

Legislative Analysis



ISD ELECTIONS, FINANCES & AUDITS; AND URBAN ACADEMY TRANSFER STUDENTS

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House Bill 6004 as enrolled
Pocket Vetoed by the Governor
Sponsor: Rep. Brian Palmer
House Committee: Education
Senate Committee: Education

First Analysis (2-5-07)

BRIEF SUMMARY: The bill would 1) revise the procedures for electing intermediate school district boards; 2) clarify certain provisions of the law concerning an intermediate district's expenditures; 3) modify the responsibilities of the attorney general if an intermediate school district audit found violations of the law that resulted in the misuse of public funds; 4) set certain conditions for intermediate school district grants to constituent districts and community colleges used for vocational-technical education centers; and 5) authorize the transfer of Detroit charter school students and property to an urban high school academy.

FISCAL IMPACT: The bill would have no significant fiscal impact to the state or intermediate school districts.

THE APPARENT PROBLEM:

In September 2001, voters in the Oakland County Intermediate School District (ISD) approved a \$66 million annual millage increase that proponents said was necessary for special education and vocational-technical education. Of the taxes raised, however, \$18 million was used to help pay for a new \$29 million administration building, and \$9 million was spent on a fiber optic network. Meanwhile, concerns about other expenditures of the district were being raised.

Disclosures by ISD employees and investigations by the news media, particularly the *Detroit Free Press*, revealed that millions of dollars had been awarded in no-bid contracts--sometimes involving ISD officials' family members--and hundreds of thousands were spent on travel expenses, alcohol, and expensive gifts. These developments led to investigations by the Attorney General, the Oakland County sheriff, and the FBI, the subsequent firing and prosecution of the ISD's superintendent, the resignation of three of the district's board members, a probe by a House of Representatives committee, and widespread calls for reform.

Several measures were enacted earlier in 2004 to address aspects of the problems that occurred in Oakland County and possibly in other ISDs. These amendments allow the recall and removal of ISD board members; revise procedures for the election of ISD board members; and impose competitive bidding requirements on ISDs (See [Background](#)

Information). In addition, laws were passed to restrict ISDs' use of millage and bond revenue, limit expenditures by ISD board members, establish criminal penalties, require the disclosure of conflicts of interest, require ISDs to provide detailed information about expenditures, and subject ISDs to random audits. In March 2005, a comprehensive 28-page report about the 10 new ISD reform laws was published by the Michigan Legislative Service Bureau Research Division; it is entitled "Reforming Michigan's Intermediate School Districts: 1829-2004."

As the ISD reform laws have been implemented during the past two years, some regional school district administrators have raised questions about their intent and consistency in light of current ISD operations and protocols. Legislation has been introduced to clarify several of the ISD reforms, in an effort to provide guidance to the administrators of the regional district service areas.

Further, toward the end of the legislature's debate about modifying its earlier ISD reforms, House Bill 6004 was used as a vehicle bill to address another issue. The bill was amended on the Senate floor, in order to allow a Detroit charter school to transfer its students and property to another charter school, known as an urban high school academy.

The bill was pocket vetoed by Governor Granholm at the end of the 2005-2006 legislative session. Presented to her for approval on December 27, 2006, it had not been signed by January 10, 2007, and thus did not become law, in accordance with the provisions of Article IV, Section 33 of the Michigan Constitution. No veto message was transmitted by the executive office to the Legislature.

THE CONTENT OF THE BILL:

House Bill 6004 would amend 10 sections of the Revised School Code to revise the procedures for electing intermediate school district (ISD) boards; clarify certain provisions of the law concerning ISD expenditures; modify the responsibilities of the attorney general if an audit of an ISD found violations of the law that resulted in the misuse of public funds; authorize the transfer of Detroit charter school students and property to an urban high school academy; and set certain conditions for ISD grants to constituent districts and community colleges used for vocational-technical education centers. Two sections of the law that would be revised—Sections 620 and 622a concerning expenditures and audits, respectively—had an effective date of July 1, 2006. A detailed explanation of the bill follows.

Elections. Currently under the law, the members of most ISD boards are elected biennially on the first Monday in June by an electoral body composed of one person designated by the board of each constituent school district. The board of a constituent school district designates its representative to this electoral body by a resolution that must be adopted at least 21 days before the date of the June election, and the resolution must be considered during at least one public meeting before the resolution is adopted. Under the bill, these provisions would be retained, except that the resolution would have to be adopted by May 1 (rather than 21 days before the June election). In addition, the bill also

specifies that the public meeting could not be held on the same day as the meeting at which the resolution was adopted, although the public meeting could be held as part of a regularly scheduled board meeting.

Currently under the law, in its resolution designating its representative, the board of a constituent district also identifies the candidate the board supports for each position to be filled on the ISD board, and directs its voting representative to vote for that individual (or individuals) at least on the first ballot taken by the electoral body. House Bill 6004 would retain this provision of the law. However, the bill specifies that if a majority of the constituent boards named the same candidate for a particular position in their resolutions, then that candidate would be considered to be elected, and the electoral body would not be required to vote on that position. Further, if that position were the only position to be filled that year, then the election meeting now specified in the law would not be required. If an election did occur, then the bill would require that the ISD board chairperson and secretary canvass the votes at the meeting.

Currently under the law, no more than three members of a single constituent school district board may serve on an ISD board. House Bill 6004 would retain the three-member limit. In addition, the bill specifies that if the election of a candidate would result in the ISD having more than three members who were also members of a constituent district board, then all of the following would apply:

- The ISD board member-elect whose election caused the violation would be required to resign either the seat on the ISD board or the seat on the constituent district board.
- If the violation was caused by the election of more than one member-elect, then the member-elect with the lowest number of votes would be required to resign either the seat on the ISD board or the seat on the constituent district board (although, in the instance of a tie-vote, the member-elect required to resign would be determined by a coin toss).
- If a member-elect resigned the seat on the ISD board as a result of either of the previous provisions, then at the meeting of the electoral body, nominations would be taken from the floor, and a new member-elect not serving on a constituent board would be elected at the meeting. (The bill specifies that a candidate nominated at the meeting would not be required to have filed petitions or to have paid a filing fee.)

Currently under the law, candidates for ISD boards must circulate nominating petitions, and the number of signatures required on a petition depends upon the population of an ISD—the greater the population, the more signatures ranging from a minimum of six to a maximum of 100. The nominating petitions are filed with the school district filing official not later than 30 days before the date of the biennial election meeting in June. House Bill 6004 would specify instead, that the petitions be filed by March 31, prior to the June election meeting.

Expenditures; title retaining contracts. House Bill 6004 would also make three changes in the way ISDs account for the expenditure of funds. Currently under the law, not later than December 31 each year, an ISD must post on its website a report containing information about its operations, the details of which are described in the law. The bill would retain these requirements, but would add that payments for legal services could be reported as an annual aggregate amount. Other payments required to be reported would have to be reported by specifying each individual payment.

Currently under the law, any intermediate school board member or ISD administrator who has travel expenses during the school fiscal year totaling more than \$3,000, paid for with ISD funds, must report that travel in detail, and have it posted on the ISD website. Under the bill, these provisions would be retained, but the amount would be raised to \$3,214.

Currently under the law, an ISD board must seek bids for expenditures that exceed \$17,932. House Bill 6004 would increase that threshold to \$19,653.

Under the bill, an ISD board could acquire by purchase, lease, or rental, with or without option to purchase, equipment necessary for the operation of ISD programs including, but not limited to heating, water heating, and cooking equipment for school buildings, and could pay for the equipment from operating funds of the ISD. Heating and cooking equipment could be purchased on a title retaining contract or other form of agreement creating a security interest, and pledging in payment money in the general fund, or funds received from state school aid. The contracts could be extended for not more than 10 years.

Currently under the law, in any one-month period, an ISD board member or administrator is prohibited from accepting from a person who does business (or seeks to do business) with the ISD, any money, goods, or services with a value in excess of \$44. Under the bill, the value of such goods would be increased to \$48, and the prohibition would not apply to a breakfast, luncheon, dinner, or other refreshment consisting of food or beverage for immediate consumption.

Audits. Under current law, ISDs are subject to audit by the Department of Treasury. Every two years, the department selects five ISDs and reviews their financial operations. If an audit discloses violations of any state law, the ISD is given time to dispute the determination and appeal the decision. If the department finds that the initial determination is correct and the situation is not corrected, then department officials must file a copy of the report with the attorney general. The attorney general reviews the report and, if appropriate, commences, or directs the prosecuting attorney for the county in which the violations occurred to commence, appropriate proceedings against the ISD board, official, or employee. Under the law, these proceedings must include at least a civil action in a court of competent jurisdiction for the recovery of any public money determined by the audit to have been illegally expended. House Bill 6004 would require, instead, that the attorney general refer the matter to a prosecuting attorney (rather than direct a prosecuting attorney to commence action), and specify that the proceedings

should (rather than shall) include at least a civil action to recover any public money illegally expended.

Charter school student transfers. Currently the Revised School Code specifies how a public school academy (more customarily referred to as a charter school), including an urban high school academy, may operate, including the requirement that it select its students by lottery if it is oversubscribed. The bill would retain those provisions, but allow a charter school, with the approval of its authorizing body, to transfer its enrolled students to an urban high school academy. The bill specifies that the urban high school academy could give enrollment priority to the students who were transferred, if they had been enrolled in a charter school operating within the Detroit Public School District (or, as state law calls DPS, "a school district of the first class"). Further, the charter school could also transfer its property, including but not limited to property described in the State School Aid Act, to the urban high school academy that received its students.

Voc-tech education centers. Currently under the law, an ISD board may grant money to constituent districts or to community colleges that operate local vocational-technical programs, for the purposes of building construction, site acquisition, or purchasing voc-tech equipment. The bill would retain these provisions, and also add that if an ISD had provided at least 90 percent of the financial consideration to acquire or construct an area vocational-technical education facility, then a constituent district could not dispose of the facility without the consent of the ISD board, even if title to the facility were vested in the constituent district.

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BACKGROUND INFORMATION:

Intermediate School Districts in Michigan. Public Act 190 of 1962 organized Michigan's 83 county school districts into 57 intermediate school districts. Each ISD is responsible for providing its constituent local school districts with administrative and instructional services, primarily in the areas of special education and vocational-technical education. Some ISDs also help local districts to provide professional development, improve student achievement, increase parental involvement, maintain computer networks, and undertake other projects. Intermediate school districts receive general operating funds and special education funds from the state, and some ISDs receive various categorical grants (e.g., vocational education, and math and science center funding). With voter approval, ISDs also may levy property taxes and issue bonds.

Recently Enacted Legislation. Public Acts 232, 233, and 234 amended the Revised School and took effect on July 21, 2004.

Public Act 232 of 2004 requires ISD boards to obtain competitive bids before beginning construction on a new or existing school building, and makes ISD construction bids subject to requirements that govern bids sought by a school board. The act also requires an ISD board to post an advertisement for a bid on either the Department of Management

and Budget website or a website maintained by a school organization, in addition to advertising in a newspaper. An advertisement for bids must be accompanied by a statement disclosing any familial relationship between the bidder and a member of the ISD board or the superintendent. (These advertising requirements also apply to school districts and public school academies.)

Public Act 233 of 2004 revised the procedure for designating a constituent school district's representative to the electoral body that selects ISD board members. The act requires a school district's board to designate its representative by resolution. The resolution must identify the candidate the board supports for each position to be filled on the ISD board, and direct its representative to vote for that person, at least on the first ballot taken by the electoral body. The school board must consider the resolution at not fewer than two public meetings before adopting it. In addition, the meeting of an electoral body must comply with the Open Meetings Act.

Under Public Act 234 of 2004, ISD board members may be recalled by the district's voters (if the members were elected by the voters) or removed from office by the boards of the constituent districts (if the ISD board members were elected by an electoral body). Under certain circumstances, the Governor may remove an ISD board member from office. The act also requires ISD budgets to be reviewed by the boards of the constituent districts, requires ISD boards to establish a policy for out-of-state travel by board members or employees that is paid for by the district, and requires all officers of an ISD board to be board members.

ARGUMENTS:

For:

During the 2003-2004 legislative session, ten laws were enacted to address the types of abuse that took place in the Oakland County Intermediate School District. Known as the Intermediate School District (ISD) Reform and Accountability Laws, they required significant changes in ISD operations statewide.

During the current 2005-2006 legislative session, ISD administrators have identified some unintended effects of the reform laws, and sought clarification of the legislature's intent. This bill addresses the concerns those administrators have raised. It should be enacted into law, in order to ensure that the earlier reforms remain consistent and workable.

Against:

This legislation is unnecessary. The legislature spoke loudly and clearly about the need for intermediate school district (ISD) reform and accountability during the last legislative session. This bill diminishes that accountability in seemingly small yet significant ways.

Against:

House Bill 6004 was introduced in an effort to update several provisions of the recent intermediate school district (ISD) reform laws. At the very end of the legislature's

debate, the bill was commandeered on the Senate floor. There, it was amended to serve a charter school in Detroit, allowing that school to transfer its students and assets to an urban high school academy. The new provisions added to the bill are not consistent with the original intent of the legislation, and the bill should no longer be supported by the legislature.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.