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Senate Bill 143 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Loren Bennett  
Committee: Education

Date Completed: 5-2-01

### **RATIONALE**

The Revised School Code provides a process for the transfer of territory from one school district to another. Under the Code, a resolution or petition requesting a transfer of territory must be decided by the board of the intermediate school district (ISD) in which the property is located, unless a vote of the electors is required. The owner of land to be transferred or the board of a school district whose territory is affected may appeal the ISD board's decision to the Superintendent of Public Instruction. Apparently, in many cases, the decision by the ISD board is automatically appealed to the State Superintendent. Some people believe that because of the frequency of appeals, an ISD board should be able to refer a property transfer resolution or petition directly to the State Superintendent.

### **CONTENT**

**The bill would amend the Revised School Code to allow an intermediate school board, within 60 days after receiving a resolution or petition for the transfer of territory from one district to another, to refer the resolution or petition directly to the Superintendent of Public Instruction. The bill also would extend the time allowed for bringing an appeal. In addition, the bill would refer to a territory's "taxable value", rather than "assessed valuation", in provisions requiring a vote of school electors.**

Under the Code, an intermediate school board may detach territory from one school district and attach the territory to another school district if requested to do so by resolution of the board of a school district whose boundaries would be changed by the action, or by resolution of the board of a condominium

association acting on a petition signed by at least two-thirds of the co-owners of the association residing on the land to be transferred; or if petitioned by at least two-thirds of the people who own and reside on the land to be transferred. The territory to be detached must be contiguous to the school district to which it is attached. The intermediate school board must take final action within 60 days after receiving the resolution or petition. Under the bill, the board would have to take final action within this time limit except as provided for direct referrals to the Superintendent of Public Instruction.

The bill also would refer to intermediate school boards acting jointly under Section 953 of the Code, in provisions that refer only to an intermediate school board. (Under Section 953, if the territory of the affected school districts extends into two or more ISDs, the intermediate school board of each ISD must meet jointly and sit as a single board to act upon the request for the transfer of territory. The resolution or petition for transfer of territory may be filed with the board of one of the ISDs.)

Under the bill, within 60 days after receiving a resolution or petition requesting a transfer of territory, an intermediate school board could refer the resolution or petition directly to the Superintendent of Public Instruction for action. If the territory of the affected school districts extended into two or more ISDs, the intermediate school board with which the resolution or petition was filed could refer it to the Superintendent for action only with the written concurrence of each of the other affected intermediate school boards. The referral, and any necessary concurrence,

would have to be by resolution of the intermediate school board.

If an intermediate school board referred a resolution or petition to the Superintendent, he or she would have to hear the matter as a contested case under Chapter 4 of the Administrative Procedures Act (APA). In considering the matter, the Superintendent would have to consider the welfare of the affected pupil, including the length of his or her commute to and from school, on a school bus or otherwise.

The Superintendent would have to give the intermediate school board or joint intermediate school boards that referred the matter a copy of his or her decision and order at the same time they were given to the parties. Except as provided below (regarding a vote of the electors), the Superintendent's action would be final.

Currently, if the latest assessed valuation of the territory to be detached is more than 10% of the latest assessed valuation of the entire school district containing that territory, the action of the intermediate school board is not effective unless approved by an affirmative vote of a majority of the school electors of the school district from which the territory is to be detached. The bill would refer to the action of the intermediate school board, the joint intermediate school boards, or the Superintendent of Public Instruction. The bill also would replace references to "assessed valuation" with references to "taxable value".

Under the Code, one or more resident owners of land considered for transfer from one school district to another, or the board of a school district whose territory is affected, may appeal to the Superintendent of Public Instruction the action of the intermediate school board or joint intermediate school boards in transferring the land, the failure to transfer the land, or action relative to an accounting from the affected boards of education. The appeal must be brought within 10 days after the action or determination of the board or joint boards. The bill provides, instead, that an appeal would have to be received or postmarked not later than 15 days after the action of the board or joint boards.

Currently, if the intermediate school board or the joint intermediate school boards fail to

take action on a resolution or petition within the 60-day time period, the appeal may be made to the State Superintendent within 10 days after the end of that period. Under the bill, the appeal would have to be received or postmarked within 15 days after the end of the 60-day period.

The bill specifies that an appeal would have to be heard as a contested case under Chapter 4 of the APA.

(Although the Code refers to appeals to the State Board of Education, the responsibility for deciding property transfer appeals was moved to the Superintendent of Public Instruction pursuant to Executive Reorganization Order 1996-7.)

MCL 380.951 et al.

## **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**

The current process for resolving a resolution or petition for the transfer of territory requires at least one hearing before the local ISD board and a second hearing before the Superintendent of Public Instruction, if the decision by the ISD board is appealed. The local school board, ISD board, and property owners involved in the transfer request often are represented by attorneys at these hearings. According to the Michigan Association of School Administrators, most property transfer decisions are appealed to the State level. By allowing an ISD to refer a property transfer request directly to the State Superintendent, the bill would expedite the process for resolving property transfer issues, which would reduce the time and attorneys' costs associated with the initial hearing and the appeal.

Legislative Analyst: L. Arasim

## **FISCAL IMPACT**

If an intermediate school district directly referred a property transfer resolution or petition to the Superintendent of Public Instruction, there would be some administrative costs to the State Department

of Education associated with hearing the matter as a contested case under Chapter 4 of the Administrative Procedures Act.

The bill would have no fiscal impact on local government.

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.