

Legislative Analysis



SCHOOL COOPERATIVE PURCHASING PROGRAM

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House Bill 5875 as introduced
Sponsor: Rep. John Moolenaar

House Bill 5913 as introduced
Sponsor: Rep. Philip LaJoy

Committee: Education
First Analysis (6-2-04)

BRIEF SUMMARY: The bills would create a cooperative purchasing program for public schools to be administered by the Department of Management and Budget.

FISCAL IMPACT: House Bill 5875. There will be some additional cost to the Department of Management and Budget to set up the program; however, the actual cost is indeterminate. Many school districts already participate in local cooperative purchasing programs. However, to the extent that it increases the purchasing of less expensive items in bulk, it would save local districts, public school academies, and intermediate districts money.

House Bill 5913. Exempting competitive bidding would have no state fiscal impact, but could have potential local impact. Many school districts already participate in local cooperative bulk purchasing programs. However, to the extent that eliminating the requirement to competitively bid increases purchasing of less expensive items in bulk, it would save districts money. Also, a reduction in competitive bidding could result in a local savings of staff time and other resources involved in conducting competitive bidding.

THE APPARENT PROBLEM:

Public Act 431 of 1984 permits Acquisition Services, a unit within the Department of Management and Budget, to extend its state joint-purchasing program to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, and community or junior college. Joint-purchasing done in partnership with local units of government and schools has been in existence since 1975; is voluntary; and, is known as the Extended Purchasing Program.

Generally, the advantages of joint-purchasing include the reduced costs that are derived from improved specifications and increased price competition. In addition to actual dollar savings on goods, there also are indirect savings, realized when duplication is eliminated. For example, administrators save time because they no longer need to process requisitions for bids; take, read and evaluate bids; and make awards. Further savings are realized when the cost of testing many items is eliminated; specifications

need not be updated; and the state purchaser can be relied upon for up-to-date technical research.

There are currently over 400 state contracts available for use by Extended Purchasing Program members. The contract listing is sent to all active members with quarterly newsletters. If members decide to make the purchase, they contact the vendor directly. Purchases can be made using state contracts through the program, under certain provisions. See Background Information below. Acquisition Service is permitted, by the statute that enables the program, to charge a fee that covers the costs associated with staff time, postage, and duplicating. The fee structure is a flat rate annual fee that ranges from \$260 to \$730, and it is based upon the population of the local unit of government, or the size of the organization. For example, all school districts pay an annual fee of \$260, while all colleges and universities pay an annual fee of \$385. See Background Information below.

Currently, every school district in the state is a member of the Extended Purchasing Program, because their membership is purchased through the Regional Educational Media Center (REMC) to which they belong. The 22 consortia known as REMCs were created in 1971, to serve schools districts in all 83 counties. According to committee testimony from the Ingham County REMC director, that regional purchaser alone has saved school districts in its three-county service area over \$17 million in media purchases. In addition, 42 school districts have become direct members of the Extended Purchasing Program, as have 4 of the state's 57 intermediate school districts, 10 of the 29 community colleges, and 11 of the 15 state universities.

Legislation to put the program into statute was enacted earlier in the legislative session, in order to help more school districts realize that cost-savings are available through bulk purchasing. One of those bills—House Bill 4720—inadvertently deleted the requirement that the Department of Management and Budget assist school districts and intermediate school districts in purchasing *services*, restricting the cooperative purchasing program to “goods and supplies,” instead. Consequently the governor vetoed the legislation, and requested that corrected bills be resubmitted to her for signature. See Background Information below.

THE CONTENT OF THE BILLS:

The bills would create a cooperative purchasing program for public schools to be administered by the Department of Management and Budget. House Bill 5875 is tie-barred to House Bill 5913 so that it could not become law unless House Bill 5913 also were enacted.

House Bill 5913 would amend the Management and Budget Act (MCL 18.1261) to require the department to create and operate a cooperative bulk purchasing program for local school districts, public school academies, and intermediate school districts, in order to reduce the costs of purchasing goods and services for public schools.

House Bill 5875 would amend the Revised School Code (MCL 380.623a and 380.1274) to specify that intermediate school districts, local school districts, and public school academies would not be required to obtain competitive bids for items purchased through the cooperative bulk purchasing program operated by the Department of Management and Budget (that would be created under House Bill 5913).

Further, currently under the law, an intermediate school district is prohibited from purchasing an item or group of items in a single transaction costing \$12,500 or more, unless competitive bids are obtained, and the purchase is approved by the intermediate school board. House Bill 5875 would retain this provision, but increase the threshold to \$17,932.

BACKGROUND INFORMATION:

Membership provisions. Purchases by local units of government and schools through the state Extended Purchasing Program must follow these provisions:

The Extended Purchasing members must make all purchases under state contracts for public use only. Purchases made through the contracts for personal use or consumption by any individual, public employee, or official are prohibited. Extended Purchasing members are prohibited from making purchases through state contracts, and subsequently reselling the item(s) to non-member, including private companies.

All items delivered under contracts awarded by Acquisition Services must be inspected immediately for compliance with the contract specifications, members must seek replacement of any items not meeting specifications, and the failure of items to comply must be called to the immediate attention of Acquisition Services.

State contracts cannot be used as a price umbrella or a mechanism to manipulate price. The program states that attempts to utilize state contracts to manipulate prices are detrimental to the integrity of the Extended Purchasing Program, and they are in violation of sound purchasing practices.

Extended Purchasing Members participating in state bids which are based on definite quantities must realize that they are entering into a commitment which is irrevocable.

For further information about the state purchasing programs, visit the Department of Management and Budget web site at www.michigan.gov/dmb and select Financial Services. A 32-page manual entitled “Demystifying the DMB Procurement Services” is available on-line. In addition, those interested in the program can call DMB Acquisition Services at (517) 373-0323.

Annual fees for the Extended Purchasing Program. Local units of government pay an annual fee that depends upon their population, as follows:

<u>Population</u>	<u>Annual Fee</u>
1 – 10,000	\$260
10,001 – 50,000	\$325
50,001 – 100,000	\$385
100,001 – 150,000	\$510
150,001 – 200,000	\$620
200,001 and above	\$730
Colleges and universities	\$385
School districts	\$260
Non-profit hospitals	\$260
Other	\$260

Veto Message from the Governor. On April 7, 2004, the governor vetoed substantially similar bills passed earlier in the legislative session—House Bills 4720 and 4722. House Bill 4720 was vetoed “for technical reasons,” and since the bill was tie-barred to House Bill 4722, that bill also was vetoed. The veto message read, in part:

House Bill 4720 would codify some existing state efforts to engage in bulk purchasing of goods and supplies with schools throughout the State of Michigan. This administration is a strong supporter of such cooperative efforts as part of our continuing mission to ensure that Michigan taxpayers get more for their hard-earned tax dollars. In fact, the Department of Management and Budget (DMB) has recently launched MiDEAL, an enhanced joint purchasing program that allows state agencies, local governments, schools, non-profit hospitals, colleges, and universities to achieve significant savings on the purchase of goods and services.

The intent of this legislation is laudable and I also support the proposed extension of cooperative purchasing of goods and supplies to non-public schools. However, House Bill 4720 inadvertently would delete the requirement under existing Michigan law that requires the DMB to assist school districts and intermediate school districts in purchasing services. Eliminating cooperative purchasing of services will increase, not decrease, costs for schools and the state.

Accordingly, while I return Enrolled House Bills 4720 and 4722 without signature, I look forward to signing corrective legislation. I am pleased that the Legislature seeks to join our effort to encourage cooperative purchasing. This administration, including the DMB, looks forward to working with you in rapidly adopting revised legislation that extends the benefits of cooperative purchasing to goods, supplies, and services. When we and our partners in local government work together, Michigan taxpayers win.

ARGUMENTS:

For:

This legislation, originally a part of the ‘Tools for Schools’ legislation package, can help more school districts, charter schools, and private schools realize that cost-savings are available through bulk purchasing. Further, House Bill 5875 would increase the threshold over which school officials must seek competitive bids from \$12,500 to \$17,932. Situating the Extended Purchasing Program in statute also helps to ensure that the program will not be eliminated when state services are curtailed during the current or future economic downturns.

For:

These bills have been introduced in response to the governor’s veto of substantially similar bills passed by the legislature earlier this session—House Bills 4720 and 4722 (tie-barred to each other). The veto message, dated 4-7-04, pointed out that “...House Bill 4720 inadvertently would delete the requirement under existing Michigan law that requires the DMB to assist school districts and intermediate school districts in purchasing *services* (emphasis added). Eliminating cooperative purchasing of services will increase, not decrease, costs for schools and the state. ...Accordingly, while I return Enrolled House Bills 4720 and 4722 without signature, I look forward to signing corrective legislation.”

As enacted by the legislature, House Bill 4720 would have enabled cooperative purchasing of goods and *supplies*, rather than *services*. The bill that replaces House Bill 4720—House Bill 5913—would enable school officials to participate in the cooperative purchasing of “goods and services.”

Against:

This legislation is unnecessary because the Extended Purchasing Program is a key component of the state’s business plan. The Department of Management and Budget has every incentive to aggressively market the bulk purchasing program to schools and local units of government. That way it increases its own high volume purchases and reduces the cost of those items for state taxpayers. Already 400 contracts are available for direct purchasing by school districts—providing savings on buses, media equipment, cell phones, tires, hardware, plumbing, gas, oil, fuel, pagers, and many other goods and services. School business officials need only visit the Acquisition Services web site to select the contracts in which they wish to participate.

POSITIONS:

No positions were advanced when the House Education committee reported the bill on 6-1-04. (When substantially similar legislation was reported by the House Education Committee on 10-7-03, three organizations expressed neutral positions on the bills: the Department of Management and Budget; the Michigan School Business Officials; and, the Regional Educational Media Centers-Cooperative Acquisitions Program.)

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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.