
15 **board members.**

16 **(3) ~~(2)~~** A member of an intermediate school board who is a
17 member of a constituent district board shall not participate in
18 proceedings conducted pursuant to part 11 to detach territory
19 from or attach territory to the constituent district of which he
20 or she is a board member.

21 Sec. 614. (1) Except as provided in section 615 and subject
22 to **subsection (4) and** section 642 of the Michigan election law,
23 MCL 168.642, the members of the intermediate school board shall
24 be elected biennially on the first Monday in June by an electoral
25 body composed of 1 person designated by the board of each
26 constituent school district.

27 (2) The board of a constituent district shall designate its

1 representative to this electoral body by resolution adopted not
2 earlier than 21 days before the date of ~~this biennial~~ **the**
3 election **under this section**. The board shall consider the
4 resolution at not less than 2 public meetings before adopting the
5 resolution. The resolution shall be adopted by majority vote of
6 the members serving on the board. In its resolution designating
7 its representative, the board of a constituent district shall
8 identify the candidate the board supports for each position to be
9 filled on the intermediate school board and shall direct its
10 representative to vote for that individual or individuals at
11 least on the first ballot taken by the electoral body. The
12 secretary of the intermediate school board shall send a notice by
13 certified mail of the hour and place of the meeting of the
14 electoral body described in subsection (1) to the secretary of
15 the board of each constituent school district at least 10 days
16 before the meeting. The president and secretary of the
17 intermediate school board shall act as chairperson and secretary
18 at the meeting. The meeting of the electoral body shall be an
19 open meeting conducted in the manner prescribed under the open
20 meetings act, 1976 PA 267, MCL 15.261 to 15.275.

21 (3) Except as provided in section 703, the term of office of
22 each member elected to the intermediate school board is 6 years.
23 ~~and~~ **However, beginning with the terms of intermediate school**
24 **board members elected after January 1, 2009, the term of office**
25 **of each member elected to the intermediate school board is 4**
26 **years. The term of an intermediate school board member** begins on
27 July 1 following election. Not more than 2 members of the

1 intermediate school board shall be from the same school district
2 unless there are fewer districts than there are positions to be
3 filled.

4 (4) Not later than April 1, 2005, each intermediate school
5 board shall adopt bylaws for election of intermediate school
6 board members that will provide for the transition to 4-year
7 terms under subsection (3) and that will provide for annual
8 election of members under this section. All of the following
9 apply to these bylaws:

10 (a) The bylaws shall ensure that all members are elected for
11 4-year terms beginning with the election in 2009.

12 (b) The bylaws shall ensure that at least 1 member is elected
13 each year.

14 (c) The bylaws may alter the current terms of members serving
15 at the time the bylaws are adopted. If an intermediate school
16 board adopts bylaws under this subsection that alter a member's
17 existing term, the member's term is subject to that action.

18 (5) ~~(4)~~ A vacancy shall be filled by the remaining members
19 of the intermediate school board until the next ~~biennial~~
20 election **under this section** at which time the vacancy shall be
21 filled for the balance of the unexpired term. Notice of the
22 vacancy shall be filed with the state board within 5 days after
23 the vacancy occurs. If the vacancy is not filled within 30 days
24 after it occurs, the vacancy shall be filled by the state board.

25 (6) ~~(5)~~ Subject to subsection ~~(7)~~ (8), a candidate for
26 election to the intermediate school board shall be nominated by
27 petitions that are signed by a number of school electors of the

1 combined constituent school districts of the intermediate school
2 district, as follows:

3 (a) If the population of the intermediate school district is
4 less than 10,000 according to the most recent federal census, a
5 minimum of 6 and a maximum of 20.

6 (b) If the population of the intermediate school district is
7 10,000 or more according to the most recent federal census, a
8 minimum of 40 and a maximum of 100.

9 **(7)** ~~-(6)-~~ A school elector may sign as many petitions as
10 there are vacancies to fill. Nominating petitions and an
11 affidavit as provided in section 558 of the Michigan election
12 law, 1954 PA 116, MCL 168.558, shall be filed with the school
13 district filing official not later than 30 days before the date
14 of the biennial election under subsection (1). The school
15 district filing official shall determine the sufficiency of the
16 petitions and the eligibility of the candidates nominated. The
17 school district filing official shall provide ballots for the
18 biennial election, listing on the ballots the names of all
19 candidates properly nominated. The chairperson of the biennial
20 election meeting may accept nominations for a vacancy from the
21 floor only if no nominating petitions have been filed for the
22 vacancy.

23 **(8)** ~~-(7)-~~ Instead of filing nominating petitions, a candidate
24 for election to the intermediate school board may pay a
25 nonrefundable filing fee of \$100.00 to the school district filing
26 official. If this fee is paid by the due date for nominating
27 petitions, the payment has the same effect under this section as

1 the filing of nominating petitions.

2 Sec. 614a. (1) A member of an intermediate school board
3 elected ~~under section 614 at a biennial election meeting~~
4 ~~described in section 614(1)~~ or appointed to fill a vacancy under
5 section 614 is subject to recall by the intermediate school
6 electors of the intermediate school district in the manner
7 prescribed in chapter XXXVI of the Michigan election law, MCL
8 168.951 to 168.976.

9 (2) A member of an intermediate school board elected ~~under~~
10 ~~section 614 at a biennial election meeting described in section~~
11 ~~614(1)~~ or appointed to fill a vacancy under section 614 may be
12 removed from office by the boards of the constituent districts.
13 A member is removed from office under this subsection if a number
14 of the boards of the constituent districts at least equal to a
15 majority of the boards plus 1 adopt resolutions requesting
16 removal of the member and file those resolutions within a 60-day
17 period with the secretary of the intermediate school board.
18 However, if the secretary of the intermediate school board is the
19 subject of the removal resolution, a constituent district board
20 may file the resolution with another officer of the intermediate
21 school board.

22 (3) A member of an intermediate school board elected ~~under~~
23 ~~section 614 at a biennial election meeting described in section~~
24 ~~614(1)~~ or appointed to fill a vacancy under section 614 may be
25 removed from office by the governor as prescribed in section
26 619.

27 Sec. 616. (1) An intermediate school board may submit to

1 the school electors of the constituent districts comprising the
2 intermediate school district the question of adoption of sections
3 615 to 617. The question shall be in substantially the following
4 form:

5 "Shall sections 615 to 617 of the revised school code,
6 providing for the popular election of members of the intermediate
7 school board, be effective within the constituent districts of
8 _____ (name of intermediate school district)?

9 Yes ()

10 No ()".

11 (2) The intermediate school board shall submit the question
12 upon receipt of resolutions adopted by a majority of the boards
13 of constituent districts and representing more than 1/2 of the
14 combined memberships of the constituent districts of the
15 intermediate school district as of the latest pupil membership
16 count day. The resolutions of the constituent district boards
17 shall be adopted between March 1 and the next succeeding July 1.
18 The question shall be presented to the school electors of the
19 constituent districts at the next regular school election after
20 resolutions of constituent district boards meeting the
21 requirements of this section have been filed with the school
22 district filing official.

23 (3) If a majority of the school electors votes in favor of
24 popular election, members of the intermediate school board shall
25 be elected at the next regular school election and ~~biennially~~
26 thereafter at the regular school elections of the constituent
27 districts.

1 (4) An intermediate school district that adopts sections 615
2 to 617 may terminate the popular election of members of the
3 intermediate school board in the same manner.

4 Sec. 617. (1) In an intermediate school district in which
5 sections 615 to 617 are effective, a candidate for the office of
6 member of the intermediate school board shall be nominated, and
7 members shall be elected, as provided in chapter XIV of the
8 Michigan election law, MCL 168.301 to 168.315.

9 (2) At the first election, 3 members of an intermediate
10 school board shall be elected for a term of 6 years, 2 for a term
11 of 4 years, and 2 for a term of 2 years. ~~After~~ **Subject to**
12 **subsection (3), after** the first election, their successors shall
13 be elected biennially for terms of 6 years. **However, beginning**
14 **with intermediate school board members elected after January 1,**
15 **2009, an intermediate school board member shall be elected for a**
16 **term of 4 years.**

17 (3) The intermediate school board of an intermediate school
18 district in which sections 615 to 617 are in effect shall adopt
19 bylaws for election of intermediate school board members that
20 will provide for the transition to 4-year terms under subsection
21 (7) and that will provide for annual election of members. All of
22 the following apply to these bylaws:

23 (a) The bylaws shall ensure that all members are elected for
24 4-year terms beginning with the election in 2009.

25 (b) The bylaws shall ensure that at least 1 member is elected
26 each year.

27 (c) The bylaws may alter the current terms of members serving

1 at the time the bylaws are adopted. If an intermediate school
2 board adopts bylaws under this subsection that alter a member's
3 existing term, the member's term is subject to that action.

4 Sec. 634. (1) Not later than July 1, 2005, each
5 intermediate school board shall adopt and implement a conflict of
6 interest policy designed to avoid conflicts of interest by
7 intermediate school district officials and employees.

8 (2) Not later than July 1, 2005, each intermediate school
9 board shall adopt and implement a policy to prohibit use of
10 intermediate school district funds or other public funds under
11 the control of the intermediate school district for purchasing
12 alcoholic beverages, jewelry, gifts, fees for golf, or any item
13 the purchase or possession of which is illegal. Subject to
14 subsection (8), the policy may allow the use of public funds for
15 the purchase of a plaque, medal, trophy, or other award for the
16 recognition of an employee, volunteer, or pupil if the purchase
17 does not exceed \$100.00 per recipient. As used in this
18 subsection, "public funds" means funds generated from taxes
19 levied under this act, state appropriations of state or federal
20 funds, or payments made to the intermediate school district for
21 services by a constituent district or any other person, but does
22 not include voluntary contributions made for a specific purpose
23 by an intermediate school board member, an intermediate school
24 district employee, another individual, or a private entity.

25 (3) The department shall develop and distribute to
26 intermediate school districts a model conflict of interest policy
27 for the purposes of subsection (1) and a model policy meeting the

1 requirements of subsection (2).

2 (4) Subject to subsection (8), in any 1-month period, an
3 intermediate school board member or intermediate school district
4 administrator shall not accept from a person who does business or
5 seeks to do business of any kind with the intermediate school
6 district any money, goods, or services with a value in excess of
7 \$44.00 if the board member or administrator does not provide
8 goods or services of equal value in exchange. This subsection
9 does not apply to a gift or reward already prohibited under
10 section 1805.

11 (5) If an intermediate school board member or intermediate
12 school district administrator has a substantial conflict of
13 interest in a proposed contract, the intermediate school board
14 shall not enter into that contract. As used in this subsection,
15 "substantial conflict of interest" means a conflict of interest
16 on the part of an intermediate school board member or
17 intermediate school district administrator in respect to a
18 contract with the intermediate school district that is of such
19 substance as to induce action on his or her part to promote the
20 contract for his or her own personal benefit. In the following
21 cases, there is no substantial conflict of interest:

22 (a) A contract between the intermediate school district and
23 any of the following:

24 (i) A corporation in which an intermediate school board
25 member or intermediate school district administrator is a
26 stockholder owning 1% or less of the total stock outstanding in
27 any class if the stock is not listed on a stock exchange or

1 owning stock that has a present market value of \$25,000.00 or
2 less if the stock is listed on a stock exchange.

3 (ii) A corporation in which a trust, if an intermediate
4 school board member or intermediate school district administrator
5 is a beneficiary under the trust, owns 1% or less of the total
6 stock outstanding in any class if the stock is not listed on a
7 stock exchange or owns stock that has a present market value of
8 \$25,000.00 or less if the stock is listed on a stock exchange.

9 (iii) A professional limited liability company organized
10 pursuant to the Michigan limited liability company act, 1993 PA
11 23, MCL 450.5101 to 450.6200, if an intermediate school board
12 member or intermediate school district administrator is an
13 employee but not a member of the company.

14 (b) A contract between the intermediate school district and
15 any of the following:

16 (i) A corporation in which an intermediate school board
17 member or intermediate school district administrator is not a
18 stockholder owning more than 1% of the total stock outstanding in
19 any class if the stock is not listed on a stock exchange; is not
20 a stockholder owning stock that has a present market value in
21 excess of \$25,000.00 if the stock is listed on a stock exchange;
22 or is not a director, officer, or employee.

23 (ii) A firm, partnership, or other unincorporated
24 association, in which an intermediate school board member or
25 intermediate school district administrator is not a partner,
26 member, or employee.

27 (iii) A corporation or firm that has an indebtedness owed to

1 an intermediate school board member or intermediate school
2 district administrator.

3 (c) A contract between the intermediate school district and a
4 constituent district.

5 (d) A contract awarded to the lowest qualified bidder, upon
6 receipt of sealed bids pursuant to a published notice for bids if
7 the notice does not bar, except as authorized by law, any
8 qualified person, firm, corporation, or trust from bidding. This
9 subdivision does not apply to amendments or renegotiations of a
10 contract or to additional payments under the contract that were
11 not authorized by the contract at the time of award.

12 (6) If an intermediate school board member, intermediate
13 school district administrator, or an employee of an intermediate
14 school district who recommends, negotiates, or is authorized to
15 sign a contract on behalf of the intermediate school district
16 either is employed by or under contract with a business
17 enterprise with which the intermediate school district is
18 considering entering into a contract or knows that he or she has
19 a family member who has an ownership interest in or is employed
20 by a business enterprise with which the intermediate school
21 district is considering entering into a contract, the board
22 member, administrator, or employee shall disclose this fact to
23 the intermediate school board at a public meeting of the
24 intermediate school board before the intermediate school board
25 enters into the contract. If the intermediate school board
26 receives a disclosure described in this subsection, the
27 intermediate school board shall vote at a public meeting of the

1 intermediate school board on whether or not it considers the
2 relationship described in the disclosure to be a conflict of
3 interest, and shall not enter into the contract without first
4 voting at a public meeting of the intermediate school board to
5 enter into the contract. As used in this subsection, "family
6 member" means a person's spouse or spouse's sibling or child; a
7 person's sibling or sibling's spouse or child; a person's child
8 or child's spouse; or a person's parent or parent's spouse, and
9 includes these relationships as created by adoption or marriage.

10 (7) An intermediate school board shall ensure that each
11 employment contract with a school administrator employed by the
12 intermediate school district includes both a provision
13 prohibiting the school administrator from engaging in conduct
14 involving moral turpitude and a provision allowing the
15 intermediate school board to void the contract if the school
16 administrator violates the provision prohibiting conduct
17 involving moral turpitude.

18 (8) Beginning January 1, 2005, the monetary amounts specified
19 in subsections (2) and (4) shall be adjusted each January 1
20 pursuant to the annual average percentage increase or decrease in
21 the Detroit consumer price index--all items. The adjustment for
22 each year shall be made by comparing the percentage increase or
23 decrease in the Detroit consumer price index for the preceding
24 August by the corresponding Detroit consumer price index--all
25 items 1 year earlier. The resultant percentage change shall then
26 be multiplied by the affected monetary amount. These results
27 shall be rounded up to the nearest dollar and added to or

1 subtracted from the current monetary amounts as previously
2 adjusted by this subsection to determine the new amount for that
3 year. The adjustment shall apply only to expenditures or
4 violations occurring after the date of the adjusting of the
5 amount. The adjusted amount shall be determined and announced by
6 the department on or before December 15 of each year and shall be
7 provided to all persons requesting the adjusted amount. If the
8 index is unavailable, the department shall make a reasonable
9 approximation.

10 Sec. 701. (1) Two or more adjoining intermediate school
11 districts may combine to form a single intermediate school
12 district when the reorganization is approved by a majority of the
13 electors of each intermediate school district voting on the
14 question in the regular school elections of the constituent
15 districts.

16 (2) The question of combining intermediate school districts
17 may be submitted by a resolution of the intermediate school
18 boards meeting in joint session.

19 (3) The question shall be submitted if petitions signed by a
20 number of school electors of each intermediate school district
21 equal to not less than 5% of the number of pupil memberships on
22 the latest pupil membership count day of the combined constituent
23 districts of the intermediate school district are filed with the
24 school district filing official. Within 30 days after receiving
25 sufficient petitions, the school district filing official shall
26 notify the secretary of the intermediate school district and the
27 secretary shall apply for approval to the superintendent of

1 public instruction. The school district filing official shall
2 submit the question in accordance with section 661 at the next
3 regular school election after the superintendent of public
4 instruction approves the merger.

5 (4) The ballots for a ballot question under this section
6 shall be in substantially the following form:

7 "Shall the following intermediate school districts be
8 organized as a single intermediate school district?

9 (List names of intermediate school districts)

10 Yes ()

11 No ()".

12 (5) If the consolidation is approved by a majority of the
13 school electors voting on the question in each of the
14 participating intermediate school districts, the reorganization
15 is effective in the combined intermediate school districts 30
16 days after the regular school election at which the question is
17 submitted. The reorganized intermediate school district is a
18 single intermediate school district subject to this part.

19 (6) The members of the intermediate school boards of the
20 original intermediate school districts shall act as an interim
21 board until a board of the combined intermediate school district
22 is elected. The interim board has all the powers and duties of
23 an intermediate school board under this part. The person chosen
24 by the interim intermediate school board as intermediate
25 superintendent shall serve only until a successor is chosen by
26 the elected intermediate school board. The secretary of the
27 intermediate school board having the largest number of pupils in

1 membership in its combined constituent districts at the time of
2 reorganization shall call a meeting of the members of the interim
3 intermediate school board for the purpose of organization within
4 15 days after the effective date of the reorganization. The
5 school district filing official shall provide for the election of
6 a board of the reorganized intermediate school district under
7 chapter XIV of the Michigan election law, MCL 168.301 to
8 168.315. At the first election, there shall be elected ~~3~~
9 ~~members of a board for 6 years, 2 for 4 years, and 2 for 2 years~~
10 **2 members of the board for 4 years, 2 members for 3 years, 2**
11 **members for 2 years, and 1 member for 1 year.** Their successors
12 shall be elected ~~biennially~~ **annually** for terms of ~~6~~ **4** years.

13 (7) The reorganized intermediate school district shall
14 operate as a single intermediate school district from the
15 effective date of the reorganization. Within 10 days after the
16 reorganization, all accounts of the reorganized intermediate
17 school districts shall be audited in the manner established by
18 the interim intermediate school board. The contracts of the
19 intermediate superintendents in force on the effective date of
20 reorganization continue in effect until the time of their
21 termination except as to position as intermediate
22 superintendents.

23 (8) If, before reorganization of the intermediate school
24 districts each of the combining intermediate school districts
25 adopted special education programs by referendum as provided in
26 part 30 and approved the same annual property tax rates for the
27 education of handicapped persons, the special education programs

1 and the annual property tax rates shall continue in effect in the
2 reorganized intermediate school district.