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**BILL ANALYSIS**



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Senate Bill 679 (Substitute S-3)  
 Sponsor: Senator Leon Stille  
 Committee: Education

Date Completed: 11-2-95

**SUMMARY OF SENATE BILL 679 (Substitute S-3) as passed by the Senate:**

The bill would amend the School Code of 1976, which it would rename the "Revised School Code", to do the following:

- Replace second, third, and fourth class school districts and primary school districts with "general powers school districts", and specify their powers and duties, such as holding elections.
- Remove the maximum of 75 on the total number of public school academy contracts that all State public universities may issue; permit community colleges to contract for more than one academy; and provide that a school district "that operates grades K-12" could issue a contract.
- Provide that revenue from taxes levied by a school district could be used to support a public school academy operated by the district.
- Require the State Board of Education to report to the Legislature on mandates imposed on school districts, intermediate school districts (ISDs), and public school academies.
- Provide that a school-age child residing in the State could attend any public school in the State offering the appropriate grade level for the child.
- Delete requirements that the State Board propose rules establishing a required core academic curriculum.
- Increase the required number of pupil instruction days in a school year to 195 by the 2011-2012 school year, and increase the minimum number of pupil instruction hours to 1,170 by the 2011-2012 school year.
- Provide for the issuance of a one-year nonrenewable temporary teaching certificate to an out-of-state teacher and require him or her to pass a basic skills or subject area examination to receive a Michigan teaching certificate.
- Provide for the issuance of a teaching certificate to a person who met certain criteria, including at least five years' occupational experience and passage of basic skills and subject area examinations, without requiring him or her to meet other requirements.
- Permit, instead of require, the establishment of a bilingual instruction program; and, require the State to fund bilingual education at the level funded in FY 1995-96.
- Provide that a child would not have to attend a public school if the child were being educated by his or her parent or legal guardian at the child's home.
- Prohibit the State Board or Department of Education from promulgating rules, if the Supreme Court ruled that provisions on rules promulgation and adoption in the Administrative Procedures Act were unconstitutional and a statute requiring legislative review of rules were not enacted within 90 days.
- Require public school academies to comply with Code provisions on the tagging of missing students' records; identification requirements for enrolling students; prohibition against separate schools or departments based on race, color, or sex; bilingual education; and, school building construction.

- **Require the State Board to nullify immediately a person's teaching certificate upon conviction of various offenses concerning: child abuse or neglect, criminal sexual conduct, controlled substance possession and delivery, and the sale or furnishing of liquor to minors.**

The bill also would repeal entire parts of the Code pertaining to primary districts; districts of the fourth, third, and second classes; and, joint high school districts. The bill would repeal various sections of the Code including those on: assistance for students not advancing in grade level; teaching dispute management; nature study areas; multicultural education; site-based decision-making; school boards' reporting annually to the State Board; teacher sabbatical leaves for professional improvement; continuing education requirements for administrators; and, certain provisions dealing with school property.

In addition, the bill would repeal various academic requirements including those pertaining to: pupil performance standards; student portfolios; establishment of grades and courses to provide a core academic curriculum; adult education; regulation of student conduct; and, establishment of academic and/or attendance standards for eligibility to enroll in drivers education courses. The bill also would repeal certain provisions concerning tuition pupils, textbooks, libraries, and health and physical education; administrator certification; and, condemnation of property required by a school district.

The bill also would repeal provisions in the State School Aid Act on tuition charges (MCL 388.1711) and payments to districts in which tuition pupils are in school membership (MCL 388.1718).

"School District"

Currently, the Code defines "school district" or "local school district" as a primary school district (a district that does not operate a high school) or a school district of the first, second, third, or fourth class. The bill would define "school district" or "local school district" as a general powers school

district, regardless of previous classification, or a school district of the first class.

General Powers School Districts

Under the Code, each school district, except a district governed by a local act, must be organized and conducted as a primary school district or a school district of the first, second, third, or fourth class. The bill provides, instead, that each school district, except a first class district, would have to be organized and conducted as a general powers school district regardless of its previous classification. Beginning on the bill's effective date, each school district formerly organized as a primary school district or as a second, third, or fourth class district would be considered to be a general powers school district.

Beginning on the bill's effective date, a school district operating under a special or local act would operate as a general powers school district to the extent that the special or local act was inconsistent with the Code. Upon repeal of a special or local act that governed a school district, that school district would become a general powers school district.

A general powers school district and the board of a general powers school district would have all the rights, powers, and duties expressly stated in the Code; could exercise a power implied or incident to any power expressly stated in the Code; and, except as provided by law, could exercise a power incidental to the performance of any function related to operation of the school district in the interests of public elementary and secondary education in the school district, including, but not limited to the following:

- Educating pupils.
- Providing for the safety and welfare of pupils while at school or a school-sponsored activity or while en route to or from school or a school-sponsored activity.
- Acquiring, constructing, maintaining, repairing, renovating, disposing of, or conveying school property, facilities, equipment, technology, or furnishings.
- Hiring, contracting for, scheduling, supervising, or terminating personnel to carry out school district powers. A school board could indemnify its employees.
- Receiving, spending, accounting for, or investing school district money; borrowing money and pledging school district funds for

repayment; and qualifying for State school aid.

A general powers school district could enter into agreements or cooperative arrangements with other public or private entities, or join organizations as part of performing the school district's functions. A general powers school district would be a body corporate and would be governed by a school board. An act of a school board would not be valid unless approved, at a meeting of the school board, by a majority vote of the members serving on the board.

The board of a general powers school district could adopt bylaws concerning the board's structure. The bylaws could establish or change board procedures, the number of board members, members' terms of office, the number of board officers, officers' titles and duties, and any other matter related to the effective and efficient functioning of the board. Regular meetings of the board would have to be held at least once each month, at the time and place fixed by the bylaws. Special meetings could be called and held in the manner and for the purposes specified in the bylaws. Board procedures, bylaws, and policies in effect on the bill's effective date would continue in effect until changed by board action.

A school board would have to be elected as provided under the Code and the Michigan Election Law. The number of members of a board of a general powers school district and their terms of office would remain the same as they had been for that school district before the bill's effective date unless either or both were changed by the district's school electors at a regular or special election. The proposition for changing the number of board members or term of office could be placed on the ballot by board action or by petition submitted by school district electors as provided under the Code.

On the bill's effective date, the board of each school district would continue to be the board of the school district and to function in that capacity. A person lawfully serving on the Code's effective date as a member of the school board would continue to be a board member and would continue in the office for the remainder of the term for which the person was elected or appointed.

The bill specifies that unless expressly provided in the bill, the powers of a school board or school district would not be diminished by these provisions or by the bill.

## Elections

Each general powers school district would have to continue to hold its regular election on the same date the election had been held before the bill's effective date or would have to hold its regular election on one of the following dates determined by a board resolution adopted at least six months before the proposed new election date: annually or biennially on the first Monday in April, annually or biennially on the second Monday in June, or annually or biennially at the same time as the November general election. At each regular election, members of the board would have to be elected to fill the positions of those whose terms were to expire.

The board could submit to the school electors a measure, proposition, or question that was within the scope of the powers of the electors and that the board considered just and proper for the proper management or conduct of the school system or the advancement of education in the district's schools. Upon the adoption of a measure or question by the board, the board would have to submit the measure or question to the school electors at the next regular school election; at a special election; or, if the boundaries of a city or township and the school district were coterminous, at a city or township election.

A special election could be called by the board at times and places in the district that the board designated. The board would have to call an election on petition of at least 10% of a district's school electors qualified to vote on the question by giving the prescribed notice. The petition, except as to subject, would have to be substantially in the form prescribed in the Code. A special election could be called on a measure, proposition, or question that could be voted on and decided by the school electors. The questions to be submitted at an election would have to be stated briefly in the election notice.

If a portion of or an entire city or township were encompassed within the boundaries of a general powers school district and city or township primary or general elections were held on the same day as an election of the school district, the school election could be conducted by the same inspectors and canvassed, reported, considered, and treated as part of the city or township primary or general election. The proper city or township officials would have to prepare and have printed an official ballot on which would have to be placed the names in rotation of persons who were

candidates for nomination or who had been nominated for membership on the board and the measures, propositions, or questions to be submitted to the district's school electors at the election.

The expense of special elections called by the board would have to be paid to a city or township conducting the election by the board upon presentation of a statement for the expenses. The expenses could not include charge for use of equipment or services of regular personnel of the city or township, except as otherwise agreed between the city or township and the board.

If a measure, proposition, or question were to be submitted to the school electors at an election conducted for a general powers school district by a city or township, the board would have to file with the city or township clerk of each city or township whose boundaries were encompassed with the school district a written notice of the adoption by the majority vote of the board of the measure, proposition, or question. The notice would have to be under the seal of the board and would have to be filed at least 49 days before the election. Upon receiving the notice, the proper city or township officials would have to publish it in accordance with applicable law.

If the boundaries of a general powers school district were within the boundaries of a single city or township, the city or township clerk, within the time specified for serving notices on officials elected at a municipal election, would have to serve notice of election on each member of the board elected at the election. In all other general powers districts, notice of election would have to be served on each member elected at the election in the manner provided in the Code's provisions on boards of county canvassers (MCL 380.1010).

Currently, the Code specifies that the person receiving the greatest number of votes for school board member must be declared elected, except that in a primary district a majority vote is required to elect a board member. The Code also provides for a recount by a board of county or school canvassers, but does not apply these provisions to an election for board members in a primary school district. The bill would delete references to primary districts.

The bill would delete current provisions specifying the format of a candidate petition. In addition, the Code requires that the term of office for each school board member begin on July 1. The bill

would add that a term could begin January 1 if the election were held in November.

#### First Class School District

The bill provides that a first class school district (i.e., a district with a pupil membership of 120,000) and its board, unless prohibited by law, would have all of the powers of a general powers school district and of the board of a general powers school district, respectively, and have all additional powers granted by law to a first class school district and its board.

The bill would delete the current provision that in a first class school district the city treasurer is the ex officio treasurer of the board without power to vote. Under the bill, the board of a first class school district would possess the power to approve the fulfillment of the treasurer function through board action subsequent to the recommendation from the general superintendent.

Unless expressly provided in the bill, the powers of a first class school district would not be diminished by the these provisions or by the bill.

#### Parents' Rights

In recognition of the rights of parents, the board a school district would have to ensure that the parent or legal guardian of a pupil enrolled in the school district could do all of the following: review at any time the school district's curriculum, textbooks, and teaching materials; be present in the classroom to observe any instructional activity; remove his or her child from any optional course or instruction; and, record, either using audio or video recording, any instructional activity. A school board could adopt policies or guidelines under this provision, but they could not be unreasonably restrictive.

#### Public School Academies

The Code specifies that a public school academy is a public school under Article 8, Section 2 of the State Constitution, is a school district for the purposes of Article 9, Section 11 of the State Constitution, and is subject to the leadership and general supervision of the State Board over all public education under Article 8, Section 3 of the State Constitution. The bill would add that an academy would be a public school for purposes of the Code's provisions concerning the borrowing powers of a school district or ISD (MCL 380.1225).

Under the Code, various entities may act as the authorizing body to issue a contract to organize and operate public school academies. These entities include the board of a school district, an intermediate school board, the board of a community college, and the governing board of a State public university. The bill would refer specifically to the board of a school district "that operates grades K-12". The bill also would remove a provision under which a community college board may not issue a contract for more than one public school academy as well as provisions concerning the operation of an academy that had been authorized by a community college. In addition, the bill would delete a provision that the combined total number of contracts for public school academies issued by all State public universities may not exceed 75.

Currently, to the extent applicable, the progress and outcomes of pupils in a public school academy must be assessed using at least a Michigan Education Assessment Program (MEAP) test or an assessment instrument developed under the Code for a State-endorsed high school diploma, or one or more of the following nationally normed tests: the California achievement test, the Stanford achievement test, the Iowa test of basic skills, or the metropolitan achievement test. The bill provides, instead, that pupil progress and outcomes would have to be assessed using at least a MEAP test or an assessment instrument developed for a State-endorsed high school diploma.

The Code requires an academy to comply with all applicable law, including certain specified State laws. The bill would add to these laws, the Code's provisions on the tagging records of missing students (MCL 380.1134); identification requirements for enrolling students (MCL 380.1135); prohibition against separate schools or departments based on race, color, or sex (MCL 380.1146); bilingual instruction (MCL 380.1153); and, school construction (MCL 380.1263(3)).

The Code specifies that an academy may not levy ad valorem property taxes or any other tax for any purpose. The bill would add that operation of one or more public school academies by a school district or an ISD would not affect the district's or ISD's ability to levy ad valorem property taxes or any other tax. The bill also provides that if a school district or ISD applied for and obtained a contract to operate one or more public school academies under Part 6B, the power of the school district or ISD to levy taxes for any purpose under

the Code would not be affected by the operation of a public school academy by the district or ISD. Revenue from taxes levied by a school district or ISD under the Code or bonds issued by a district or ISD could be used to support the operation or facilities of a public school academy operated by the district or ISD in the same manner as that revenue may be used under the Code by school districts or ISDs to support school district operations and facilities. The bill specifies that it would not authorize a school district or ISD to levy taxes or issue bonds for any purpose that was not otherwise authorized under the Code.

The board of a school district or ISD could enter into an agreement with an academy to provide services to the academy or to pupils of the academy. The services could be provided on a cooperative basis. A school district or ISD could charge the academy for these services.

The Code also permits an academy, in addition to other powers set forth under Part 6B, to take action to carry out the purposes for which it was incorporated, including incurring temporary debt in anticipation of receipt of funds, subject to applicable rules of the State Board. The bill would delete reference to State Board rules, and make this subject to the Municipal Finance Act.

The Code provides that the board of a school district must award a State-endorsed high school diploma to an eligible graduate if certain criteria are met, and may award a high school diploma to a pupil who successfully completes local district requirements established according to State law, regardless of whether the pupil is eligible for any State endorsement. In this context, a school district also is subject to provisions concerning reevaluations, special programs, and accommodations for pupils with disabilities. The bill would extend these provisions to public school academies.

The Code requires that the State Board and the board of each school district ensure that the MEAP tests are not used to measure pupils' values or attitudes. The bill would include public school academies in this requirement.

The Code requires a school board, other than a board of a first class district, to insure school district property unless otherwise directed by school electors. The bill would add that a public school academy would have to ensure its property.

Within one year after the bill's effective date, and at least annually thereafter, the State Board would be required to submit a report to the Legislature evaluating public school academies generally, including, but not limited to, an evaluation of whether public school academies were fulfilling the purposes specified in the Code. This report could be included in the annual report required under the Code's provisions under which an academy must provide certain information concerning finances, pupils, curricula, and aggregate assessment test scores (MCL 380.517a).

### Intermediate School Districts

The bill specifies that an ISD and an intermediate school board would have all of the rights, powers, and duties expressly stated in the Code; could exercise a power implied or incident to any power expressly stated in the Code; and, except as provided by law, could exercise a power incidental to the ISD in the interests of public elementary and secondary education in the ISD, including, but not limited to, all of the following:

- Educating pupils.
- Providing for the safety and welfare of pupils while at school or a school-sponsored activity or while en route to or from school or a school-sponsored activity.
- Acquiring, constructing, maintaining, repairing, or renovating ISD property, facilities, equipment, technology, or furnishings.
- Hiring, contracting for, scheduling, supervising, or terminating personnel to carry out ISD and intermediate school board powers. The bill specifies that an ISD could indemnify its employees.
- Receiving, spending, accounting for, or investing ISD money; borrowing money and pledging ISD funds for repayment; and qualifying for State school aid.

An ISD could enter into agreements with other public or private entities, and could join organizations as part of performing an ISD's functions. Unless expressly provided in the bill, the powers of an ISD or its school board would not be diminished by the Code or by the bill.

An ISD board could conduct, participate in, administer, or serve as fiscal agent and/or administrative entity for one or more programs involving workforce development, including, but not limited to, job training and development programs, school-to-work initiatives, work first or

programs under the Federal Job Training Partnership Act or a successor program.

In addition to an ISD's current statutory responsibilities, to the extent allowed by law, an ISD would have to offer to provide to constituent districts and to public school academies located within the ISD business services that could be accomplished more cost-effectively by an ISD. An ISD could charge a fee for these services, and could contract with a third party for provision of some or all of these services, which could include, but would not be limited to, any of the following: data processing; payroll; class scheduling; distance learning coordination and delivery; and transportation services.

The Code requires an ISD board to prepare an annual general fund operating budget, which must be in a form prescribed by the county tax allocation board. The Code also provides for a meeting on the budget with representatives of the ISD board and representatives of the constituent districts. The bill would delete the provisions on the meeting with constituent districts.

Under the bill, an ISD board, by April 1 of each year, would have to file the budget with the county clerk of each county in which the ISD was situated, except a county that had established separate tax limitation millage rates pursuant to provisions in the Property Tax Limitation Act. Each county clerk receiving the budget would have to deliver it to the county tax allocation board in the same manner as other school district budgets were handled.

The Code defines "general fund operating budget" to mean the budget that includes revenues from the ISD's share of the 15 mills as determined by the tax allocation board or by referendum and State school aid. The bill would delete reference to the 15 mills.

### Consolidation

The Code provides that two or more school districts, except districts of the first and second class, in which the total combined pupil membership is 75 or more, may consolidate to form a single school district. The consolidated district must be a school district of the fourth or third class, depending on the classification to which its pupil membership entitles it. The bill would delete this language, and provide that two or more school districts could consolidate to form a single school district.

## State Board Report

Within 180 days after the bill's effective date, the State Board of Education would have to prepare and submit to the committees of the Legislature with responsibility for education legislation a report that detailed the mandates imposed on school districts, intermediate school districts, and public school academies, and on their boards, by the School Code, the State School Aid Act, other State statute, or rule. The report also would have to make recommendations on: mandates that should be eliminated by the Legislature; mandates applying to school districts or ISDs or their boards that should be made subject to waiver by the State Board or the Superintendent of Public Instruction and on proposed requirements for obtaining such a waiver; and mandates applying to public school academies or their boards that should, by legislation, be made subject to waiver by the authorizing body and on requirements for obtaining such a waiver.

## Open Enrollment

The bill provides that a school-age child residing in this State could attend any public school in the State offering the appropriate grade level for the child. The board of a school district could not interfere with the right of a school-age child residing within its territory to attend school outside the school district boundaries or to enroll in the pupil's school district of residence at any time during the school year. The bill specifies that joining, belonging to, or enforcing the eligibility or other regulations of an organization that sponsored interscholastic contests, events, or activities would not constitute interference with the rights of children under this provision.

By March 1 of each year, a school board would have to adopt and publish the open enrollment policy for nonresident school-age children that would be in place in the school district for the next school year. The policy would have to include the open enrollment availability that would be offered in each school and grade of the district. The policy could provide that there would be no open enrollment available in one or more schools or grades, or in one or more grades in a particular school.

("School-age child" would mean a child who was at least six years of age on December 1 of the particular school year and who was not older than 18 as of the first day of the particular school year or, for an individual who qualified for special

education programs and services, who was not older than 26. For purposes of enrolling in kindergarten, a child who was at least five on December 1 of the particular school year would be a school-age child.)

Except as provided below, if the number of nonresident school-age children seeking to enroll in a school or grade did not exceed the open enrollment availability in the school or grade, the school board would have to accept all of the nonresident children seeking to enroll in the school or grade. Except as provided below, if the number of nonresident school-age children seeking to enroll in a school or grade exceeded the open enrollment availability in the school or grade, the school board would have to ensure that nonresident children were accepted on a random basis for enrollment in the school or grade. However, enrollment priority would have to be given to a sibling of a pupil enrolled in the school or school district.

Except as provided below, the board of a school district would have to allow any pupil who was enrolled in the district under open enrollment in the immediately preceding school year to enroll in the school district in the appropriate grade and, unless that grade were not offered at that school, in the same school as he or she attended in the previous school year.

If the parent or legal guardian of a nonresident school-age child intended to enroll the child in a school district for a school year under open enrollment, the parent or guardian would have to notify the school district of that intention, and of the school and grade in which the parent or guardian wanted the child enrolled, by March 31 of the immediately preceding school year, or by a later date if established by school district policy. A school board could refuse to enroll a nonresident school-age child for whom this notification was not received. By June 30 of each year, or earlier if established by school district policy, a school district would have to notify the parent or guardian of each nonresident school-age child for whom the district had received a timely notification, of whether the child could enroll in the district in the school and grade indicated and, if the child were not allowed to enroll in that school and grade, the reason for the refusal.

A school board also could refuse to enroll a nonresident school-age child who had been expelled from another school district or public school or who had documented behavioral

problems while enrolled in another district or public school.

Enrollment in a program in an ISD other than the ISD of residence of nonresident school-age children who were eligible for special education programs and services would be subject to the ISD special education plan under the Code of the ISD in which the child resided.

If a school district were subject to a court-ordered desegregation plan, the board could not enroll nonresident pupils unless that enrollment were approved under that plan.

Currently, the Code provides that a person, resident of a school district not maintaining a kindergarten and at least five years of age on the first day of enrollment of the school year, has a right to attend public school in the district. The bill specifies, instead, that a child who was at least five on the first day of enrollment of the school year would have a right to attend public school in this State.

#### Bilingual Education

The Code currently requires the board of a school district that has an enrollment of 20 or more children of limited English-speaking ability in a language classification in grades K to 12 to establish and operate a bilingual instruction program for those children. In addition, a board may establish and operate a bilingual instruction program if the school district has fewer than 20 children of limited English-speaking ability. The bill would delete these provisions and instead would permit a school board to establish and operate a bilingual instruction program. The bill also would delete provisions requiring an ISD to determine whether total numbers of children with limited English-speaking ability residing in the constituent districts that do not operate a program of this kind warrant the establishment of an intermediate bilingual instruction support program. The bill would permit an ISD to operate or contract for the operation of a bilingual program or service. The bill also would delete provisions concerning the transportation and payment of tuition for a child by his or her resident school district to a school district offering a bilingual program. In addition, the bill would delete provisions concerning a three-year enrollment in a bilingual instruction program. Under the bill, the State would be required to continue funded bilingual instruction at least at the level that instruction was funded in the 1995-96 State fiscal year.

#### School Boards/Merit Pay

The bill also provides that a school district or ISD could implement and maintain a method of compensation for its employees that was based on job performance and job accomplishments. A school district or ISD could use subjective means of evaluating employees for the purposes of that method of compensation.

#### Annual Estimate of Taxes

A school board would have to prepare annual estimates of the amount of taxes necessary for the school district's needs for the ensuing fiscal year. The estimates would have to specify the amount required for the "general fund", the "building and sites fund", and the "debt retirement fund", in accordance with the Municipal Finance Act.

The board could include in the "building and sites fund" an amount not exceeding in one year .01% of the school district's taxable value to establish and maintain a school district insurance reserve fund from which school buildings or other school property damaged or destroyed by fire, lightning, or otherwise could be repaired, rebuilt, or replaced by other buildings or property to be used in its place. Taxes could not be levied for this purpose while the insurance reserve fund exceeded or equaled .1% of the district's taxable value. The board would have to carry the insurance reserves forward as an encumbered reserve and could add to the reserve as prescribed in the bill. Insurance reserve funds could be invested as provided in the Code's provisions on the investment of funds (MCL 380.1223). Income from the investment would have to be considered as part of the "general fund". If an emergency were declared by a two-thirds vote of the board members, the insurance reserve funds could be borrowed for the emergency, but the funds would have to be returned to the insurance reserve fund from the collection of taxes in the next ensuing fiscal year.

A board could adopt a budget in the same manner and form as required for its estimates and determine the amount of tax levy needed for the budget. A board would have to certify the amount to the city and township before the date required by law.

The proper officials of the city and township would have to apportion the school taxes in the school district in the same manner as other taxes of the city or township were apportioned, except as otherwise provided. The amount apportioned



would have to be assessed, levied, collected, and returned for each portion of the school district in the same manner as city or township taxes in which the portion of the school district was located. The tax levied by the school board, in the discretion of the legislative body of the city or township, could be stated separately on each tax bill.

#### Administrator Contract Renewal

If a school board, ISD board, or governing board of a public school academy employed an administrator, other than a superintendent of schools, by written contract, the board would have to comply with the following.

If the board were considering nonrenewal of the administrator's contract, the board would have to give the school administrator written notice that it was considering nonrenewal of the contract at least 90 days before the contract's termination date. The notice would have to include a statement of reasons the board was considering nonrenewal. Reasons for nonrenewal could not be arbitrary or capricious.

The affected administrator would have to be given the opportunity to meet with at least the majority of the board to discuss the reasons stated in the notice. The meeting could be open or closed, as the school administrator elected, under the Open Meetings Act. The board would have to give written notice of its decision not to renew the contract at least 60 days before the contract's termination date.

If the board failed to comply with these provisions, the contract would be renewed for one additional year. Employment by a board of a superintendent would have to be by written contract. Unless written notice of nonrenewal was given at least 90 days before the termination date of the contract, the contract would be renewed for an additional one-year period.

#### State Superintendent

If a person employed by the State as Superintendent of Public Instruction were removed from that position, the State Board, or another State agency, could not enter into a settlement agreement concerning that removal unless the agreement was in settlement of a lawsuit filed against the State.

The State Board could not grant administrative leave for more than six months to a person

employed, or previously employed, as State Superintendent.

#### Substitute Teachers

Under the Code, a teacher who has been employed for 120 days or more during a school year of at least 180 days, or employed as a substitute for 150 days or more by an ISD that operates any program for 220 days or more, must be given the first opportunity to accept or reject a contract after all other teachers in the district have been rehired. The bill would increase the 120-day requirement to 180 days and the 150-day requirement to 220 days.

Under the Code, a teacher employed as a substitute teacher with an assignment to one specific teaching position, after 60 days of service, must be granted annual leave and other privileges granted to regular teachers by the school district for the duration of that assignment. The bill would refer to 60 days of service "in that assignment".

#### School Improvement Plans/Core Curricula

Under the Code, if the board of a school district wants all of the schools of the district to be accredited, the board must adopt and implement a three- to five-year school improvement plan and continuing school improvement process for each school within the school district. The State Board annually must review a random sample of school improvement plans and submit a report based on the sampling to the Senate and House committees responsible for education legislation. The bill would retain these requirements but delete requirements that the State Board, by April 1, 1994, revise its existing criteria for school improvement plans to ensure that plans include at least specific matters; that an ISD school improvement plan include information specified in the Code; and, that school improvement plans of a school district be maintained on file with the ISD to which a school district is constituent.

The Code also provides that, if the board of a school district wants all of the schools of the district to be accredited, the board must make available to all pupils attending public school in the district a core academic curriculum in each of the curricular areas specified in the State Board-recommended model core academic curriculum developed under the Code. In addition, the board of each school district, considering the academic curricular outcomes recommended by the State Board, must establish a core academic curriculum for its pupils at the elementary, middle, and

secondary school levels, and determine the aligned instructional program for delivering the core curriculum and identify the courses and programs in which it will be taught.

The bill would retain these provisions but delete requirements that the State Board, by September 1, 1994, develop and submit for public hearing proposed rules establishing a required core academic curriculum for all school districts, and, by January 1, 1996, submit the proposed rules to the Joint Committee on Administrative Rules. The bill also would delete a requirement that, beginning in the 1997-98 school year, the board of a school district provide to each pupil the core academic curriculum required under the State Board rules.

#### State-Endorsed Diploma

The Code requires a school board to award a State-endorsed high school diploma to an eligible high school graduate. The bill would extend these provisions to a public school academy.

In addition, the bill provides that for students scheduled to graduate in 1997, the Department of Education could use a version of the science assessment instrument developed or selected and approved by the State Board instead of the science portion of the MEAP grade 11 test, and, in its discretion, could administer that science assessment in the fall of 1995 and/or the spring of 1996. If the Department used that science assessment instrument, it would, based on expert advice, have to determine the level of proficiency that had to be demonstrated for a pupil scheduled to graduate in 1997 to earn a State endorsement in science.

Currently, a State endorsement must be awarded to a pupil scheduled to graduate from high school 1997 if he or she achieves certain academic outcomes in one or more of the subject areas of communication skills, mathematics, science, and beginning with pupils scheduled to graduate in 1999, social studies. The bill would delete reference to 1999 graduates and social studies academic outcomes. Under the bill, beginning with pupils scheduled to graduate in 1998, if a pupil achieved the outcomes required by the State Board, as measured by an assessment instrument developed as provided under the Code, for a State-endorsed high school diploma in one or more of the subject areas of communication skills, mathematics, science, and beginning with pupils scheduled to graduate in 2000, social studies, the pupil's school district or public school academy would have to award a State endorsement on the

pupil's diploma in each of the subject areas in which the pupil demonstrated the required proficiency.

#### Accreditation

Currently, a school board that does not want to be subject to measures described in the Code must ensure that each public school within the district is accredited. The Department of Education is required to develop and distribute proposed accreditation standards, as provided in the Code. In addition, the Department must develop and distribute to all public schools standards for determining that a school is eligible for summary accreditation.

Under the bill, the standards for accreditation or summary accreditation could not include pupil performance on the MEAP tests. If it were necessary for the State Board to revise accreditation or summary accreditation standards to comply with the bill, the revised standards would have to be developed, reviewed, approved, and distributed according to the same process as prescribed in the Code.

#### Pupil Instruction Days/Hours

Under the Code, if the board of a school district does not want the district's State school aid payments to be withheld as described in the State School Aid Act, the board must ensure that the minimum number of days of pupil instruction in a school year is 180 and that the minimum number of hours of pupil instruction in a school year is 900 for the 1994-95 school year, 990 for the 1995-96 and 1996-97 school years, 1,035 for the 1997-98 and 1998-99 school years, and 1,080 for the 1999-2000 school year and each succeeding school year.

Under the bill, a board of a school district or public school academy would have to ensure that the minimum number of days of pupil instruction in a school year was 180 through the 1996-97 school year, 181 in the 1997-98 school year, 182 in the 1998-99 school year, 183 in the 1999-2000 school year, 184 in the 2000-2001 school year, 185 in the 2001-2002 school year, 186 in the 2002-2003 school year, 187 in the 2003-2004 school year, 188 in the 2004-2005 school year, 189 in the 2005-2006 school year, 190 in the 2006-2007 school year, 191 in the 2007-2008 school year, 192 in the 2008-2009 school year, 193 in the 2009-2010 school year, 194 in the 2010-2011 school year, and 195 in the 2011-2012 school year and each succeeding school year.

The bill would increase the minimum hours of pupil instruction to 1,041 for the 1997-98 school year, 1,047 for the 1998-99 school year, 1,098 for the 1999-2000 school year, 1,104 for the 2000-2001 school year, 1,110 for the 2001-2002 school year, 1,116 for the 2002-2003 school year, 1,122 for the 2003-2004 school year, 1,128 for the 2004-2005 school year, 1,134 for the 2005-2006 school year, 1,140 for the 2006-2007 school year, 1,146 for the 2007-2008 school year, 1,152 for the 2008-2009 school year, 1,158 for the 2009-2010 school year, 1,164 for the 2010-2011 school year, and 1,170 for the 2011-2012 school year and each succeeding school year.

Currently, a school board by August 1 must certify to the State Board the number of days of pupil instruction in the previous school year. The bill would add certification of the number of hours of pupil instruction and would require academies to provide this information to the State Board.

#### Teacher Certification

Under the Code, the State Board may issue a teaching certificate only to a person who has passed a basic skills examination and appropriate available subject area examinations. If a person holds a teaching certificate from another state or a teaching degree from an out-of-state teacher preparation institute, the State Board may accept passage of an equivalent examination approved by the Board to meet the examination requirements. The bill generally would retain these requirements but would add the provisions described below.

The bill specifies that, if a person holding a teaching certificate from another state applied to the State Board for a Michigan teaching certificate and met the requirements of the bill, the State Board would have to issue to the person a Michigan professional education teaching certificate and applicable endorsements comparable to those the person held in the other state, without requiring the person to pass a basic skills examination or the applicable subject area examination otherwise required by the Code. To be eligible to receive a Michigan professional education teaching certificate, a person would have to provide evidence satisfactory to the Department that he or she met all of the following requirements:

- Had taught successfully for at least three years in a position for which the person's teaching certification from the other state was valid.

- Had earned, after his or her initial certification in another state, at least 18 semester credit hours in a planned course of study at a State Board-approved institution of higher education or had earned, at any time, a State Board-approved master's or doctoral degree.
- Had met the elementary or secondary, as applicable, reading credit requirement established under State Board rule.

Someone who received a teaching certificate and endorsement under this provision would be eligible to receive one or more additional endorsements comparable to endorsements the person hold in another state only if the person passed the appropriate subject area examinations required under the Code. The State Board could deny a Michigan teaching certificate to an out-of-state teacher for fraud, material misrepresentation, or concealment in the person's application for a certificate or for a conviction for which a person's teaching certificate could be revoked under the Code's provisions concerning suspension of a certificate upon conviction of certain criminal sexual conduct crimes (MCL 380.1535a).

Beginning January 1, 1996, the State Board would have to issue to a person a teaching certificate authorizing him or her to teach in grades 9 to 12 only and the appropriate subject area endorsement, without requiring the person to meet any other requirements, if the person demonstrated that he or she met all of the following requirements:

- Had at least a bachelor's degree from a State Board-approved college or university.
- Had passed both the basic skills examination and the appropriate available subject area examination for each subject area in which the person applied to be certified.
- Had at least five years of occupational experience directly related to each subject area in which the person applied to teach. (Experience in the U.S. military would be considered occupational experience.)
- Paid all fees normally charged to other applicants for the same certification or endorsement.

At the request of the board of a school district, ISD, or public school academy employing a person issued a teaching certificate under the above provisions, made within the first 90 school days

after the teaching certificate had been issued, the State Board would have to revoke the teaching certificate issued to the person. For the purposes of certification under this provision, the State Board would have to make arrangements to provide reasonable opportunities for people to take the basic skills and subject area examinations.

If a person holding a teaching certificate from another state applied for a Michigan teaching certificate and met all requirements for the Michigan teaching certificate except passage of the appropriate basic skills examinations, the State Board would have to issue a nonrenewable temporary teaching certificate, good for one year, to the person. The State Board could not issue a Michigan teaching certificate to the person after the temporary teaching certificate expired, he or she passed the appropriate basic skills examinations.

#### Teacher Certificate Nullification

The Code provides that upon request of a teacher and for good cause, the State Board may nullify that teacher's teaching certificate, one or more endorsements on the teaching certificate, or a grade level certification included in the teaching certificate if the grade level certification has not been used for at least 10 years. The State Board cannot reinstate a teaching certificate, endorsement on a teaching certificate, or a grade level certification that has been nullified. The State Board is required to promulgate rules for the implementation of this provision. The bill would delete the provision for rules promulgation.

The bill would require that upon a teacher's request, the State Board immediately nullify the teacher's certificate. Upon a teacher's request, the State Board also could nullify one or more endorsements on the teaching certificate, or a grade level certification included in the teaching certificate if the grade level certification had not been used for at least 10 years. The State Board could not reinstate a teaching certificate, endorsement on a teaching certificate, or grade level certification that had been nullified pursuant to the bill or pursuant to the following provisions.

The State Board would have to nullify immediately a person's teaching certificate if the person, as an adult, were convicted of or pleaded nolo contendere to an act of immoral conduct contributing to the delinquency of a child, or a felony involving moral turpitude, or any crime under the Michigan Penal Code's provisions on child abuse (MCL 750.136b); contributing to the

neglect or delinquency of children (MCL 750.145); accosting, enticing, or soliciting a child for immoral purposes (MCL 750.145b); first-, second-, third-, and fourth-degree criminal sexual conduct (MCL 750.520b-750.520e); or, assault with intent to commit criminal sexual conduct (MCL 750.520g); or, a violation of the provisions in the Public Health Code concerning the delivery or distribution of a Schedule 1 or 2 controlled substance that is either a narcotic drug or cocaine to a minor who is a student on or within 1,000 feet of school property (MCL 333.7410(1)-333.7410(4)); or, a violation of the Michigan Liquor Control Act's provisions prohibiting the sale of alcoholic liquor to minors (MCL 436.33).

The State Board would have to nullify a person's teaching certificate if the person were discharged, in accordance with the teachers' tenure Act for misconduct of a sexual nature or unprofessional conduct involving a minor.

The State Board also would have to nullify a person's teaching certificate if the person were found to have engaged in conduct constituting child abuse or child neglect under the Child Protection Law (MCL 722.622).

#### Professional Development

The Code specifies how funds appropriated by the Legislature to support professional development and education must be allocated, and the purposes for which the funds may be used. The bill would include any other purpose authorized in the appropriation for professional development in the State School Aid Act.

The bill would require that, beginning in the 1997-98 school year, the board of each school district, ISD, or public school academy provide an additional day of teacher professional development each school year over the ensuing five-year period for each teacher, and maintain at least that number of professional development days after the 2001-2002 school year. These professional development days could not be counted toward the intensive professional development required under the Code during the first three years of a teacher's employment in classroom teaching.

#### Attendance/Home Schooling

The Code specifies cases in which a child is not required to attend a public school. The bill would include a child who had graduated from high school or had fulfilled all requirements for high school graduation. The bill also would include a

child being educated by his or her parent or legal guardian at the child's home.

The bill also would delete the current provision that a child does not have to attend public school if he or she is regularly employed as a page or messenger in either house of the Legislature during the period of the employment.

#### Other Provisions

The Code provides that the board of a K to 12 school district must, and the board of a primary district or a fourth class school district that does not operate a K to 12 program may, establish and operate a school lunch program. The board of a K to 12 school district must establish and operate a school breakfast program (except under certain circumstances), and the board of a primary school district or a fourth class school district that does not operate all of grades K to 12 may establish and operate a breakfast program. Under the bill, the board of a K to 12 school district still would be required to establish and operate lunch and breakfast programs, and the board of "another school district" could establish and operate lunch and breakfast programs.

Under the Code, a child placed by a court or child placing agency in a licensed home, or a child whose parents or legal guardians are unable to provide a home for the child and who is placed in a licensed home or in a home of relatives in the school district, for the purpose of securing a suitable home for the child and not for an educational purpose, must be considered for education purposes a resident of the school district where the home in which the child is living is located. The bill would refer to a child placed in "a licensed home or other home in the school district", and would delete the prohibition against placement for an educational purpose. A school board, however, could refuse to admit the child if he or she had been expelled from another school district or public school.

Currently the school electors of a school district subject to the 15 mill tax limitation provisions under the Property Tax Limitation Act may vote a one-year tax to provide funds for the purchase or lease of sites for homes, to lease, build, or purchase homes, and to furnish and equip the homes for use of the superintendent, administrators, and teachers employed in the district. The bill would add that the school board could not hold an election after January 1, 1996, to levy a tax under this provision for the first time in

the school district. A tax levied under this provision could be renewed by the school electors after January 1, 1996, if the tax were still in effect at the time the renewal was voted upon.

Currently, a school board may pay the actual and necessary expenses incurred by its members and employees in the discharge of official duties or in the performance of functions approved by the board. Under the bill, this provision would apply to an ISD board. In addition, a local or ISD board could not approve payment of an expense unless one or both of the following conditions were met: the board, by a majority vote of its members at an open meeting, approved reimbursement of the specific expense before the expense was incurred; and/or the expense was consistent with a policy adopted by the board, by a majority of its members at a regular board meeting, establishing specific categories of reimbursable expenses and the board, by a majority vote of its members at an open meeting, approved the reimbursement before it was actually paid.

Currently under the Code, a school board or ISD board, unless approved by the State Board, cannot impose any deed restriction prohibiting property sold or transferred by the board from being used for any lawful public education purpose. The bill would add that if a school board or ISD board offered property for lease or rent, the board could not refuse to lease or rent the property to any entity for use for any lawful public education purpose.

The bill provides that a school district or ISD would have the power of eminent domain for acquiring sites for schools, athletic fields, or playgrounds, and would have to exercise that power according to the Uniform Condemnation Procedures Act.

The Code describes specific days on which a school officer or teacher must have each school under his or her control observe the day by a commemorative exercise. The bill would delete reference to October 21, Carleton's birthday, and October 27, Roosevelt's birthday.

Currently, a school board cannot permit any pupil to carry a pocket pager or electronic communication device in school except for health or other unusual reasons approved by the board, and may develop penalties it considers appropriate for a pupil who violates this prohibition. The bill would to the prohibition other personal communication devices.

## Repeals

### **Part 2. Primary School Districts**

The bill would repeal the entire part, including provisions governing school districts that do not operate a grade above the eighth grade. This includes provisions regarding the selection of board members; a district's annual meeting; discontinuance of a school or grade; board of education meetings; duties of board officers; transportation of pupils within the school district; and, authorization for a district to obtain voter approval for the acquisition, lease, or disposal of real property (MCL 380.71-380.87).

### **Part 3. Districts of the Fourth Class**

The bill would repeal the entire part, including provisions governing school districts with a pupil membership of more than 75 and less than 2,400. This includes provisions on reclassification of primary school districts to fourth class districts; board member elections and terms; duties of the board and board officers; authority for operations such as employing a superintendent and establishment of a high school; transportation within the district; acquisition of sites or buildings; board borrowing power; and, annual elections (MCL 380.101-380.155).

### **Part 3a. Joint High School Districts**

The bill would repeal the entire part, including provisions providing authorization and procedures for fourth class school districts jointly to operate a high school that will serve the participating school districts. This includes provisions on the administration of this district; the appointment of a governing board; the employment of employees from participating districts; employment of a principal or director for the joint high school; dissolution of a joint district; consolidation of participating districts to form a single district; and, additional participants in a joint high school district (MCL 380.171-380.187).

### **Part 4. Districts of the Third Class**

The bill would repeal the entire part, including provisions governing school districts with a pupil membership of more than 2,400 and less than 30,000. This includes provisions on the reclassification of fourth class districts as third class districts; the election and terms of board members; employment of a superintendent and other administrators; borrowing powers of the board; the levy of school taxes; and, the

establishment and maintenance of a library and/or museum (MCL 380.201-380.260).

### **Part 5. School Districts of the Second Class**

The bill would repeal the entire part, including provisions governing school districts with a pupil membership of more than 30,000 and less than 120,000. This includes provisions on the reclassification of third class districts as second class districts; board nominations, elections, officers, and meetings; board borrowing powers; the submission of propositions to the voters; certification of taxes; employment of a superintendent and administrative staff; and, funds for maintenance of school district or public libraries (MCL 380.301-380.362).

### **Part 8. Reclassification of School Districts**

The bill would repeal the entire part, including provisions for the reclassification of school districts, including changing the membership of the board of a reclassified district; and for the continuance of a district operating under a special or local act that had been repealed (MCL 380.805-380.812).

### **Part 9. Consolidation of School Districts**

The bill would repeal provisions on districts participating in a joint high school district merging to form a single district (MCL 380.862a).

### **Part 15. School Districts; Powers and Duties Generally**

The bill would repeal certain sections of this part, which concern the following: requiring a school district to be a corporate body (MCL 380.1132); meeting the needs of a diverse pupil population (MCL 380.1147b); providing special assistance to pupils falling behind or not advancing in grade level (MCL 380.1149); permitting a public higher educational institution to offer courses at a school district and permit a pupil to receive college and high school credit (MCL 380.1150); defining certain terms pertaining to bilingual education (MCL 380.1152); requiring a full-time bilingual instruction program (MCL 380.1154); establishing a school district advisory board on bilingual instruction (MCL 380.1156); permitting high school credit to be given to pupils studying American Sign Language (MCL 380.1157b); and, specifying State Board of Education duties in complying with the bilingual provisions (MCL 380.1158).

The bill also would repeal provisions on: requiring the State Board to develop guidelines on the teaching of dispute management and resolution (MCL 380.1167); requiring the State Board to develop a curriculum guide for teaching consumer economics (MCL 380.1168); requiring time to be devoted to teaching about the humane treatment and protection of animals and birds (MCL 380.1171); permitting a school district to develop a nature study area (MCL 380.1171a); requiring the State Board to promulgate rules concerning personality tests (MCL 380.1172); requiring appropriate authorities of a public school to consider the degree to which instructional materials reflect the pluralistic, multiracial, and multiethnic nature of society (MCL 380.1173); permitting the State Board to develop guidelines for expanding curricula to include materials on the culture of ethnic, religious, and racial minority peoples, and the contributions of women (MCL 380.1174); permitting a school board, by the 1995-96 school year, to develop and implement a curriculum to ensure multicultural education in all grade levels (MCL 380.1174a); and, permitting voters in a local act district to adopt applicable provisions of the Code (MCL 380.1176).

#### **Part 16. Boards of Education; Powers and Duties Generally**

The bill would repeal certain sections of this part, which concern the following: requiring school board business to be conducted at a public meeting (MCL 380.1201); requiring a school board to ensure that decisions made at a school building level are made by using site-based decision-making (MCL 380.1202a); requiring a school board and ISD board to publish a financial report (MCL 380.1203); requiring a school board to make an annual report to the State Board (MCL 380.1204); providing for the administration of oaths (MCL 380.1205); and, permitting a school board to receive real or personal property for scholarships or other educational purposes (MCL 380.1210).

In addition, the bill would repeal sections concerning: terminating teachers' contracts and substituting a new contract with increased benefits (MCL 380.1232) and, permitting teacher sabbatical leave for professional improvement (MCL 380.1235).

Sections that do the following also would be repealed: establish continuing education requirements for superintendents and other school administrators and provide for the hiring of principals, assistants and other employees; require a school board or ISD board to permit each

secondary school teacher to review a copy of the official transcript of each pupil the teacher taught (MCL 380.1246-380.1249); permit a school board to employ an attorney (MCL 380.1253); permit the payment of actual and necessary expenses of school board members and employees, and specify that the expenses are a public record (MCL 380.1254); and, allow the use of a district's general fund to provide employee economic benefits (MCL 380.1255).

Provisions that do the following also would be repealed: permit a school board to acquire property and to enter into contracts to purchase telecommunication and technology-related services; require that visual inspections and environmental assessments be made for certain construction projects (MCL 380.1261-380.1262a); provide for renovation of a leased building (MCL 380.1263a); require a school board to provide for the care and management of a library or museum it established, and provide for the establishment of district library media centers (MCL 380.1264-380.1264a); permit the acquisition of school sites through urban renewal programs (MCL 380.1265); permit a school district to use Federal funds for neighborhood facilities projects (MCL 380.1266); permit the use of school property for community centers (MCL 380.1268); require that school property be insured (MCL 380.1269); and, permit a school board to participate in a pupil accident or medical insurance program (MCL 380.1270).

The bill also would repeal provisions that permit a school district to enter into agreements with other districts or local governments to provide individual and family counseling services on the use of controlled substances and alcoholism (MCL 380.1275).

In addition, the bill would repeal academic requirements pertaining to: addressing gender equity issues in the school improvement plan (MCL 380.1277a); establishing pupil performance standards and requiring the State Board to appoint an academic performance standards committee (MCL 380.1278a-380.1278b); requiring the use of criteria-based strategies in assessing pupils and requiring high school credit to be awarded to a pupil not enrolled in a course under certain conditions (MCL 380.1279a-380.1279b); providing and maintaining student portfolios (MCL 380.1279d); awarding high school credit for foreign language proficiency achieved outside of a school curriculum (MCL 380.1279e); requiring a district to establish grades, departments, and courses of study it considers necessary and provide a core academic curriculum (MCL 380.1282); permitting

a school board to establish attendance areas within the district (MCL 380.1283); permitting an ISD to develop a common calendar for the public schools within the ISD (MCL 380.1284a); permitting a local or ISD board to establish child care centers (MCL 380.1285); permitting a school board to provide facilities and employ teachers for kindergarten classes (MCL 380.1286); permitting the establishment of vocational education programs (MCL 380.1287); permitting a school board to join an organization promoting the regulation of sport and creative arts contests between pupils (MCL 380.1289); permitting the establishment of a local security task force (MCL 380.1291); permitting a school board to provide adult education courses (MCL 380.1293); requiring a school board or the board of directors of a public school academy to make regulations for the proper establishment, maintenance, and management of public schools, including regulating the conduct of pupils attending school or en route to and from school, as well as establishing a student dress code (MCL 380.1300); permitting a school board or governing board of a nonpublic school to establish academic and/or attendance standards as eligibility requirements for driver education courses (MCL 380.1302); permitting State Board review of routes, permitting the purchase of school buses, and permitting contracting for bus storage and maintenance (MCL 380.1334-380.1342); permitting a board to operate a recreational and instructional camp for resident and nonresident pupils (MCL 380.1346); permitting the adoption of policies for information flow between a board and community (MCL 380.1348); and, permitting a board to contract with a photographer to take pupil yearbook pictures (MCL 380.1349).

#### **Part 18. Tuition Pupils**

The bill would repeal the entire part, including provisions permitting a school board to admit nonresident pupils to the schools of a district, and requiring a board to determine the tuition rates; requiring a school board that does not maintain grades above the eighth grade to pay the tuition of a resident pupil who has completed eight grades to a district maintaining a high school; defining "high school"; and permitting districts without high schools to send students to high schools in border states (MCL 380.1401-380.1416).

#### **Part 19. Textbooks**

The bill would repeal certain sections of this part including provisions that: require a person, firm, or

corporation wanting to offer school textbooks for adoption, sale, or exchange in the State to file with the State Board or a designee a copy of each textbook along with statement providing price information (MCL 380.1431); and prohibit a person from securing the sale of a textbook by rewarding a teacher or by securing for the teacher a position in another school district (MCL 380.1437).

#### **Part 20. Libraries**

The bill would repeal the entire part, which permits a school board, by a majority vote of school electors at an annual or special election, to establish a public library, with the school board having charge of the library (MCL 380.1451-380.1452).

#### **Part 21. Health and Physical Education**

The bill would repeal sections of this part, including provisions: defining "sex education" (MCL 380.1501); requiring certain boards to employ qualified instructors in health and physical education (MCL 380.1503); requiring the State Board to aid in the establishment of educational programs to provide pupils with wholesome and comprehensive education and instruction in sex education (MCL 380.1508); permitting a school board to operate a public recreational system and community swimming pool (MCL 380.1511-380.1512); permitting a board or the board of directors of a public school academy to join an organization that promotes sports and the adoption of rules for athletic contests (MCL 380.1521); and, permitting a board to provide medical care for students injured while participating in interscholastic athletic activities (MCL 380.1522).

#### **Part 22. Teachers' Certificates**

The bill would repeal a provision concerning a hearing before the State Board and a possible suspension of a teacher certificate due to conviction of a criminal sexual conduct crime (MCL 380.1535a).

#### **Part 22a. Administrators' Certificates**

The bill would repeal the entire part, which requires the State Board to develop a school administrator's certificate and certificate endorsements; and requires certain State departmental personnel to possess a valid school administrator's certificate (MCL 380.1536-380.1536a).



### **Part 23. Count of Resident Children**

The bill would repeal the section that makes up this part, which permits a school board to provide for the taking of a school census (MCL 380.1541).

### **Part 24. Compulsory School Attendance**

The bill would repeal one section of this part, which requires the secretary of the board of a primary school district at the beginning of school to provide the teacher with a copy of the last school census (MCL 380.1576).

### **Part 27. Condemnation**

The bill would repeal sections of this part, which specifies procedures for the condemnation of real estate required by a school district, including the following: jury determination of compensation (MCL 380.1621); summoning a jury to determine just compensation and notification of the real estate owner (MCL 380.1622); providing notice of a hearing (MCL 380.1623); requiring the judge, jurors, and sheriff to attend at the place and time specified in the summons (MCL 380.1624); determining just compensation for the real estate and permitting the jury to visit the premises (MCL 380.1625); rendering and collecting a judgment (MCL 380.1626); permitting the deposit of the judgment with the county treasurer if the real estate owner cannot be found (MCL 380.1627); requiring the vesting in the school district of the title of the real estate (MCL 380.1628); permitting a school district, after making the required deposit or payment, to enter upon and take possession of the real estate (MCL 380.1629); providing for the summoning of another jury upon disagreement of the first jury (MCL 380.1630); requiring that parties claiming to have interest in the title in the school site or its enlargement, if the site is encumbered by mortgage, levy or tax sale, to be made a party in the procedure (MCL 380.1631); requiring an order for payment of money (MCL 380.1632); providing for juror and sheriff fees (MCL 380.1633); and, providing for a substitute judge (MCL 380.1634).

MCL 380.1 et al. Legislative Analyst: L. Arasim

### **FISCAL IMPACT**

The bill would have an unknown fiscal impact on State and local government. Provisions of this bill could contain a mandated cost to units of local government pursuant to Section 29 of Article IX of

the State Constitution of 1963. Individual provisions of the bill are discussed below.

**School Choice.** Under the current State School Aid Act, the State payment for a student is based on the foundation allowance of the pupil's district of residence. For students currently in public schools, the State payment would not be changed by the choice provisions of the bill. The open enrollment provisions, however, could attract children currently educated in private or home schools to the public school system. This would increase pupil membership and thus the State cost of funding the foundation allowance appropriation.

The appropriation for the foundation allowance is fixed, however, and if expenditures were estimated to exceed the appropriated amount, payments to all districts from the foundation allowance would be subject to proration. Alternatively, a supplemental appropriation could be made to allow full funding of the foundation allowance.

The increase in public school enrollment due to the proposed school choice provisions is unknown; however, the table below shows estimates of the State costs that could be incurred if different percentages of the 194,000 private and home-schooled students enrolled in public schools under choice. The range of estimated costs presented in the table is the potential annualized costs after the first year of implementation based on the estimated Statewide average foundation allowance in FY 1995-96 of \$5,538. The Statewide average foundation allowance used is weighted by pupil membership and capped at \$6,653, the maximum FY 1995-96 State payment per pupil under the foundation allowance.

The impact of the choice provisions on local school districts would vary based on local circumstances. A local district would lose a foundation allowance for each pupil who left for another district under choice. (Some districts already permit students to leave for other districts under some circumstances, "releasing" the pupil, which allows the student to be counted in the membership of the educating district.) A district that increased pupil membership due to choice would gain a foundation allowance (up to a \$6,653 State payment per pupil in FY 1995-96) for each pupil accepted. Some districts would be able to increase enrollments and revenues due to choice. Other districts might choose to accept few students or might not attract new enrollment; thus,

students leaving under choice provisions would not be replaced, reducing the district's pupil membership and revenue under the foundation allowance appropriation. An enrollment increase of 100 full-time equivalent (FTE) pupils in a district with a \$5,538 foundation allowance per pupil would increase local district revenue by \$553,800. The same district with a membership decline of 100 FTE pupils would lose \$553,800.

Pupil membership is determined currently based on the average of the pupils enrolled and in attendance on the October count day of the school year and the supplemental pupil count from the February count day from the prior school year. A student choosing a new school district in the fall would generate only a 0.5 FTE membership in that district in the first year of enrollment. Similarly, the loss to a district of a student leaving at the start of the school year due to choice would be a 0.5 FTE reduction in the first school year.

Implementation of the choice provisions would require related changes in the State School Aid Act.

**Professional Development.** The requirement that local and intermediate districts, and public school academics provide an additional day of professional development to teachers in each year beginning in 1997-98 appears to be a new State mandate. The cost of this provision could begin in 1997-98 and increase each year to the estimated full cost of \$22 million to \$30 million annually, when the full five additional days were implemented in 2001-2002.

**Bilingual Education.** The bill would change bilingual education from a mandated State program to an optional program and would recommend that State funding continue at least at the current level. In FY 1995-96, the State School Aid Act provides \$4,212,000 to fund the mandated program. While the bill does not affect the FY 1995-96 appropriation, eliminating the mandate could make this funding available for other programs.

**Days and Hours of Instruction.** The bill would prohibit recess from counting as public instruction time. Current practice allows up to two recesses to be counted as instructional time if they are supervised by a certificated teacher, are of a reasonable duration, and are not adjacent to the lunch period. In addition, the bill would add intent language that would gradually increase the required number of days by one day per year beginning in 1997-98, until a total of 195 days of

pupil instruction was reached in the 2011-2012 school year. The required number of hours would gradually increase from the current 990 to 1,170 in the 2011-2012 school year. Local school districts, ISDs, and public school academics could incur increased costs in complying with this provision depending on the length of the current school district calendar.

**General Powers.** Local districts could incur additional administrative and legal costs in developing or changing procedures, governance structures, and bylaws under the general powers that would be granted by the bill.

**Elections.** Under current law, primary districts and districts of the fourth class with fewer than 600 pupils select their school board members at annual meetings instead of by school elections. These districts would incur new expenses as a result of conducting elections pursuant to the substitute bill.

**Millage for Staff Housing.** The current provision that allows school districts to levy a one-year tax to fund housing for district employees would be limited by the bill after January 1, 1996, to only those districts renewing an existing millage for that purpose.

**Use of Property Taxes for Public School Academies.** The bill would provide an option for local or intermediate districts to use property tax revenue or the proceeds of a bond issue to support a public school academy authorized by the district. Under the current school aid bill, local property taxes from the 18 mills on nonhomestead property and hold harmless millage comprise the local share of the foundation allowance. The foundation allowance for a public school academy is paid solely from State funds, except that property tax support must be provided to a public school academy in the case where 25% of a district's resident pupils are in membership in a public school academy located in the district.

**Public School Academies--New Requirements.** Public school academies would have new requirements under the substitute. They would be subject to the same limitations as local and intermediate school districts with regard to borrowing in anticipation of State aid payments. They would be subject to the intended increases in days and hours of instruction and to the report of days and hours of pupil instruction conducted in the previous school year. Academies would be required to insure their property, tag the records of missing students, verify identity and age of pupils

at enrollment, abide by antidiscrimination provisions, and submit site plans of proposed construction to the Superintendent of Public Instruction. These requirements could increase the cost of academy operations.

**Public School Academies-- Cap on Authorizations by Universities and Community Colleges.** The removal of the limitations on the number of public school academies authorized by universities and community colleges and the location of public school academies authorized by community colleges could allow quicker expansion of public school academies. It should be noted, however, that the 75-school cap on university-authorized public school academies has not been reached.

**Department of Education and State Board of Education.** The State Board of Education would incur additional costs for preparing reports evaluating public school academies. The costs of the reports would range from minimal to \$25,000 depending on the number of academies and the methodology employed by the State Board.

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**Estimated State Costs of Non-Public Pupils Transferring to Public Schools  
 Potential Annual Costs**

<u>Percentage of Non-Public Pupils Assumed to Transfer into Public Schools</u>	<u>Number of Pupils (% of 194,000)</u>	<u>FY 1995-96 Statewide Average Foundation Allowance</u>	<u>Estimated Potential Annual State Cost of New Enrollment<sup>1</sup></u>
1%	1,940	\$5,538	\$10.7 million
3%	5,820	\$5,538	\$32.2 million
5%	9,700	\$5,538	\$53.7 million
10%	19,400	\$5,538	\$107.4 million

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 1 Under the current pupil membership procedures, the first year impact would be half of the amounts shown.

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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.