

HOUSE BILL No. 4471

March 19, 2013, Introduced by Reps. Potvin, Franz, Schmidt, Rendon, MacMaster, McBroom, Muxlow, Johnson, Foster, Kivela, Bumstead and Hooker and referred to the Committee on Education.

A bill to amend 1979 PA 94, entitled
"The state school aid act of 1979,"
by amending section 101 (MCL 388.1701), as amended by 2012 PA 516.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 101. (1) To be eligible to receive state aid under this
2 act, not later than the fifth Wednesday after the pupil membership
3 count day and not later than the fifth Wednesday after the
4 supplemental count day, each district superintendent shall submit
5 to the center and the intermediate superintendent, in the form and
6 manner prescribed by the center, the number of pupils enrolled and
7 in regular daily attendance in the district as of the pupil
8 membership count day and as of the supplemental count day, as

1 applicable, for the current school year. In addition, a district
2 maintaining school during the entire year, as provided under
3 section 1561 of the revised school code, MCL 380.1561, shall submit
4 to the center and the intermediate superintendent, in the form and
5 manner prescribed by the center, the number of pupils enrolled and
6 in regular daily attendance in the district for the current school
7 year pursuant to rules promulgated by the superintendent. Not later
8 than the seventh Wednesday after the pupil membership count day and
9 not later than the sixth Wednesday after the supplemental count
10 day, the district shall certify the data in a form and manner
11 prescribed by the center and file the certified data with the
12 intermediate superintendent. If a district fails to submit and
13 certify the attendance data, as required under this subsection, the
14 center shall notify the department and state aid due to be
15 distributed under this article shall be withheld from the
16 defaulting district immediately, beginning with the next payment
17 after the failure and continuing with each payment until the
18 district complies with this subsection. If a district does not
19 comply with this subsection by the end of the fiscal year, the
20 district forfeits the amount withheld. A person who willfully
21 falsifies a figure or statement in the certified and sworn copy of
22 enrollment shall be punished in the manner prescribed by section
23 161.

24 (2) To be eligible to receive state aid under this article,
25 not later than the twenty-fourth Wednesday after the pupil
26 membership count day and not later than the twenty-fourth Wednesday
27 after the supplemental count day, an intermediate district shall

1 submit to the center, in a form and manner prescribed by the
2 center, the audited enrollment and attendance data for the pupils
3 of its constituent districts and of the intermediate district. If
4 an intermediate district fails to submit the audited data as
5 required under this subsection, state aid due to be distributed
6 under this article shall be withheld from the defaulting
7 intermediate district immediately, beginning with the next payment
8 after the failure and continuing with each payment until the
9 intermediate district complies with this subsection. If an
10 intermediate district does not comply with this subsection by the
11 end of the fiscal year, the intermediate district forfeits the
12 amount withheld.

13 (3) Except as otherwise provided in subsections (11) and (12),
14 all of the following apply to the provision of pupil instruction:

15 (a) Except as otherwise provided in this section, each
16 district shall provide at least 1,098 hours and, beginning in 2010-
17 2011, the required minimum number of days of pupil instruction. ~~For~~
18 ~~2010-2011 and for 2011-2012, the required minimum number of days of~~
19 ~~pupil instruction is 165.~~ Beginning in 2012-2013, the required
20 minimum number of days of pupil instruction is 170. However,
21 beginning in 2010-2011, a district shall not provide fewer days of
22 pupil instruction than the district provided for 2009-2010. A
23 district may apply for a waiver under subsection (9) from the
24 requirements of this subdivision. **FOR 2012-2013 ONLY, IF A DISTRICT**
25 **IS UNABLE TO PROVIDE THE REQUIRED MINIMUM NUMBER OF DAYS OF PUPIL**
26 **INSTRUCTION BECAUSE OF SCHOOL CLOSURES OCCURRING BEFORE APRIL 15,**
27 **2013 DUE TO CONDITIONS NOT WITHIN THE CONTROL OF SCHOOL**

1 AUTHORITIES, SUCH AS SEVERE STORMS, FIRES, EPIDEMICS, UTILITY POWER
2 UNAVAILABILITY, WATER OR SEWER FAILURE, OR HEALTH CONDITIONS AS
3 DEFINED BY THE CITY, COUNTY, OR STATE HEALTH AUTHORITIES, BUT THE
4 DISTRICT DOES PROVIDE AT LEAST THE REQUIRED MINIMUM NUMBER OF HOURS
5 OF PUPIL INSTRUCTION, THE DISTRICT IS NOT SUBJECT TO THE MINIMUM
6 NUMBER OF DAYS OF PUPIL INSTRUCTION REQUIREMENT OF THIS SUBSECTION.

7 (b) Except as otherwise provided in this article, a district
8 failing to comply with the required minimum hours and days of pupil
9 instruction under this subsection shall forfeit from its total
10 state aid allocation an amount determined by applying a ratio of
11 the number of hours or days the district was in noncompliance in
12 relation to the required minimum number of hours and days under
13 this subsection. Not later than August 1, the board of each
14 district shall certify to the department the number of hours and ~~7~~
15 ~~beginning in 2010-2011,~~ days of pupil instruction in the previous
16 school year. If the district did not provide at least the required
17 minimum number of hours and days of pupil instruction under this
18 subsection, the deduction of state aid shall be made in the
19 following fiscal year from the first payment of state school aid. A
20 district is not subject to forfeiture of funds under this
21 subsection for a fiscal year in which a forfeiture was already
22 imposed under subsection (6).

23 (c) Hours or days lost because of strikes or teachers'
24 conferences shall not be counted as hours or days of pupil
25 instruction.

26 (d) If a collective bargaining agreement that provides a
27 complete school calendar is in effect for employees of a district

1 as of October 19, 2009, and if that school calendar is not in
2 compliance with this subsection, then this subsection does not
3 apply to that district until after the expiration of that
4 collective bargaining agreement.

5 (e) Except as otherwise provided in subdivision (f), a
6 district not having at least 75% of the district's membership in
7 attendance on any day of pupil instruction shall receive state aid
8 in that proportion of 1/180 that the actual percent of attendance
9 bears to the specified percentage.

10 (f) At the request of a district that operates a department-
11 approved alternative education program and that does not provide
12 instruction for pupils in all of grades K to 12, the superintendent
13 may grant a waiver from the requirements of subdivision (e). The
14 waiver shall indicate that an eligible district is subject to the
15 proration provisions of subdivision (e) only if the district does
16 not have at least 50% of the district's membership in attendance on
17 any day of pupil instruction. In order to be eligible for this
18 waiver, a district must maintain records to substantiate its
19 compliance with the following requirements:

20 (i) The district offers the minimum hours of pupil instruction
21 as required under this section.

22 (ii) For each enrolled pupil, the district uses appropriate
23 academic assessments to develop an individual education plan that
24 leads to a high school diploma.

25 (iii) The district tests each pupil to determine academic
26 progress at regular intervals and records the results of those
27 tests in that pupil's individual education plan.

1 (g) All of the following apply to a waiver granted under
2 subdivision (f):

3 (i) If the waiver is for a blended model of delivery, a waiver
4 that is granted for the 2011-2012 fiscal year or a subsequent
5 fiscal year remains in effect unless it is revoked by the
6 superintendent.

7 (ii) If the waiver is for a 100% online model of delivery and
8 the educational program for which the waiver is granted makes
9 educational services available to pupils for a minimum of at least
10 1,098 hours during a school year and ensures that each pupil
11 participates in the educational program for at least 1,098 hours
12 during a school year, a waiver that is granted for the 2011-2012
13 fiscal year or a subsequent fiscal year remains in effect unless it
14 is revoked by the superintendent.

15 (iii) A waiver that is not a waiver described in subparagraph
16 (i) or (ii) is valid for 1 fiscal year and must be renewed annually
17 to remain in effect.

18 (h) The superintendent shall promulgate rules for the
19 implementation of this subsection.

20 (4) Except as otherwise provided in this subsection, the first
21 6 days or the equivalent number of hours for which pupil
22 instruction is not provided because of conditions not within the
23 control of school authorities, such as severe storms, fires,
24 epidemics, utility power unavailability, water or sewer failure, or
25 health conditions as defined by the city, county, or state health
26 authorities, shall be counted as hours and days of pupil
27 instruction. With the approval of the superintendent of public

1 instruction, the department shall count as hours and days of pupil
2 instruction for a fiscal year not more than 6 additional days or
3 the equivalent number of additional hours for which pupil
4 instruction is not provided in a district after April 1 of the
5 applicable school year due to unusual and extenuating occurrences
6 resulting from conditions not within the control of school
7 authorities such as those conditions described in this subsection.
8 Subsequent such hours or days shall not be counted as hours or days
9 of pupil instruction.

10 (5) A district shall not forfeit part of its state aid
11 appropriation because it adopts or has in existence an alternative
12 scheduling program for pupils in kindergarten if the program
13 provides at least the number of hours required under subsection (3)
14 for a full-time equated membership for a pupil in kindergarten as
15 provided under section 6(4).

16 (6) In addition to any other penalty or forfeiture under this
17 section, if at any time the department determines that 1 or more of
18 the following has occurred in a district, the district shall
19 forfeit in the current fiscal year beginning in the next payment to
20 be calculated by the department a proportion of the funds due to
21 the district under this article that is equal to the proportion
22 below the required minimum number of hours and days of pupil
23 instruction under subsection (3), as specified in the following:

24 (a) The district fails to operate its schools for at least the
25 required minimum number of hours and days of pupil instruction
26 under subsection (3) in a school year, including hours and days
27 counted under subsection (4).

1 (b) The board of the district takes formal action not to
2 operate its schools for at least the required minimum number of
3 hours and days of pupil instruction under subsection (3) in a
4 school year, including hours and days counted under subsection (4).

5 (7) In providing the minimum number of hours and days of pupil
6 instruction required under subsection (3), a district shall use the
7 following guidelines, and a district shall maintain records to
8 substantiate its compliance with the following guidelines:

9 (a) Except as otherwise provided in this subsection, a pupil
10 must be scheduled for at least the required minimum number of hours
11 of instruction, excluding study halls, or at least the sum of 90
12 hours plus the required minimum number of hours of instruction,
13 including up to 2 study halls.

14 (b) The time a pupil is assigned to any tutorial activity in a
15 block schedule may be considered instructional time, unless that
16 time is determined in an audit to be a study hall period.

17 (c) Except as otherwise provided in this subdivision, a pupil
18 in grades 9 to 12 for whom a reduced schedule is determined to be
19 in the individual pupil's best educational interest must be
20 scheduled for a number of hours equal to at least 80% of the
21 required minimum number of hours of pupil instruction to be
22 considered a full-time equivalent pupil. A pupil in grades 9 to 12
23 who is scheduled in a 4-block schedule may receive a reduced
24 schedule under this subsection if the pupil is scheduled for a
25 number of hours equal to at least 75% of the required minimum
26 number of hours of pupil instruction to be considered a full-time
27 equivalent pupil.

1 (d) If a pupil in grades 9 to 12 who is enrolled in a
2 cooperative education program or a special education pupil cannot
3 receive the required minimum number of hours of pupil instruction
4 solely because of travel time between instructional sites during
5 the school day, that travel time, up to a maximum of 3 hours per
6 school week, shall be considered to be pupil instruction time for
7 the purpose of determining whether the pupil is receiving the
8 required minimum number of hours of pupil instruction. However, if
9 a district demonstrates to the satisfaction of the department that
10 the travel time limitation under this subdivision would create
11 undue costs or hardship to the district, the department may
12 consider more travel time to be pupil instruction time for this
13 purpose.

14 (e) In grades 7 through 12, instructional time that is part of
15 a junior reserve officer training corps (JROTC) program shall be
16 considered to be pupil instruction time regardless of whether the
17 instructor is a certificated teacher if all of the following are
18 met:

19 (i) The instructor has met all of the requirements established
20 by the United States department of defense and the applicable
21 branch of the armed services for serving as an instructor in the
22 junior reserve officer training corps program.

23 (ii) The board of the district or intermediate district
24 employing or assigning the instructor complies with the
25 requirements of sections 1230 and 1230a of the revised school code,
26 MCL 380.1230 and 380.1230a, with respect to the instructor to the
27 same extent as if employing the instructor as a regular classroom

1 teacher.

2 (8) Except as otherwise provided in subsections (11) and (12),
3 the department shall apply the guidelines under subsection (7) in
4 calculating the full-time equivalency of pupils.

5 (9) Upon application by the district for a particular fiscal
6 year, the superintendent may waive for a district the minimum
7 number of hours and days of pupil instruction requirement of
8 subsection (3) for a department-approved alternative education
9 program or another innovative program approved by the department,
10 including a 4-day school week. If a district applies for and
11 receives a waiver under this subsection and complies with the terms
12 of the waiver, the district is not subject to forfeiture under this
13 section for the specific program covered by the waiver. If the
14 district does not comply with the terms of the waiver, the amount
15 of the forfeiture shall be calculated based upon a comparison of
16 the number of hours and days of pupil instruction actually provided
17 to the minimum number of hours and days of pupil instruction
18 required under subsection (3). Pupils enrolled in a department-
19 approved alternative education program under this subsection shall
20 be reported to the center in a form and manner determined by the
21 center. All of the following apply to a waiver granted under this
22 subsection:

23 (a) If the waiver is for a blended model of delivery, a waiver
24 that is granted for the 2011-2012 fiscal year or a subsequent
25 fiscal year remains in effect unless it is revoked by the
26 superintendent.

27 (b) If the waiver is for a 100% online model of delivery and

1 the educational program for which the waiver is granted makes
2 educational services available to pupils for a minimum of at least
3 1,098 hours during a school year and ensures that each pupil
4 participates in the educational program for at least 1,098 hours
5 during a school year, a waiver that is granted for the 2011-2012
6 fiscal year or a subsequent fiscal year remains in effect unless it
7 is revoked by the superintendent.

8 (c) A waiver that is not a waiver described in subdivision (a)
9 or (b) is valid for 1 fiscal year and must be renewed annually to
10 remain in effect.

11 (10) A district may count up to 38 hours of qualifying
12 professional development for teachers as hours of pupil
13 instruction. Professional development provided online is allowable
14 and encouraged, as long as the instruction has been approved by the
15 district. The department shall issue a list of approved online
16 professional development providers, which shall include the
17 Michigan virtual school. As used in this subsection, "qualifying
18 professional development" means professional development that is
19 focused on 1 or more of the following:

20 (a) Achieving or improving adequate yearly progress as defined
21 under the no child left behind act of 2001, Public Law 107-110.

22 (b) Achieving accreditation or improving a school's
23 accreditation status under section 1280 of the revised school code,
24 MCL 380.1280.

25 (c) Achieving highly qualified teacher status as defined under
26 the no child left behind act of 2001, Public Law 107-110.

27 (d) Integrating technology into classroom instruction.

1 (e) Maintaining teacher certification.

2 (11) Subsections (3) and (8) do not apply to a school of
3 excellence that is a cyber school, as defined in section 551 of the
4 revised school code, MCL 380.551, and is in compliance with section
5 553a of the revised school code, MCL 380.553a.

6 (12) Subsections (3) and (8) do not apply to eligible pupils
7 enrolled in a dropout recovery program that meets the requirements
8 of section 23a. As used in this subsection, "eligible pupil" means
9 that term as defined in section 23a.

10 (13) Beginning in 2013, at least every 2 years the
11 superintendent shall review the waiver standards set forth in the
12 pupil accounting and auditing manuals to ensure that the waiver
13 standards and waiver process continue to be appropriate and
14 responsive to changing trends in online learning. The
15 superintendent shall solicit and consider input from stakeholders
16 as part of this review.