



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 5921 (Substitute H-4 as passed by the House)  
Sponsor: Representative Ruth Johnson  
House Committee: Education  
Senate Committee: Education

Date Completed: 9-30-04

## **CONTENT**

**The bill would amend the Revised School Code to do the following:**

- Require intermediate school boards to adopt and implement a conflict of interest policy and a policy to prohibit the use of intermediate school district (ISD) funds for certain purchases.**
- Require the Department of Education to prepare and distribute model policies.**
- Prohibit intermediate school board members or ISD administrators from accepting anything worth more than \$44 a month from a person doing business with the ISD, without providing equivalent goods or services.**
- Prohibit an intermediate school board from entering into a contract in which a board member or ISD administrator had a substantial conflict of interest.**
- Require board members and ISD administrators and employees to disclose their relationship with (or a family member's employment by or ownership interest in) a business with which the ISD was considering entering into a contract.**
- Require an employment contract between an intermediate school board and a school administrator to prohibit conduct involving moral turpitude.**
- Require an intermediate school board to adopt bylaws providing for the transition from six-year terms to four-year terms, and ensuring the election of one member each year.**
- Allow an intermediate school board to change its size from five to seven members.**

### Conflict of Interest; Acceptance of Goods

The bill would require each intermediate school board, by July 1, 2005, to adopt and implement a conflict of interest policy designed to avoid conflicts of interest by ISD officials and employees.

Also by July 1, 2005, each intermediate school board would have to adopt and implement a policy to prohibit the use of ISD funds or other public funds under the ISD's control for purchasing alcoholic beverages, jewelry, gifts, golf fees, or any item whose purchase or possession is illegal. The policy could allow the use of public funds for the purchase of a plaque, medal, trophy, or other award for the recognition of an employee, volunteer, or pupil if the purchase did not exceed \$100 per recipient. (The bill would define "public funds" as funds generated from taxes levied under the Code, State appropriations of State or Federal funds, or payments to the ISD for services by a constituent district or any other person. The term would not include voluntary contributions made for a specific purpose by an ISD board member or employee, another individual, or a private entity.)

The Department of Education would have to develop, and distribute to ISDs, a model policy meeting these requirements and a model conflict of interest policy.

The bill would prohibit an intermediate school board member or an ISD administrator, in any one-month period, from accepting any money, goods, or services with a value over \$44 from a person doing business with the ISD or seeking to do business with the ISD, if the board member or administrator did not provide goods or services of equal value in exchange. This would not apply to a gift or reward already prohibited under Section 1805. (That section makes it a misdemeanor for a school superintendent, official, principal, or teacher to act as the agent for a publisher or seller of schoolbooks or school apparatus, or receive a gift or reward for his or her influence in recommending the purchase or use of a schoolbook, apparatus, or furniture.)

The bill also would prohibit an intermediate school board from entering into a proposed contract in which a board member or administrator had a "substantial conflict of interest". That term would mean a conflict of interest on the part of an intermediate school board member or ISD administrator in respect to a contract with the ISD "that is of such substance as to induce action on his or her part to promote the contract for his or her personal benefit". The bill describes types of contracts in which there would be no substantial conflict of interest.

Beginning in 2005, the monetary amounts specified above would have to be adjusted each January 1 according to the annual average percentage increase or decrease in the Detroit consumer price index—all items. The adjustment would apply only to expenditures or violations occurring after the date the amount was adjusted.

#### Disclosure of Interest

The bill would require disclosure by an intermediate school board member, an ISD administrator, or an ISD employee who recommended, negotiated, or was authorized to sign a contract on behalf of the ISD, if he or she either were employed by or under contract with a business enterprise with which the ISD was considering entering into a contract, or knew that he or she had a family member who had an ownership interest in or was employed by a business enterprise with which the ISD was considering entering into a contract. The board member, administrator, or employee would have to disclose this fact to the intermediate school board at a public meeting of the board before it entered into the contract.

The board then would have to vote at a public meeting on whether it considered the relationship described in the disclosure to be a conflict of interest. The board could not enter into the contract without first voting at a public meeting to do so.

("Family member" would mean a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse. The term would include these relationships as created by adoption or marriage.)

#### Moral Turpitude

The bill would require an intermediate school board to ensure that each employment contract with a school administrator employed by the ISD included a provision prohibiting the administrator from engaging in conduct involving moral turpitude. The contract also would have to include a provision allowing the board to void the contract if the administrator violated the prohibition.

## Board Membership & Elections

The Code provides for the election of intermediate school boards in two different ways. Under Section 614, board members are elected biennially by an electoral body composed of one person designated by the board of each constituent district. Under Sections 615 to 617, board members are elected biennially by popular vote of the district's electors, if the intermediate school board submits to the voters the question of adopting Sections 615 to 617, and the voters approve the question. Also, under Section 701, two or more adjoining ISDs may form a single ISD governed by an elected board, upon voter approval.

The size of an intermediate school board elected by popular vote is seven members, and a board under Section 701 may have seven members. Otherwise, a board has five members. Under the bill, an intermediate school board could change the number of board members to seven, by resolution. Before adopting the resolution, the board would have to hold at least two public hearings. If a board determined that the terms of its members should be staggered differently than provided under the Code or any bylaws of the board due to a change in the number of board members, the board could adopt bylaws or amend its bylaws to change the way that members' terms were staggered. The bylaws also could alter the current terms of members to implement the change in the way terms were staggered.

Presently, a member of the board of a constituent district is eligible for election or appointment to membership on the intermediate school board. Under the bill, this would apply until the 2005 intermediate school board election. Beginning with that election, not more than three members of the ISD board could also be serving at the same time as a member of the board of a constituent district or board of directors of a public school academy. If the ISD board had more than three members serving on September 1, 2004, who also were on the board of a constituent district, the bill's limitation would not apply to that ISD board until the current term of those ISD board members expired.

Under the Code, the terms of intermediate school board members are six years. The bill provides that, beginning with the terms of board members elected after January 1, 2009, the term of each member would be four years. By April 1, 2005, each ISD board would have to adopt bylaws for the election of board members that would provide for the transition to four-year terms, as well as the annual election of board members. The bylaws would have to ensure that all members were elected for four-year terms beginning with the 2009 election, and that at least one member was elected each year. The bylaws could alter the current terms of members serving at the time the bylaws were adopted. These provisions would apply ISD boards selected by an electoral body under Section 614, as well as ISD boards elected by popular vote under Sections 615 to 617.

Presently, if adjoining districts form a single district under Section 701, at the first election three members must be elected for six years, two for four years, and two for two years. Under the bill, two members would have to be elected for four years, two for three years, and one for one year.

MCL 380.611 et al.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The Department of Education would face increased staff time and materials costs related to the requirement in Section 634(3) that the Department develop and distribute a model conflict of interest policy and a model policy defining allowable uses of public funds by intermediate school districts.

Intermediate school boards would face increased staff time and materials costs related to the various policy adoption and implementation requirements of this legislation.

Fiscal Analyst: Kathryn Summers-Coty

S0304\5921sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.