

SENATE BILL No. 393

April 23, 2003, Introduced by Senators KUIPERS, JOHNSON, CROPSEY, STAMAS, McMANUS, BISHOP, ALLEN, SIKKEMA, HAMMERSTROM, GARCIA, CASSIS and BIRKHOLZ and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 501, 502, 503, 504, 504a, and 507 (MCL
380.501, 380.502, 380.503, 380.504, 380.504a, and 380.507),
sections 501, 502, 503, 504a, and 507 as amended by 1995 PA 289
and section 504 as amended by 1994 PA 416, and by adding
sections 503b and 1320.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 501. (1) A public school academy is a public school
2 under section 2 of article VIII of the state constitution of
3 1963, is a school district for the purposes of section 11 of
4 article IX of the state constitution of 1963 and for the purposes
5 of section 1225 **and section 1351a**, and is subject to the
6 leadership and general supervision of the state board over all
7 public education under section 3 of article VIII of the state

1 constitution of 1963. A public school academy is a body
2 corporate and is a governmental agency. The powers granted to a
3 public school academy under this part constitute the performance
4 of essential public purposes and governmental functions of this
5 state.

6 (2) As used in this part:

7 (a) "Authorizing body" means any of the following **governing**
8 **boards** that ~~issues~~ **issue** a contract as provided in this part:

9 (i) The board of a school district that operates grades K to
10 12.

11 (ii) An intermediate school board.

12 (iii) The board of a community college.

13 (iv) The governing board of a state public university.

14 (b) "Certificated teacher" means an individual who holds a
15 valid teaching certificate issued by the ~~state board~~
16 **superintendent of public instruction** under section 1531.

17 (c) "Community college" means a community college organized
18 under the community college act of 1966, ~~Act No. 331 of the~~
19 ~~Public Acts of 1966, being sections 389.1 to 389.195 of the~~
20 ~~Michigan Compiled Laws, 1966 PA 331, MCL 389.1 to 389.195,~~ or a
21 federal tribally controlled community college that is recognized
22 under the tribally controlled community college assistance act of
23 1978, Public Law 95-471, 92 Stat. 1325, and is determined by the
24 department to meet the requirements for accreditation by a
25 recognized regional accrediting body.

26 (d) "Contract" means the executive act taken by an
27 authorizing body that evidences the authorization of a public

1 school academy and that establishes, subject to the
2 constitutional powers of the state board and applicable law, the
3 written instrument executed by an authorizing body conferring
4 certain rights, franchises, privileges, and obligations on a
5 public school academy, as provided by this part, and confirming
6 the status of a public school academy as a public school in this
7 state.

8 **(e) "Educational management company" means that term as**
9 **defined in section 1320.**

10 **(f) ~~-(e)-~~ "Entity" means a partnership, nonprofit or business**
11 **corporation, labor organization, or any other association,**
12 **corporation, trust, or other legal entity.**

13 **(g) ~~-(f)-~~ "State public university" means a university**
14 **described in section 4, 5, or 6 of article VIII of the state**
15 **constitution of 1963.**

16 Sec. 502. (1) A public school academy shall be organized
17 and administered under the direction of a board of directors in
18 accordance with this part and with bylaws adopted by the board of
19 directors. A public school academy corporation shall be
20 organized under the nonprofit corporation act, ~~Act No. 162 of~~
21 ~~the Public Acts of 1982, being sections 450.2101 to 450.3192 of~~
22 ~~the Michigan Compiled Laws 1982 PA 162, MCL 450.2101 to~~
23 **450.3192**, except that a public school academy corporation is not
24 required to comply with sections 170 to 177 of ~~Act No. 327 of~~
25 ~~the Public Acts of 1931, being sections 450.170 to 450.177 of the~~
26 ~~Michigan Compiled Laws 1931 PA 327, MCL 450.170 to 450.177.~~ To
27 the extent disqualified under the state or federal constitution,

1 a public school academy shall not be organized by a church or
2 other religious organization and shall not have any
3 organizational or contractual affiliation with or constitute a
4 church or other religious organization.

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

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

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

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

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

15 (d) ~~The~~ **Subject to subsection (3),** the governing board of a
 16 state public university. ~~However, the~~

17 **(3) All of the following apply to the number of contracts**
 18 **that may be issued by state public universities for public school**
 19 **academies:**

20 **(a) The** combined total number of contracts ~~for public school~~
 21 ~~academies~~ issued by all state public universities **for public**
 22 **school academies other than high school public school academies**
 23 **under subdivision (b)** shall not exceed ~~85 through 1996, and,~~
 24 ~~after the initial evaluation under section 501a, shall not exceed~~
 25 ~~100 through 1997, 125 through 1998, or~~ **150 through 2002, 180**
 26 **through 2003, 210 through 2004, 240 through 2005, 270 through**
 27 **2006, 300 through 2007, 330 through 2008, 360 through 2009, 390**

1 through 2010, 420 through 2011, or 450 thereafter. ~~Further, the~~
2 ~~total number of contracts issued by any 1 state public university~~
3 ~~shall not exceed 50 through 1996, and thereafter shall not exceed~~
4 ~~50% of the maximum combined total number that may be issued under~~
5 ~~this subdivision.~~

6 (b) For 2003 to 2012, the combined total number of contracts
7 that may be issued by all state public universities for high
8 school public school academies shall not exceed 5 per calendar
9 year. For the purposes of this subdivision, all of the following
10 apply:

11 (i) Subject to subparagraph (ii), a public school academy is
12 a high school public school academy if it operates all of grades
13 9 to 12 or if, under the terms of its contract, it will operate
14 all of grades 9 to 12 within 3 school years after it begins
15 operation.

16 (ii) High school public school academy does not include a
17 joint high school formed by 1 or more public school academies
18 under section 504.

19 (4) The limitations of subsection (3) do not apply to a
20 reissued or reconstituted contract for a public school academy or
21 to a new contract that is issued by an authorizing body within 1
22 year after revocation of an existing contract, as described in
23 section 507.

24 (5) ~~-(3)-~~ To obtain a contract to organize and operate 1 or
25 more public school academies, 1 or more persons or an entity may
26 apply to an authorizing body described in subsection (2). The
27 application shall include at least all of the following:

(a) Identification of the applicant for the contract.

(b) Subject to the resolution adopted by the authorizing body under section ~~503(4)~~ **507(1)(c)**, a list of the proposed members of the board of directors of the public school academy and a description of the qualifications and method for appointment or election of members of the board of directors.

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

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

(ii) The purposes for the public school academy corporation.

This language shall provide that the public school academy is incorporated pursuant to this part and that the public school academy corporation is a governmental entity **and political subdivision of this state.**

(iii) The name of the authorizing body.

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

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

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

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

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

(ii) A copy of the educational goals of the public school academy and the curricula to be offered and methods of pupil assessment to be used by the public school academy. To the

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

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

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

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

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

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

21 ~~(h) An agreement that the public school academy will comply~~
22 ~~with the provisions of this part and, subject to the provisions~~
23 ~~of this part, with all other state law applicable to public~~
24 ~~bodies and with federal law applicable to public bodies or school~~
25 ~~districts.~~

26 (h) ~~(i)~~ For a public school academy authorized by a school
27 district, an assurance that employees of the public school

1 academy will be covered by the collective bargaining agreements
2 that apply to other employees of the school district employed in
3 similar classifications in schools that are not public school
4 academies.

5 (i) For a contract issued by an intermediate school district
6 after the effective date of this subdivision for a public school
7 academy that is a conversion of an existing program of the
8 intermediate school district, is a substantially similar program
9 to an existing program of the intermediate school district, or is
10 a program or class managed by the intermediate school district,
11 an assurance that employees of the public school academy will be
12 covered by the collective bargaining agreements that apply to
13 other employees of the intermediate school district employed in
14 similar classifications in schools or programs that are not
15 public school academies.

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

18 ~~(4) An authorizing body shall oversee, or shall contract~~
19 ~~with an intermediate school district, community college, or state~~
20 ~~public university to oversee, each public school academy~~
21 ~~operating under a contract issued by the authorizing body. The~~
22 ~~oversight shall be sufficient to ensure that the authorizing body~~
23 ~~can certify that the public school academy is in compliance with~~
24 ~~statute, rules, and the terms of the contract.~~

25 (6) ~~-(5)-~~ If the state board finds that an authorizing body
26 is not engaging in appropriate continuing oversight of 1 or more
27 public school academies operating under a contract issued by the

1 authorizing body, the state board **by unanimous vote** may suspend
2 the power of the authorizing body to issue new contracts to
3 organize and operate public school academies. A contract issued
4 by the authorizing body during the suspension is void. A
5 contract issued by the authorizing body before the suspension is
6 not affected by the suspension.

7 **(7) —(6)—** An authorizing body shall not charge a fee, or
8 require reimbursement of expenses, for considering an application
9 for a contract, for issuing a contract, or for providing
10 oversight of a contract for a public school academy in an amount
11 that exceeds a combined total of 3% of the total state school aid
12 received by the public school academy in the school year in which
13 the fees or expenses are charged. **All of the following apply to**
14 **this fee:**

15 **(a)** As set forth in the contract, an authorizing body may use
16 a portion of this fee to provide technical assistance to the
17 public school academy.

18 **(b)** An authorizing body shall not use any portion of this fee
19 for any purpose other than considering applications and issuing
20 contracts under this part or for oversight of, technical
21 assistance to, and direct academic support to public school
22 academies.

23 **(c)** An authorizing body may provide other services for a
24 public school academy and charge a fee for those services, but
25 shall not require such an arrangement as a condition to issuing
26 the contract authorizing the public school academy.

27 **(8) —(7)—** A public school academy shall be presumed to be

1 legally organized if it has exercised the franchises and
2 privileges of a public school academy for at least 2 years.

3 (9) If an authorizing body of a public school academy
4 consolidates or otherwise merges with another entity that is
5 eligible to serve as an authorizing body under this part, the
6 contract for the public school academy remains valid and the
7 successor entity shall be considered to be the authorizing body
8 for the public school academy and shall perform all of the duties
9 of the authorizing body under this part.

10 (10) If an authorizing body of a public school academy is
11 dissolved or otherwise ceases to exist, the contract for the
12 public school academy remains valid, and the public school
13 academy may continue to operate, for a period of 90 days. The
14 board of directors of the public school academy may arrange for
15 the contract to be reauthorized during this period by another
16 authorizing body. The superintendent of public instruction may
17 extend this period in his or her discretion if he or she
18 determines that an extension is in the best interests of the
19 pupils of the public school academy. If the contract is not
20 reauthorized within this period, the contract is void. The
21 limitations of subsection (3) on the number of contracts that may
22 be issued do not apply to a contract that is reauthorized under
23 this subsection.

24 Sec. 503. (1) An authorizing body is not required to issue
25 a contract to any person or entity. Public school academy
26 contracts shall be issued on a competitive basis taking into
27 consideration the resources available for the proposed public

1 school academy, the population to be served by the proposed
2 public school academy, and the educational goals to be achieved
3 by the proposed public school academy.

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

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

26 ~~—— (4) An authorizing body shall adopt a resolution establishing~~
27 ~~the method of selection, length of term, and number of members of~~

1 ~~the board of directors of each public school academy subject to~~
2 ~~its jurisdiction.~~

3 (3) ~~—(5)—~~ A contract issued to organize and administer a
4 public school academy shall contain at least all of the
5 following:

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

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

16 (c) A description of the process for amending the contract
17 during the term of the contract. **An authorizing body may approve**
18 **amendment of the contract with respect to any provision contained**
19 **in the contract.**

20 (d) ~~All of the matters set forth in the application for the~~
21 ~~contract.~~ **A certification, signed by an authorized member of the**
22 **public school academy board of directors, that the public school**
23 **academy will comply with the contract and all applicable law.**

24 (e) For a public school academy authorized by a school
25 district, an agreement that employees of the public school
26 academy will be covered by the collective bargaining agreements
27 that apply to employees of the school district employed in

1 similar classifications in schools that are not public school
2 academies.

3 (f) For a contract issued by an intermediate school board
4 after the effective date of this subdivision for a public school
5 academy that is a conversion of an existing program of the
6 intermediate school district, is a substantially similar program
7 to an existing program of the intermediate school district, or is
8 a program or class managed by the intermediate school district,
9 an assurance that employees of the public school academy will be
10 covered by the collective bargaining agreements that apply to
11 other employees of the intermediate school district employed in
12 similar classifications in schools or programs that are not
13 public school academies.

14 (g) ~~-(f)-~~ Procedures for revoking the contract and grounds
15 for revoking the contract, including at least the grounds listed
16 in section 507.

17 (h) ~~-(g)-~~ A description of and address for the proposed
18 physical plant in which the public school academy will be
19 located.

20 (i) ~~-(h)-~~ Requirements and procedures for financial audits.
21 The financial audits shall be conducted at least annually by ~~-a~~
22 **an independent** certified public accountant in accordance with
23 generally accepted governmental auditing principles.

24 (j) A requirement that the board of directors shall ensure
25 compliance with the requirements of 1968 PA 317, MCL 15.321 to
26 15.330.

27 (k) A requirement that the board of directors shall prohibit

1 specifically identified family relationships between members of
2 the board of directors, persons who have an ownership interest in
3 or who are officers or employees of an educational management
4 company involved in the operation of the public school academy,
5 and employees of the public school academy. The contract shall
6 identify the specific prohibited relationships consistent with
7 applicable law.

8 (l) A requirement that the board of directors of the public
9 school academy shall make information concerning its operation
10 and management available to the public and to the authorizing
11 body in the same manner as is required by state law for school
12 districts.

13 (m) A requirement that the board of directors of the public
14 school academy shall collect, maintain, and make available to the
15 public and the authorizing body, in accordance with applicable
16 law and the contract, at least all of the following information
17 concerning the operation and management of the public school
18 academy:

19 (i) A copy of the contract issued by the authorizing body for
20 the public school academy.

21 (ii) A list of currently serving members of the board of
22 directors of the public school academy, including name, address,
23 and term of office; copies of policies approved by the board of
24 directors; board meeting agendas and minutes; copy of the budget
25 approved by the board of directors and of any amendments to the
26 budget; and copies of bills paid for amounts of \$10,000.00 or
27 more as they were submitted to the board of directors.

1 (iii) Quarterly financial reports submitted to the
2 authorizing body.

3 (iv) A current list of teachers working at the public school
4 academy that includes their individual salaries; copies of the
5 teaching certificates or permits of current teaching staff; and
6 evidence of compliance with the criminal background and records
7 checks and unprofessional conduct check required under sections
8 1230, 1230a, and 1230b for all teachers and administrators
9 working at the public school academy.

10 (v) Curriculum documents and materials given to the
11 authorizing body.

12 (vi) Proof of insurance as required by the contract.

13 (vii) Copies of facility mortgages, leases, or deeds, and of
14 any equipment leases.

15 (viii) Copies of any management contract or services contract
16 approved by the board of directors.

17 (ix) All health and safety reports and certificates,
18 including those relating to fire safety, environmental matters,
19 asbestos inspection, boiler inspection, and food service.

20 (x) Any management letters issued as part of the annual
21 financial audit under subdivision (i).

22 (xi) Any other information specifically required under this
23 act.

24 (n) A requirement that, if the board of directors of the
25 public school academy enters into an agreement with an
26 educational management company for operation or management of the
27 public school academy, the agreement between the board of

1 directors and the educational management company must comply with
2 section 1320.

3 (o) A requirement that the authorizing body must review and
4 may disapprove any agreement between the board of directors and
5 an educational management company entered into under section 1320
6 before the agreement is final and valid. An authorizing body may
7 disapprove an agreement described in this subdivision only if the
8 agreement is contrary to the contract or applicable law.

9 (p) A requirement that the board of directors shall
10 demonstrate all of the following to the satisfaction of the
11 authorizing body with regard to its pupil admission process:

12 (i) That the public school academy has made a reasonable
13 effort to advertise its enrollment openings in a newspaper of
14 general circulation in the intermediate school district in which
15 the public school academy is located.

16 (ii) That the public school academy has made the following
17 additional efforts to recruit pupils who are eligible for special
18 education programs and services to apply for admission:

19 (A) Reasonable efforts to advertise all enrollment openings
20 to organizations and media that regularly serve and advocate for
21 individuals with disabilities within the boundaries of the
22 intermediate school district in which the public school academy
23 is located.

24 (B) Inclusion in all pupil recruitment materials of a
25 statement that appropriate special education services will be
26 made available to pupils attending the school as required by
27 law.

1 (iii) That the open enrollment period for the public school
2 academy is for a duration of at least 2 weeks, and that the
3 enrollment times include some evening and weekend times.

4 (q) A requirement that the board of directors shall prohibit
5 any individual from being employed by the public school academy
6 in more than 1 full-time position and simultaneously being
7 compensated at a full-time rate for each of those positions.

8 (r) A requirement that, if requested, the board of directors
9 shall report to the authorizing body the total compensation for
10 each individual working at the public school academy.

11 (4) ~~-(6)-~~ A public school academy shall comply with all
12 applicable law, including all of the following:

13 (a) The open meetings act, ~~Act No. 267 of the Public Acts of~~
14 ~~1976, being sections 15.261 to 15.275 of the Michigan Compiled~~
15 ~~Laws~~ 1976 PA 267, MCL 15.261 to 15.275.

16 (b) The freedom of information act, ~~Act No. 442 of the~~
17 ~~Public Acts of 1976, being sections 15.231 to 15.246 of the~~
18 ~~Michigan Compiled Laws~~ 1976 PA 442, MCL 15.231 to 15.246.

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

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

25 (e) 1978 PA 566, MCL 15.181 to 15.185.

26 (f) 1968 PA 317, MCL 15.321 to 15.330.

27 (g) The uniform budgeting and accounting act, 1968 PA 2, MCL

1 141.421 to 141.440a.

2 (h) The revised municipal finance act, 2001 PA 34, MCL
3 141.2101 to 141.2821.

4 (i) The federal no child left behind act of 2001, Public Law
5 107-110, 115 Stat. 1425.

6 (j) ~~-(e)-~~ Sections 1134, 1135, 1146, 1153, 1263(3), 1267,
7 ~~and~~ 1274, and 1280.

8 (5) ~~-(7)-~~ A public school academy and its incorporators,
9 board members, officers, employees, and volunteers have
10 governmental immunity as provided in section 7 of ~~Act No. 170 of~~
11 ~~the Public Acts of 1964, being section 691.1407 of the Michigan~~
12 ~~Compiled Laws~~ 1964 PA 170, MCL 691.1407. An authorizing body
13 and its board members, officers, and employees are immune from
14 civil liability, both personally and professionally, for any acts
15 or omissions in authorizing or oversight of a public school
16 academy if the authorizing body or the person acted or reasonably
17 believed he or she acted within the authorizing body's or the
18 person's scope of authority.

19 (6) ~~-(8)-~~ A public school academy is exempt from all taxation
20 on its earnings and property. Instruments of conveyance to or
21 from a public school academy are exempt from all taxation
22 including taxes imposed by ~~Act No. 134 of the Public Acts of~~
23 ~~1966, being sections 207.501 to 207.513 of the Michigan Compiled~~
24 ~~Laws~~ 1966 PA 134, MCL 207.501 to 207.513. A public school
25 academy may not levy ad valorem property taxes or any other tax
26 for any purpose. However, operation of 1 or more public school
27 academies by a school district or intermediate school district

1 does not affect the ability of the school district or
2 intermediate school district to levy ad valorem property taxes or
3 any other tax.

4 **(7) ~~-(9)-~~** A public school academy may acquire by purchase,
5 gift, devise, lease, sublease, installment purchase agreement,
6 land contract, option, or by any other means, hold and own in its
7 own name buildings and other property for school purposes, and
8 interests therein, and other real and personal property,
9 including, but not limited to, interests in property subject to
10 mortgages, security interests, or other liens, necessary or
11 convenient to fulfill its purposes. For the purposes of
12 condemnation, a public school academy may proceed under the
13 uniform condemnation procedures act, ~~Act No. 87 of the Public~~
14 ~~Acts of 1980, being sections 213.51 to 213.77 of the Michigan~~
15 ~~Compiled Laws~~ **1980 PA 87, MCL 213.51 to 213.75**, excluding
16 sections 6 to 9 of that act, ~~being sections 213.56 to 213.59 of~~
17 ~~the Michigan Compiled Laws~~ **MCL 213.56 to 213.59**, or other
18 applicable statutes, but only with the express, written
19 permission of the authorizing body in each instance of
20 condemnation and only after just compensation has been determined
21 and paid.

22 **Sec. 503b. (1)** An agreement, mortgage, loan, or other
23 instrument of indebtedness entered into by a public school
24 academy and a third party does not constitute an obligation,
25 either general, special, or moral, of this state or an
26 authorizing body. The full faith and credit or the taxing power
27 of this state or any agency of this state, or the full faith and

1 credit of an authorizing body, may not be pledged for the payment
2 of any public school academy bond, note, agreement, mortgage,
3 loan, or other instrument of indebtedness.

4 (2) This part does not impose any liability on this state or
5 on an authorizing body for any debt incurred by a public school
6 academy.

7 Sec. 504. (1) A public school academy may be located in all
8 or part of an existing public school building. A public school
9 academy shall not operate at a site other than the single site
10 requested for the configuration of grades that will use the site,
11 as specified ~~in the application required under section 502 and~~
12 in the contract.

13 (2) A public school academy shall not charge tuition. ~~and~~
14 **Except as otherwise provided in this section, a public school**
15 **academy** shall not discriminate in its pupil admissions policies
16 or practices on the basis of intellectual or athletic ability,
17 measures of achievement or aptitude, status as a handicapped
18 person, or any other basis that would be illegal if used by a
19 school district. However, a public school academy may limit
20 admission to pupils who are within a particular range of age or
21 grade level or on any other basis that would be legal if used by
22 a school district **and may give enrollment priority as provided in**
23 **subsection (4).**

24 (3) Except for a foreign exchange student who is not a United
25 States citizen, a public school academy shall not enroll a pupil
26 who is not a resident of this state. Enrollment in the public
27 school academy may be open to all individuals who reside in this

1 state who meet the admission policy and shall be open to all
 2 pupils who reside within the geographic boundaries, if any, of
 3 the authorizing body as described in section 502(2)(a) to (c) who
 4 meet the admission policy, except that admission to a public
 5 school academy authorized by the board of a community college to
 6 operate, or operated by the board of a community college, on the
 7 grounds of a federal military installation, as described in
 8 section 502(2)(c), shall be open to all pupils who reside in the
 9 county in which the federal military installation is located.

10 For a public school academy authorized by a state public
 11 university, enrollment shall be open to all pupils who reside in
 12 this state who meet the admission policy. ~~If~~ **Subject to**

13 **subsection (4), if** there are more applications to enroll in the
 14 public school academy than there are spaces available, pupils
 15 shall be selected to attend using a random selection process.

16 ~~However, a public school academy may give enrollment priority to~~
 17 ~~a sibling of a pupil enrolled in the public school academy.~~ A
 18 public school academy shall allow any pupil who was enrolled in
 19 the public school academy in the immediately preceding school
 20 year to enroll in the public school academy in the appropriate
 21 grade unless the appropriate grade is not offered at that public
 22 school academy.

23 **(4) A public school academy may give enrollment priority to 1**
 24 **or more of the following:**

25 **(a) A sibling of a pupil enrolled in the public school**
 26 **academy.**

27 **(b) A child of a person who is employed by or at the public**

1 school academy or who is on the board of directors of the public
2 school academy. As used in this subdivision, "child" includes an
3 adopted child or a legal ward.

4 (c) A pupil who applies for admission to a joint high school
5 described in subsection (6) if the pupil has attended 1 or more
6 of the public school academies that are members of the consortium
7 formed to establish and operate the joint high school and has
8 completed the grade levels offered by those public school
9 academies.

10 (5) ~~-(4)-A~~ Subject to the terms of the contract authorizing
11 the public school academy, a public school academy may include
12 any grade up to grade 12 or any configuration of those grades,
13 including kindergarten and early childhood education, as
14 specified in its contract. If specified in its contract, a
15 public school academy may also operate an adult basic education
16 program, adult high school completion program, or general
17 education development testing preparation program. ~~The~~
18 ~~authorizing body may approve amendment of a contract with respect~~
19 ~~to ages of pupils or grades offered.~~ Authorizing bodies are
20 encouraged to issue contracts for public school academies for
21 students who have dropped out of school or otherwise have failed
22 to complete high school.

23 (6) Subject to the terms of the contract authorizing the
24 public school academy, a public school academy may join with 1 or
25 more other public school academies to form a consortium for the
26 purpose of establishing and operating a joint high school. A
27 copy of the consortium agreement shall be incorporated into the

1 contract of each participating public school academy. This
 2 subsection does not prohibit a public school academy that does
 3 not currently operate grades 9 to 12, or any combination of those
 4 grades, from offering some or all of those grades under an
 5 existing contract with an authorizing body.

6 Sec. 504a. In addition to other powers set forth in this
 7 part, a public school academy may take action to carry out the
 8 purposes for which it was incorporated under this part,
 9 including, but not limited to, all of the following:

10 (a) To sue and be sued in its name.

11 (b) ~~To~~ **Subject to section 503b, to** acquire, hold, and own
 12 in its own name real and personal property, or interests in real
 13 or personal property, for educational purposes by purchase, gift,
 14 grant, devise, bequest, lease, sublease, installment purchase
 15 agreement, land contract, option, or condemnation, and subject to
 16 mortgages, security interests, or other liens; and to sell or
 17 convey the property as the interests of the public school academy
 18 require.

19 (c) To receive, ~~and~~ disburse, **and pledge** funds for lawful
 20 purposes.

21 (d) To enter into binding legal agreements with persons or
 22 entities as necessary for the operation, management, **financing,**
 23 and maintenance of the public school academy.

24 (e) To incur temporary debt in accordance with section 1225.

25 (f) To solicit and accept any grants or gifts for educational
 26 purposes and to establish or permit to be established on its
 27 behalf 1 or more nonprofit corporations the purpose of which is

1 to assist the public school academy in the furtherance of its
2 public purposes.

3 (g) To borrow money and issue bonds in accordance with
4 section 1351a and in accordance with part VI of the revised
5 municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613,
6 except that the borrowing of money and issuance of bonds by a
7 public school academy is not subject to section 1351a(4) or
8 section 1351(2) to (4). Bonds issued under this section shall be
9 full faith and credit obligations of the public school academy,
10 pledging the general funds or any other money available for such
11 a purpose. Bonds issued under this section are subject to the
12 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
13 141.2821.

14 Sec. 507. (1) An authorizing body that issues a contract
15 for a public school academy under this part shall do all of the
16 following:

17 (a) Ensure that the contract and the application for the
18 contract comply with the requirements of this part.

19 (b) Within 10 days after issuing the contract, submit to the
20 department a copy of the contract.

21 (c) Adopt a resolution establishing the method of selection,
22 length of term, and number of members of the board of each public
23 school academy it authorizes.

24 (d) Oversee the operations of each public school academy
25 operating under a contract issued by the authorizing body. The
26 oversight shall be sufficient to ensure that the public school
27 academy is in compliance with the terms of the contract and with

1 applicable law. An authorizing body may enter into an agreement
2 with 1 or more other authorizing bodies to oversee a public
3 school academy operating under a contract issued by the
4 authorizing body.

5 (e) Develop and implement a process for holding a public
6 school academy board of directors accountable for meeting
7 applicable academic performance standards set forth in the
8 contract and for implementing corrective action for a public
9 school academy that does not meet those standards.

10 (f) Take necessary measures to ensure that a public school
11 academy board of directors operates independently of any
12 educational management company involved in the operation of the
13 public school academy.

14 (g) Oversee and ensure that the pupil admission process used
15 by the public school academy is operated in a fair and open
16 manner and is in compliance with the contract and this part.

17 (h) Ensure that the board of directors of the public school
18 academy maintains and releases information as necessary to comply
19 with applicable law.

20 (i) If the authorizing body is a federal tribally controlled
21 community college, comply with section 1475.

22 (2) An authorizing body may enter into an agreement with 1 or
23 more other authorizing bodies to carry out any function of an
24 authorizing body under this act.

25 (3) ~~-(1)-~~ The authorizing body for a public school academy is
26 the fiscal agent for the public school academy. A state school
27 aid payment for a public school academy shall be paid to the

1 authorizing body that is the fiscal agent for that public school
2 academy, which shall then forward the payment to the public
3 school academy. ~~An authorizing body has the responsibility to~~
4 ~~oversee a public school academy's compliance with the contract~~
5 ~~and all applicable law.~~ **Within 30 days after a contract is**
6 **submitted to the department by an authorizing body under**
7 **subsection (1), the department shall issue a district code to the**
8 **public school academy for which the contract was issued. If the**
9 **department does not issue a district code within 30 days after a**
10 **contract is filed, the state treasurer shall assign a temporary**
11 **district code in order for the public school academy to receive**
12 **funding under the state school aid act of 1979.**

13 **(4)** A contract issued under this part may be revoked by the
14 authorizing body that issued the contract if the authorizing body
15 determines that 1 or more of the following has occurred:

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

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

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

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

24 **(5)** ~~—(2)—~~ The decision of an authorizing body to **issue,**
25 **reissue, or reconstitute a contract under this part, or to revoke**
26 **a contract under this section, is solely within the discretion of**
27 **the authorizing body, is final, and is not subject to review by a**

1 court or any state agency. An authorizing body that **does not**
2 **issue, reissue, or reconstitute a contract under this part, or**
3 **that** revokes a contract under this section, is not liable for
4 that action to the public school academy, public school academy
5 corporation, a pupil of the public school academy, the parent or
6 guardian of a pupil of the public school academy, or any other
7 person.

8 (6) Before an authorizing body revokes a contract under
9 subsection (4), the authorizing body may consider and take
10 corrective measures to avoid revocation. An authorizing body may
11 reconstitute the public school academy to improve student
12 educational performance or to avoid interruption of the
13 educational process. An authorizing body may include a
14 reconstituting provision in the contract that identifies these
15 corrective measures, including, but not limited to, removing 1 or
16 more members of the board of directors, withdrawing approval to
17 contract under section 506 for an agreement described in section
18 1320, or appointing a new board of directors or a trustee to take
19 over operation of the public school academy.

20 (7) If an authorizing body revokes a contract under
21 subsection (4), the authorizing body shall work with a school
22 district or another public school academy, or with a combination
23 of these entities, to ensure a smooth transition for the affected
24 pupils. If the revocation occurs during the school year, the
25 authorizing body, as the fiscal agent for the public school
26 academy under this section, shall return any school aid funds
27 received by the authorizing body that are attributable to the

1 affected pupils to the state treasurer for deposit into the state
2 school aid fund. The state treasurer shall distribute funds to
3 the school district or public school academy in which the pupils
4 enroll after the revocation pursuant to a methodology established
5 by the department and the center for educational performance and
6 information.

7 (8) If an authorizing body revokes a contract under
8 subsection (4), the authorizing body may issue a new contract
9 within the 1-year period following the revocation without the
10 limitations of section 502(3) applying to that new contract.

11 (9) Not more than 10 days after a public school academy's
12 contract terminates or is revoked, the authorizing body shall
13 notify the superintendent of public instruction in writing of the
14 name of the public school academy whose contract has terminated
15 or been revoked and the date of contract termination or
16 revocation.

17 (10) If a public school academy's contract terminates or is
18 revoked, title to all real and personal property, interests in
19 real or personal property, and other assets owned by the public
20 school academy revert to this state. This property shall be
21 distributed in accordance with the following:

22 (a) Within 30 days following the termination or revocation,
23 the board of directors of the public school academy shall hold a
24 public meeting to adopt a plan of distribution of assets and to
25 approve the dissolution of the public school academy corporation,
26 in accordance with chapter 8 of the nonprofit corporation act,
27 1982 PA 162, MCL 450.2801 to 450.2864.

1 (b) The public school academy shall file a certificate of
2 dissolution with the department of consumer and industry services
3 within 10 business days following board of directors' approval.

4 (c) Simultaneous with the filing of the certificate of
5 dissolution under subdivision (b), the public school academy's
6 board of directors shall provide a copy of the board of
7 directors' plan of distribution of assets to the state treasurer
8 for approval. Within 30 days, the state treasurer, or his or her
9 designee, shall review and approve the board of directors' plan
10 of distribution of assets. If the proposed plan of distribution
11 of assets is not approved within 30 days, the state treasurer, or
12 his or her designee, shall provide the board of directors with an
13 acceptable plan of distribution of assets.

14 (d) The state treasurer, or his or her designee, shall
15 monitor the public school academy's winding up of the dissolved
16 corporation in accordance with the plan of distribution of assets
17 approved or provided under subdivision (c).

18 (e) As part of the plan of distribution of assets, the public
19 school academy board of directors shall designate the director of
20 the department of management and budget, or his or her designee,
21 to dispose of all real property of the public school academy
22 corporation in accordance with the directives developed for
23 disposition of surplus land and facilities under section 251 of
24 the management and budget act, 1984 PA 431, MCL 18.1251.

25 (f) If the board of directors of a public school academy
26 fails to take any necessary action under this section, the state
27 treasurer, or his or her designee, may suspend the public school

1 academy board of directors and appoint a trustee to carry out the
2 plan of distribution of assets. Upon appointment, the trustee
3 shall have all the rights, powers, and privileges under law that
4 the public school academy board of directors had before being
5 suspended.

6 (g) Following the sale of real or personal property or
7 interests in the real or personal property, and after payment of
8 any public school academy debt secured by the property or
9 interest in property, whether real or personal, the public school
10 academy board of directors, or a trustee appointed under this
11 section, shall forward any remaining money to the state
12 treasurer. Following receipt, the state treasurer, or his or her
13 designee, shall deposit this money in the state school aid fund.

14 Sec. 1320. (1) Beginning with contracts described in this
15 section that are entered into after the effective date of this
16 section, if the governing board of a public school enters into a
17 contract with an educational management company to carry out the
18 operations of a public school under this act, the governing board
19 shall ensure all of the following:

20 (a) That the governing board has conducted sufficient due
21 diligence to conclude that the educational management company has
22 sufficient educational expertise and management experience to
23 provide the agreed services.

24 (b) That the governing board will obtain independent legal
25 counsel in all negotiations with the educational management
26 company.

27 (c) If the governing board is the board of directors of a

1 public school academy, that, pursuant to the contract between the
2 board of directors and the educational management company, the
3 educational management company will provide to the board of
4 directors all financial and other information required to comply
5 with the requirements concerning reporting that are contained in
6 the contract between the board of directors and its authorizing
7 body under section 503.

8 (2) Beginning with contracts described in this section that
9 are entered into after the effective date of this section, if the
10 governing board of a public school enters into a contract with an
11 educational management company to carry out the operations of a
12 public school under this act, the contract between the governing
13 board and the educational management company shall contain at
14 least all of the following provisions:

15 (a) A provision requiring the educational management company
16 to provide to the governing board information regarding any
17 teachers, administrators, and support staff employed by the
18 educational management company and assigned to work at the public
19 school, including at least all of the following personal
20 information:

21 (i) Name.

22 (ii) Education, including highest degree attained.

23 (iii) Salary.

24 (iv) Copy of teaching certificate or other required permit or
25 credential, if required for the position.

26 (v) Description of relevant experience.

27 (vi) Employment record.

1 (b) A provision requiring the educational management company
2 to provide to the governing board information regarding the
3 business operations of the public school, including at least all
4 of the following:

5 (i) Financial records and information concerning the
6 operation of the school, including, but not limited to, budgets
7 and detailed records of funds received from this state and other
8 entities, expenditure of those funds, investment of those funds,
9 carryover, and contractual arrangements or agreements entered
10 into by the educational management company as an agent of the
11 governing board.

12 (ii) Financial records and information concerning leases to
13 which the governing board is a party, including, but not limited
14 to, leases for equipment, physical facility space, or
15 institutional and educational materials.

16 (iii) Financial records and information concerning mortgages
17 and loans to which the governing board is a party.

18 (c) If the governing board is the board of directors of a
19 public school academy, a provision requiring the educational
20 management company to make information available to the board of
21 directors concerning the operation and management of the public
22 school academy, including at least all of the information
23 necessary to comply with the requirements concerning reporting
24 that are contained in the contract between the board of directors
25 and its authorizing body under section 503.

26 (3) This section does not apply to a contract to furnish
27 substitute teachers entered into under section 1236a.

1 (4) As used in this section:

2 (a) "Educational management company" means an entity that
3 enters into an agreement with the governing board of a public
4 school to provide comprehensive educational, administrative,
5 management, or instructional services or staff to the public
6 school.

7 (b) "Entity" means a partnership, nonprofit or business
8 corporation, labor organization, or any other association,
9 corporation, trust, or other legal entity.

10 Enacting section 1. This amendatory act shall be known and
11 may be referred to as the "charter school oversight and
12 accountability act".