

# HOUSE BILL No. 5728

August 27, 2014, Introduced by Rep. Geiss 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.

## 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

1 in which the **SCHOOL** district is located, the superintendent of  
2 public instruction and state treasurer jointly determine that all  
3 of the following apply:

4 (i) The school district was required to submit a deficit  
5 elimination plan under the state school aid act of 1979 and the  
6 school district either has failed to submit a plan or lacks the  
7 capability to both implement a deficit elimination plan and meet  
8 the school district's obligations to provide public educational  
9 services to pupils and other residents of the school district in a  
10 manner that complies with this act, the state school aid act of  
11 1979, and rules promulgated by the department.

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

22 (iii) The school district has at least 300 and not more than  
23 2,400 pupils in membership.

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

1 school year.

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

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

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

1 the other school districts. For a school district that is declared  
2 dissolved in 2013, within 21 days after the school district is  
3 declared dissolved, and for a school district that is declared  
4 dissolved after 2013, within 60 days after the school district is  
5 declared dissolved, the dissolved school district shall account to  
6 the intermediate school district for all records, funds, and  
7 property of the school district and shall make an equitable  
8 distribution of the records, funds, and property consistent with  
9 the ordered attachment to each receiving school district. ~~A-EXCEPT~~  
10 **AS PROVIDED IN SUBSECTION (10), A** school building or other real  
11 property owned by and located in the dissolved **SCHOOL** district  
12 shall become part of and owned by the receiving school district in  
13 which it is located.

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

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

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

1 district.

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

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

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

1 geographic area of the dissolved school district or by all school  
2 electors within the receiving school district, including any  
3 expanded geographic area of the receiving school district resulting  
4 from attachment under this section.

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

25 (7) To the extent permitted under federal law and any  
26 applicable waiver approved by the United States department of  
27 education, the department shall not include the test scores of

1 pupils from the dissolved school district for determining adequate  
2 yearly progress status or for "top-to-bottom" rankings of the  
3 receiving school districts for the first 3 school years after  
4 dissolution.

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

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

15 (10) **A RECEIVING SCHOOL DISTRICT MAY DECLINE TO TAKE OWNERSHIP**  
16 **OF A SCHOOL BUILDING OR OTHER REAL PROPERTY OWNED BY AND LOCATED IN**  
17 **THE DISSOLVED SCHOOL DISTRICT BY SUBMITTING A RESOLUTION DECLINING**  
18 **OWNERSHIP OF SPECIFIED REAL PROPERTY TO THE INTERMEDIATE SCHOOL**  
19 **DISTRICT AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION WITHIN 30**  
20 **DAYS AFTER THE DISSOLVED SCHOOL DISTRICT IS DECLARED DISSOLVED. IF**  
21 **A RECEIVING SCHOOL DISTRICT DECLINES TO TAKE OWNERSHIP OF REAL**  
22 **PROPERTY UNDER THIS SUBSECTION, ALL OF THE FOLLOWING APPLY:**

23 (A) **THE INTERMEDIATE SCHOOL DISTRICT MAY ASSUME OWNERSHIP OF**  
24 **THE REAL PROPERTY. IF THE INTERMEDIATE SCHOOL DISTRICT DOES NOT**  
25 **ASSUME OWNERSHIP OF THE REAL PROPERTY, THE INTERMEDIATE SCHOOL**  
26 **DISTRICT SHALL OFFER THE REAL PROPERTY TO THE FOLLOWING, IN THE**  
27 **FOLLOWING ORDER:**

1           (i) OTHER SCHOOL DISTRICTS THAT ARE CONTIGUOUS TO THE RECEIVING  
2 SCHOOL DISTRICT.

3           (ii) THE CITY, VILLAGE, OR TOWNSHIP IN WHICH THE REAL PROPERTY  
4 IS LOCATED.

5           (iii) THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED.

6           (B) IF OWNERSHIP OF THE REAL PROPERTY IS NOT ASSUMED BY ANY  
7 ENTITY UNDER SUBDIVISION (A), THE INTERMEDIATE SCHOOL DISTRICT  
8 SHALL ASSUME OWNERSHIP OF THE REAL PROPERTY. IF THERE IS A BUILDING  
9 OR BUILDINGS LOCATED ON THE REAL PROPERTY, AND IF REQUESTED BY THE  
10 INTERMEDIATE SCHOOL DISTRICT, THIS STATE SHALL DEMOLISH THE  
11 BUILDING OR BUILDINGS LOCATED ON THE REAL PROPERTY.

12           (C) IF THE INTERMEDIATE SCHOOL DISTRICT SELLS REAL PROPERTY IT  
13 ACQUIRES UNDER SUBDIVISION (B), THE INTERMEDIATE SCHOOL DISTRICT  
14 SHALL REMIT THE PROCEEDS FROM THE SALE TO THE SUPERINTENDENT OF  
15 PUBLIC INSTRUCTION. THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL  
16 USE THE PROCEEDS AS FOLLOWS:

17           (i) FIRST, TO REPAY OUTSTANDING DEBT TO BONDHOLDERS OF THE  
18 DISSOLVED SCHOOL DISTRICT.

19           (ii) SECOND, TO REPAY OTHER OUTSTANDING DEBT TO OTHER CREDITORS  
20 OF THE DISSOLVED SCHOOL DISTRICT.

21           (iii) THIRD, TO REPAY THIS STATE FOR DEMOLITION COSTS INCURRED  
22 UNDER SUBDIVISION (B).

23           (iv) FOURTH, FOR DEPOSIT INTO THE STATE SCHOOL AID FUND.

24           (11) ~~(10)~~As used in this section:

25           (a) "Debt" means that term as defined in section 103 of the  
26 revised municipal finance act, 2001 PA 34, MCL 141.2103, and any  
27 unpaid amounts payable by a dissolved school district to the



1 Michigan public school employees' retirement board under the public  
2 school employees retirement act of 1979, 1980 PA 300, MCL 38.1301  
3 to 38.1437.

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