

HOUSE BILL No. 6177

May 22, 2008, Introduced by Reps. Valentine, Melton, Robert Jones, Hammon, Hammel, Clack and Hopgood and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 502 and 503 (MCL 380.502 and 380.503), section 502 as amended by 1995 PA 289 and section 503 as amended by 2003 PA 299.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 502. (1) A public school academy shall be organized and
2 administered under the direction of a board of directors in
3 accordance with this part and with bylaws adopted by the board of
4 directors. A public school academy corporation shall be organized
5 under the nonprofit corporation act, ~~Act No. 162 of the Public Acts~~
6 ~~of 1982, being sections 450.2101 to 450.3192 of the Michigan~~
7 ~~Compiled Laws 1982 PA 162, MCL 450.2101 TO 450.3192~~, except that a

1 public school academy corporation is not required to comply with
2 sections 170 to 177 of ~~Act No. 327 of the Public Acts of 1931,~~
3 ~~being sections 450.170 to 450.177 of the Michigan Compiled Laws~~
4 **1931 PA 327, MCL 450.170 TO 450.177.** To the extent disqualified
5 under the state or federal constitution, a public school academy
6 shall not be organized by a church or other religious organization
7 and shall not have any organizational or contractual affiliation
8 with or constitute a church or other religious organization.

9 (2) Any of the following may act as an authorizing body to
10 issue a contract to organize and operate 1 or more public school
11 academies under this part:

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

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

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

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

18 (d) The governing board of a state public university. However,
19 the combined total number of contracts for public school academies
20 issued by all state public universities shall not exceed ~~85 through~~
21 ~~1996, and, after the initial evaluation under section 501a, shall~~
22 ~~not exceed 100 through 1997, 125 through 1998, or 150 thereafter~~
23 **150**. Further, the total number of contracts issued by any 1 state
24 public university shall not exceed ~~50 through 1996, and thereafter~~
25 ~~shall not exceed 50%~~ of the maximum combined total number that may
26 be issued under this subdivision.

27 (3) To obtain a contract to organize and operate 1 or more

1 public school academies, 1 or more persons or an entity may apply
2 to an authorizing body described in subsection (2). The application
3 shall include at least all of the following:

4 (a) Identification of the applicant for the contract.

5 (b) Subject to the resolution adopted by the authorizing body
6 under section 503(4), a list of the proposed members of the **INITIAL**
7 board of directors of the public school academy and a description
8 of the qualifications and method for appointment or election of
9 members of the board of directors. **THIS INITIAL BOARD OF DIRECTORS**
10 **SHALL SERVE ONLY UNTIL AN ELECTION OF A NEW BOARD OF DIRECTORS IS**
11 **CONDUCTED AS PROVIDED UNDER SECTION 503(4).**

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

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

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

16 This language shall provide that the public school academy is
17 incorporated pursuant to this part and that the public school
18 academy corporation is a governmental entity.

19 (iii) The name of the authorizing body.

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

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

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

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

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

2 (ii) A copy of the educational goals of the public school
3 academy and the curricula to be offered and methods of pupil
4 assessment to be used by the public school academy. To the extent
5 applicable, the progress of the pupils in the public school academy
6 shall be assessed using at least a Michigan education assessment
7 program (MEAP) test or ~~an assessment instrument~~ **THE MICHIGAN MERIT**
8 **EXAMINATION** developed under section ~~1279~~ ~~for a state endorsed high~~
9 ~~school diploma~~ **1279G**.

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

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

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

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

21 (g) For an application to the board of a school district, an
22 intermediate school board, or board of a community college,
23 identification of the local and intermediate school districts in
24 which the public school academy will be located.

25 (h) An agreement that the public school academy will comply
26 with the provisions of this part and, subject to the provisions of
27 this part, with all other state law applicable to public bodies and

1 with federal law applicable to public bodies or school districts.

2 (i) For a public school academy authorized by a school
3 district, an assurance that employees of the public school academy
4 will be covered by the collective bargaining agreements that apply
5 to other employees of the school district employed in similar
6 classifications in schools that are not public school academies.

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

9 (4) An authorizing body shall oversee, or shall contract with
10 an intermediate school district, community college, or state public
11 university to oversee, each public school academy operating under a
12 contract issued by the authorizing body. The oversight shall be
13 sufficient to ensure that the authorizing body can certify that the
14 public school academy is in compliance with statute, rules, and the
15 terms of the contract.

16 (5) If the state board finds that an authorizing body is not
17 engaging in appropriate continuing oversight of 1 or more public
18 school academies operating under a contract issued by the
19 authorizing body, the state board may suspend the power of the
20 authorizing body to issue new contracts to organize and operate
21 public school academies. A contract issued by the authorizing body
22 during the suspension is void. A contract issued by the authorizing
23 body before the suspension is not affected by the suspension.

24 (6) An authorizing body shall not charge a fee, or require
25 reimbursement of expenses, for considering an application for a
26 contract, for issuing a contract, or for providing oversight of a
27 contract for a public school academy in an amount that exceeds a

1 combined total of 3% of the total state school aid received by the
2 public school academy in the school year in which the fees or
3 expenses are charged. An authorizing body may provide other
4 services for a public school academy and charge a fee for those
5 services, but shall not require such an arrangement as a condition
6 to issuing the contract authorizing the public school academy.

7 (7) A public school academy shall be presumed to be legally
8 organized if it has exercised the franchises and privileges of a
9 public school academy for at least 2 years.

10 Sec. 503. (1) An authorizing body is not required to issue a
11 contract to any person or entity. Public school academy contracts
12 shall be issued on a competitive basis taking into consideration
13 the resources available for the proposed public school academy, the
14 population to be served by the proposed public school academy, and
15 the educational goals to be achieved by the proposed public school
16 academy.

17 (2) If a person or entity applies to the board of a school
18 district for a contract to organize and operate 1 or more public
19 school academies within the boundaries of the school district and
20 the board does not issue the contract, the person or entity may
21 petition the board to place the question of issuing the contract on
22 the ballot to be decided by the school electors of the school
23 district. The petition shall contain all of the information
24 required to be in the contract application under section 502 and
25 shall be signed by a number of school electors of the school
26 district equal to at least 15% of the total number of school
27 electors of that school district. The petition shall be filed with

1 the school district filing official. If the board receives a
2 petition meeting the requirements of this subsection, the board
3 shall have the question of issuing the contract placed on the
4 ballot at its next regular school election held at least 60 days
5 after receiving the petition. If a majority of the school electors
6 of the school district voting on the question vote to issue the
7 contract, the board shall issue the contract.

8 (3) Within 10 days after issuing a contract for a public
9 school academy, the authorizing body shall submit to the
10 superintendent of public instruction a copy of the contract and of
11 the application under section 502.

12 (4) An authorizing body shall adopt a resolution establishing
13 the method of selection, length of term, and number of members of
14 the board of directors of each public school academy subject to its
15 jurisdiction. **ALL OF THE FOLLOWING APPLY TO THIS RESOLUTION AND TO
16 THE SELECTION OF A BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY:**

17 **(A) FOR A PUBLIC SCHOOL ACADEMY THAT IS IN OPERATION AS OF THE
18 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION,
19 NOT LATER THAN 120 DAYS AFTER THAT EFFECTIVE DATE, THE AUTHORIZING
20 BODY SHALL AMEND THIS RESOLUTION AS NECESSARY TO PROVIDE THAT ALL
21 MEMBERS OF THE BOARD OF DIRECTORS ARE NOMINATED BY THE PARENTS AND
22 LEGAL GUARDIANS OF THE PUPILS ENROLLED IN THE PUBLIC SCHOOL ACADEMY
23 AND ARE ELECTED BY A VOTE OF THE PARENTS AND LEGAL GUARDIANS OF THE
24 PUPILS ENROLLED IN THE PUBLIC SCHOOL ACADEMY AND SHALL AMEND THIS
25 RESOLUTION AS NECESSARY TO PRESCRIBE THE METHOD OF THAT NOMINATION
26 AND ELECTION. THE AUTHORIZING BODY SHALL ENSURE THAT SUCH AN
27 ELECTION IS CONDUCTED TO SELECT A NEW BOARD OF DIRECTORS AND THAT**

1 SUBSEQUENT ELECTIONS ARE CONDUCTED IN ACCORDANCE WITH THE
2 RESOLUTION.

3 (B) FOR A PUBLIC SCHOOL ACADEMY THAT BEGINS OPERATIONS AFTER
4 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
5 SUBDIVISION, THIS RESOLUTION SHALL PROVIDE THAT ALL MEMBERS OF THE
6 BOARD OF DIRECTORS ARE NOMINATED BY THE PARENTS AND LEGAL GUARDIANS
7 OF THE PUPILS ENROLLED IN THE PUBLIC SCHOOL ACADEMY AND ARE ELECTED
8 BY A VOTE OF THE PARENTS AND LEGAL GUARDIANS OF THE PUPILS ENROLLED
9 IN THE PUBLIC SCHOOL ACADEMY AND SHALL PRESCRIBE THE METHOD OF THAT
10 ELECTION. THE AUTHORIZING BODY SHALL ENSURE THAT SUCH AN ELECTION
11 IS CONDUCTED TO SELECT A NEW BOARD OF DIRECTORS TO REPLACE THE
12 INITIAL BOARD OF DIRECTORS DESCRIBED IN SECTION 502(3)(B) NOT LATER
13 THAN 120 DAYS AFTER THE PUBLIC SCHOOL ACADEMY BEGINS OPERATIONS AND
14 THAT SUBSEQUENT ELECTIONS ARE CONDUCTED IN ACCORDANCE WITH THE
15 RESOLUTION.

16 (5) A contract issued to organize and administer a public
17 school academy shall contain at least all of the following:

18 (a) The educational goals the public school academy is to
19 achieve and the methods by which it will be held accountable. To
20 the extent applicable, the pupil performance of a public school
21 academy shall be assessed using at least a Michigan education
22 assessment program (MEAP) test or ~~an assessment instrument~~ **THE**
23 **MICHIGAN MERIT EXAMINATION** developed under section ~~1279~~**1279G**.

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

27 (c) A description of the process for amending the contract

1 during the term of the contract.

2 (d) All of the matters set forth in the application for the
3 contract.

4 (e) For a public school academy authorized by a school
5 district, an agreement that employees of the public school academy
6 will be covered by the collective bargaining agreements that apply
7 to employees of the school district employed in similar
8 classifications in schools that are not public school academies.

9 (f) Procedures for revoking the contract and grounds for
10 revoking the contract, including at least the grounds listed in
11 section 507.

12 (g) A description of and address for the proposed physical
13 plant in which the public school academy will be located.

14 (h) Requirements and procedures for financial audits. The
15 financial audits shall be conducted at least annually by a
16 certified public accountant in accordance with generally accepted
17 governmental auditing principles.

18 (6) A public school academy shall comply with all applicable
19 law, including all of the following:

20 (a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

21 (b) The freedom of information act, 1976 PA 442, MCL 15.231 to
22 15.246.

23 (c) 1947 PA 336, MCL 423.201 to 423.217.

24 (d) 1965 PA 166, MCL 408.551 to 408.558.

25 (e) Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274.

26 (7) A public school academy and its incorporators, board **OF**
27 **DIRECTORS'** members, officers, employees, and volunteers have

1 governmental immunity as provided in section 7 of 1964 PA 170, MCL
2 691.1407. An authorizing body and its board **OF DIRECTORS'** members,
3 officers, and employees are immune from civil liability, both
4 personally and professionally, for an act or omission in
5 authorizing a public school academy if the authorizing body or the
6 person acted or reasonably believed he or she acted within the
7 authorizing body's or the person's scope of authority.

8 (8) A public school academy is exempt from all taxation on its
9 earnings and property. Instruments of conveyance to or from a
10 public school academy are exempt from all taxation including taxes
11 imposed by 1966 PA 134, MCL 207.501 to 207.513. A public school
12 academy may not levy ad valorem property taxes or another tax for
13 any purpose. However, operation of 1 or more public school
14 academies by a school district or intermediate school district does
15 not affect the ability of the school district or intermediate
16 school district to levy ad valorem property taxes or another tax.

17 (9) A public school academy may acquire by purchase, gift,
18 devise, lease, sublease, installment purchase agreement, land
19 contract, option, or by any other means, hold and own in its own
20 name buildings and other property for school purposes, and
21 interests therein, and other real and personal property, including,
22 but not limited to, interests in property subject to mortgages,
23 security interests, or other liens, necessary or convenient to
24 fulfill its purposes. For the purposes of condemnation, a public
25 school academy may proceed under the uniform condemnation
26 procedures act, 1980 PA 87, MCL 213.51 to 213.75, excluding
27 sections 6 to 9 of that act, MCL 213.56 to 213.59, or other

1 applicable statutes, but only with the express, written permission
2 of the authorizing body in each instance of condemnation and only
3 after just compensation has been determined and paid.