

Legislative Analysis



EDUCATION ACHIEVEMENT AUTHORITY

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House Bill 4369 (Substitute H-2, as amended)

Sponsor: Rep. Lisa Posthumus Lyons

Committee: Education

Complete to 3-21-13

A SUMMARY OF HOUSE BILL 4369 (H-2) AS AMENDED IN THE HOUSE OF REPRESENTATIVES ON SECOND READING 3-20-13

House Bill 4369 (H-2, as amended) would establish in statute the Education Achievement Authority. It would add two sections to the Revised School Code (including a new Part 7C) and amend 13 existing sections. (MCL 380.3 et al.)

This authority would oversee a separate Michigan school district called the 'reform district', whose leader, known as the chancellor, would have the powers of a school superintendent, and whose constituent schools would comprise those school buildings, statewide, where student achievement, as measured on state tests, fell within the lowest five percent of Michigan schools for three consecutive years. The number of schools in the authority could never exceed 50: up to 15 would be allowed through June 30, 2013; up to 27 through June 30, 2014; up to 37 through June 30, 2015; and no more than 50 thereafter.

[Generally speaking, the bill establishes a statutory basis for the Education Achievement Authority, which was created through an interlocal agreement under the Urban Cooperation Act by the Detroit Public Schools and Eastern Michigan University in August 2011. Rather than codifying applicable provisions of the interlocal agreement, the bill contains numerous references to that interlocal agreement, and contains significant additions to that agreement, and continues the EAA's existing governance structure – with an authority board – until a new authority governing board is established on "the first July 1 after a qualified authority is authorized to function as the Achievement Authority."]

These schools, known as 'achievement schools,' could leave the system when their students' test scores improved enough to lift the school out of the bottom five percent for four consecutive years. Students in the achievement schools would be taught by certificated teachers; however, collectively bargained contracts would be cancelled when a school entered the 'achievement authority'.

Further, House Bill 4369 would eliminate the current prohibition that prevents unilateral changes in pay scales or benefits when developing addendums to collective bargaining contracts. It also would eliminate the teachers' participation in the teachers' pension system while employed in achievement schools. The bill specifies "it is the intent of the legislature to address by the end of the 2013-2014 state fiscal year any increased costs to

school districts resulting from a reduction in the total number of employees who are members of the Public School Employees Retirement System that occurs due to the operation" of the achievement system.

Unlike earlier versions of the EAA legislative proposal, House Bill 4369 does not provide for a statewide inventory of unused school buildings so they can be leased or sold to other educational entities, either public (such as charter schools) or nonpublic schools or entities. House Bill 4369 does, however, enable school districts to transfer their buildings to the achievement authority, allowing the authority to either acquire or lease them.

Further, under House Bill 4369, a school district that levies a sinking fund tax could make balances in the sinking fund available, upon request, to an entity providing public educational services in a building owned by the school district,. Money transferred from the sinking fund could be used only for the construction or repair of a school building owned by the school district and used by the entity. Any money transferred from the sinking fund would have to be segregated from the entity's other funds. (Under the bill, such an 'entity' would include, but would not be limited to, a school district, a public school academy, or the achievement authority.)

Finally, House Bill 4369 specifies that if a public school is placed in the state reform district and under the control of the achievement authority, ownership of the real and personal property occupied by the public school would not transfer to the achievement authority unless it had been purchased from the school board or board of directors of a charter school. In addition, neither the achievement authority nor the chancellor could sell that property without the written approval of the school board or the board of directors that previously operated the school (unless the property had been purchased).

A more detailed description of the bill follows.

Charter Schools

Under House Bill 4369, the board of a school district having any configuration of grades could authorize charter schools. Currently under the law, only the board of a school district operating grades K-12 can authorize charter schools.

House Bill 4369 also specifies that an achievement authority may not authorize the organization of a public school academy (charter school) unless the charter school is to be located within either of the following: within a school district for which an emergency manager is in place under the Local Financial Stability and Choice Act (Public Act 436 of 2012); or within the same school district and within a two-mile radius of a public school that the state school redesign officer ordered to be placed in the state reform district and under the control of the achievement authority.

Education Achievement Authority

Under House Bill 4369, the Education Achievement Authority would be a public body corporate and a qualified authority created under the Urban Cooperation Act by an

interlocal agreement. The initial parties to the interlocal agreement must include a state public university and a school district with a membership of not less than 25,000 students. Further, the interlocal agreement that created the public body corporate would have to have been approved by the governor under Section 10 of the Urban Cooperation Act, and the school district would have had to have been subject to control by an emergency manager. (In the particular instance, an interlocal agreement was entered into between the Detroit school district and the board of regents of Eastern Michigan University on August 11, 2011, and approved by the governor.) No more than one qualified authority could function as the achievement authority at the same time.

Subject to the leadership and general supervision of the State Board of Education over all public education, a school operated, managed, authorized, established, or overseen by the Achievement Authority would be a public school under Section 2 of Article VIII of the State Constitution, and the Achievement Authority would be a school district for the purposes of Section 11 of Article IX of the State Constitution.

House Bill 4369 requires that the Achievement Authority only engage in tax-exempt governmental functions carried out as a political subdivision of the state under Section 115 of the Internal Revenue Code of 1986. Further, the bill specifies that the activities of the Achievement Authority are essential governmental functions carried out by a political subdivision of the state, and are exempt from taxation by the State of Michigan or a local unit of government.

Under the bill, the validity of the confirmation of the Achievement Authority would be conclusively presumed unless held to be invalid by the Court of Appeals in an original action filed in the Court of Appeals within 60 days after the enactment of this legislation. The bill specifies that the Court of Appeals would have original jurisdiction to hear an action, in an expedited manner.

Authority Board

Initially, (beginning on the first July 1 after a qualified authority was authorized to function as the achievement authority), the achievement authority would be governed by an authority board consisting of seven members: five members appointed by the governor with the advice and consent of the State Senate; and two additional members appointed by the governor, one each from lists of three nominees submitted by the Senate Majority Leader, and the Speaker of the House of Representatives. Members would serve for four-year terms, the first group appointed to staggered terms to ensure continuity. Members would not receive compensation, and all would have to take the constitutional oath of office. Vacancies on the board would be filled by the governor, and the governor could replace members for misfeasance or malfeasance in office.

The Chancellor

Under House Bill 4369, the chief executive of the Achievement Authority would be the chancellor, as appointed by the governing body. The chancellor administers all

programs, funds, personnel, facilities, and contracts and is subject to oversight by the governing body.

Taxation and Debt

The bill specifies that property of the Achievement Authority is public property devoted to an essential public and governmental function, and that property is exempt from all taxation. Property the authority receives could be recorded with the register of deeds without paying a fee.

Under the bill, the Achievement Authority could not levy ad valorem property taxes or another tax for any purpose. (However, the operation, management, authorization, establishment, or oversight of one or more schools by the Achievement Authority within a school district or intermediate school district would not affect their ability to levy taxes.)

The Achievement Authority could establish one or more nonprofit corporations to assist it in furthering its public purpose.

The Authority also could receive, disburse, and pledge money, and incur temporary debt. The Authority also could borrow money and issue bonds in accord with Part VI of the Revised Municipal Finance Act. Any instrument of indebtedness would not impose any liability on the State of Michigan or a party to the interlocal agreement, or on any school district or state public university for any debt incurred by the achievement authority.

The bill specifies that notwithstanding the withdrawal of a school district or a state public university under the interlocal agreement, the achievement authority would continue to exist and possess its powers and duties.

Achievement Schools and Achievement Authority

The bill specifies that an achievement school is a "public school" as defined in the Michigan Revised School Code. As such, the schools in the "education achievement system" would be subject to "pupil membership count day" as defined in the State School Aid Act. Overall, an "achievement authority" would operate as a general powers school district, with all the rights, powers, and duties expressly stated in the Michigan School Code.

For example, currently under the code, a school district can educate students in grades K-12, and in addition, operate preschool, lifelong education, adult education, community education, training, enrichment, and recreation programs. In addition, House Bill 4369 specifies that in performing these functions, a school district may do either or both of the following: (1) educate students by directly operating one or more schools on its own; and/or (2) cause public educational services to be provided within the school district to residents of the school district through a contract or intergovernmental agreement with

another governmental entity, including, but not limited to, another school district, a public school academy, or the achievement authority.

Further, now under the law, a school district may hire, contract for, schedule, supervise, or terminate employees, independent contractors, and others to carry out its powers under the act. House Bill 4369 would retain this provision, as well as an indemnification provision, and a contracting provision but extend them to "another school district, a public school academy, or the achievement authority through an intergovernmental agreement."

Generally, House Bill 4369 specifies that, except as provided by law, the achievement authority and achievement schools must use certificated teachers according to Superintendent of Public Instruction rule. Consequently, the achievement authority could use a non-certificated teacher in any situation in which a school district or other public school may do so. The bill further specifies that the achievement authority may use any instructional technique that may be used by a school district or other public school.

School Reinvention & Transformation Team

House Bill 4369 specifies that for each public school operated by an Achievement Authority, the chancellor could establish a School Reinvention and Transformation Team to advise the authority on goals for the school, performance metrics, and the effectiveness of programs and activities in attaining the goals. If the chancellor did not appoint a team, 25 or more parents (or guardians) or school district residents could request, in writing, that the chancellor establish a team for the school, and the chancellor would be required to do so.

A school Reinvention and Transformation Team would have to include representatives of parents or guardians of students in attendance, other residents of the school district, as well as teachers, principals, or other officers or employees of the Achievement Authority.

Compliance with Revised School Code

The bill requires that the Achievement Authority comply with, and ensure that an achievement school complies with, various listed sections of the Revised School Code, numbering more than 40 provisions. (See Section 772(15) of the bill.)

Organizing Charter Schools

The Achievement Authority could not authorize the organization of a charter school, unless the charter school were to be located either (1) within a school district for which an emergency manager was in place under Public Act 436 of 2012, or (2) within the same school district and within a two-mile radius of a public school that the state school redesign officer ordered to be placed in the state reform district, and under the control of the achievement authority.

Conservation Improvements

The Achievement Authority could contract with a qualified provider for energy conservation improvements to facilities, in the same manner as a school district.

ISD to Identify Constituent Districts Not Operating School

Now under the Revised School Code, annually on June 1 each intermediate school district superintendent must compile a list of constituent districts that had not operated a school within the district during the preceding two or more years. Then, before June 10, the ISD superintendent must direct in writing that the board of a constituent district attach itself either totally or in part to one or more operating school districts or reopen and operate its own school. House Bill 4369 would retain these provisions, but expand them to require that a constituent district attach to another school district, reopen and operate its own school, or "transfer the functions and responsibilities of the constituent district relating to operating schools (within the school district) to another school district, a charter school, or the achievement authority."

Under House Bill 4369, a constituent district would be considered to have operated a school, if the district did either or both of the following: (a) directly operated one or more schools on its own; or (b) caused public educational services to be provided within the school district through a contract or an intergovernmental agreement with another school district, charter school, or the achievement authority.

Kindergarten Enrollment

Now under the law, a child who is a resident of a school district that does not provide kindergarten, and who is at least five years old on the first day of enrollment of the school year, may attend school in that school district. Further, the law specifies the time by which a child must reach the age of five, in order to be eligible to attend school. House Bill 4369 would retain all of these provisions, but extend them to say the child may attend school in the school district "or other public school located within the boundaries of the school district."

No School Superintendent Necessary if Emergency Manager in Place

Now under the law, a school district, instead of directly employing a superintendent of schools, may contract with its intermediate school district for the intermediate superintendent to serve as the district school superintendent. House Bill 4369 would retain this provision but expand it. The bill specifies "if a school district does not operate schools directly on its own, the school district would not be required to employ a superintendent." Further, "if an emergency manager was in place for a school district, all of the following would apply: (a) the school district would not be required to employ a superintendent, and the emergency manager could function as the superintendent of the school district, or contract with another person or entity to provide superintendent services to the district; and (b) all decisions relating to the hiring, supervision, and direction of a superintendent, assistant superintendent, principal, assistant principal, or

other administrators, or contracting for administrative services would be made by the emergency manager on behalf of the school district."

(As used in this section, "emergency manager" would mean an emergency manager serving under Public Act 436 of 2012 or a person serving in a position with similar duties under any successor statute.)

List of Lowest Achieving 5% of All Public Schools

Now under the law, the state school superintendent annually (not later than September 1) publishes a list identifying the public schools in the state that the Department of Education determines to be among the lowest achieving five percent of all schools in the state. House Bill 4369 would retain this provision, and add, "as defined by the United States Department of Education."

Currently, the state school superintendent issues an order placing each public school falling in the lowest five percent of achievement under the supervision of the state school reform/redesign officer. House Bill 4369 would retain this provision, but place the schools under the supervision of the "state redesign officer."

School Redesign Plan

Currently under the law, within 90 days of being placed under the redesign officer's supervision, the school board of the public school or the board of directors of a charter school submits a redesign plan (developed with input from the local teacher bargaining unit and the local superintendent) to the state school redesign officer. House Bill 4369 would retain this provision, and also require that "the redesign plan directly address the reasons the public school is among the lowest achieving schools by incorporating measures to improve pupil performance in those subject areas in which the pupils are failing to adequately achieve."

Intervention Models Expanded

Under existing law, the school redesign plan requires the implementation of one of four school intervention models specified in the federal Race to the Top incentive grant (that is, the turnaround model, the restart model, school closure, or the transformation model). House Bill 4369 specifies instead that the redesign plan would require the implementation of a school intervention model provided by the United States Department of Education, or "any other intervention model not prohibited by federal law with a greater likelihood of improving educational outcomes for the public school."

Notice of Low Achievement to School Redesign Officer

House Bill 4369 specifies that not later than October 1 of each year, if a public school has been on the list of lowest achieving schools for three consecutive years after the 2009-2010 school year, then the state school superintendent must notify the state school redesign officer.

Reform District

Now under the law, a state school reform/redesign school district exists as a school district for the purpose of receiving state school aid under the State School Aid Act. House Bill 4369 would retain this provision but re-title the district, calling it, instead, the state reform district. Further, the bill specifies that the reform district would function as a political subdivision that is a party to a contract transferring the powers, duties, rights, obligations, functions, and responsibilities of the state reform district to a special authority (the Achievement Authority).

Achievement Authority & Federal Funds

Under the bill, the Achievement Authority may perform the functions of the Department of Education for a school placed within the district to the full extent permitted under federal law, and would be entitled to receive federal funds otherwise payable to the department

State School Redesign Officer

House Bill 4369 specifies that the state school redesign officer would be required to issue an order to place a public school in the state reform district and under the control of the Achievement Authority if the school redesign officer: (1) received notice from the state school superintendent that a public school has been on the list of lowest achieving schools for three consecutive years; (2) disapproved the redesign plan for a low-achieving school; or (3) determined that the redesign plan was not achieving satisfactory results.

If the state school redesign officer issued an order to place the public school into the reform district and under the control of the Achievement Authority, then the chancellor would be required to impose a school intervention model (noted above). Now under the law, if a school is placed in the district, the redesign officer also must impose an addendum to each applicable collective bargaining agreement in effect for the public school. House Bill 4369 would delete this provision.

Chancellor: Alternative School Intervention Models; Authority

Further, the bill would allow the chancellor to adopt an alternative school intervention model (as long as it was not prohibited by federal law) that had a greater likelihood of improving educational outcomes, if a previously adopted redesign plan was not achieving satisfactory results.

House Bill 4369 specifies that the chancellor (rather than the redesign officer) would act as the superintendent of the state reform district. With respect to schools placed in the state reform district and under the control of the Achievement Authority, the chancellor would have all the powers, duties, rights, obligations, functions, and responsibilities of a school superintendent, as well as those that would otherwise apply to the school board or other school officers who previously operated the school, *except* those related to taxation or borrowing.

Contract Termination

Now under the law, the redesign officer has the power to terminate any contract or portion of a contract entered into by a school board, except those concerning debt service on legally authorized bonds and collective bargaining agreements. House Bill 4369 specifies that the chancellor can "terminate or modify" existing contracts except those concerning debt service, and it eliminates the prohibition against termination or modification of collectively bargained agreements. Further, the bill specifies that a contract terminated by the chancellor is void.

Chief Executive Officer Accountable to Chancellor

House Bill 4369 would allow the chancellor to appoint a chief executive officer to take control of public schools that have been placed in the state reform district and under the control of the Achievement Authority. Now the law allows the redesign officer to make that recommendation to the state school superintendent who then makes the decision.

If a chief executive officer is appointed, he or she must impose a school intervention model (noted above), and he or she *may* impose an addendum in all collectively bargained contracts, as necessary to implement the school intervention model.

The bill also specifies that a chief executive officer can impose a new school intervention model, if he or she determines that a previously adopted model is not achieving satisfactory results.

With respect to a public school placed under the control of a chief executive officer, he or she would have all of the same powers, duties, rights, obligations, functions, and responsibilities that the chancellor has for public schools placed in the state reform district and under the control of the Achievement Authority.

The chief executive officer would be required to submit monitoring reports to the chancellor on the implementation and results of the intervention model, in the form and manner, and according to a schedule, determined by the chancellor. Further, the chief executive officer would be required to exercise any other powers or duties over the public school, as may be directed by the chancellor. Now under the law, a chief executive officer exercises those powers and duties, as directed by the state school superintendent.

Authority to Expend Funds

Now under the law, the state school redesign officer directs the expenditure of all funds attributable to pupils at the public school, and the principal or other school leader designated by the design office has full autonomy and control over curriculum and discretionary spending at the school. House Bill 4369 would retain this provision, but extend the responsibility to others, depending upon the school's leadership. To that end, the bill specifies that for a public school operating under the achievement authority, the chancellor would direct the expenditure of all funds attributable to pupils, and have full autonomy and control over curriculum and discretionary spending. In addition, for a

public school operating under a chief executive officer (appointed by the chancellor), the chief executive officer would direct the expenditure of all funds, and have full autonomy and control over curriculum and discretionary spending.

Collective Bargaining Agreements

Now under the law, the addendum to a collective bargaining agreement must allow for certain changes that are necessary to implement particular school intervention models. Specifically, any contractual or other seniority system does not apply, although unilateral changes in pay scales or benefits cannot be made. Further, any contractual or other work rules that are impediments to implementing the redesign plan do not apply; however, again, unilateral changes in pay scales or benefits cannot be made. House Bill 4369 would retain these prohibitions against including seniority and work rules, and further, the bill would allow unilateral changes in pay scales or benefits.

State Superintendent Appoints Redesign Officer

Now under the law, the state school superintendent hires the state school reform/redesign officer. House Bill 4369 would retain this provision. Also, the state school redesign officer must be chosen solely on the basis of competence and experience in educational reform and redesign; is exempt from the state classified civil service; and is responsible directly to the state school superintendent. House Bill 4369 would retain all of these provisions.

Restart Model

Currently the law requires that the state school reform/redesign officer follow specified steps if imposing the *restart model* when an educational management organization will manage and operate the schools. House Bill 4369 retains these provisions, but specifies that these steps be carried out either by the chancellor under the control of the Achievement Authority or by a chief executive officer under Section 10 of the bill. Now under the law, when a restart model is implemented, no collective bargaining agreement is considered to be in effect. House Bill 4369 would retain that provision.

Turnaround Model

Now the law requires that the state school reform/redesign officer follow specified procedures concerning collectively bargained agreements when imposing a *turnaround model* for schools. In this instance a collective bargaining agreement continues to apply with respect to pay scales and benefits. House Bill 4369 would eliminate this provision. Further, the law now specifies that in the instance of an imposed turnaround model, an employee would continue to retain and accrue seniority rights in the school district according to the collective bargaining agreement. House Bill 4369 also would eliminate that provision.

Transformation Model

Now under the law, if more than nine schools in a school district are among the lowest achieving schools in the state, the *transformation model* cannot be implemented for more than 50 percent of those schools. House Bill 4369 would eliminate this provision.

Collective Bargaining; Seniority; Retirement

House Bill 4369 specifies that if a chancellor or chief executive officer imposes an alternative school intervention model having a greater likelihood of improving educational outcomes, then he or she must determine the most effective mechanism for the management and operation of the schools and the provision of education services. To that end, any collectively bargained agreement applicable to employees working at the school before the imposition of the alternative school intervention model would *not* apply to school personnel after the imposition of the alternative model.

In addition, following the imposition of an alternative intervention model, the employees would *not* accrue seniority rights in the school district, nor would they accrue creditable service under the Public School Employees Retirement Act, and any compensation or remuneration paid for work at the public school would *not* constitute compensation or remuneration as a public school employee under the Public School Employees Retirement Act.

No Assignment to Achievement Authority if School Improvement; Criteria

Under House Bill 4369 (H-2, as amended), the State School Redesign Officer would be prohibited from issuing an order placing a public school that is on the low achieving list in the state reform district and under the control of the achievement authority, if any of the following applied:

- the public school was previously placed in the state reform district and remained under the control of the achievement authority;
- the public school was a center school;
- the state school redesign officer and the chancellor both determined that there was a greater likelihood for improving the educational outcomes of students at the public school if the school remained under the control of the school board or its board of directors;
- the state school redesign officer determined that placing the public school in the state reform district and under the control of the achievement authority should be delayed for a period not exceeding three years because *all* of the following applied to the school: (1) the redesign plan for the public school had been implemented in good faith, consistent with the requirements for the redesign plan, and in a timely manner, as determined by the state school redesign officer; and (2) while the public school had been on the list of lowest achieving schools, the academic performance of students at the school had improved at a rate that exceeded the rate of improvement in academic performance of all public school students in Michigan during the same time period, based upon measures of

academic progress established by the Northwest Evaluation Association or other assessment of academic performance or progress, as determined by the state school redesign officer.

Release Due to School Improvement

House Bill 4369 specifies that the chancellor or a chief executive officer can recommend to the state school superintendent that a school be released from the imposed school improvement measures if a school has made significant improvement in student achievement. The superintendent may then release the school if he or she agrees with that assessment of the school's progress.

Under the bill, the Achievement Authority would be required to adopt objective criteria for the chancellor to use when determining whether a public school will be released from the state reform district, including student achievement, educational outcomes, student attendance, and parental support and involvement.

In addition, House Bill 4369 specifies that if a school had been placed in the reform district and under the control of the Achievement Authority, or was under the control of a chief executive officer, and the school had not been on the list of the lowest achieving five percent of all public schools in Michigan for four consecutive years, then the school would no longer be within the state reform district, or subject to the control of the state school redesign officer or the chancellor.

Annual Report

Under the bill, at least annually the state redesign officer and the chancellor must submit a report to the governor, the state school superintendent, and the standing committees of the Senate and House of Representatives having jurisdiction over education legislation, on the progress being made in improving student proficiency.

Department of Education Website

The Department of Education would be required to post on its website the formula or methodology used by the federal Department of Education to identify the lowest achieving five percent of all public school in Michigan and a list of the public schools so identified, updated each year.

Currently under the law, a public school operated by a school district in which an emergency manager is in place under Public Act 72 of 1990 cannot be placed under the supervision of the state redesign officer by the state school superintendent. House Bill 4369 would eliminate this provision.

Responsibility of Local Boards of Education

House Bill 4369 prohibits the board of a school district or charter school from taking any action that is inconsistent with or interferes with the powers and duties of the Education

Achievement Authority, the state reform district, the state redesign officer, the chancellor, or a chief executive officer.

School Property Transfers

Under House Bill 4369, if a public school is placed in the state reform district and under the control of the Achievement Authority, then ownership of the real property occupied by the public school, as well as the personal property at the public school (at the time the school was placed in the reform district and under the control of Achievement Authority), would *not* transfer to the Achievement Authority unless the Authority purchased it from the school board or the board of directors of the charter school. The Achievement Authority or the chancellor would be prohibited from selling or otherwise conveying that real or personal property without the written approval of the school board or board of directors that previously operated the school (unless it had been previously purchased by the Achievement Authority).

Court of Appeals: Schools Placed in Achievement Authority

House Bill 4369 specifies that the validity of an order to place a public school into the state reform district and under the control of the Achievement Authority would be conclusively presumed, unless held to be invalid by the Court of Appeals in an original action filed in the Court of Appeals within 60 days after the issuance of the order. The Court of Appeals would have original jurisdiction to hear an action under this subsection of the law, and would be required to hear it in an expedited manner.

Center Programs

House Bill 4369 specifies that the measures do not apply to a "center program." Under the bill, the term "center program" is defined to mean 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 under an individualized education program 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.

Special Education

The bill specifies that for the purposes of ensuring that a student with a disability, who is enrolled in an achievement school or in a university school, be provided with special education programs and services, the Achievement Authority would be considered to be a local school district.

FISCAL IMPACT:

State Impact: For the current school year – the EAA's first year operating schools – the EAA is operating 15 schools previously under the control of the Detroit Public Schools. Of these 15 schools, 12 are directly managed by the EAA, while three schools are authorized as charter schools managed by an education service provider. The schools include six high schools and nine elementary/middle schools. Total (unaudited) Fall 2012 pupil membership for the 15 EAA schools is about 10,000 FTE membership pupils.

The FY 2012-13 School Aid Budget amended numerous provisions in the School Aid Act to add references to the EAA. Generally speaking, the EAA is treated the same as other public schools and receives a per-pupil foundation allowance and other categorical funding for which it is eligible. For the purposes of the foundation allowance, the EAA receives the foundation allowance of the school district in which the EAA school is located, which currently ranges from a minimum of \$6,966 per pupil to a state guaranteed maximum of \$8,019 per pupil. In the case of the current EAA schools located in Detroit, the EAA receives \$7,190 per pupil in the 12 schools it directly manages, the same foundation allowance as the Detroit Public Schools. However, because the EAA has chartered three schools, it receives the statutory maximum foundation allowance for charter schools (\$7,110 per pupil) in those three schools. The placement of individual public schools within the EAA alters the state and local share that constitute a school district's foundation allowance and state School Aid budget outlays, but it is generally cost-neutral.

The Department of Education's August 2012 list of Priority Schools (previously referred to as persistently lowest achieving schools) for 2011-12, contains 146 school buildings from 49 school districts (including charter schools, ISDs, and the EAA). Of those 146 school buildings, 22 are now closed and 13 are now part of the EAA. Total Fall 2011 headcount in the 146 buildings was about 73,500 pupils, out of a total statewide Fall 2011 headcount of over 1.5 million. The bill provides that schools appearing on the list of priority schools for three consecutive years will be placed within EAA (through the School Reform District). Thirty-seven school buildings have appeared on the list of priority schools for each of the past three years. Of those schools, 13 are now EAA schools.

In October 2011, the EAA Executive Committee approved a contract transferring the powers and responsibilities of the State School Reform/Redesign District to the EAA. To date, no schools have been placed within the School Reform/Redesign District, although many schools are implementing school turnaround plans under the supervision of the School Reform/Redesign Officer. The bill contains numerous amendments to Section 1280c further clarifying the transfer of responsibilities from the reform district to the EAA, although it appears at first blush that much of the changes would generally have no fiscal impact given that the transfer of responsibilities has already occurred by operation of the contract.

The bill does not allow an employee who was previously employed by a school district and subsequently employed by the school reform district under an alternative school

intervention model to continue to earn service credit under the Michigan Public School Employees' Retirement System (MPERS). This would continue the decline in MPERS payroll and thus increase the unfunded liabilities left on the remaining school districts in the MPERS system. However, PA 300 caps the level of unfunded liabilities charged to MPERS employers at 20.96% of MPERS payroll and pays the balance through the appropriation process. A continued decline in MPERS payroll will increase the portion of funding required from the State. The bill provides intent that the legislature will address this phenomenon by the end of FY 2013-14.

Local Impact: The bill would have varying impacts on local school districts. As a traditional school district "loses" a school building to the School Reform District (operated through the EAA), the district would generally see a reduction in revenue from its per-pupil foundation allowance, although the district would also see a reduction in staffing and building costs. The bill explicitly states that the operation of an achievement school within a school district would not affect the district's ability to levy ad valorem property taxes or other taxes.

The bill also would allow, but not require, a district that levies a sinking fund millage to share that revenue with another entity providing educational services in a building owned by the school district. The sinking fund revenue could only be used for construction or repair of the school building owned by the district and operated by the entity. An entity would include, but is not limited to, another school district, a public school academy, or the EAA.

The bill would allow the Chancellor to nullify collective bargaining agreements in schools under the imposition of an alternative school intervention model, which could significantly change the costs experienced in that school.

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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.