

HOUSE BILL No. 5446

April 17, 2014, Introduced by Rep. Knezek and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 12 (MCL 380.12), as amended by 2013 PA 96, and
by adding section 12b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

1 following apply:

2 (i) The school district was required to submit a deficit
3 elimination plan under the state school aid act of 1979 and the
4 school district either has failed to submit a plan or lacks the
5 capability to both implement a deficit elimination plan and meet
6 the school district's obligations to provide public educational
7 services to pupils and other residents of the school district in a
8 manner that complies with this act, the state school aid act of
9 1979, and rules promulgated by the department.

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

20 (iii) The school district has at least 300 and not more than
21 2,400 pupils in membership.

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

27 (v) The school district began the school fiscal year ending in

1 the current state fiscal year with an operating fund deficit and is
2 projected to end the school fiscal year ending in the current state
3 fiscal year with a greater operating fund deficit or received a
4 loan approved by the local emergency financial assistance loan
5 board that had the effect of reducing the deficit for the school
6 year ending in the current state fiscal year.

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

10 (2) If a school district meets either or both of subsection
11 (1)(a) or (b), the intermediate school board of the intermediate
12 school district to which the school district is constituent, or the
13 superintendent of public instruction if that intermediate school
14 board requests the superintendent of public instruction to act in
15 its place, shall declare the school district dissolved and
16 immediately order attachment of the territory of the school
17 district, in whole or in part, to 1 or more other organized school
18 districts within the intermediate school district. In attaching the
19 territory of the dissolved school district to other school
20 districts, the intermediate school board or the superintendent of
21 public instruction shall take into account the number of pupils who
22 will become pupils of each of those other school districts relative
23 to the number of pupils already enrolled in the other school
24 district and the numbers of pupils who qualify for free and reduced
25 price lunch, special education services and at-risk funding among
26 the other school districts. For a school district that is declared
27 dissolved in 2013, within 21 days after the school district is

1 declared dissolved, and for a school district that is declared
2 dissolved after 2013, within 60 days after the school district is
3 declared dissolved, the dissolved school district shall account to
4 the intermediate school district for all records, funds, and
5 property of the school district and shall make an equitable
6 distribution of the records, funds, and property consistent with
7 the ordered attachment to each receiving school district. A school
8 building or other real property owned by and located in the
9 dissolved district shall become part of and owned by the receiving
10 school district in which it is located.

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

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

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

26 (c) Doing all other things relative to the outstanding debt of
27 the dissolved school district required by law and by the terms of

1 the debt, including, but not limited to, levying or renewing a
2 school operating tax under section 1211. The question of renewal of
3 a school operating tax pledged to the repayment of debt of the
4 dissolved school district shall be submitted only to school
5 electors residing within the geographic area of the dissolved
6 school district and does not require approval by electors of a
7 receiving school district not residing within the geographic area
8 of the dissolved school district.

9 (4) Upon the attachment of a dissolved school district to
10 another school district, the intermediate school board shall audit
11 the assets and liabilities of the dissolved school district. If a
12 considerable discrepancy is found, the intermediate school board
13 shall order the dissolved school district to pay the discrepancy to
14 1 or more appropriate receiving school districts. After first
15 satisfying debt obligations, the dissolved school district shall
16 repay that amount to 1 or more appropriate receiving school
17 districts from money available to the dissolved school district
18 including voted millage within a time to be determined by the
19 intermediate school board.

20 (5) If a tax is authorized within a receiving school district
21 at a rate greater than the rate authorized within the dissolved
22 school district at the time of the dissolution, the tax may not be
23 levied within the geographic area of the dissolved school district
24 until approved by the school electors residing within the
25 geographic area of the dissolved school district or by all school
26 electors within the receiving school district, including any
27 expanded geographic area of the receiving school district resulting

1 from attachment under this section.

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

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

1 dissolution.

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

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

12 (10) A SCHOOL DISTRICT DECLARED DISSOLVED UNDER THIS SECTION
13 RETAINS A LIMITED SEPARATE LEGAL IDENTITY FOR THE FOLLOWING
14 PURPOSES:

15 (A) SERVING AS A TAXING UNIT FOR THE LIMITED PURPOSE OF
16 LEVYING A SINKING FUND TAX AS PROVIDED UNDER SUBSECTION (6).

17 (B) SERVING AS A SEPARATE ELECTORAL UNIT FOR THE PURPOSES OF
18 RENEWAL OF A SCHOOL OPERATING TAX AS PROVIDED UNDER SUBSECTION
19 (3) (C), APPROVAL OF REORGANIZING THE SCHOOL DISTRICT UNDER SECTION
20 12B, OR APPROVAL OF BONDS AND LEVYING TAXES FOR THE REPAYMENT OF
21 THOSE BONDS UNDER SUBDIVISION (C).

22 (C) ISSUING BONDS AND LEVYING TAXES FOR THE PAYMENT OF THOSE
23 BONDS FOR NEW SCHOOL BUILDINGS AS NEEDED FOR REORGANIZATION OF THE
24 SCHOOL DISTRICT UNDER SECTION 12B.

25 (11) ~~(10)~~ As used in this section AND SECTION 12B:

26 (a) "Debt" means that term as defined in section 103 of the
27 revised municipal finance act, 2001 PA 34, MCL 141.2103, and any

1 unpaid amounts payable by a dissolved school district to the
2 Michigan public school employees' retirement board under the public
3 school employees retirement act of 1979, 1980 PA 300, MCL 38.1301
4 to 38.1437.

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

8 SEC. 12B. (1) A SCHOOL DISTRICT THAT HAS BEEN DECLARED
9 DISSOLVED UNDER SECTION 12 AFTER JULY 1, 2013 MAY BE REORGANIZED BY
10 THE INTERMEDIATE SCHOOL DISTRICT TO WHICH THE DISSOLVED SCHOOL
11 DISTRICT WAS CONSTITUENT BEFORE THE DISSOLUTION IF THE INTERMEDIATE
12 SCHOOL DISTRICT DETERMINES THAT ALL OF THE FOLLOWING ARE MET:

13 (A) ALL OUTSTANDING DEBT OF THE DISSOLVED SCHOOL DISTRICT HAS
14 BEEN RETIRED.

15 (B) SCHOOL BUILDINGS NEEDED FOR EDUCATING PUPILS ARE AVAILABLE
16 FOR USE IN 1 OR MORE OF THE FOLLOWING WAYS:

17 (i) SCHOOL BUILDINGS THAT WERE FORMERLY PART OF THE DISSOLVED
18 SCHOOL DISTRICT WILL BE RETURNED TO THE DISSOLVED SCHOOL FROM 1 OR
19 MORE RECEIVING SCHOOL DISTRICTS, ACCORDING TO FORMAL WRITTEN
20 AGREEMENT WITH THE RECEIVING SCHOOL OR DISTRICTS.

21 (ii) BONDS HAVE BEEN APPROVED IN THE TERRITORY OF THE DISSOLVED
22 SCHOOL DISTRICT FOR THE CONSTRUCTION OF NEW SCHOOL BUILDINGS.

23 (iii) SCHOOL BUILDINGS WILL BE PROCURED FROM PRIVATE RESOURCES
24 TO BE DONATED TO THE REORGANIZED SCHOOL DISTRICT FOR THE EXPRESS
25 PURPOSE OF EDUCATING PUPILS, ACCORDING TO FORMAL WRITTEN AGREEMENT.

26 (C) THERE HAS BEEN AN AFFIRMATIVE VOTE OF THE RESIDENTS OF THE
27 TERRITORY OF THE DISSOLVED SCHOOL DISTRICT IN FAVOR OF REORGANIZING

1 THE DISSOLVED SCHOOL DISTRICT.

2 (2) IF AN INTERMEDIATE SCHOOL DISTRICT DETERMINES THAT THE
3 REQUIREMENTS OF SUBSECTION (1) ARE MET AND ORDERS THE
4 REORGANIZATION OF A SCHOOL DISTRICT, THE INTERMEDIATE SCHOOL BOARD
5 SHALL CAUSE A SCHOOL BOARD ELECTION TO BE HELD WITHIN THE
6 BOUNDARIES OF THE REORGANIZED SCHOOL DISTRICT IN THE MANNER
7 PROVIDED BY LAW FOR A NEWLY CONSTITUTED SCHOOL DISTRICT. SUBJECT TO
8 SUBSECTION (3), THE SCHOOL BOARD ELECTED UNDER THIS SUBSECTION WILL
9 HAVE ALL OF THE SAME POWERS AND DUTIES OF THE SCHOOL BOARD THAT
10 EXISTED BEFORE THE SCHOOL DISTRICT WAS DECLARED DISSOLVED UNDER
11 SECTION 12.

12 (3) FOR THE FIRST 5 FULL SCHOOL FISCAL YEARS AFTER A SCHOOL
13 DISTRICT IS REORGANIZED UNDER THIS SECTION, THE SCHOOL DISTRICT
14 SHALL BE PLACED UNDER A PROBATIONARY AGREEMENT WITH THE
15 INTERMEDIATE SCHOOL DISTRICT THAT PROVIDES THAT ALL BUDGETARY
16 DECISIONS WILL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE
17 INTERMEDIATE SCHOOL DISTRICT. IF THE INTERMEDIATE SCHOOL DISTRICT
18 DOES NOT APPROVE A BUDGETARY DECISION MADE BY THE SCHOOL BOARD, THE
19 SCHOOL DISTRICT MAY APPEAL THAT DECISION TO THE INTERMEDIATE SCHOOL
20 BOARD. THE PROCESS FOR AN APPEAL TO BE FILED, HEARD, AND DECIDED
21 SHALL NOT EXCEED A TOTAL OF 30 DAYS FROM THE INITIAL DISAPPROVAL.
22 THE DECISION OF THE INTERMEDIATE SCHOOL BOARD ON ANY APPEAL IS
23 FINAL.

24 (4) AT THE END OF THE PROBATIONARY PERIOD UNDER SUBSECTION
25 (3), THE INTERMEDIATE SCHOOL DISTRICT SHALL EITHER RELEASE THE
26 SCHOOL DISTRICT FROM THE PROBATIONARY PERIOD AND GRANT THE SCHOOL
27 DISTRICT FULL AUTONOMY IN THE BUDGET PROCESS OR EXTEND THE

1 PROBATIONARY PERIOD ON A YEAR-TO-YEAR BASIS.