

Legislative Analysis



ISD ACCOUNTABILITY

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4338 (Substitute H-7)
House Bill 4935 (Substitute H-3)
Sponsor: Rep. Ruth Johnson

House Bill 5458 (Substitute H-2)
Sponsor: Rep. David Woodward

House Bill 4947 (Substitute H-2)
Sponsor: Rep. John Gleason

House Bill 5530 (Substitute H-1)
Sponsor: Rep. John Stahl

House Bill 5376 (Substitute H-3)
Sponsor: Rep. Bruce Caswell

House Bill 5628 (Substitute H-1)
Sponsor: Rep. Fran Amos

Committee: Education

Complete to 3-15-04

A SUMMARY OF THE BILLS LISTED ABOVE AS REPORTED FROM THE HOUSE COMMITTEE ON EDUCATION ON 3-11-04

House Bill 4338 (H-7) would allow citizens to petition the board of an intermediate school district for the popular election of ISD board members; provide for the election of board members by voting district; allow for the recall and removal of board members; and impose term limits on board members.

House Bill 4935 (H-3) would allow the electors of an intermediate school district (ISD) to vote for removal of the ISD board, and to provide for the appointment of an accountability board.

House Bill 4947 (H-2) would require the disclosure of constituent school boards' voting preferences for intermediate school board (ISD) members.

House Bill 5376 (H-3) would require that the board of a school district and intermediate school district, or the board of directors of a charter school, advertise for construction bids by posting a bid advertisement for at least two weeks on the state Department of Management and Budget web site.

House Bill 5458 (H-2) would require that constituent school districts approve an intermediate school district's budget.

House Bill 5530 (H-1) would require each intermediate school district (ISD) to appoint a special education parent advisory committee.

House Bill 5628 (H-1) would amend the Michigan Election Law to require that members of popularly elected intermediate school districts be elected from the voting districts where they reside, and to require that those who sign nominating petitions for candidates reside in the voting district the candidate is seeking to represent. An individual appointed to fill a vacancy would also have to be a resident of the voting district he or she was appointed to represent.

A more detailed description of each bill follows.

House Bill 4338 (H-7) would amend the Revised School Code (MCL 380.612 et al) to allow citizens to petition an intermediate school district for the opportunity to elect intermediate school board members. It also would enable citizens and constituent districts to recall intermediate school board members. Finally, the bill would authorize the governor, under certain conditions, to remove intermediate school board members, and also school board members, if they were guilty of gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

Recall/Removal. There are 57 intermediate school districts in Michigan. Currently under the law, some ISD boards are popularly elected, and the Revised School Code contains election protocols that enable ISD board members to place the question of popularly elected ISD boards before all registered voters. However, the members of most intermediate boards are elected biennially by a body of electors composed of one member of the board from each of the ISD's constituent school districts. House Bill 4338 specifies that a member of an intermediate school board elected at a biennial election meeting, or appointed to fill a vacancy, would be subject to recall by the intermediate school electors, in the manner prescribed in Chapter 36 of the Michigan Election Law.

Further, a board member so elected could be removed from office by the boards of the constituent districts. Specifically, a member would be removed if a simple majority of the boards (half plus one) adopted resolutions requesting removal of the member, and filed those resolutions within a 60-day period with the secretary of the intermediate school board. (If the secretary were the subject of removal, then the resolutions would be filed with another officer.) Further, a board member so elected could be removed from office by the governor, under certain conditions.

Term Limits. The bill specifies that a member elected at a biennial election meeting (or appointed to fill a vacancy) would not be eligible to be elected as an ISD board member more than three times. Under the bill, a person appointed or elected to fill a vacancy for a period of two years or more would be considered to have been elected to serve one time in that office, for the purposes of this subsection. This limitation on the number of times a person could be elected would apply to terms of office beginning after the next biennial election meeting, following the effective date of this legislation.

Voting districts. Currently under the law, an intermediate school board can submit to its electors a ballot question that allows them to choose the members of the ISD board by popular election. House Bill 4338 would retain that provision, but also provide for the creation of voting districts, as well as for voting according to those voting districts.

However, the bill specifies that if an ISD had popular elections in effect as of January 1, 2004, then its members would be elected to represent voting districts *only if* the ISD electors had approved the creation of voting districts.

Size of popularly elected ISD boards. The question of whether to create voting districts within the ISD would have to be placed on the ballot in the ISD upon the receipt of petitions calling for the question, signed by a number of intermediate school electors at least equal to 25 percent of the number of votes cast for governor within the ISD at the most recent gubernatorial election. If the question were approved, all of the following would apply: a) the members would be elected to represent voting districts, beginning at the next election occurring at least two years after the question was approved; b) if the combined total membership of the constituent district of the ISD for the school year ending in the year the election occurred was 75,000 or less, then the ISD board would consist of seven members; and, c) if the combined total membership of the constituent districts was more than 75,000, then the ISD board would consist of nine members.

Citizen petitions for board election. Three of the 57 ISD boards are elected by popular election. The provisions of the law that provide for popular election of ISD board members require that an election be scheduled following receipt of resolutions (calling for a ballot question) from a majority of the boards of constituent districts, and representing more than one-half of the combined members of the constituent districts of the ISD, as of the latest pupil membership count day. Those resolutions must be adopted between December 1 and March 1. Under the bill, this provision would be retained, and the bill specifies the dates during which the resolutions must be adopted as between March 1 and the next succeeding July 1. Further, House Bill 4338 would require that a popular election be scheduled upon receipt of petitions calling for the ballot question that had been signed by a number of intermediate school electors at least equal to 25 percent of the number of votes cast for governor within the intermediate school district (at the most recent gubernatorial election). If a majority of school electors voted in favor of popular election, then members of the intermediate board would be elected at the next regular school election, and biennially thereafter at the regular school elections of the constituent districts.

Staggered initial terms. Currently under the law, at the first election, three members of the intermediate board are elected to a term of six years, two for a term of four years, and two for a term of two years. After the first election, their successors are elected biennially for terms of six years. In contrast, House Bill 4338 specifies that at the first election, four members would be elected for a term of four years, and three members elected for a term of two years. After the first elections, their successors would be elected biennially for terms of four years. However, the bill specifies that if the combined total membership of the constituent districts was less than 75,000, then five members would be elected for a term of four years, and four members would be elected for a term of two years. The ISD board would be required to determine by random draw the voting districts that would have an initial four-year term, and those that would have an initial two-year term.

Boundary lines; approval by state superintendent; re-determination every 10 years. House Bill 4338 requires that the ISD board submit the proposed boundary lines of its voting

districts to the state superintendent of public instruction for approval. The superintendent would be required to approve or disapprove the boundary lines within 30 days, and if he or she did not act on them, they would be considered approved. The ISD board would be required to re-determine the boundary lines of its voting district after each federal decennial census, not later than February 1 of the first year in which the ISD board members were to be elected following the official release of the census figures. If the ISD failed to have the re-determination in effect by February 1, then the state superintendent would make the re-determination within 10 days after that February 1. The bill specifies that the voting districts be compact, contiguous, and as equal as possible in population. The district lines would be required to break as few school district boundaries as was reasonably possible.

For an ISD that had popular election of board members in effect as of January 1, 2004, the ISD board would be required to establish the initial seven or nine voting districts within its boundaries not later than 18 months after the effective date of this legislation. These ISD boards also would be required to re-determine the boundary lines of their voting districts every ten years.

Under the bill, at the time an ISD board re-determined the boundary lines of its voting districts, it would be required to determine whether to change the number of ISD board members and voting districts based on a change in the combined total membership of the constituent districts. If the combined total membership of the constituent district of the ISD at that time was 75,000 or less, then the ISD board would consist of seven members; and, if the combined total membership of the constituent districts was more than 75,000, then the ISD board would consist of nine members. The ISD board would be required to ensure that the correct number of voting districts were established, and to provide for the election of the correct number of ISD board members at the next ISD district election occurring after the boundary lines had been determined.

Term limits. Under the bill, a person would not be eligible to be elected more than three times. Further, a person appointed or elected to fill a vacancy who served for a period greater than two years would be considered to have been elected to serve one time. The bill specifies that the limitation on the number of times a person could be elected to office would apply to terms of office that begin on or after January 1, 2005.

Removal from office by governor. An elected or appointed member of an intermediate school board, and also a member of a school board, could be removed by the governor, if the governor is satisfied from the evidence submitted that the board member was guilty of gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office. Before a governor removed a board member, all of the following procedures would have to be followed:

- charges would be submitted to the governor in writing specifying the grounds for removal. Those charges would be accompanied by an affidavit from the person making the charges, verifying that the person believed the charges to be true;

- a copy of the charges would be served on the board member. The bill provides that service must proceed in the following manner: 1) if the school board member can be found, by handing the member a copy of the charges and of any affidavits or exhibits accompanying the charges; 2) if the board member cannot be found, by leaving a copy of the charges and of any affidavits or exhibits with a person of suitable age at the board member's last known place of residence (or, if an appropriate person is not available, by posting the copy in a conspicuous place at the board member's residence).

The bill specifies that the intermediate school board member must be given an opportunity to respond to the charges.

Three-year ban. Under the bill, a person who was removed from office in this manner would not be eligible for election or appointment to a school board or intermediate school board for a period of three years from the date of removal.

Board officers must be board members. In addition, House Bill 4338 would require that beginning July 1, 2004, all officers of the intermediate school board be members of the intermediate school board. Currently, only the president and vice-president must be members of the intermediate board, while the secretary and treasurer need not be board members.

House Bill 4935 (H-3) would amend the Revised School Code (MCL 380.601a et al) to allow the electors of an intermediate school district (ISD) to vote for removal of the ISD board, and to provide for the appointment of an accountability board.

The bill specifies that an ISD would be placed under the governance of an accountability board if a majority of the intermediate school electors voting on the question approved the change in governance of the ISD. The question of placing the ISD under the governance of an accountability board would be placed on the ballot, if either of the following occurred: a) the intermediate school board was petitioned to place the question on the ballot by a number of intermediate school electors at least equal to 25 percent of the number of votes cast for governor within the ISD at the most recent gubernatorial election; or b) if, in instances where the ISD consisted of more than 10 constituent districts, the school boards of more than one-half of the constituent districts of the ISD submitted resolutions (within a 120-day period) to the intermediate school board requesting that the question be placed on the ballot. The bill specifies that the ISD would submit the question to the electors at the next regular school election occurring at least 90 days after receiving the petition, or the last of the resolutions.

If the question of placing an ISD under the governance of an accountability board was approved, then not later than 30 days after the election, the state superintendent of public instruction and the superintendents of the constituent districts would be required to appoint an accountability board for the affected school district. A seven-member accountability board would consist of four members appointed by majority vote of the superintendents of the constituent districts of the intermediate school district; and three additional members, one each appointed by the governor, the Senate Majority Leader, and the Speaker of the House. The bill specifies that a person who was a current member of the intermediate

school board of the ISD would not be eligible for appointment as a member of the accountability board. Further, at least a majority of the members of the accountability board would be required to be school electors of the ISD.

The term of appointed members would be four years. However, regarding the terms of those members first appointed by the district superintendents, two would be appointed for a term of two years, and two would be appointed for a term of four years. Further, the first appointees of the governor, majority leader and speaker would be four years, two years, and four years, respectively.

Under the bill, a member of the accountability board would serve at the will of the official who appointed him or her. In addition, a member appointed by the district superintendents could be removed from office by a majority vote of the superintendents of the constituent districts. If a member of the accountability board were removed from office by the official or group who appointed the member, or was unable to complete his or her term, the appointing official or group would appoint a successor for the balance of the unexpired term. At the end of a member's term, the official or group who appointed the member would appoint a successor, or reappoint the member.

The bill specifies that the superintendents of the constituent districts would call the first meeting of the accountability board and designate its chairperson. (If there were a vacancy in the office of chairperson, then the superintendents would designate a successor.) At the first meeting of the accountability board, its members could elect other officers as they considered necessary or appropriate. After the first meeting, the board would meet at least monthly, or more frequently either at the call of the chair, or if requested to do so by four or more members. A majority of the members of the accountability board would constitute a quorum for the transaction of business; however, a majority of the members present and serving would be required for official action of the board. Members of the board would serve without compensation, but they could be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board.

Under the bill, if the question of placing an ISD under the governance of an accountability board was approved, then beginning 30 days after the election, the powers and duties of the ISD board and of its officers would be suspended unless and until a new intermediate board had been elected. Beginning 30 days after the election, all of the following would apply:

- all provisions of the act that would otherwise apply to the ISD board or to the ISD superintendent would apply to the accountability board, and the accountability board could immediately exercise all the powers and duties otherwise vested by law in the ISD board and in its officers, and all powers and duties of the ISD superintendent; and
- the accountability board would accede to all the rights, duties, and obligations of the ISD board, including but not limited to, all of the following: authority over the expenditure of all intermediate school district funds, including proceeds from bonded indebtedness and other funds dedicated to capital projects; rights and obligations under collective bargaining agreements and employment contracts entered into by the intermediate school board; rights to prosecute and defend litigation; obligations under any judgments entered against the

intermediate school board; rights and obligations under statute, rule, and common law; and the authority to delegate any of the reform board's powers and duties to one or more designees, with proper supervision by the reform board.

In addition to its other powers, the accountability board could terminate any contract entered into by the ISD board, except for a collective bargaining agreement. However, this provision would not allow any termination or diminishment of obligations to pay debt service on legally authorized bonds. A contract terminated by the reform board would be void.

Beginning 30 days after the election, each employee of the ISD whose position was not covered by a collective bargaining agreement would be employed at the will of the accountability board.

The bill specifies that an accountability board could employ or contract with an intermediate superintendent or other administrative officials for the ISD.

Under the bill, neither the state superintendent, the state, the accountability board, nor an intermediate superintendent or other appointed official would be liable for any obligation of or claim against an ISD resulting from an action taken to call the election and create the accountability board.

After five years following the reform board's appointment, the question of whether to retain the accountability board, and also the authority of the constituent superintendents together with the governor and legislative leaders to appoint the reform board would automatically be placed on the ballot in the ISD, at the next regular school election occurring at least 90 days after the five years expired. The bill specifies the form the question must take.

If the question were approved by a majority of the ISD electors voting, the accountability board would continue in place in the ISD, the authority of the ISD's constituent district superintendents, the governor and the legislative leaders to appoint members would continue, and the question would not be placed on the ballot again for five years. However, the question could not be placed on the ballot again in five years unless petitions calling for the question were filed with the county clerk for the county in which the majority of the territory of the ISD was located, not sooner than four years after the election. Those petitions would have to be signed by a number of intermediate school electors of the ISD at least equal to 10 percent of the number of votes cast within that county for secretary of state in the most recent November general election in which a secretary of state had been elected. If the petitions were verified, the question would be on the ballot in the ISD at the next regular school election occurring at least five years after the question was most recently on the ballot, and at least 90 days after the petitions were verified.

If the question were not approved by a majority of the intermediate school electors voting, then the accountability board would arrange for selection of a new elected intermediate school board. This election would be at a special election held as soon as practicable, but not sooner than 90 days after the election. Effective 30 days following the election, the

new intermediate school board of the ISD would serve as the governing body of the ISD, and this intermediate board and its officers would be fully vested with all the powers and duties that those officials had before the appointment of the reform board. Also effective 30 days after the election, the powers of the reform board established for the ISD and of all officials appointed, would cease, and the provisions of this law concerning the call for an election to appoint a reform board would not apply to the ISD.

House Bill 4947 (H-2) would amend the Revised School Code (MCL 380.614) to require the disclosure of constituent school boards' voting preferences for intermediate school board (ISD) members.

Currently under the law, when the members of an intermediate school board who govern an intermediate school district (ISD) are elected by the members of the ISD's constituent district school boards, that election is held biennially on the first Monday in June, by a body composed of one member of the board of each constituent school district. Under House Bill 4947, the board of a constituent school district would be required to designate its representative to this electoral body by resolution, adopted within 21 days of the biennial election. The board would be required to consider the resolution during at least two public meetings before adopting it by a majority vote of those members serving. In the resolution designating its representative, the board of the constituent school district also would be required to identify the candidate the board supported for each position that was to be filled on the intermediate school board, and to direct its representative to vote for that individual or individuals, at least on the first ballot taken by the electoral body.

Finally, the bill requires that the meeting of the electoral body be an open meeting conducted in the manner prescribed under the Open Meetings Act.

House Bill 5376 (H-3) would amend the Revised School Code (MCL 380.1267) to require that the board of a school district, and intermediate school district, or the board of directors of a charter school, advertise for construction bids by posting a bid advertisement for at least two weeks on the state Department of Management and Budget web site. The bid advertisement could be posted on a DMB web site page that was maintained for that purpose, or on a web site maintained by a school organization that had been designated by the department for that purpose. If the DMB designated a school organization web site, then the department's web site would be required to include that fact, as well as a link on its web site to the school organization web site.

Currently under the law, a school district or charter school must advertise a bid once each week for two successive weeks in a local newspaper where the building or addition is to be constructed or renovated. House Bill 5376 would eliminate this requirement.

Also, currently school officials must advertise bids when buildings, renovations, or repairs cost more than \$12,500. Under House Bill 5376, this threshold would be raised to \$17,932.

House Bill 5458 (H-2) would amend the Revised School Code (MCL 380.624) to require that constituent school districts approve an intermediate school district's budget.

Currently under the law, an intermediate school board prepares an annual general fund operating budget, and files the budget with the county clerk of each county in which the intermediate school district (ISD) is located. Each county clerk delivers the budget to the county tax allocation board, in the same manner as other school district budgets are handled. Then not later than June 1 of each year, the intermediate school board submits the budget, for review, to a meeting of one board member named from each constituent district. At that meeting, the president of the intermediate board presides, and the intermediate secretary keeps the minutes. House Bill 5458 would modify this oversight protocol, as follows:

- Not later than May 1 of each year, an intermediate school board would be required to submit its proposed budget for the next fiscal year to the board of each constituent district for review.

- Then, not later than June 1, each constituent district board would be required to review the proposed ISD budget, and submit any specific objections and proposed changes. If an intermediate school board received any specific objections or proposed changes, the board would have to consider them.

- Not later than June 15 of each year, the ISD board would be required to submit the proposed budget for review and approval to a meeting consisting of one board member from each constituent district. At that meeting, the president of the intermediate board presides, and the intermediate secretary keeps the minutes. Approval of the proposed ISD budget would be by a majority vote of the representatives of the constituent districts present at the meeting.

The bill specifies that if the intermediate board received one (or more) resolution(s) disapproving its proposed budget, then not later than June 1 the intermediate board would revise the budget, taking into account the objections and proposed changes. Then also by June 1, the intermediate board would submit the proposed budget for review and approval to a meeting consisting of one board member from each constituent district. At the meeting, the president of the intermediate board would preside, and the intermediate secretary would keep minutes. Under the bill, approval of the proposed intermediate budget would be by a majority of the representatives of the constituent districts who were present at the meeting.

House Bill 5530 (H-1) would amend the Revised School Code (MCL 380.1744) to require each intermediate school district (ISD) to appoint a special education parent advisory committee.

Under the bill, the committee and its officers would consist only of parents of students with disabilities, with at least one parent from each constituent school district and public school academy (unless no parent agreed to serve). Each constituent district board and each public school academy board of directors would nominate at least one parent to serve on

the committee. The intermediate school board could appoint additional members; however, the number of their appointees could not exceed one-third of the total number of parent members.

The bill specifies that each intermediate school board make every attempt to assure that all types of impairments and all identifiable organizations of students with disabilities be represented on the committee. The bill also specifies that the intermediate school board could recommend operational procedures for review and adoption by the committee. Further, the ISD would be required to secure or allocate fiscal and staff resources to the committee, to make it efficient and effective in operation.

Under the bill, the parent advisory committee would be required to determine and document, in writing, the organizational structure of the committee, including at least all of the following: a) officers and their responsibilities; b) meeting times; c) notice of meetings times; d) voting procedures; e) terms of office; and f) related matters. The bill specifies that the committee would participate in the development of the ISD's plan, or any modification of the plan, for the delivery of special education programs and services as required by R 340.1833 of the Michigan Administrative Code. Finally, the parent advisory committee could provide advice on any matters that the committee considered appropriate to the improvement of special education services within the intermediate school district.

Finally, the bill requires that the business of the parent advisory committee be conducted at a public meeting held in compliance with the Open Meetings Act, and that any writing prepared, owned, used, in the possession of, or retained by the parent advisory committee in the performance of its official functions be subject to the Freedom of Information Act.

House Bill 5628 (H-1) would amend the Michigan Election Law (MCL 168.302 et al.) to require that members of popularly elected intermediate school districts be elected from the voting districts where they reside, and to require that those who sign nominating petitions for candidates reside in the voting district the candidate is seeking to represent. An individual appointed to fill a vacancy would also have to be a resident of the voting district he or she was appointed to represent.

The bill is tie-barred to House Bill 4338 which would amend the Revised School Code to establish new provisions dealing with ISD boards whose members are elected either by popular elections, or by constituent school districts.

The bill would amend sections of the Michigan Election Law added by Public Act 302 of 2003 and that take effect January 1, 2005. House Bill 5628 would provide that the sections would apply when House Bill 5628 took effect for those intermediate school districts that had a popularly elected school board. Otherwise, the sections would not take effect until the scheduled date, January 1, 2005.

The bill would specify that to be eligible to be elected to a popularly elected intermediate school board from a voting district established under proposed new sections of the Revised School Code, an individual would have to be a qualified and registered elector of the ISD

and reside in the voting district in which the individual became a candidate. (This would also apply to a person appointed to fill a vacancy.)

Further, the bill would specify that, before an individual's name appeared on the official ballot as a candidate, the individual would have to file a nominating petition, and the electors signing the nominating petition would be required to be electors of the intermediate school district who resided in the voting district where the candidate was running. The number of signatures required on the petition would be based on the population of the voting district.

Finally, the bill specifies that the office of an elected school board member would become vacant immediately if the board member moved his or her residence from the voting district he or she represented.

FISCAL IMPACT:

The following information is preliminary and will be updated as necessary.

House Bill 4338 would have no state fiscal impact. There could be an indeterminate amount of additional election costs for any local school district that has to hold an additional election.

House Bill 4935 would have no fiscal impact to the state; however it could create an indeterminate amount of local election costs in cases where special elections were necessary.

House Bill 4947 would have no state or local fiscal impact.

House Bill 5376 would result in minimal cost increase to the state. A portion of a staff person would be required to set-up and maintain the school construction bid web site.

House Bill 5458 would have no state or local fiscal impact.

House Bill 5530 would have no state fiscal impact. The bill would have minimal fiscal impact to intermediate school districts, which would be required to staff and earmark funds to assist the parent advisory committee in its mission.

Legislative Analyst: J. Hunault
Fiscal Analysts: Mary Ann Cleary,
Laurie Cummings

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.