

Legislative Analysis



EDUCATION ACHIEVEMENT AUTHORITY & SCHOOL REFORM

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House Bill 4369 (Substitute H-3)
Sponsor: Rep. Lisa Posthumus Lyons
Committee: Education

Complete to 4-10-14

A SUMMARY OF HOUSE BILL 4369 (H-3) AS PASSED BY THE HOUSE 3-20-14

The bill would amend the Revised School Code (MCL 380.1225 and 380.1280c) to do the following:

- Prohibit an order to place a public school in the State School Reform/Redesign (SSRR) school district from being issued before January 1, 2015, and from taking effect before July 1, 2015.
- Cap the number of school that could be transferred to the SSRR school district as follows:
 - 27 through June 30, 2016;
 - 39 through June 30, 2017; and,
 - 50 at any time thereafter.
- Require the SSRR officer to place the highest priority on addressing unsatisfactory results in schools with students in grades K to 8, in determining whether a redesign plan was achieving satisfactory results, relying upon standardized testing results recognized by the Michigan Department of Education, and not upon other testing data used by the public school by not recognized by the department.
- If the "restart model" were imposed on a school in the SSRR district, require the SSRR officer to enter into a contract with an educational management corporation to manage the school (as currently required) or require the school to be operated by another public school under contract with the SSRR district.
- In Section 1225, within the definition of "school district," include a public body authorized to perform the functions of the SSRR district, and within the definition of "school board" include the SSRR governing body (which allows schools to borrow money and issue notes, and pledge state school aid payments for repayment).

Now under the law, the Revised School Code establishes the State School Reform/Redesign (SSRR) district as a body corporate and a governmental agency. The SSRR is a school district for the purpose of receiving state school aid. The SSRR

consists of schools that are placed under it by the SSRR officer, who acts as the superintendent of the SSRR district. (See **Background Information**, later in the summary.) A more detailed description of the bill follows.

Moratorium on SSRR Placement

Each year, the Superintendent of Public Instruction must publish a list of schools that the Michigan Department of Education has determined to be among the lowest-achieving five percent of public schools in Michigan, and issue an order to place the listed schools under the supervision of the SSRR officer. Generally, the school board or board of directors of each school must submit a redesign plan to the officer for approval. If the plan is not offered, not approved, or not achieving satisfactory results, the officer must issue an order placing the school in the SSRR district.

The bill would establish a temporary moratorium against placing schools within the SSRR district. The SSRR officer could not issue an order placing a school within the SSRR district before January 1, 2015, and such an order could not take effect until July 1, 2015. House Bill 4369 (H-3) specifies that a public school must have been on the list for at least two consecutive years, before the SSRR officer would issue an order placing the school within the SSRR district.

Standardized Testing Data

Further, under House Bill 4369 (H-3), when determining whether a redesign plan was achieving satisfactory results, the SSRR officer would have to place the highest priority on addressing unsatisfactory results in schools with students in grades K to 8, relying upon standardized testing results recognized by the Michigan Department of Education, and not upon other testing data used by the public school but not recognized by the department.

Restart Model of School Reform

Currently under the law, if a school is placed within the SSRR district, the SSRR officer must impose one of four intervention models listed in the code. Those models include the "restart model," which is based on compliance with provisions for school improvement grants from the federal government. If the SSRR officer imposes the restart model, the officer must enter into an agreement with an educational management organization to manage and operate the school. Under House Bill 4369 (H-3), if a restart model were imposed, either the SSRR officer would have to enter into such an agreement, *or* the school would have to be operated by another public school that was authorized to provide public educational services under a contract with the SSRR district.

Public Bodies as SSRR Substitute

Currently, if a school on the list of the lowest-achieving schools is operated by a district in which an emergency manager is in place, the Superintendent of Public Instruction may

not place the school under the supervision of the SSRR officer. Under the bill, this provision would not prevent a public school from entering into an agreement or cooperative arrangement with the SSRR district. However, House Bill 4369 (H-3) specifies that an entity exercising the functions of the SSRR district under this section of the code must be a public body, and must comply with the Freedom of Information Act, the Open Meetings Act, and all other applicable law.

Borrowing & Issuing Debt

Now under the law, Section 1225 of the Revised School Code allows a school board or intermediate school board to borrow money and issue notes of the school district for the borrowed money to secure funds to pay for school operations or to pay previous loans for school operations. The school board must pledge money it will receive from state school aid to repay the notes.

House Bill 4369 (H-3) specifies that the credit of this state shall not be granted to, or in aid of, the state school reform/redesign school district or an entity eligible to receive an allocation calculated under Section 20(7) of the State School Aid Act, that manages or operates a public school on behalf of the SSRR district, or that exercises the functions and responsibilities of the SSRR district. Further, such an entity shall not issue bonds obligating the state to pay the principal or interest on the bonds, and neither the 'faith and credit' of the state nor the taxing power of the state shall be pledged for repayment of the bonds.

Exiting the SSRR

Now under the law, if the SSRR officer determines that a public school has made significant improvement in student achievement and should be released from the SSRR district, the officer makes that recommendation to the state school superintendent. If the state superintendent agrees, the public school is released. House Bill 4369 (H-3) would retain this provision, and add if a public school has been placed in the SSRR district, or is under the control of a chief executive officer, and the school has not been on the list of the lowest achieving five percent for four consecutive years, then the public school would no longer be within the SSRR district or subject to the control of the chief executive officer or of the SSRR officer.

SSRR School District Cap

House Bill 4369 (H-3) would cap the total number of public schools placed in the SSRR school district, or controlled by a chief executive officer, so that the number of schools would not exceed the following:

- 27 through June 30, 2016;
- 39 through June 30, 2017; and,
- 50 at any time thereafter.

Role of Intermediate School District

The bill specifies that nothing in this proposed law would prohibit a school district from entering into an agreement or cooperative arrangement with an intermediate school district, authorizing the intermediate school district to operate or manage a public school, as is permitted under Sections 11a and 601a of the Revised School Code.

House Bill 4369 (H-3) also specifies that within six months after a public school is placed on the lowest five percent achievement list, the school board could request the intermediate school district (ISD) to assume the functions and responsibilities of the SSRR school district. Within 60 days after receiving such a request, the ISD must determine whether to assume those functions, and then notify the school district of its determination, and also the date within the next 365 days upon which the ISD will assume those responsibilities.

The bill prohibits a collective bargaining agreement to which an ISD is a party from applying to the public school or to the school district. Under the bill, the ISD that assumed responsibility for a public school would receive state school aid payments equal to the total aid payment payable to the public school, if that school were an achievement school.

Once under the control of an ISD, a public school would not be placed in the SSRR school district unless either of the following occurred: (1) the school appeared on the lowest five percent achievement list for three consecutive years (representing at least two full school years) after the ISD assumed responsibility; or (2) at any time after the ISD assumed responsibility, the ISD or the school board of the public school requested the state school superintendent to place the public school under (or return the school to) the control of the SSRR officer.

If a public school under the supervision of an ISD achieved sufficient improvement and did not appear of the lowest achievement list for three consecutive years, the school board of the public school could adopt a resolution directing the ISD to return the school to the control and supervision of that school board. Upon receiving such a resolution, the ISD would be required to return the school. If, however, the school failed to achieve sufficient improvement while under the supervision of the ISD (as determined by the SSRR officer), and appeared on the lowest 5 percent achievement list for three consecutive years then the school would be placed under the control of the SSRR officer, and the ISD would relinquish its control.

Audit

House Bill 4369 (H-3) sets a new audit requirement, specifying that not less than once every three years, beginning not later than July 1, 2015, the auditor general would be required to conduct a post audit of the financial transactions and accounts of the SSRR school district, and also conduct a performance post audit of the SSRR school district programs.

Center Programs

House Bill 4369 (H-3) specifies that measures under this proposed section of the law would not apply to a 'center program'.

As used in this section, a "center program" means a public educational program operated by a school district or intermediate school district that provides special education programs and services to pupils residing in more than one school district, in which each pupil within the program is provided with those programs and services pursuant to an individualized education program for the pupil under Section 614 of part B of Title VI of the Individuals with Disabilities Education Act, Public Law 91-230, 20 USC 1414, and in which each pupil within the program also has one or more of the following: autism spectrum disorder; severe cognitive impairment; moderate cognitive impairment; severe multiple cognitive or other physical impairment; hearing impairment; visual impairment; other physical or health impairment impacting the pupil's education; or emotional impairment, if the programs and services are provided in a school building that does not serve regular education pupils.

Definitions

Under the bill, as used in Section 1225, "school district" would include a public body authorized to perform the functions and responsibilities of the SSRR district and eligible to receive a per-pupil allocation for pupils in membership in a public school operated or authorized by the public body as calculated under Section 20 of the State School Aid Act, as long as the Department of Treasury determined that the public body is subject to the Freedom of Information Act and the Open Meetings Act, has a conflict of interest policy in place for board members and supervisors of the public body, has annual financial audits, follows generally accepted accounting principles (GAAP) for government entities, and has a website on which it discloses its annual budget. Further, under the bill, the definition of "school board" would include the governing body of such a public entity.

Contracts In Effect

The bill states that, upon enactment, it could not be construed or considered to supersede, alter, or terminate a contract for the transfer of functions and responsibilities under Public Act 8 of 1967 (Ex Sess) to which the SSRR district was a party on the bill's effective date. (Generally, that act authorizes political subdivisions to enter into contracts that provide for the transfer of functions or responsibilities between them.)

BACKGROUND INFORMATION:

The Education Achievement Authority is a public body corporate that was established in the fall of 2011 under an inter-local agreement between the Board of Regents of Eastern Michigan University and the School District for the City of Detroit. The Education

Achievement Authority presently operates 15 schools in the City of Detroit. Its chancellor is Dr. John Covington.

At its beginning, the Education Achievement Authority (EAA) entered into a contract with the State School Reform and Redesign District (a Michigan school district, body corporate and governmental agency located within the Michigan Department of Education and headed by Deborah Clemmons) to operate any of the state's lowest achieving schools placed within the SSRR district by the Michigan Superintendent of Public Instruction Mike Flanagan. Under the contract, the EAA has all of the powers and responsibilities of the SSRR District. The EAA also has powers and responsibilities of the SSRR officer as specified in the contract, which generally include evaluating school performance, imposing intervention models, acting as the superintendent of the SSRR district, spending funds, entering into contracts regarding school operations, amending contracts, and terminating existing contracts. The initial exclusive contract was entered into under Public Act 8 of 1967 (Ex Sess), and was to be effective for 15 years, beginning November 10, 2011, and continuing through November 10, 2026.

However, on February 18, 2014, State Superintendent Flanagan notified Dr. Covington and the EAA that its exclusive contract would be terminated on February 19, 2015. In terminating the contract, Superintendent Flanagan noted the need to have options in which to place persistently low-achieving schools, in addition to the EAA." Flanagan said: "Even with the severing of the existing Agreement, the EAA still would be included among the options considered in which to place the state's lowest-achieving schools in the future."

FISCAL IMPACT:

As there is a moratorium on placing additional schools in a State School Reform/Redesign (SSRR) district until July 1, 2015, there would be no fiscal impact until that time.

Future fiscal impacts on the state could include an increase of teachers and other staff leaving the Michigan Public School Employees' Retirement System (MPSERS), thereby reducing the resources paid into the system and increasing the amount shifted to the School Aid fund for unfunded liability costs above the employer contribution rate cap.

The bill also would have an impact on the SSRR district and other public entities authorized to perform the functions and responsibilities of the SSRR district, as they must comply with the Freedom of Information Act, the Open Meetings Act, and all other applicable laws. They are required to prepare an annual financial audit and maintain a public website which discloses its annual budget.

Additionally, Section 1225 of the Revised School Code allows a school board or intermediate school board to borrow money and issue notes of the school district for the borrowed money to secure funds to pay for school operations or to pay previous loans for school operations. House Bill 4369 (H-3), however, specifies that state credit shall not be

granted to, or in aid of, the SSRR or other public entity that manages or operates a public school on behalf of the SSRR district, or that exercises the functions and responsibilities of the SSRR district. That body shall not issue bonds obliging the state to pay the principal or interest on the bonds.

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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.