

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 5921

(As amended, November 10, 2004)

A bill to amend 1976 PA 451, entitled

"An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,"  
by amending sections 611, 612, 613, 614, and 621a (MCL 380.611, 380.612, 380.613, 380.614, and 380.621a), section 611 as amended by 1981 PA 87, section 613 as amended and section 621a as added by 2004 PA 234, and section 614 as amended by 2004 PA 233, 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  
7 intermediate school district reorganized under section 701, the

1 number of intermediate school board members shall be 7.

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

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

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

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

15           (3) ~~(2)~~ A member of an intermediate school board who is a  
16 member of a constituent district board shall not participate in  
17 proceedings conducted pursuant to part 11 to detach territory  
18 from or attach territory to the constituent district of which he  
19 or she is a board member.

20           Sec. 613. (1) The intermediate school board shall ~~meet~~  
21 **hold its organizational meeting** annually on or before the fourth  
22 Monday of ~~December~~ **January** or, if the intermediate school  
23 district's regular election is in ~~May~~ **June**, on or before the  
24 fourth Monday of ~~June~~ **July**.

25           (2) The intermediate school board shall organize by electing  
26 a president, a vice-president, a secretary, and a treasurer.  
27 Until July 1, 2005, the president and vice-president shall be

1 members of the intermediate school board, but the secretary and  
2 treasurer need not be. Beginning July 1, 2005, all officers  
3 shall be members of the intermediate school board.

4 (3) The officers shall perform duties provided by law and  
5 prescribed by the policies and regulations of the intermediate  
6 school board not inconsistent with this part or other laws of the  
7 state.

8 (4) The treasurer shall post with the secretary a bond in an  
9 amount approved by the intermediate school board, conditioned  
10 upon the faithful performance of the treasurer's duties.

11 Sec. 614. (1) Except as provided in section 615 and subject  
12 to section 642 of the Michigan election law, MCL 168.642, the  
13 members of the intermediate school board shall be elected  
14 biennially on the first Monday in June by an electoral body  
15 composed of 1 person designated by the board of each constituent  
16 school district.

17 (2) The board of a constituent district shall designate its  
18 representative to this electoral body by resolution adopted not  
19 earlier than 21 days before the date of this biennial election.  
20 The board shall consider the resolution at not less than ~~2~~ 1  
21 public ~~meetings~~ **meeting** before adopting the resolution. The  
22 resolution shall be adopted by majority vote of the members  
23 serving on the board. In its resolution designating its  
24 representative, the board of a constituent district shall  
25 identify the candidate the board supports for each position to be  
26 filled on the intermediate school board and shall direct its  
27 representative to vote for that individual or individuals at

1 least on the first ballot taken by the electoral body. The  
2 secretary of the intermediate school board shall send a notice by  
3 certified mail of the hour and place of the meeting of the  
4 electoral body described in subsection (1) to the secretary of  
5 the board of each constituent school district at least 10 days  
6 before the meeting. The president and secretary of the  
7 intermediate school board shall act as chairperson and secretary  
8 at the meeting. The meeting of the electoral body shall be an  
9 open meeting conducted in the manner prescribed under the open  
10 meetings act, 1976 PA 267, MCL 15.261 to 15.275.

11 (3) Except as provided in section 703, the term of office of  
12 each member elected to the intermediate school board is 6 years  
13 and begins on July 1 following election. Not more than 2 members  
14 of the intermediate school board shall be from the same school  
15 district unless there are fewer districts than there are  
16 positions to be filled.

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

24 (5) Subject to subsection (7), a candidate for election to  
25 the intermediate school board shall be nominated by petitions  
26 that are signed by a number of school electors of the combined  
27 constituent school districts of the intermediate school district,

1 as follows:

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

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

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

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

27 Sec. 621a. An intermediate school board shall establish a

1 policy requiring ~~intermediate school board~~ approval by the  
2 intermediate school board or its designee of all travel ~~outside~~  
3 ~~this state~~ by an intermediate school board member or an  
4 intermediate school district employee that includes at least 1  
5 overnight stay and is paid for or reimbursed by the intermediate  
6 school district. The policy shall require a board member or  
7 employee to submit both a pretravel authorization form detailing  
8 estimated expenses and a posttravel form detailing and verifying  
9 actual expenses and shall require approval of both forms.

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

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

1 not include voluntary contributions made for a specific purpose  
2 by an intermediate school board member, an intermediate school  
3 district employee, another individual, or a private entity.

4 (3) The department shall develop and distribute to  
5 intermediate school districts a model conflict of interest policy  
6 for the purposes of subsection (1) and a model policy meeting the  
7 requirements of subsection (2).

8 (4) Subject to subsection (8), in any 1-month period, an  
9 intermediate school board member or intermediate school district  
10 administrator shall not accept from a person who does business or  
11 seeks to do business of any kind with the intermediate school  
12 district any money, goods, or services with a value in excess of  
13 \$44.00 if the board member or administrator does not provide  
14 goods or services of equal value in exchange. This subsection  
15 does not apply to a gift or reward already prohibited under  
16 section 1805.

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

1 (a) A contract between the intermediate school district and  
2 any of the following:

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

9 (ii) A corporation in which a trust, if an intermediate  
10 school board member or intermediate school district administrator  
11 is a beneficiary under the trust, owns 1% or less of the total  
12 stock outstanding in any class if the stock is not listed on a  
13 stock exchange or owns stock that has a present market value of  
14 \$25,000.00 or less if the stock is listed on a stock exchange.

15 (iii) A professional limited liability company organized  
16 pursuant to the Michigan limited liability company act, 1993 PA  
17 23, MCL 450.5101 to 450.6200, if an intermediate school board  
18 member or intermediate school district administrator is an  
19 employee but not a member of the company.

20 (b) A contract between the intermediate school district and  
21 any of the following:

22 (i) A corporation in which an intermediate school board  
23 member or intermediate school district administrator is not a  
24 director, officer, or employee.

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

1 member, or employee.

2 (iii) A corporation or firm that has an indebtedness owed to  
3 an intermediate school board member or intermediate school  
4 district administrator.

5 (c) A contract between the intermediate school district and a  
6 constituent district.

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

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

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

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

20 (8) Beginning January 1, 2005, the monetary amounts specified  
21 in subsections (2) and (4) shall be adjusted each January 1 by  
22 multiplying the amount for the immediately preceding year by the  
23 percentage by which the average consumer price index for all  
24 items for the 12 months ending August 31 of the year in which the  
25 adjustment is made differs from that index's average for the 12  
26 months ending on August 31 of the immediately preceding year and  
27 adding that product to the maximum amount that applied in the

1 immediately preceding year, rounding to the nearest whole  
2 dollar. The adjustment shall apply only to expenditures or  
3 violations occurring after the date of the adjusting of the  
4 amount. The adjusted amount shall be determined and announced by  
5 the department on or before December 15 of each year and shall be  
6 provided to all persons requesting the adjusted amount. If the  
7 index is unavailable, the department shall make a reasonable  
8 approximation.