

# HOUSE BILL No. 4584

March 17, 2009, Introduced by Reps. Bennett, Roy Schmidt, Hammel, Bauer, Miller and Valentine and referred to the Committee on Labor.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
(MCL 380.1 to 380.1852) by adding section 1245.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 1245. (1) BEFORE PRIVATIZING ANY SERVICES THAT REPLACE  
2 SERVICES PERFORMED BY SCHOOL EMPLOYEES, THE BOARD OF A SCHOOL  
3 DISTRICT OR INTERMEDIATE SCHOOL BOARD OF AN INTERMEDIATE SCHOOL  
4 DISTRICT SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC A DETAILED  
5 PREPRIVATIZATION COST-BENEFIT ANALYSIS. THE ANALYSIS SHALL BE  
6 PREPARED UTILIZING ACCURATE, RELIABLE, AND OBJECTIVE DATA AND SHALL  
7 USE THE SOUNDEST ACTUARIAL TECHNIQUES THAT ARE AVAILABLE TO THE  
8 SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT. THE ANALYSIS SHALL  
9 INCLUDE A DETAILED COMPARATIVE ESTIMATE OF THE COSTS THAT THE  
10 SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT WOULD INCUR FOR THE  
11 PERIOD OF THE PROPOSED CONTRACT UNDER THE FOLLOWING CIRCUMSTANCES:

1 (A) IF SCHOOL EMPLOYEES WERE TO CONTINUE TO PROVIDE THE  
2 SERVICES.

3 (B) IF A PRIVATE CONTRACTOR WERE TO PROVIDE THE SERVICES. THE  
4 COST ANALYSIS OF PRIVATIZING THE SERVICES SHALL INCLUDE ALL OF THE  
5 FOLLOWING COSTS:

6 (i) ALL NECESSARY MONITORING AND OVERSIGHT OF THE PRIVATE  
7 ENTITY BY THE SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT.

8 (ii) UP-TO-DATE COST ESTIMATES FOR USING REPUTABLE COMPANIES  
9 THAT HAVE A PREVIOUS HISTORY OR REPUTATION FOR PROVIDING QUALITY  
10 SERVICES AND THAT WILL PROVIDE SERVICES COVERED BY PERFORMANCE  
11 BONDS.

12 (2) A SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT SHALL  
13 NOT PROCEED WITH PRIVATIZATION OF SERVICES UNDER THIS SECTION  
14 UNLESS THE PREPRIVATIZATION ANALYSIS UNDER SUBSECTION (1) INDICATES  
15 A COST SAVINGS OF AT LEAST 10% OF THE COST OF USING SCHOOL  
16 EMPLOYEES TO PROVIDE THE SERVICES.

17 (3) A SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT SHALL  
18 FOLLOW THE PROCEDURE SET FORTH IN SUBSECTIONS (1) AND (2) FOR ANY  
19 EXPANSION OF A PRIVATIZATION CONTRACT THAT WOULD FURTHER REPLACE  
20 SERVICES PERFORMED BY SCHOOL EMPLOYEES.

21 (4) BEFORE RENEWING OR REBIDDING A CONTRACT FOR PRIVATIZED  
22 SERVICES THAT REPLACED SERVICES PROVIDED BY SCHOOL EMPLOYEES, THE  
23 SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT SHALL CONDUCT AN  
24 ANALYSIS TO DETERMINE WHETHER THE CONTRACT ACTUALLY PROVIDED THE  
25 REQUIRED QUALITY OF SERVICES AND PRODUCED THE SAVINGS THAT WERE  
26 PROJECTED IN THE PREPRIVATIZATION ANALYSIS. IF THE ANALYSIS  
27 INDICATES THAT THE PRIVATIZATION DID NOT PRODUCE THE SAVINGS OR

1 PROVIDED SERVICES THAT DID NOT MEET REQUIRED STANDARDS OF  
2 PERFORMANCE, THE SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT  
3 SHALL REASSUME THE RESPONSIBILITY OF PROVIDING THE SERVICES THROUGH  
4 SCHOOL EMPLOYEES.

5 (5) IF A BOARD OR INTERMEDIATE SCHOOL BOARD CONTRACTS FOR  
6 SERVICES TO REPLACE SERVICES PERFORMED BY SCHOOL EMPLOYEES, THE  
7 CONTRACT FOR PROCURING THOSE SERVICES SHALL INCLUDE A REQUIREMENT  
8 THAT THE CONTRACTOR MAKE ITS RECORDS CONCERNING THE PERFORMANCE OF  
9 THE CONTRACT AVAILABLE FOR INSPECTION OR COPYING ON REQUEST OF THE  
10 BOARD OR INTERMEDIATE SCHOOL BOARD AND THAT THOSE RECORDS SHALL BE  
11 CONSIDERED RECORDS OF THE DISTRICT OR INTERMEDIATE SCHOOL DISTRICT  
12 FOR PURPOSES OF DISCLOSURE UPON A REQUEST MADE UNDER THE FREEDOM OF  
13 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. THE CONTRACTOR  
14 SHALL INCLUDE IN ANY SUBCONTRACT IN RELATION TO THE CONTRACT THAT  
15 THE SUBCONTRACTOR HAS THE SAME OBLIGATION TO DISCLOSE RECORDS  
16 CONCERNING PERFORMANCE OF THE DUTIES REQUIRED UNDER THE  
17 SUBCONTRACT. THE CONTRACTOR AND ANY SUBCONTRACTOR SHALL RETAIN  
18 RECORDS CONCERNING THE PERFORMANCE OF THE CONTRACT FOR AT LEAST 3  
19 YEARS AFTER THE COMPLETION OF THE CONTRACT.