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SFA



BILL ANALYSIS

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Senate Bill 79 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Bill Bullard, Jr.
Committee: Education

Date Completed: 5-11-01

RATIONALE

Unlike other public schools across the State, the Michigan Schools for the Deaf and Blind are not governed by a local board but are under the direct jurisdiction of the State Superintendent of Public Instruction. The facility operates two separate schools, one for the hearing impaired and one for the blind, which offer separate programs and are administered by a principal assigned to each school. Since neither school has a governing board, parents must address matters concerning the school with the State Superintendent. Some parents of students who attend the Michigan School for the Deaf (MSD) believe that a board of trustees for the school should be established to provide parental and community oversight and make recommendations concerning the school's operation.

- **Require the board to establish certain committees, and specify their responsibilities.**
- **Require the board to establish a school advisory council to advise the board and the school's administration.**
- **Require the board, when a vacancy occurred in a chief administrator or academic officer position, to monitor the appointment process and make recommendations to the State Board of Education and the Superintendent of Public Instruction concerning candidates for the position.**

The bill would repeal Public Act 116 of 1893, which provides for the maintenance, management, and control of the Michigan School for the Deaf.

CONTENT

The bill would create a new act to establish a board of trustees for the Michigan School for the Deaf, located in Flint, and require the State to continue to maintain and support the school for educating students who were hearing impaired, as defined in the Michigan Administrative Code in Rule 340.1707 on the determination of hearing impaired. The bill also would do the following:

- **Prescribe the membership of the board.**
- **Establish the duties of the board, such as providing oversight and making recommendations concerning the school's affairs, including matters concerning the coordination, control, and operation of the school.**

(Rule 340.1707 states that the term "hearing impaired" is a generic term that includes deaf persons and those who are hard of hearing and refers to students with any type or degree of hearing loss that interferes with development or adversely affects educational performance in a regular classroom setting. The term "deaf" refers to those hearing impaired students whose hearing loss is so severe that the auditory channel is not the primary means of developing speech and language skills. The term "hard of hearing" refers to those hearing impaired students with permanent or fluctuating hearing loss that is less severe than the hearing loss of deaf persons and that generally permits the use of the auditory channel as the primary means of developing speech and language skills. The rule requires a determination of impairment to be based on a comprehensive evaluation by a multidisciplinary evaluation team, which must

include an audiologist (a person who evaluates hearing defects) and an otolaryngologist (one who deals with disorders of the ear, nose, and throat) or otologist (one who deals with the ear and its disorders). A determination of impairment may not be based solely on behaviors relating to environmental, cultural, or economic differences.)

Board of Trustees

Subject to the bill's eligibility requirements, the board of trustees would consist of the following seven voting members appointed by the Governor after consideration of recommendations by the Division on Deafness (within the Family Independence Agency or a successor agency): a hearing parent of a student at the school, a deaf parent of a student at the school, an officer or nominee of the Michigan Deaf Association, a deaf professional, an alumnus of the school, and two representatives of the general public.

The board also would include the following three nonvoting members:

- One of the school's high school juniors or seniors who had attended the school for at least four years and who was elected by a majority vote of the students at the school.
- One teacher employed at the school who had taught there for at least four years and who was elected by a majority vote of the teachers employed at the school.
- One residential care aide employed at the school who had been employed as a residential care aide there for at least four years and who was elected by a majority vote of the residential care aides employed at the school.

To be eligible for appointment, a person would have to be a resident of Michigan and be skilled in sign language as demonstrated by having successfully completed at least two courses in sign language or having attained at least the advanced level on the sign communication proficiency interview.

The Governor would have to appoint the initial members of the board within 60 days of the bill's effective date.

The seven voting members of the board would serve for terms of four years or until a successor was appointed, whichever was later,

except that of the members first appointed, one would serve for one year, two for two years, and two for three years. The member who was a junior or senior from the school would serve for a one-year term or until a successor was elected, whichever was later. The other two nonvoting members would serve a four-year term or until a successor was elected, whichever was later.

If a board member ceased to meet the bill's requirements, as applicable, during his or her term, a vacancy would occur in that office. A vacancy would have to be filled in the same manner as the original appointment. The Governor could remove an appointed board member as provided in Article 5, Section 10 of the State Constitution (i.e., for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance in office). A nonvoting member could be removed by a majority vote of the same group that was eligible to participate in the member's election (i.e., students, teachers, or residential care aides).

Board members would serve without compensation, but could be reimbursed for travel to and from board meetings and committee meetings and for their actual and necessary expenses incurred in the performance of their official duties as board members.

A voting member of the board would be subject to Public Act 317 of 1968, which regulates the conduct of public servants with respect to governmental decisions and contracts with public entities.

Board Meetings

During its first year of existence, the board would have to hold two regular meetings per month. After the first year, the board would have to hold one regular meeting per month.

Within 30 days after appointing the board, the Governor would have to schedule and call the initial board meeting. At that meeting, the board would have to schedule subsequent meetings. The schedule of meetings would have to be made available to each parent during annual registration, and posted at the school's website.

The board would have to post the agenda for each meeting at the school's website at least seven days before the meeting. The board also would have to post the minutes of each meeting at the school's website within two days after each meeting.

The board and a committee of the board would be subject to the Open Meetings Act. The board also would be subject to the Freedom of Information Act.

Board Duties

The board of trustees would be required to do all of the following:

- Provide oversight and make recommendations concerning the school's affairs in accordance with the bill and other applicable law. This would include matters concerning the coordination, control, and operation of the school.
- Keep the State Board and State Superintendent fully informed as to the educational programs and administrative policies of the school.
- Adopt and follow bylaws and procedures for board functions, including procedures for conducting board meetings and for the election and removal of nonvoting members.
- Carry out its other duties as prescribed by the bill and other applicable law.

Board Officers

The officers of the board would consist of a chairperson and a vice-chairperson, each of whom would be elected from among the voting members of the board for a one-year term, unless sooner removed by the board, and each of whom would hold office until his or her successor was elected and qualified. The board would have to elect its officers at its first regular meeting after June 30 of each year. If any office became vacant during the year, the board would have to elect a replacement for the unexpired term.

The chairperson would be required to do all of the following: preside at all meetings of the board; execute all contracts as required on authority of and in the name of the board; transmit an annual report to the Governor, the State Board, and the State Superintendent; appoint the members of, and serve as an ex

officio voting member of, all committees of the board; and, exercise other duties and powers as directed by the board.

In the absence, disqualification, or disability of the chairperson, or at the direction of the chairperson, the vice-chairperson would have to exercise a function of the chairperson. The vice-chairperson also would have to exercise other duties and powers assigned by the chairperson.

The school's chief administrative officer would have to serve as executive secretary to the board. He or she would have custody of and would have to maintain all of the records of the board, record the minutes of all board meetings, and send notices of all meetings to board members, the State Board, and the State Superintendent.

An officer of the board could be removed from office for malfeasance in office or conduct prejudicial to the school's interest by a vote of at least two-thirds of the voting membership of the board at a regular or special meeting of the board. Before being removed, however, an officer would have to be given at least 10 days' written notice of the charges to be preferred against him or her and be given an opportunity to respond to the charges before the board.

Board Committees

The board of trustees would be required to establish committees. Except for the executive committee, at the discretion of the committee chairperson, an individual who was not a board member could be invited to serve as a member of any committee. The committees and their duties would have to be as provided below. In addition to the specified responsibilities, each committee would have to perform other duties delegated by the board.

Executive Committee. The committee would have to do all of the following: act for the board on all matters delegated to it by the board; review and be familiar with all board policies and react to all matters relating to policy that required board action; advise and counsel the school's administration; be advised of and stay familiar with all matters of major business pending before the board; participate in conferences and other activities considered necessary for conducting the

board's business; study and periodically review relations with the State Board, the State Superintendent, and other State agencies; review and stay fully apprised of proposed legislation directly or indirectly affecting the school; stay fully informed concerning matters of legal action in which the board could be involved; develop and take appropriate steps for providing input and recommendations concerning selection of a new administrative or academic officer when a vacancy occurred; review and stay aware of procedures followed for selecting key personnel employed at the school; and, hire an independent auditor, at its discretion.

Budget and Finance Committee. The committee would be required to do all of the following:

- Review and stay fully familiar with all proposed legislative and operating budgets under the board's supervision.
- Review all justifications presented for proposed budget expansions.
- Study and stay familiar with audits of the school by the State Auditor and follow corrective measures taken to improve fiscal practices and procedures at the school.
- Periodically review scholarships and out-of-State aids.
- Stay fully informed concerning support services as to services rendered, financial position, and the need for support services in the school, and review proposals for more effective operations of these support activities.
- Stay fully informed regarding all trust funds, grants, gifts, and financial benefits accruing to the board and the school, and study possible ways for improving investments of funds.
- Review and stay fully familiar with all requests for purchase of operating capital outlay items considered essential for the efficient operation of the instructional and other programs at the school.
- Monitor budgetary changes and approaches recommended by the administration.

Buildings, Grounds, and Capital Outlay Committee. The committee would be required to review and stay familiar with the following: all major plans for construction of the school under the board's authority; all proposals for land and building purchases, rentals, and sales; and enrollment trends and other studies

having an impact on decisions concerning the school's capital outlay needs. The committee also would have to monitor advance campus planning and the need for capital outlay projections; review and recommend requests made by the Legislature, as well as priorities of capital outlay projects; and, monitor the use and function of each building at the school.

Program and Curriculum Committee. The committee would be required to do all of the following:

- Monitor the program objectives of the school and recommend any changes that might be necessary or desirable.
- Review and be familiar with the role and function of each department of the school and recommend any changes that might be necessary or desirable.
- Consider and make recommendations concerning proposals for new programs at the school.
- Make recommendations as necessary to prevent unnecessary duplication of programs.
- Review admissions policies and recommend proposed changes in admissions requirements.
- Monitor research activities and the relation of research to instruction at the school.

The committee also would have to monitor and make recommendations on the development and subsequent revisions of any curriculum to be used at the school according to the following guidelines: All curriculum and supplementary materials would have to align with best practices and with current methodology, supported by empirical research; and, the curriculum would have to be aligned to give students the opportunity to achieve State endorsements.

Public Relations Committee. The committee would have to do all of the following: create and oversee the implementation of a policy of full communication with and among parents and staff; create and maintain a monthly newsletter for parents and staff, which would have to be posted at the school's website; monitor and make recommendations on the creation of an official school handbook and an official school policy and procedure handbook, both of which would have to be posted at the school's website; develop a marketing

program for contacting parents of deaf students to inform them about the opportunities at, programs available at, and admission procedures for the school; and contract with a marketing firm, at the discretion of committee and with the board's approval.

Advisory Council

The board of trustees would be required to establish a school advisory council to serve in an advisory capacity to the board and the school's administration. Membership of the advisory council would have to include representation from every segment of the school, including parents, students, residential care aides, maintenance workers, other aides, health care personnel, faculty, related services personnel, ancillary services personnel, interpreters, and administrative support. The council would have to meet at least once per month and report to the board monthly.

Chief Administrative Officer

When there was a vacancy in a position constituting the chief administrative or academic officer of the school, the board of trustees would have to monitor the appointment process and make recommendations to the State Board and the State Superintendent concerning candidates for the position. In making recommendations, the board would have to consider whether a candidate met all of the following:

- Had a valid teaching certificate with an endorsement as a teacher of the hearing impaired, pursuant to the requirements of Article 3 (on special education) of the Revised School Code and special education rules promulgated under the Code.
- Met the requirements for a school administrator under the Code.
- Had achieved a rating of superior plus on the sign communication proficiency interview.

BACKGROUND

State Authority. The Michigan School for the Deaf was established by the Legislature in 1848 and operates under the authority of Public Act 116 of 1893, which provides for the maintenance, management, and control of the school. Public Act 116 had provided for the

appointment of a board of trustees and a superintendent for the school, as well as specified the board's duties. These provisions were repealed by Public Act 287 of 1964, which provided for the organization and functions of the State board of education under the Constitutions of 1908 and 1963. (Article VIII, Section 3 of the State Constitution of 1963 specifies that the leadership and general supervision over all public education, including adult education and instructional programs in State institutions, except for institutions of higher education that grant baccalaureate degrees, is vested in the State Board of Education.)

Under Public Act 287, the State Board of Education had jurisdiction and control of the MSD, including the power to make rules for the schools needed to enforce discipline, preserve health, and provide for proper physical, intellectual, and moral training of the pupils. Executive Reorganization Order No. 1996-7, however, transferred to the State Superintendent the administrative powers and duties of the State Board, including those regarding the jurisdiction and control of the Michigan Schools for the Deaf and Blind.

School Operations/Programs. Since October 1, 1995, the MSD and the Michigan School for the Blind have been located together on an 85-acre campus in Flint. (Previously, this location served as the site only for the School for the Deaf, and the School for the Blind was located in Lansing.) The executive director of the Michigan Schools for the Deaf and Blind is responsible for managing the schools' physical assets, including property and infrastructure. A principal is appointed for each school and is responsible for the school's programs and operations. In addition, the State Board appointed a Citizens Advisory Committee composed of parents of hearing impaired children, hearing impaired individuals, various medical professionals who specialize in hearing disorders, and special education directors, among others.

Each school provides its own distinct programs and services. The MSD, for example, offers a total communication deaf education program for profoundly and severely hearing impaired individuals, from ages three to 26. In addition to receiving academic classroom programs, students who attend the MSD receive a combination of services resulting from

educational planning that involves the interaction of social, emotional, and behavioral intervention strategies. Students have the option of attending the school as residential or day students. Residential students are housed in MSD facilities and day students leave the school daily after attending classes. Funding for the MSD is provided by the State General Fund, student tuition paid by local school districts, and Federal grants.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Some parents of MSD students apparently believe that the current method of governing the school is ineffective and thwarts their input and participation in the school's operation. Parents with concerns about the school's operation now must meet with the State Superintendent, or a designee, to have these matters addressed. Apparently a number of parents are frustrated with this procedure because they have had some difficulty in meeting with State officials over matters that otherwise could be addressed by a local school board, as might occur at local public schools in the State. By establishing a local governing board of trustees that would include parents as members, the bill would provide parents with a forum where they could discuss their concerns about the school, such as its operating procedures, enrollment, and curriculum. The bill also would ensure that parents could find out about board meetings and activities through the school's website.

Response: The State Board of Education has appointed a Citizens Advisory Commission, which includes as members parents of hearing impaired children who may or may not be students at the MSD, individuals who are hearing impaired, medical professionals who deal with hearing disorders, and special education directors from public schools in the State. The Commission serves as a sounding board and advises the MSD's administrators and the State Board on the school's operation.

Opposing Argument

As originally written, the bill would have required that the school's chief administrative officer be a superintendent appointed by the

board of trustees. Under substitute S-2, the board would have to monitor the appointment process of a chief administrative or academic officer and could make recommendations to the State Board and State Superintendent concerning candidates for that position. The board, however, could not appoint the chief administrative officer. The MSD board of trustees should have the same powers as local school boards to appoint a school's superintendent.

Response: The MSD was established under State statute and is a State institution that is administered by the State Department of Education and is staffed with Civil Service employees. Under Article XI, Section 5 of the State Constitution, the Civil Service Commission is responsible for determining the qualifications of all candidates for classified service positions and regulating the conditions of employment in the classified service. Consequently, the proposed board of trustees of the MSD could not appoint a superintendent for the school.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The Michigan School for the Deaf is currently viewed as a State institution, administered by a State department (Education), and staffed by Civil Service employees. The bill would transfer many administrative functions from the State Superintendent to a local board of trustees. However, it appears as though the MSD would remain a State entity funded through the Department of Education budget. Therefore, any cost implications would affect the State, and would not apply to any local units of government.

There could be increased administrative costs to the State in order to finance the duties of the board and various committees that would be established by the bill. An estimate of these costs is not possible, as it is unknown how many of these mandated activities are currently undertaken in the normal process of administering the MSD.

Fiscal Analyst: K. Summers-Coty

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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.