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OVERSIGHT OF CHARTER SCHOOL EDUCATIONAL MANAGEMENT ORGANIZATION (EMO) CONTRACTS

House Bill 5955
Sponsor: Rep. Jerry Vander Roest
Committee: Education

Complete to 8-26-02

A SUMMARY OF HOUSE BILL 5955 AS INTRODUCED 4-24-02

House Bill 5955 would amend the Revised School Code to set requirements for charter school board members, and charter school applications and management contracts, as well as to revise the responsibility for oversight of charter schools and educational management companies (EMOs).

Constitutional oath for public officers. House Bill 5955 specifies that a member of the board of directors of a charter school would be a public officer and, before entering upon the duties of office, would take the constitutional oath of office for public officers, prescribed under section 1 of Article XI of the state constitution.

Applications to list EMO officers. To obtain a contract or to organize and operate charter schools, a person or entity applies to an authorizing body. Under the bill, the charter school's application would include, among other things, the name and principal officers of any educational management organization expected to be involved in operating the charter school.

Educational management organization (EMO) oversight. Under the bill, the contract issued to organize and administer a charter school could require an educational management company involved in the operation of the charter school to submit to audits by the charter school, or by the authorizing body. Further, if the charter school contracted with an educational management organization, the contract could contain at least all of the following: i) that the public school academy had conducted sufficient due diligence to assure that the educational management organization had sufficient financial resources, educational services capacity, and managerial experience to provide the contracted services; ii) that the public school academy would retain independent legal counsel in all negotiations with the educational management organization; iii) agreements that the financial, educational, and student records pertaining to the charter school and its students were the property of the charter school, and that all of the records were subject to the Freedom of Information Act; and, iv) that the independent auditor for the charter school would not be the same auditor as for the educational management company.

Retain "cap" for university authorizers. Under the law, a charter school can be authorized by any of four entities: a public school board; an intermediate school board; the board of a community college; or, the governing board of a state public university. However, the university authorizers cannot enter into more than 150 charter school contracts, and no single university can authorize more than 50 percent of that number, or 75 contracts. These provisions are retained

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under the bill. The bill also would require that the charter school's application to an authorizing entity contain an agreement that the charter school would comply with all federal and state laws applicable to public bodies and school districts, and provides that this agreement would not relieve another governmental entity of its enforcement or supervisory responsibilities under any other law.

Duties of authorizing bodies. Currently under the law, the authorizing body for a charter school is the fiscal agent for the charter school. Under the bill, the authorizing body would be the fiscal agent only for the charter school's state school aid funds. In addition, the law states that an authorizing body has the responsibility to oversee a charter schools' compliance with the contract and all applicable law. Under the bill, the authorizing body would have responsibility to oversee compliance by a charter school's board of directors. Further, the bill specifies that an authorizing body could remove or suspend a member of a board of directors of a charter school for gross neglect of duty, corrupt conduct in office, knowing violation of a contract, or for any other misfeasance or malfeasance. In such an instance, the authorizing body would be required to report the reasons for a removal or suspension to the superintendent of public instruction.

Assets revert to state. The bill also specifies that if a charter school is no longer authorized to operate, title to all real and personal property, interests in real or personal property, and other assets owned by the charter school would revert to the state. Any money included in those assets, and the net proceeds from the sale of the property or interests in property after payment of any debt secured by the property, would be deposited in the State School Aid Fund. Further, this provision would not impose any liability on the state or on an authorizing body for any debt incurred by the charter school.

MCL 380.502 et al

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