

# Legislative Analysis



## SCHOOL DISTRICT DISSOLUTION

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**House Bill 4813 (Substitute S-2) as amended**

**House Bill 4815 (Substitute S-2)**

**Sponsor: Rep. Bill Rogers**

*(Enacted Version)*

**Committee: Education**

**Complete to 6-20-13**

## A SUMMARY OF HOUSE BILLS 4813 AND 4815 AS PASSED BY THE SENATE 6-19-13

The bills would allow for the dissolution of a school district and provide for the attachment of the dissolved district's territory to one or more receiving schools. A more detailed description of each bill follows.

House Bill 4813 would amend the Revised School Code (MCL 380.12) to put in place the criteria and procedures for dissolution of a school district and the attachment of the dissolved district's territory to one or more school districts nearby (to be known as receiving districts).

House Bill 4815 would amend the School Aid Act (MCL 388.1607 et al) to revise its references to the Local Financial Stability and Choice Act, provide for the implementation of school district dissolution, and provide \$4.9 million in additional funding related to the dissolution and transfer of students to other districts.

A more detailed description of the bills follows.

### **House Bill 4813**

Under House Bill 4813, a school district would lose its organization and be declared dissolved if any of the following conditions were met:

- there were not enough people residing in the school district and qualified under law to hold all of the offices of the school district (or who would accept the offices of the school district);
- after consultation with the intermediate school district in which the district is located, the state school superintendent and state treasurer jointly determined that all of the following applied:

(1) the school district had not submitted its required deficit elimination plan, or lacked the capability to both implement a plan and meet the district's obligations to provide public educational services in a manner that complied with the Revised School Code, the State School Aid Act, and the rules promulgated by the Department of Education;

- (2) the school district was not financially viable and was unable to educate students in grades K-12 residing in the district by operating for a full school year and providing the required number of instructional hours;
- (3) the school district has fewer than 2,500 pupils in membership; and
- (4) the number of pupils in the district in the most recently completed school year is at least 10% less than the number of pupils in the immediately preceding school year.
- (5) the district began the year with an operating deficit and is projected to end the year with a greater operating deficit or received a loan from the local emergency financial assistance loan board that effectively reduces the deficit for the year.
- (6) the district has not consolidated with another district during the immediately preceding 12 calendar months.

The bill would define "financially viable" for the above criteria as having the financial resources to carry out at least the education program required by law and pay its existing debt as they become due taking into consideration the projected enrollment, cash flow, revenues, and borrowing capability of the district.

If one or more of the conditions above were met, then the intermediate school board or the state school superintendent (if requested to do so by the intermediate school board) would declare the school district dissolved, and immediately order attachment of the district's territory (in whole or in part) to one or more other organized receiving school districts within the intermediate district. [The bill defines "receiving school district" to mean a school district to which all or part of the territory of a dissolved school district is attached.]

The bill specifies that in attaching the territory of the dissolved school district to other school districts, the intermediate school board or the state superintendent would be required to take into account the number of students who are transferred into each of those other school districts relative to the number of students already enrolled in the receiving school district, as well as the number of students who qualify for free and reduced price lunch, special education services, and at risk funding.

For a district dissolved in 2013, within 21 days after a school district is declared dissolved, that district must account to the intermediate school district for all records, funds, and property of the school district, and make an equitable distribution of them, consistent with the ordered attachment to each receiving school district. For a district dissolved after 2013, the district would have 60 days.

#### ***Outstanding Debt of Dissolved District***

Under the bill, if a dissolved school district has outstanding debt, then it would retain a limited separate identity, and the territory of that dissolved school district would continue as separate taxing unit until the debt was retired or refunded. The board and other officers of the school district to which the largest share of the state equalized value of the dissolved district was attached would perform the functions of the dissolved district relating to the debt, including, but not limited to, all of the following:

- certifying and levying taxes for satisfaction of the debt in the name of the dissolved district;
- holding debt retirement funds of the dissolved district separately from the funds of the receiving district; and
- doing all other things relative to the outstanding debt required by law, including, but not limited to levying or renewing a school operating tax under Section 1211.

### ***Renewal of Debt Millage***

The bill specifies that the question of renewal of a school operating tax pledged to the repayment of debt would be submitted only to school electors who reside within the geographic area of the dissolved district, and would not require approval by electors of a receiving district.

### ***Audit of Assets and Liabilities***

Upon attachment of a dissolved school district, the intermediate school board would audit the assets and liabilities of the dissolved district, and if a considerable discrepancy were found, the intermediate school board would order the dissolved district to pay the discrepancy. After first satisfying debt obligations, the dissolved school district would repay that amount to the applicable receiving districts from money available to the dissolved district, including voted millage, within a period of time determined by the intermediate school board.

### ***Tax Levy in Receiving District***

Further, if a tax was authorized within a receiving school district at rate greater than the rate in the dissolved district at the time of the dissolution, that tax could not be levied within the geographic area of the dissolved district until approved by the school electors residing in the dissolved district or by all school electors within the receiving district, including any expanded geographic area of the receiving district.

### ***Sinking Funds***

If a dissolved school district levied a sinking fund tax (under Section 1212) at the time of dissolution, then the identity of the dissolving district as a legal entity would not be lost, and its territory would remain as a taxing unit for the limited purpose of levying a sinking fund tax, until that authorization expired. The bill specifies that for the purposes of this subsection, the board and other officers of the receiving school district that received the largest share of the state equalized valuation of the dissolved district would perform the functions of the dissolved district, and would distribute the proceeds of the levy to each receiving school district that operated a school building previously operated by the dissolved district.

The proceeds of a sinking fund levy could be used only within the geographic area of the dissolved district for purposes authorized under Section 1212. A receiving district could not renew or authorize a new sinking fund tax levy only within the geographic area of the dissolved school district.

### ***Test Scores***

Under the bill, to the extent allowed under federal law and any applicable waiver approved by the US Department of Education, the Michigan Department of Education would be prohibited from including the test scores of students from the dissolved district when determining adequate yearly progress status, or for "top-to-bottom" rankings of the receiving school districts, for the three school years after dissolution.

The bill would also prohibit the use of test scores of students from the dissolved district as a factor in employee performance evaluations for the first three school years after dissolution.

### ***Student Rights***

The bill specifies that the students formerly enrolled in the dissolved district would have all the legal and constitutional rights and privileges of the other students enrolled in the receiving school districts.

### ***Federal Grants and Funds***

Finally, the bill specifies that, as permitted under federal law, if a school district is dissolved, or if the functions and responsibilities of a school district are transferred to another public entity, including but not limited to a transfer to another public entity under Section 1280c, the state school superintendent must grant each receiving school district or other public entity, an allocation of grants under certain specified federal laws, as well as an allocation of other federal funds that would otherwise be made available for grants to, or federal funding for, the public school (or to make other adjustments in the allocation of federal funds to implement the dissolution of the school district or other transfer of functions and responsibilities).

## **House Bill 4815**

House Bill 4815 would amend the School Aid Act (MCL 388.1607 et al) to revise its references to the Local Financial Stability and Choice Act, provide for the implementation of school district dissolution, and provide \$4.9 million in additional funding related to the dissolution and transfer of students to other districts.

### ***Section 11 - Total Appropriations***

The bill would increase the General Fund appropriations in the FY 2013-14 School Aid budget by \$4.9 million to a total of \$234.9 million. The Gross appropriation would increase to a total of \$13,366.7 million based on HB 4228 As Enrolled.

### ***Section 11g - Durant Debt Services Payments***

For the purposes of Section 11g, Durant debt service payments, the bill specifies that if a district eligible for payments under this section is dissolved under Section 12 of the Revised School Code, then the intermediate district of the dissolved district would receive an amount otherwise payable to the dissolved district. The intermediate district would perform any functions and responsibilities of the board and other officers of the dissolved district necessary under this section, on behalf of the dissolved district.

### ***Sections 20 and 22a - Foundation Allowances***

The bill would provide \$2.7 million to fully fund the foundation allowances of the receiving districts to replace the local school operating revenue from the dissolved district, which would be diverted to pay the dissolved district's debt.

Under House Bill 4815, a receiving district would continue to receive its foundation allowance as calculated under Section 20 for all of its students, both original students and new students due to the dissolution and attachment.

House Bill 4815 specifies that for the purposes of calculating a foundation allowance for a receiving district, if school operating taxes continued to be levied on behalf of a dissolved district to satisfy debt obligations of the dissolved district, then when calculating the taxable value per membership pupil of property in the receiving district, the taxable value of property within the geographic area of the dissolved district would be excluded.

House Bill 4815 specifies that for the purposes of these sections for a receiving district, if school operating taxes were to be levied on behalf of a dissolved district to satisfy debt obligations, then 'taxable value per membership pupil' of all property in the district that is non-exempt property, and the 'taxable value per membership pupil' of property in the district that is commercial personal property, would not include property within the geographic area of the dissolved district; ad valorem property tax revenue of the district captured under tax increment financing acts (TIFAs) would not include ad valorem property tax revenue captured within the geographic boundaries of the dissolved district under tax increment financing acts; and certified mills would not include the certified mills of the dissolved district.

House Bill 4815 would add a new definition of "dissolved district" to mean a district that loses its organization, has its territory attached to one or more other school districts, and is dissolved as provided under Section 12 of the Revised School Code.

The bill would revise the definition of the phrase "local school operating revenue" for a receiving district to exclude the operating taxes levied in the dissolved district if they are to be levied to satisfy debt obligations under Section 12 of the Revised School Code.

The bill would add a new definition of "receiving district" to mean a school district to which some or all of a dissolved district was attached under Section 12 of the Revised School Code, MCL 380.12.

The bill would also modify the definition of the phrase "school operating purposes" so that it would extend to purposes authorized under section 1211 of the Revised School Code, MCL 380.1211.

### ***Section 20g - Dissolution Transition Costs***

The bill would provide \$2.2 million to receiving districts for transition costs related to the enrollment of pupils previously enrolled in the dissolved district. The receiving district

would receive for each of those students an amount equal to 10% of the lesser of the foundation allowance of the receiving district or the Basic Foundation Allowance (equal to \$8,049 for FY 2013-14). The bill provides legislative intent that this categorical would continue for four years.

## **FISCAL IMPACT:**

The bills could have a significant fiscal impact on the State School Aid budget, the Michigan Department of Education, and both school districts and intermediate school districts.

While the bills could apply to any district that met the proposed conditions for dissolution, there are two school districts most likely to be eligible for dissolution before the beginning of the 2013-2014 school year: Inkster and Buena Vista.

The fiscal implications are summarized in four major categories below; costs could equal as much as \$9.0 million for the first year. The detailed cost estimates for each district are in the table below. Of that total, the bill would appropriate \$4.9 million.

### Diversion of Local Portion of Foundation Allowance

First, the bills would shift local school operating costs to the School Aid Fund by dissolving a district with debt and allowing the district's local school operating mills (up to 18 mills on all non-homestead property) to be used solely for paying the debt until the debt is gone. Currently those local revenues make up a portion of each district's foundation allowance.

When a pupil from the dissolved district becomes a resident in one of the receiving districts (through the attachment of the property from the dissolved district to a receiving district), there will not be any local revenue until the debt is paid off with which to support the foundation allowance tied to that pupil. Thus, the School Aid Fund will bear the entire cost of that pupil.

In the case of the two immediately potential districts, using FY 2012-13 data, the costs of replacing this diverted local school operating revenue would total approximately \$2.7 million annually until the debt is paid in full and the local school operating revenue is again used for school operating costs in whichever receiving district the relevant property were attached to. The bill appropriates this \$2.7 million.

### Categorical for Transition Costs

The bill would appropriate \$2.2 million to receiving districts for transition costs related to the enrollment of pupils previously enrolled in the dissolved district or who reside in the dissolved district and are entering kindergarten. The receiving district would receive for each of those students an amount equal to 10% of the lesser of the foundation allowance of the receiving district or the Basic Foundation Allowance. The additional per pupil allocation would range from approximately \$760 to \$805.

### Michigan Public School Employees' Retirement System (MPERS) Unfunded Liabilities

Currently MPERS employers pay both the normal costs (cost of benefits earned in the current year) and the unfunded liabilities (costs tied to previously earned benefits) based on their current payroll. The employer contribution rate for unfunded liabilities is capped at 20.96% of payroll and the School Aid Fund pays for the additional costs beyond that contribution rate cap in Sec. 147c of the School Aid Act. The appropriation for Sec. 147c for FY 2013-14 is \$404.6 million.

When a district is dissolved and no longer has employees or payroll, it will no longer be contributing toward those unfunded liabilities, and those costs will be added to the State's share of the costs, thus necessitating an increased appropriation in Sec. 147c. For the two districts in question, the total annual cost of the MPERS unfunded liabilities could be as high as \$4.1 million. However, a portion of those costs could be offset by increased local contributions from the receiving districts, to the extent that their payrolls increase to accommodate increasing pupil membership from the dissolved district, so the bill does not adjust the appropriation of Section 147c at this time.

District	Deficit (millions)	FY 13 Foundation	FY 13 Local Portion	FY 13 State Portion	FY 13 Pupils	Total Local Foundation Revenues	FY 12 MPERS Total Contribution	10% Foundation Premium Range	
								Minimum	Maximum
Buena Vista	\$1.0	\$7,776	\$3,932	\$3,844	430	\$1,690,760	\$1,136,618	\$304,440	\$346,150
Inkster	\$12.8	\$7,573	\$432	\$7,141	2,292	\$990,144	\$2,971,959	\$1,622,736	\$1,845,060
<b>TOTAL</b>						<b>\$2,680,904</b>	<b>\$4,108,577</b>	<b>\$1,927,176</b>	<b>\$2,191,210</b>

### Administrative Costs

The bills would add to the administrative duties of the receiving districts, intermediate districts, and the Michigan Department of Education and could create additional related costs.

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■ 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.