

Act No. 606
Public Acts of 2012
Approved by the Governor
January 8, 2013
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January 9, 2013
EFFECTIVE DATE: January 9, 2013

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senator Hune

ENROLLED SENATE BILL No. 1051

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," (MCL 380.1 to 380.1852) by adding section 1203.

The People of the State of Michigan enact:

Sec. 1203. (1) A member of the board of a school district or intermediate school district or board of directors of a public school academy who believes or has reason to believe that he or she has a conflict of interest with regard to a contract or other financial transaction that requires the approval of the board or board of directors shall abstain from voting on the contract or other financial transaction and shall disclose the specific conflict of interest. A member of the board of a school district or intermediate school district or board of directors of a public school academy is presumed to have a conflict of interest if the member or his or her family member has a financial interest, or a competing financial interest, in the contract or other financial transaction or is an employee of the school district, intermediate school district, or public school academy.

(2) A person serving as the legal counsel to the board of a school district or intermediate school district or board of directors of a public school academy, or otherwise acting as an advisor or consultant to the board or board of directors, who believes or has reason to believe that the person has a conflict of interest with regard to a contract or other financial transaction that requires the approval of the board or board of directors shall disclose the conflict of interest to the board or board of directors before the vote on the contract or other financial transaction. A person serving as the legal counsel to the board of a school district or intermediate school district or board of directors of a public school academy or otherwise acting as an advisor or consultant to the board or board of directors is presumed to have a conflict of interest if the person or his or her family member has a financial interest, or a competing financial interest, in the contract or other financial transaction.

(3) For the purposes of this section, if a member of the board of a school district or intermediate school district or board of directors of a public school academy, or a person serving as the legal counsel to the board or board of directors, has a child who is a pupil of the school district, intermediate school district, or public school academy, that relationship alone does not constitute a conflict of interest or financial interest in a contract or other financial transaction of the school district, intermediate school district, or public school academy.

(4) For the purposes of this section, an individual is not considered to have a financial interest in any of the following instances:

(a) A contract or other financial transaction between the school district, intermediate school district, or public school academy and any of the following:

(i) A corporation in which the individual is a stockholder owning 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owning stock that has a present market value of \$25,000.00 or less if the stock is listed on a stock exchange.

(ii) A corporation in which a trust, if the individual is a beneficiary under the trust, owns 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or owns stock that has a present market value of \$25,000.00 or less if the stock is listed on a stock exchange.

(iii) A professional limited liability company organized pursuant to the Michigan limited liability company act, 1993 PA 23, MCL 450.4101 to 450.5200, if the individual is an employee but not a member of the company.

(b) A contract or other financial transaction between the school district, intermediate school district, or public school academy and any of the following:

(i) A corporation in which the individual is not a director, officer, or employee.

(ii) A firm, partnership, or other unincorporated association, in which the individual is not a partner, member, or employee.

(iii) A corporation or firm that has an indebtedness owed to the individual.

(c) A contract between an intermediate school district and a constituent district.

(d) A contract awarded to the lowest qualified bidder, upon receipt of sealed bids pursuant to a published notice for bids if the notice does not bar, except as authorized by law, any qualified person, firm, corporation, or trust from bidding. This subdivision does not apply to amendments or renegotiations of a contract or to additional payments under the contract that were not authorized by the contract at the time of award.

(5) If a majority of the members of the board of a school district or intermediate school district or of the board of directors of a public school academy are required to abstain from voting on a contract or other financial transaction due to the operation of this section, then, notwithstanding any other provision of law or any bylaw, for the purposes of that contract or other financial transaction, the members who are not required to abstain constitute a quorum of the board or board of directors and a majority of those members eligible to vote is required for approval of the question.

(6) The provisions of this section are in addition to other provisions of law concerning conflicts of interest that apply to school districts, intermediate school districts, and public school academies.

(7) As used in this section, "family member" means a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor