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House Bill 4079 (Substitute H-2 as passed by the House)
House Bill 4080 (Substitute H-1 as passed by the House)
Sponsor: Representative Brian Palmer
House Committee: Education
Senate Committee: Education

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CONTENT

House Bill 4079 (H-2) would enact the "Education Mandate Rollback Law" within the Revised School Code to allow a school district to apply for an education mandate rollback contract (EMRC) that would waive certain provisions of the Code or the State School Aid Act, rules promulgated under the Code or the Act, or Federal requirements, as part of a performance-based contract. The district would have to establish measurable pupil performance goals and identify how that the waiver would allow the district to meet them. An EMRC could not extend past five years, but it could be renewed if the district met its pupil performance goals. The bill would be repealed 10 years after its effective date.

House Bill 4080 (H-1) would amend the State School Aid Act to state that provisions of the Act and rules promulgated under it would be subject to an education mandate rollback contract.

The two bills are tie-barred to each other. House Bill 4079 (H-2) is described in detail below.

Under the bill, a school district could apply to the Superintendent of Public Instruction for an education mandate rollback contract for the district or for one or more schools within the district. ("School district" would mean a school district or a public school academy.)

An EMRC would allow the Superintendent of Public Instruction to waive a provision of the Revised School Code or of the State School Aid Act, or rules promulgated under those statutes, as part of a performance-based contract with clearly defined and measurable performance goals. A school district also could apply for a waiver of certain Federal requirements, in accordance with Federal law.

The board of a school district that intended to apply for an EMRC would have to establish an education mandate rollback planning committee, which would have to include a representative of each of the district's collective bargaining units that would be affected by the contract.

The committee would have to work with the school board to develop a resolution indicating the board's intent to apply for the EMRC. If the contract were not intended to cover the entire school district, the resolution would have to specify the schools covered. The board would have to hold at least two public meetings before adopting the resolution. The type of

waivers sought and the need for them would have to be explained, and public comment allowed, at the meetings.

The school board would have to submit to the Superintendent an application for an EMRC in the form and manner prescribed by the Department of Education (DOE). The planning committee would have to assist the board in developing the application.

The application would have to contain a specific listing of the statutes and rules, or Federal statutes and regulations, proposed to be waived, and a statement specifying the need for waiver for each statute or rule, including the purpose and intended results for each waiver. The application also would have to describe the specific goals for improved pupil performance in the school district or school, describe the measurements to be used to determine whether the goals had been met, and explain how the contract and the waivers would assist the school district or school in achieving the goals. The goals could include improving MEAP scores (i.e., the scores achieved by the pupils of a school district or school, as applicable, on all Michigan Educational Assessment Program tests or other State assessments administered to pupils of the school district or school).

The application would have to contain a copy of the resolution described above. If the district were seeking Federal waivers, the application would have to explain how the public notice requirements of Federal law would be met. A fiscal impact statement estimating how the waiver could increase or reduce program costs also would have to be included. If the contract would not cover the entire district, the application would have to identify the specific schools to be covered.

Within 60 days after receiving an application for an EMRC, the Superintendent would have to approve or disapprove the application and notify the school district of the decision. If the application were approved, the Superintendent promptly would have to enter into an EMRC with the district. If it were disapproved, the notification would have to include specific reasons for the disapproval, and the school could submit a revised application.

If the Superintendent did not act on an application and notify the district with 60 days, the application would be considered to be approved and the Superintendent promptly would have to enter into an EMRC with the district.

Within five days after approving an application for an EMRC or after the expiration of the time limit, the Superintendent would have to submit the application to the State Board of Education. At its next meeting that occurred at least 10 days after receiving the application, the Board could, by majority vote, override the approval of the application. The Board would have to notify the Superintendent and the school district of the override, including the specific reasons for it. The school district could submit a revised application. If the Board did not override the approval at this meeting, the Superintendent promptly would have to enter into an EMRC with the district.

The Superintendent could not approve an application for an EMRC unless the performance goals in the application were sufficiently specific and would, if met, constitute improved pupil achievement. In addition, the proposed EMRC would have to allow the school district to enhance learning and to operate in a more effective, efficient, or economical manner. The application also could not be approved unless the district had exhibited financial responsibility during the preceding three years, as determined by the Superintendent. (The bill states that this would not preclude the approval of an EMRC for a school in financial hardship, if the hardship were not due to financial irresponsibility.) In addition, the EMRC could not result in the diminution of wages, hours, or other terms and conditions of employment for employees or collective bargaining units of the school district.

In approving applications, the Superintendent would have to give priority to applications that were focused on reducing pupil achievement gaps based on race, gender, and socioeconomic status.

The DOE would have to prescribe the form of an EMRC, which would have to include at least all of the following:

- All matters addressed in the application.
- Assurance that the school district would report its annual progress toward its performance goals.
- An agreement that, in order for the contract to be renewed, the school's or school district's MEAP scores would have to demonstrate adequate annual progress toward meeting the goals and would have to reach a measurable benchmark by the end of the contract.
- An agreement on the contents of the empowerment report to be filed by the school district at the end of the contract.
- The term of the contract, which could not exceed five years.

The Superintendent could terminate an EMRC with a school if it had experienced two consecutive years of declining pupil performance based on the performance goals and measurements in the contract, or it had failed for two consecutive years to meet the adequate yearly progress standards of the Federal No Child Left Behind Act in both math and English at all applicable grade levels for all applicable subgroups. Termination of the EMRC would not be required if the decline or failure were due to exceptional or uncontrollable circumstances.

At the conclusion of the term of an EMRC, the school district would have to submit an empowerment report (a final evaluation) describing how the school district or school met or did not meet the performance goals in the contract. The report would have to summarize the performance goals achieved and the programs, curriculum, or other innovative approaches used to achieve those goals. The Superintendent could renew an EMRC if the performance goals had been met.

The Superintendent could not waive any of the following as part of an EMRC:

- Health and safety regulations.
- Statutory teacher certification requirements.
- Any provision under Section 1312 (which prohibits school employees from inflicting corporal punishment).

The Superintendent also could not waive a requirement under Part 6A (which governs public school academies (PSAs)) except waiver of Section 503(6) to the extent necessary to allow waiver of another requirement that was imposed under another part of the Code, and that could be waived under the bill for a school district that was not a PSA. (Section 503(6) requires PSAs to comply with the following acts and provisions:

- The Open Meetings Act.
- The Freedom of Information Act.
- Provisions prohibiting labor strikes by public school employees.
- Requirements for student identification at the time of enrollment.
- A requirement that schools tag the records of missing students.
- Provisions governing requests for school records.
- A section prohibiting the separation of students into different schools or departments based on race, color, or sex.
- Provisions for bilingual instruction.
- Provisions requiring school buildings to meet construction codes.

- A law guaranteeing a prevailing wage for employees working under a State contract.
- Policies governing the procurement of supplies, materials, and equipment by school districts.)

The Superintendent would have to submit to the legislature an annual report on the status of the EMRC program, including a report on the contracts issued during the year, and on progress made toward attainment of performance goals.

As the initial EMRCs issued under the bill expired, the DOE would have to post on its website information on the innovations and best practices used to achieve pupil performance goals under the contracts.

Proposed MCL 380.1290 (H.B. 4079)
Proposed MCL 388.1609 (H.B. 4080)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bills could result in decreased local costs, but the ultimate fiscal impact would depend upon how many waivers were sought, the type of waivers sought (e.g., those that would result in increased efficiency or economy), and the degree of success by the school districts in accomplishing the goals of the waivers. In other words, if a district sought a waiver in order to operate in a more economical manner, and if by receiving the waiver the district did see reduced costs with the same or a higher level of educational achievement, then the fiscal impact of this bill would be a reduction in local costs. However, it is not possible to state that this would be a certain outcome.

Fiscal Analyst: Kathryn Summers-Coty

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.