

Act No. 96
Public Acts of 2013
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Rep. Rogers

ENROLLED HOUSE BILL No. 4813

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," by amending section 12 (MCL 380.12) and by adding section 12a.

The People of the State of Michigan enact:

Sec. 12. (1) A school district shall lose its organization and shall be declared dissolved if any of the following conditions are met:

(a) There are not enough persons residing in the school district and qualified under law to hold all of the offices of the school district or who will accept the offices of the school district.

(b) After consultation with the intermediate school district in which the district is located, the superintendent of public instruction and state treasurer jointly determine that all of the following apply:

(i) The school district was required to submit a deficit elimination plan under the state school aid act of 1979 and the school district either has failed to submit a plan or lacks the capability to both implement a deficit elimination plan and meet the school district's obligations to provide public educational services to pupils and other residents of the school district in a manner that complies with this act, the state school aid act of 1979, and rules promulgated by the department.

(ii) The school district is not financially viable and is unable to educate pupils in grades K-12 residing in the school district by operating schools for a full school year and providing the required number of instructional hours under this act and the state school aid act of 1979. As used in this subparagraph, "financially viable" means that a school district has the financial resources to carry out at least the educational program required by law and pay its existing debts as they become due taking into consideration the projected enrollment, cash flow, revenues, and borrowing capability of the school district.

(iii) The school district has at least 300 and not more than 2,400 pupils in membership.

(iv) The number of pupils in membership in the school district for the most recently completed school year was at least 10% less than the number of pupils in membership in the school district for the school year immediately preceding the most recently completed school year.

(v) The school district began the school fiscal year ending in the current state fiscal year with an operating fund deficit and is projected to end the school fiscal year ending in the current state fiscal year with a greater operating fund deficit or received a loan approved by the local emergency financial assistance loan board that had the effect of reducing the deficit for the school year ending in the current state fiscal year.

(vi) The school district has not consolidated with another school district during the immediately preceding 12 calendar months.

(2) If a school district meets either or both of subsection (1)(a) or (b), the intermediate school board of the intermediate school district to which the school district is constituent, or the superintendent of public instruction if that intermediate school board requests the superintendent of public instruction to act in its place, shall declare the school district dissolved and immediately order attachment of the territory of the school district, in whole or in part, to 1 or more other organized school districts within the intermediate school district. In attaching the territory of the dissolved school district to other school districts, the intermediate school board or the superintendent of public instruction shall take into account the number of pupils who will become pupils of each of those other school districts relative to the number of pupils already enrolled in the other school district and the numbers of pupils who qualify for free and reduced price lunch, special education services and at-risk funding among the other school districts. For a school district that is declared dissolved in 2013, within 21 days after the school district is declared dissolved, and for a school district that is declared dissolved after 2013, within 60 days after the school district is declared dissolved, the dissolved school district shall account to the intermediate school district for all records, funds, and property of the school district and shall make an equitable distribution of the records, funds, and property consistent with the ordered attachment to each receiving school district. A school building or other real property owned by and located in the dissolved district shall become part of and owned by the receiving school district in which it is located.

(3) If a dissolved school district has outstanding debt, the dissolved school district shall retain a limited separate identity and the territory of the dissolved school district shall continue as a separate taxing unit for the limited purpose of the debt until the debt is retired or refunded. The intermediate school board and other officers of the intermediate school district in which the geographic area of the dissolved school district is located shall perform the functions and satisfy the responsibilities of the board and other officers of the dissolved school district relating to the debt, including, but not limited to, all of the following:

(a) Certifying and levying taxes for satisfaction of the debt in the name of the dissolved school district.

(b) Holding debt retirement funds of the dissolved school district separately from the funds of the receiving school district.

(c) Doing all other things relative to the outstanding debt of the dissolved school district required by law and by the terms of the debt, including, but not limited to, levying or renewing a school operating tax under section 1211. The question of renewal of a school operating tax pledged to the repayment of debt of the dissolved school district shall be submitted only to school electors residing within the geographic area of the dissolved school district and does not require approval by electors of a receiving school district not residing within the geographic area of the dissolved school district.

(4) Upon the attachment of a dissolved school district to another school district, the intermediate school board shall audit the assets and liabilities of the dissolved school district. If a considerable discrepancy is found, the intermediate school board shall order the dissolved school district to pay the discrepancy to 1 or more appropriate receiving school districts. After first satisfying debt obligations, the dissolved school district shall repay that amount to 1 or more appropriate receiving school districts from money available to the dissolved school district including voted millage within a time to be determined by the intermediate school board.

(5) If a tax is authorized within a receiving school district at a rate greater than the rate authorized within the dissolved school district at the time of the dissolution, the tax may not be levied within the geographic area of the dissolved school district until approved by the school electors residing within the geographic area of the dissolved school district or by all school electors within the receiving school district, including any expanded geographic area of the receiving school district resulting from attachment under this section.

(6) If a dissolved school district was authorized to levy a sinking fund tax under section 1212 at the time of dissolution, the identity of the dissolving school district as a legal entity shall not be lost and its territory shall remain as a taxing unit for the limited purpose of levying a sinking fund tax under section 1212 until the authorization to levy a sinking fund tax within the dissolved school district expires. For purposes of this subsection, the intermediate school board and other officers of the intermediate school district in which the geographic area of the dissolved school district is located shall perform the functions and responsibilities of the board and other officers of the dissolved school district relating to levying the sinking fund tax and shall distribute the proceeds of the levy to each receiving school district that operates a school building previously operated by the dissolved school district. The proceeds of a sinking fund tax levy under this subsection may be used only within the geographic area of the dissolved school district for purposes authorized under section 1212. A receiving school district may not renew or authorize a new sinking fund tax that is levied only within the geographic area of the dissolved school district.

(7) To the extent permitted under federal law and any applicable waiver approved by the United States department of education, the department shall not include the test scores of pupils from the dissolved school district for determining adequate yearly progress status or for "top-to-bottom" rankings of the receiving school districts for the first 3 school years after dissolution.

(8) For the same number of school years for which test scores of pupils from the dissolved district are not used under subsection (7), a receiving school district shall not use the test scores of pupils from the dissolved school district as a factor in any performance evaluation of an employee of the receiving school district.

(9) The pupils formerly enrolled in the dissolved school district have all the legal and constitutional rights and privileges of the other pupils enrolled in the receiving school districts.

(10) As used in this section:

(a) "Debt" means that term as defined in section 103 of the revised municipal finance act, 2001 PA 34, MCL 141.2103, and any unpaid amounts payable by a dissolved school district to the Michigan public school employees' retirement board under the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437.

(b) "Receiving school district" means a school district to which all or part of the territory of a dissolved school district is attached under this section.

Sec. 12a. (1) As permitted under federal law, if a school district is dissolved under section 12 or if the functions and responsibilities of a school district for operating a public school are transferred to another public entity, including, but not limited to, a transfer to another public entity under section 1280c, the superintendent of public instruction shall grant each receiving school district or other public entity assuming the functions and responsibilities for the public school an allocation of grants under 20 USC 6333, 6334, 6335, and 6337 and of other federal funds that would otherwise be made available for grants to or federal funding for the public school or make other adjustments in the allocation of federal funds to implement the dissolution of the school district or other transfer of functions and responsibilities.

(2) As used in this section, "receiving school district" means that term as defined in section 12.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4815 of the 97th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: House Bill No. 4815, referred to in enacting section 1, was filed with the Secretary of State July 2, 2013, and became 2013 PA 97, Eff. Oct. 1, 2013.