



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



## BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 6004 (as passed by the House)  
Sponsor: Representative Brian Palmer  
House Committee: Education  
Senate Committee: Education

Date Completed: 12-5-06

### **CONTENT**

**The bill would amend the Revised School Code to revise the provisions for the election of members to the board of an intermediate school district (ISD) and revise certain financial reporting requirements for ISDs.**

**The bill also would do the following:**

- Allow an ISD to report payments for legal services as an annual aggregate amount in a required yearly report.**
- Require the Attorney General to encourage, rather than direct, a prosecuting attorney to commence proceedings against an ISD or an official or employee if, after an appeal, an audit disclosed a violation of State law governing the financial operations of the ISD.**

### ISD Board Elections

Under the Code, the members of the board of an intermediate school district must be 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. A constituent district's board must designate its representative by resolution within 21 days before the date of the election. The board must consider the resolution during at least one public meeting before it is adopted.

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

The Code provides that in the resolution designating its representative, the board of a constituent district must identify the candidate the board supports for each position to be filled on the ISD board and must direct its representative to vote for that individual or individuals at least on the first ballot taken by the electoral body.

Under the bill, if a majority of the constituent district boards named the same candidate for a particular position in their resolutions, then that candidate would have to be considered elected to the position as if he or she were elected by the electoral body as described above. If that position were the only one to be filled that year, the election meeting would not be required.

The Code prohibits more than three members who also are members of a constituent district board from serving on the ISD board. Under the bill, if the election of a candidate would result in a violation of that provision, then the ISD board member-elect whose election caused the violation would have to resign either the seat on the ISD board or the seat on the constituent district board.

If the violation were caused by the election of more than one member-elect, then the member elect with the lowest number of votes would have to resign either the seat on the ISD board or the seat on the constituent district board. If there were a tie in the number of votes, then the member-elect who was required to resign one of his or her seats would be determined by a coin toss.

If a member-elect resigned his or her seat on the ISD board under these provisions, then at the meeting of the electoral body, nominations would have to be taken from the floor for elections of a new member-elect who was not also a member of a constituent district board. A new member-elect who met that requirement would have to be elected at the meeting.

Under the Code, a candidate for election to an ISD board either must be nominated by petitions signed by a certain number of school electors of the combined constituent districts, or may pay a nonrefundable filing fee of \$100 to the school district filing official. Under the bill, those provisions would not apply to a candidate who was nominated at a meeting, as described above.

The Code provides that a vacancy must be filled by the remaining members of the ISD board until the next biennial election, when the vacancy must be filled for the balance of the unexpired term. Notice of the vacancy must be filed with the State Board of Education within five days after the vacancy occurs. If the vacancy is not filled within 30 days after it occurs, it must be filled by the State Board. Under the bill, these provisions would not apply to a situation in which the election of a candidate would result in an ISD board's including more than three members who were also members of a constituent district board.

The Code requires the school district filing official to receive nominating petitions, determine the sufficiency of the petitions and the candidates' eligibility, provide ballots for the biennial election, and receive any filing fees paid by candidates as provided. The bill, instead, would require the secretary of the ISD board to perform those duties.

### Annual Report

The Code requires each ISD, by December 31 of each year, to post on its website a report containing certain information for the previous fiscal year, including payments made during the school fiscal year to people who were not employees of the ISD for public relations, polling, lobbying, or legal services, and a description of the services received by the ISD in return.

Under the bill, payments for legal services could be reported as an annual aggregate amount. An ISD would have to report other payments required to be reported under this provision by specifying each individual payment.

### Random Audits

The Code requires the Department of Treasury to conduct random audits of ISDs. If the Department determines that an audit has disclosed a violation of any State law governing the financial operations of an ISD, it must notify the ISD of that determination. The ISD may submit an appeal of that determination to the Department within 15 days of receiving the determination. The Department has 90 days to consider the appeal and to determine whether the initial determination was correct or incorrect and whether the situation has

been corrected. If it determines that the determination was correct and the situation has not been corrected, it must file a copy of the report with the Attorney General.

The Attorney General, if he or she considers it appropriate, must commence or direct the prosecuting attorney for the county in which the violations occurred to commence appropriate proceedings against the ISD board or the official or employee.

The bill instead would require the Attorney General either to commence appropriate proceedings against the ISD board or the official or employee, or to refer the matter to the prosecuting attorney and encourage him or her to commence appropriate proceedings.

The Code requires those proceedings to 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 spent illegally and for the recovery of any public property determined to have been converted or misappropriated. The bill specifies that the proceedings "should include" a civil action for the recovery of that money and those items.

#### Purchase without Competitive Bid

Under the Code, an ISD may not purchase an item or group of items purchased in a single transaction costing \$17,932 or more unless competitive bid are obtained for those items and the purchase is approved by the ISD board. The maximum amount specified must be adjusted yearly by a percentage equal to the percentage increase in the consumer price index for the preceding year, rounded to the nearest whole dollar. The bill would adjust the maximum amount permitted without a competitive bid at \$18,490, subject to annual adjustments.

#### Gifts

The Code prohibits an ISD board member or an ISD administrator from accepting from a person who does business of any kind with the ISD any money, goods, or services valued at more than \$44 if he or she does not provide equally valued goods or services in exchange.

Under the bill, that would not apply to a breakfast, luncheon, dinner, or other refreshment consisting of food or beverage for immediate consumption.

MCL 380.614 et al.

Legislative Analyst: Curtis Walker

#### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco  
Kirk Sanderson

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