

THE REVISED SCHOOL CODE (EXCERPT)
Act 451 of 1976

380.12b School district as qualifying school district; loss of organization; transfer of records, funds, and property to community district; retention of certain proceeds, payments, and functions; functions and responsibilities of transition manager; allocation of grants and federal money; community district as successor entity; membership of qualifying school district for purposes of making state school aid allocations; effect of transfer date; duties of qualifying school district; exercise of duties by community district until dissolution of qualifying school district; repayment of outstanding obligations of qualifying school district; determination by state treasurer; certification; definitions.

Sec. 12b. (1) Beginning on the effective date of the amendatory act that added this section, if a school district is or becomes a qualifying school district, the school district shall lose its organization and be dissolved as provided in this section.

(2) If a school district loses its organization under subsection (1), except as otherwise provided in this section, all records, funds, and property of the qualifying school district are transferred on the transfer date to a community district created with the same geographic boundaries of the qualifying school district under part 5b. Except as otherwise provided in this section, proceeds from bonds, notes, or emergency loans, taxes levied by or payable to the qualifying school district, money payable to the qualifying school district under the state school aid act of 1979, and advances or other payments relating to any of these, and all of the qualifying school district functions described under subsection (3), shall be retained by the qualifying school district and are not transferred to the community district. A school building or other real property owned by the qualifying school district becomes part of and owned by the community district. If a qualifying school district has outstanding debt on the transfer date, the qualifying school district shall retain a limited separate identity as a school district and the territory of the qualifying school district shall continue as a separate taxing unit only for the limited public purposes of the repayment of the debt until the debt is retired, satisfying liability from legal claims filed before the transfer date, and protecting the credit of this state and of its school districts.

(3) Before the transfer date, the governor shall designate an individual who is authorized by law to act for and in the place and stead of the school board and superintendent of schools of the qualifying school district as the transition manager for the community district to perform functions and satisfy responsibilities of the community district, of the school board and superintendent of schools of the community district, and of the transition manager under this section until the elected members of the school board of the community district are elected and take office under section 384. Until that time, the transition manager shall exercise the powers, perform the functions, and satisfy the responsibilities of the school board and superintendent of schools of the community district, except that the transition manager shall not negotiate or enter into any collective bargaining agreement that would bind the elected school board of the community district. Until that date, the transition manager also shall perform the functions and satisfy the responsibilities of the school board and superintendent of schools of the qualifying school district relating to the repayment of debt and the dissolution of the qualifying school district, including, but not limited to, all of the following:

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

(b) Doing all other things relative to the repayment of outstanding debt of the qualifying school district required by law and by the terms of the debt, including, but not limited to, filing draw requests and borrowing from the revolving loan fund for debt service on qualified bonds under the school bond qualification, approval, and loan act, 2005 PA 92, MCL 388.1921 to 388.1939, levying or seeking voter approval for a renewal of a school operating tax under section 1211, or refunding or refinancing debt.

(c) Doing all other things relative to the dissolution of the qualifying school district.

(4) An individual designated as a transition manager under subsection (3) shall perform the functions and satisfy the responsibilities of a transition manager under this section from the time of the designation until the elected members of the school board of the community district are elected and take office under section 384. Officers, employees, agents, and contractors of the community district are subject to direction and supervision by the transition manager and shall actively cooperate with the transition manager in the transition manager's performance of functions and responsibilities under this section. The functions and responsibilities of the transition manager under this section include, but are not limited to, all of the following before, on, and after the transfer date:

(a) Appointing an interim superintendent of schools for the community district to perform the functions of the superintendent of schools for the community district only until a superintendent of schools is selected by the school board of the community district and takes office.

(b) Subject to the control of the financial review commission under section 387, adopting the initial budget and general appropriations act for the community district for the first fiscal year of the community district. The initial budget and general appropriations act are subject to amendment by the school board of the community district after the school board is elected and takes office under section 384.

(c) Subject to the control of the financial review commission under section 387, establishing financial and accounting systems for the community district and transferring financial records from the qualifying school district to the community district.

(d) Transferring student records from the qualifying school district in a manner that complies with laws applicable to student records.

(e) Taking action necessary to ensure that state or federal grants payable and expendable by the qualifying school district before the transfer date are payable and expendable by the community district as a successor entity to the qualifying school district after the transfer date.

(f) Taking action necessary to ensure that school buildings and other school property transferred to the community district by operation of law under this section are ready for use in the first school year that begins after the transfer date and preparing a schedule of all fixed assets transferred from the qualifying school district to the community district.

(g) Taking action necessary to ensure the continuity of ongoing educational programs operational both before and after the transfer date and properly accounting for the funding of the educational programs.

(h) Subject to the control of the financial review commission under section 387, negotiating and approving amended or new agreements with vendors of the qualifying school district to assure that the necessary services are available to be provided to the community district. This does not include a collective bargaining agreement.

(i) Adopting on behalf of the community district any policy or operating procedure required by law for a school district as necessary to ensure the community district's compliance with this act and other applicable law.

(5) As permitted under federal law, on the transfer date the superintendent of public instruction shall allocate to a community district receiving the functions and responsibilities of a qualifying school district for a public school under subsection (2) all applicable grants under 20 USC 6333, 20 USC 6334, 20 USC 6335, and 20 USC 6337, and 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 transfer of functions and responsibilities for the public school. The community district is the successor entity of the qualifying school district for purposes of receiving and expending federal grants.

(6) For a community district's first school year of operations only, until the department is able to calculate the community district's membership, the department shall use the membership of the qualifying school district for the purposes of making state school aid allocations to the community district under the state school aid act of 1979.

(7) Effective on the transfer date for a qualifying school district and the community district created with the same geographic boundaries of the qualifying school district under part 5b, all of the following apply:

(a) The community district acquires, succeeds to, and assumes the exclusive right, responsibility, and authority to own, occupy, operate, control, use, lease, and convey the facilities of the qualifying school district existing as of the transfer date, including all lands, buildings, improvements, structures, easements, rights of access, and all other privileges and appurtenances. The officers of the qualifying school district shall execute any instruments of conveyance, assignment, and transfer that are necessary or appropriate to accomplish the acquisition and succession under this subdivision. Occupancy of a facility by a community district under this subdivision is not considered to be a change in occupancy for any purpose under state or local law.

(b) Except as otherwise provided in this section, the community district acquires, succeeds to, and assumes all rights, title, and interests in and to the fixtures, equipment, materials, furnishings, and other personal property owned and used by the qualifying school district as of the transfer date. The officers of the qualifying school district shall execute any instruments of conveyance, assignment, and transfer that are necessary or appropriate to accomplish the acquisition and succession under this subdivision.

(c) Except as otherwise provided in this section, the community district acquires, succeeds to, and assumes all of the rights of the qualifying school district relating to the qualifying school district under any ordinances, agreements, or other instruments and under law. This includes, but is not limited to, a contract issued by the qualifying school district under this act to organize and operate a public school academy. This succession includes, and there is transferred to the community district, all licenses, permits, approvals, or awards related to the qualifying school district along with all grant agreements, grant pre-applications, and the right to receive the balance of any funds payable under the agreements.

(d) The community district has the right and authority to own, occupy, operate, control, use, lease, and

convey the facilities transferred by the qualifying school district, subject to any liens on the real property.

(e) Except for debt or other obligations retained by the qualifying school district under this section, the community district has the qualifying school district's right, title, and interest in and all of the qualifying school district's responsibilities and authority arising under leases, concessions, and other contracts for facilities.

(f) All records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, or general administration of the qualifying school district are transferred to the community district without reversion or impairment to the maximum extent permitted by law.

(g) A community district acquires, succeeds to, and assumes all of the rights, duties, and obligations under a collective bargaining agreement applicable to the qualifying school district on the transfer date. The terms and conditions of that collective bargaining agreement applicable to employees of the qualifying school district on the transfer date shall be the terms and conditions applicable to employees of the community district and except for the superintendent of schools, the community district shall be the successor employer for employees of the qualifying school district on the transfer date. Except for the superintendent of schools, an individual who is entitled to employment by the qualifying school district on the transfer date shall be entitled to employment by the community district following the transfer to the community district.

(h) For individuals who become employed by a community district by the operation of subdivision (g), the transition manager shall take all steps necessary to ensure that all personnel records are transferred from the qualifying school district to the community district. For an individual who becomes employed by a community district by the operation of subdivision (g), the community district is not required to obtain a criminal history check under section 1230 or a criminal records check under section 1230a or to request information concerning unprofessional conduct under section 1230b before employing the individual.

(i) On the transfer date, a pupil enrolled in the qualifying school district in the immediately preceding school year other than an individual who has completed grade 12 is automatically enrolled by operation of law in the community district for the next school year. The transition manager shall use best efforts to assign a pupil to the appropriate grade at the school the pupil attended in the preceding school year, or to another school that the pupil has applied and been admitted to before the transfer date, unless the appropriate grade is not offered at that school or that school is closed. The transition manager shall ensure that all pupil records are transferred from the qualifying school district to the community district in accordance with sections 1134 and 1135. This section does not diminish or limit the right of a pupil to attend a school of his or her choice.

(8) A transfer to a community district under this section does not impair a contract with a party in privity with the qualifying school district.

(9) Upon the transfer to a community district, the community district assumes and the qualifying school district is relieved from all operational jurisdiction over the qualifying school district and facilities and is relieved from all further costs and responsibility arising from or associated with operating a public school or providing public education services, except as otherwise required under obligations retained by the qualifying school district under this section, including, but not limited to, debt.

(10) A qualifying school district shall do all of the following:

(a) Refrain from any action that would impair a community district's exercise of the powers granted to the community district under this section or part 5b, or that would impair the efficient operation and management of the community district.

(b) Take all action reasonably necessary to cure any defects in title to property transferred from the qualifying school district to the community district.

(c) Upon creation of a community district and before the transfer date, conduct operations of the qualifying school district in the ordinary and usual course of business.

(d) Comply with the terms and conditions of any loan agreement between the qualifying school district and the local financial emergency assistance loan board under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, including, but not limited to, any terms and conditions providing for the payment of transitional operating costs incurred by a community district.

(e) Notify the state treasurer upon the repayment of all outstanding operating obligations of the qualifying school district.

(f) Notify the state treasurer upon the repayment of all outstanding debt of the qualifying school district.

(11) Upon the election and assumption of duties by the members of the initial elected school board of the community district, the school board of the qualifying school district is dissolved and the functions and responsibilities of the qualifying school district shall be exercised by the community district on behalf of the qualifying school district until the qualifying school district is fully dissolved under subsection (14).

(12) If the state treasurer is notified that all outstanding operating obligations of the qualifying school

district have been repaid, the state treasurer shall verify whether all outstanding obligations of the qualifying school district have been repaid. The state treasurer also may determine that the outstanding operating obligations of a qualifying school district have been satisfied on his or her own without notice. If the state treasurer determines that all outstanding operating obligations of the qualifying school district have been repaid, the state treasurer shall certify in a written notice to a community district that has the same geographic boundaries as the qualifying school district that the outstanding operating obligations of the qualifying school district have been repaid.

(13) If the state treasurer is notified that all outstanding debt of the qualifying school district has been repaid, the state treasurer shall verify whether all of the outstanding debt of the qualifying school district has been repaid. The state treasurer also may determine that the outstanding debt of a qualifying school district has been repaid on his or her own without notice. If the state treasurer determines that all of the outstanding debt of the qualifying school district has been repaid, the state treasurer shall certify in a written notice to a community district that has the same geographic boundaries as the qualifying district that all outstanding debt of the qualifying school district has been repaid.

(14) Upon certification by the state treasurer under subsection (13), the qualifying school district is fully dissolved and any remaining assets of the qualifying school district are transferred to the community district.

(15) 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 also includes any of the following:

(i) Obligations of the qualifying school district under an energy installment purchase contract.

(ii) Obligations of the qualifying school district under a capital lease.

(iii) Any unpaid amounts payable by the qualifying 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.

(iv) The repayment of any loan or obligations under any loan agreement between the qualifying school district and the local financial emergency assistance loan board under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

(v) The repayment of any school financing stability bonds under section 1356.

(vi) Any other monetary obligations of the qualifying school district.

(b) "Operating obligation" means debt of a school district incurred for purposes of financing the operation of a school district or public schools operated by a school district, including, but not limited to, fiscal stability bonds under section 1356 and an emergency loan under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, and transitional operating costs as defined in section 3 of the emergency municipal loan act, 1980 PA 243, MCL 141.933. Operating obligation does not include debt of a school district incurred for the purpose of constructing, renovating, maintaining, or otherwise improving school facilities unless the debt is incurred as transitional operating costs as defined in section 3 of the emergency municipal loan act, 1980 PA 243, MCL 141.933.

(c) "Transfer date" means the first July 1 after the date a school district becomes a qualifying school district. For a school district that became a qualifying school district on the effective date of the amendatory act that added this subdivision, the transfer date is July 1, 2016.

History: Add. 2016, Act 192, Imd. Eff. June 21, 2016.

Popular name: Act 451