

SUBSTITUTE FOR
HOUSE BILL NO. 5232

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 553 (MCL 380.553), as amended by 2011 PA 277.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 553. (1) An authorizing body is not required to issue a
2 contract to any person or entity. Schools of excellence contracts
3 ~~shall~~**must** be issued on a competitive basis taking into
4 consideration the resources available for the proposed school of
5 excellence, the population to be served by the proposed school of
6 excellence, the educational goals to be achieved by the proposed
7 school of excellence, and the applicant's track record, if any, in
8 operating public school academies or other public schools.

9 (2) If a person or entity applies to the board of a school

1 district for a contract to organize and operate 1 or more schools
2 of excellence within the boundaries of the school district and the
3 board does not issue the contract, the person or entity may
4 petition the board to place the question of issuing the contract on
5 the ballot to be decided by the school electors of the school
6 district. The petition ~~shall~~**must** contain all of the information
7 required to be in the contract application under section 552 and
8 ~~shall~~**must** be signed by a number of school electors of the school
9 district equal to at least 5% of the total number of school
10 electors of that school district. The petition ~~shall~~**must** be filed
11 with the school district filing official. If the board receives a
12 petition meeting the requirements of this subsection, the board
13 shall have the question of issuing the contract placed on the
14 ballot at its next regular school election held at least 60 days
15 after receiving the petition. If a majority of the school electors
16 of the school district voting on the question vote to issue the
17 contract, the board shall issue the contract.

18 (3) Within 10 days after issuing a contract for a school of
19 excellence, the authorizing body shall submit to the superintendent
20 of public instruction a copy of the contract.

21 (4) An authorizing body shall adopt a resolution establishing
22 the method of selection, length of term, and number of members of
23 the board of directors of each school of excellence subject to its
24 jurisdiction. The resolution ~~shall~~**must** be written or amended as
25 necessary to include a requirement that each member of the board of
26 directors must be a citizen of the United States.

27 (5) A contract issued to organize and administer a school of
28 excellence ~~shall~~**must** contain at least all of the following:

29 (a) The educational goals the school of excellence is to

1 achieve and the methods by which it will be held accountable. The
2 educational goals ~~shall~~**must** include demonstrated improved pupil
3 academic achievement for all groups of pupils. To the extent
4 applicable, the pupil performance of a school of excellence ~~shall~~
5 **must** be assessed using at least ~~a~~**the** Michigan ~~education assessment~~
6 ~~program (MEAP) test~~**student test of educational progress (M-STEP)**
7 or the Michigan merit examination under section 1279g, as
8 applicable.

9 (b) A description of the method to be used to monitor the
10 school of excellence's compliance with applicable law and its
11 performance in meeting its targeted educational objectives.

12 (c) A description of the process for amending the contract
13 during the term of the contract.

14 (d) All of the matters set forth in the application for the
15 contract.

16 (e) Procedures for revoking the contract and grounds for
17 revoking the contract, including at least the grounds listed in
18 section 561.

19 (f) A description of and address for the proposed physical
20 plant in which the school of excellence will be located. An
21 authorizing body may include a provision in the contract allowing
22 the board of directors of the school of excellence to operate the
23 same configuration of age or grade levels at more than 1 site if
24 each configuration of age or grade levels and each site identified
25 in the contract are under the direction and control of the board of
26 directors.

27 (g) Requirements and procedures for financial audits. The
28 financial audits ~~shall~~**must** be conducted at least annually by a
29 certified public accountant in accordance with generally accepted

1 governmental auditing principles.

2 (h) A certification, signed by an authorized member of the
3 school of excellence board of directors, that the school of
4 excellence will comply with the contract and all applicable law.

5 (i) A requirement that the board of directors ~~shall~~ ensure
6 compliance with the requirements of 1968 PA 317, MCL 15.321 to
7 15.330.

8 (j) A requirement that the board of directors ~~shall~~ prohibit
9 specifically identified family relationships between members of the
10 board of directors, individuals who have an ownership interest in
11 or who are officers or employees of an educational management
12 organization involved in the operation of the school of excellence,
13 and employees of the school of excellence. The contract ~~shall~~ **must**
14 identify the specific prohibited relationships consistent with
15 applicable law.

16 (k) A requirement that the board of directors of the school of
17 excellence ~~shall~~ make information concerning its operation and
18 management available to the public and to the authorizing body in
19 the same manner as is required by state law for school districts.

20 (l) A requirement that the board of directors of the school of
21 excellence ~~shall~~ collect, maintain, and make available to the
22 public and the authorizing body, in accordance with applicable law
23 and the contract, at least all of the following information
24 concerning the operation and management of the school of
25 excellence:

26 (i) A copy of the contract issued by the authorizing body for
27 the school of excellence.

28 (ii) A list of currently serving members of the board of
29 directors of the school of excellence, including name, address, and

1 term of office; copies of policies approved by the board of
2 directors; board meeting agendas and minutes; copy of the budget
3 approved by the board of directors and of any amendments to the
4 budget; and copies of bills paid for amounts of \$10,000.00 or more
5 as they were submitted to the board of directors.

6 (iii) Quarterly financial reports submitted to the authorizing
7 body.

8 (iv) A current list of teachers and school administrators
9 working at the school of excellence that includes their individual
10 salaries as submitted to the registry of educational personnel;
11 copies of the teaching or school administrator's certificates or
12 permits of current teaching and administrative staff; and evidence
13 of compliance with the criminal background and records checks and
14 unprofessional conduct check required under sections 1230, 1230a,
15 and 1230b for all teachers and administrators working at the school
16 of excellence.

17 (v) Curriculum documents and materials given to the
18 authorizing body.

19 (vi) Proof of insurance as required by the contract.

20 (vii) Copies of facility leases or deeds, or both, and of any
21 equipment leases.

22 (viii) Copies of any management contracts or services contracts
23 approved by the board of directors.

24 (ix) All health and safety reports and certificates, including
25 those relating to fire safety, environmental matters, asbestos
26 inspection, boiler inspection, and food service.

27 (x) Any management letters issued as part of the annual
28 financial audit under subdivision (g).

29 (xi) Any other information specifically required under this

1 act.

2 (m) A requirement that the authorizing body must review and
3 may disapprove any agreement between the board of directors and an
4 educational management organization before the agreement is final
5 and valid. An authorizing body may disapprove an agreement
6 described in this subdivision only if the agreement is contrary to
7 contract or applicable law.

8 (n) A requirement that the board of directors ~~shall~~
9 demonstrate all of the following to the satisfaction of the
10 authorizing body with regard to its pupil admission process:

11 (i) That the school of excellence has made a reasonable effort
12 to advertise its enrollment openings.

13 (ii) That the school of excellence has made the following
14 additional efforts to recruit pupils who are eligible for special
15 education programs and services or English as a second language
16 services to apply for admission:

17 (A) Reasonable efforts to advertise all enrollment openings to
18 organizations and media that regularly serve and advocate for
19 individuals with disabilities or children with limited English-
20 speaking ability within the boundaries of the intermediate school
21 district in which the school of excellence is located.

22 (B) Inclusion in all pupil recruitment materials of a
23 statement that appropriate special education services and English
24 as a second language services will be made available to pupils
25 attending the school as required by law.

26 (iii) That the open enrollment period for the school of
27 excellence is for a duration of at least 2 weeks and that the
28 enrollment times include some evening and weekend times.

29 (o) A requirement that the board of directors ~~shall~~ prohibit

1 any individual from being employed by the school of excellence in
2 more than 1 full-time position and simultaneously being compensated
3 at a full-time rate for each of those positions.

4 (p) A requirement that, if requested, the board of directors
5 ~~shall~~ report to the authorizing body the total compensation for
6 each individual working at the school of excellence.

7 (q) For a contract that is entered into, extended, renewed, or
8 modified on or after the effective date of the amendatory act that
9 added this subdivision, a requirement that the names of the
10 authorizing body and the primary educational management
11 organization, if applicable, must appear and be verbally provided,
12 as applicable, on all of the following:

13 (i) Unless prohibited by a local ordinance or local zoning
14 authority, signage that is on the school of excellence's property
15 and is erected, repaired, or installed on or after the effective
16 date of the amendatory act that added this subdivision. However,
17 this requirement does not apply to a school of excellence that is a
18 cyber school.

19 (ii) Promotional material that is created, modified, or
20 distributed on or after the effective date of the amendatory act
21 that added this subdivision.

22 (iii) The footer of the school of excellence's website pages.

23 (iv) The school application that a student must submit to
24 enroll in the school of excellence.

25 (6) A school of excellence shall comply with all applicable
26 law, including all of the following:

27 (a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

28 (b) The freedom of information act, 1976 PA 442, MCL 15.231 to
29 15.246.

(c) 1947 PA 336, MCL 423.201 to 423.217.

~~(d) 1965 PA 166, MCL 408.551 to 408.558.~~

(d) ~~(e)~~ Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274.

(e) ~~(f)~~ Laws concerning participation in state assessments, data collection systems, state level student growth models, state accountability and accreditation systems, and other public comparative data collection required for public schools.

(7) A school of excellence and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of 1964 PA 170, MCL 691.1407. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for an act or omission in authorizing a school of excellence if the authorizing body or the person acted or reasonably believed ~~he or she~~ **the person** acted within the authorizing body's or the person's scope of authority.

(8) A school of excellence is exempt from all taxation on its earnings and property. Unless the property is already fully exempt from real and personal property taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, property occupied by a school of excellence and used exclusively for educational purposes is exempt from real and personal property taxes levied for school operating purposes under section 1211, to the extent exempted under that section, and from real and personal property taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. Instruments of conveyance to or from a school of excellence are exempt from all taxation including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. A school of excellence may not

1 levy ad valorem property taxes or another tax for any purpose.
2 However, operation of 1 or more schools of excellence by a school
3 district or intermediate school district does not affect the
4 ability of the school district or intermediate school district to
5 levy ad valorem property taxes or another tax.

6 (9) A school of excellence may acquire by purchase, gift,
7 devise, lease, sublease, installment purchase agreement, land
8 contract, option, or by any other means, hold, and own in its own
9 name buildings and other property for school purposes, and
10 interests therein, and other real and personal property, including,
11 but not limited to, interests in property subject to mortgages,
12 security interests, or other liens, necessary or convenient to
13 fulfill its purposes. For the purposes of condemnation, a school of
14 excellence may proceed under the uniform condemnation procedures
15 act, 1980 PA 87, MCL 213.51 to 213.75, excluding sections 6 to 9 of
16 ~~that act,~~ **the uniform condemnation procedures act, 1980 PA 87**, MCL
17 213.56 to 213.59, or other applicable statutes, but only with the
18 express, written permission of the authorizing body in each
19 instance of condemnation and only after just compensation has been
20 determined and paid.

21 **(10) As used in this section:**

22 **(a) "Educational management organization" means that term as**
23 **defined in section 553c.**

24 **(b) "Primary educational management organization" means an**
25 **educational management organization that is responsible for both of**
26 **the following:**

27 **(i) Administrative services or staff.**

28 **(ii) Educational and instructional services or staff.**

29 **(c) "Promotional material" means any of the following:**

- 1 (i) Billboards.
- 2 (ii) Internet advertisements.
- 3 (iii) Television advertisements.
- 4 (iv) Radio advertisements.