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Senate Bills 981, 982, and 983 (as introduced 11-10-09)
Sponsor: Senator Wayne Kuipers
Committee: Education

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CONTENT

Senate Bill 981 would amend the Revised School Code to require the Superintendent of Public Instruction, beginning after the 2010-2011 school year, to designate a public school as a turnaround school if the Department of Education (DOE) determined that the school had been unaccredited for four consecutive years or had failed to achieve the Federal pupil performance standard for four or more consecutive years, and that less than a designated percentage of all pupils had scored at least proficient on the most recent State assessment. The bill also would do the following:

- Require the Superintendent to appoint a review team to evaluate a turnaround school, identify the reasons for its failures, and make recommendations for corrective measures, including the appointment of new leadership for the school or for the school district.
- Require the review team to re-evaluate the turnaround school at least annually to monitor its progress in implementing the team's recommendations.
- Require the Superintendent, after receiving a review team's evaluation of a public school academy (PSA), to notify the PSA's authorizing body; and permit the authorizing body to revoke the PSA's contract.
- Require the Superintendent, after receiving the review team's evaluation of a school that was not a closed PSA, to appoint a chief educational officer (CEO) for the turnaround school or for the school district.
- Require the CEO to report to the Superintendent the turnaround school's educational performance goals, which would have to include at least an 80% graduation rate, at least 80% attendance, and, if the school were a high school, an average score of at least 18 on the college entrance exam portion of the Michigan Merit Exam.
- Specify the powers and duties of the CEO, which would include all the powers and duties of the school board that previously operated the turnaround school, except those related to taxation and borrowing.
- Authorize the CEO to terminate any contract or portion of a contract that applied to the school or the school district, with certain limitations.
- Permit the CEO to modify school district or PSA policies and renegotiate collective bargaining agreements as necessary to achieve the educational goals.
- Specify that, except as otherwise provided by law, an individual could be employed to teach at a turnaround school only if he or she held a valid Michigan teaching certificate.
- Require the CEO to adopt and implement a parental involvement plan and provide a copy to the parent or guardian of each pupil enrolled in a turnaround school or district.

- **Permit the Superintendent to appoint a new CEO for a school or school district if, after three full school years, the turnaround school had failed to meet its educational goals, had failed to make adequate progress implementing the review team's recommendations, or had not made specified improvements in student performance.**
- **Require the Superintendent to create a high-performing review team to evaluate and identify high-performing PSAs in Michigan and similar high-performing schools in other states, or contract with an entity to do so.**
- **Require the DOE to publish an annual watch list identifying schools that were in danger of being designated as turnaround schools.**
- **Establish requirements for contracts between a CEO and an educational management company.**

Senate Bill 982 would amend the public employment relations Act to include a chief educational officer as a joint employer of employees at a public school for the purposes of collective bargaining, if the Superintendent of Public Instruction designated the public school as a turnaround school.

Senate Bill 983 would amend the State School Aid Act to require that a pupil enrolled in a turnaround school that was operated by a chief educational officer be counted in membership in the district or PSA that operated the school before it was designated as a turnaround school. The district or PSA would have to ensure that all funds attributable to pupils enrolled at the turnaround school were made available to the CEO to be used for operating that school.

The three bills are tie-barred to one another and to Senate Bills 925, 926, and 965. (Senate Bills 925 and 926 would provide for the creation of "schools of excellence", and Senate Bill 965 would require the Superintendent of Public Instruction to establish an alternative teacher certification process.)

Senate Bills 981 and 982 are described in detail below.

Senate Bill 981

Turnaround School

Beginning after the 2010-2011 school year, if the DOE determined that a public school had been unaccredited for four consecutive years or had failed to achieve the Federal pupil performance standard for all pupils for academic performance for four or more consecutive years and that less than a designated percentage of all pupils enrolled in the public school had scored at least proficient on the most recent Michigan Education Assessment Program (MEAP) test or Michigan Merit Exam, as applicable, in both mathematics and English language arts, then the Superintendent of Public Instruction would have to issue an order designating the public school as a failing public school within 15 days after determining that it met those criteria.

("Designated percentage" would mean 30% for 2010-2011, 33% for 2011-2012, 36% for 2012-2013, 39% for 2013-2014, 42% for 2014-2015, and 45% for 2015-2016 and subsequent years.)

Review Team

Within 15 days after issuing an order designating a public school as a turnaround school, the Superintendent would have to appoint a review team to conduct an evaluation of the school. The review team would have to consist of at least a teacher, a support staff member, and a school administrator, none of whom was employed at the turnaround school; a parent who did not have a child at the school; a school board member; a member of the local community; and a designee of the Superintendent.

The evaluation would have to focus on issues at both the school district level and the school building level and would have to cover, at a minimum, pupil performance on State assessments, standards and expectations, curriculum, instruction, time on task, learning environment, prevalence of transient pupils, parental involvement, community involvement, staff development, planning and assessment, and governance and leadership.

Within 30 days after being appointed, the review team would have to submit to the

Superintendent a report based on its evaluation that identified the reasons for the school's failures and contained recommendations on the measures that the appointed CEO should take with regard to the school. The review team would have to identify whether the reasons for the failures existed at the school building level and required new leadership for the school or existed at the district level and required new leadership for the district.

The review team would have to reevaluate the school at least annually to monitor its progress in implementing the team's recommendations.

The board of a school district or a public school academy would have to cooperate fully with the review team.

If a turnaround school were a public school academy, the Superintendent would have to notify its authorizing body that the PSA had been designated as a turnaround school. The PSA's authorizing body could revoke the PSA's contract, and the public school academy could be closed.

Except for a PSA that was closed, within 60 days after receiving the review team's evaluation report, the Superintendent would have to issue an order appointing a CEO for the turnaround school. If the review team's evaluation report recommended new leadership at the district level, the Superintendent instead could appoint a CEO for that entire district, unless the only turnaround school operated by the district were an alternative education program.

Chief Educational Officer

A CEO would have to be chosen solely on the basis of his or her competence and experience either in educational reform and redesign and improving pupil achievement or in business and fiscal matters. If the CEO were chosen based on business and fiscal competence and experience, he or she would have to hire an expert in educational reform and redesign with a proven record of improving pupil achievement, to assist the CEO in operating the school or district.

The CEO or his or her assistant could not have been an elected or appointed official or employee of the school district for which he

or she was appointed for at least five years before the appointment.

The Superintendent of Public Instruction would have to enter into a contract with the CEO appointing him or her for a term of at least one but not more than three years. The Superintendent could renew the appointment for one or more subsequent terms of not more than three years.

Unless the Legislature provided special funding, a CEO would receive compensation as established by the Superintendent, and reimbursement for actual and necessary expenses, from the school district that previously operated the turnaround school, as approved by the Superintendent.

Educational Goals

The CEO would have to report to the Superintendent the educational goals of the turnaround school or the school district, which would have to include that at least 80% of the school's or district's pupils would graduate from high school or be determined by the DOE to be on track to graduate from high school; the school or district would have at least 80% average attendance; and if the school were a high school or the district operated a high school, its pupils would have an average score of at least 18 on the college entrance exam portion of the Michigan Merit Exam.

The CEO also would have to report to the Superintendent a description of the method to be used to monitor the school's or the district's compliance with applicable law and its performance in meeting the targeted objectives.

Powers & Duties of a CEO

If the Superintendent appointed a CEO for a turnaround school or a school district, then all the provisions of the Code that otherwise would apply to the school board or board of directors that previously operated the turnaround school or school district would apply to the CEO, except those relating to taxation and borrowing. The CEO could exercise all powers and duties otherwise vested in the school board or board of directors, except those relating to taxation and borrowing, and could exercise all additional powers provided under the bill.

Other than taxation and borrowing, the school board's or board of directors' role with respect to the turnaround school would be limited to acting as an advisory board to the CEO.

The CEO would have authority over the expenditure of funds. If the CEO were operating just the turnaround school, he or she would have authority over all funds attributable to pupils at the turnaround school. If the CEO were operating the entire district, he or she would have authority over all funds of the school district.

The CEO also would have all rights and obligations under collective bargaining agreements and employment contracts entered into by the school board or board of directors for employees at the turnaround school or for employees at the district (subject to modification of those contracts as described below).

The CEO would have the power to terminate any contract or portion of a contract entered into by the board that applied to the turnaround school or the district. That provision would not allow the termination or diminishment of obligations to pay debt service on legally authorized bonds, and would not allow a collective bargaining agreement to be affected except as provided below.

The CEO could remove a staff member from a job assignment at the turnaround school or in the school district in accordance with any applicable collective bargaining agreement after any modification of that agreement under the bill, and direct that he or she be assigned elsewhere.

The CEO would have to take control of the day-to-day operation of the school or district. The CEO could modify school district or PSA policies and renegotiate applicable collective bargaining agreements to provide for any measures that he or she determined to be necessary to achieve the established educational goals. If the CEO requested negotiation on one or more collective bargaining agreements and the parties were unable to reach agreement on one or more of those provisions within 60 days, the CEO could declare an impasse and implement his or her last best offer for each of those provisions.

The policies that could be modified or contract provisions that could be renegotiated would include:

- That any contractual or other seniority system that otherwise would be applicable would not apply at the turnaround school or district.
- That any contractual or other work rules that otherwise would be applicable would not apply at the turnaround school or district.
- That the CEO would have to direct the expenditure of all funds attributable to pupils at the turnaround school or all funds of the district, and the CEO would have full autonomy and control over curriculum and discretionary spending at the turnaround school or for the school district.

If the CEO were operating just the turnaround school, then for the purposes of collective bargaining, the CEO would be a joint employer of employees at the school, along with the school board that previously operated it.

School Aid

For purposes of calculating school aid under the State School Aid Act, a turnaround school would be considered part of the school district or PSA that operated it before it was designated a turnaround school.

Watch List

At least annually, the DOE would have to publish a watch list identifying public schools that were in danger of meeting the criteria for designation as a turnaround school. The Department would have to include a public school on the list if it determined that the school had failed to achieve the Federal pupil performance standard for three or more consecutive years and that less than 45% of all pupils enrolled in the school scored at least proficient in both math and English language arts on the most recent MEAP assessment or Michigan Merit Exam, as applicable, for which results were available. The DOE also could include other public schools if it determined that there were other reasons that they were in danger of meeting the turnaround school criteria.

If a public school were included on the watch list, the DOE would have to notify the board or board of directors that operated the school and the collective bargaining representatives of all collective bargaining units with members who worked at the school. The board or board of directors would have to notify employees and parent organizations of the district that the school had been placed on the watch list and would have to publish a notice to that effect on its website.

Educational Management Entities

If a CEO operating a turnaround school or a school district entered into a contract with an educational management entity for the management of the turnaround school or the district, he or she would have to conduct sufficient due diligence to conclude that the educational entity had sufficient educational and management expertise to provide the agreed services. The CEO also would have to ensure that the management entity would provide all financial and other information required to comply with the reporting requirements under the bill.

A contract with an educational management entity to operate a turnaround school or a school district would have to contain a requirement that the entity provide the CEO with certain information regarding any teachers, administrators, and support staff employed by the entity and assigned to work at the school or in the district. The contract also would have to include a provision requiring the educational management entity to provide to the CEO information regarding the business operations of the turnaround school or the district, including all financial records and other information.

Those requirements would not apply to a contract to supply substitute teachers.

"Educational management entity" would mean an entity that entered into an agreement with the CEO operating a turnaround school or a school district under the bill to provide comprehensive educational, administrative, management, or instructional services or staff to the turnaround school or district.

Other Provisions

The bill would encourage the Superintendent to consider taking measures to increase the number of qualified school counselors serving a turnaround school or school district to ensure that there was at least one qualified counselor for every 250 pupils.

If the Superintendent determined that the resources available to the DOE were insufficient to address all the public schools in the State that met the criteria to be designated turnaround schools, the Superintendent would have to prioritize his or her efforts by addressing the 30 lowest-performing public schools during the 2010-2011 school year and 30 additional public schools each subsequent school year until all of the schools in the lowest-performing 5% of all public schools in the State had been addressed.

If the Superintendent did not appoint a CEO for a public school that he or she had determined to meet the turnaround school criteria, or for its district, because of insufficient funds, the school board that operated the school could apply to the Superintendent for an order granting permission to modify school district or school policies and renegotiate applicable collective bargaining agreements to provide for any measures that it determined necessary to achieve the necessary improvement at the school.

At least quarterly, the Superintendent would have to report to the House and Senate Education Committees on the progress being made in improving pupil performance due to measures described in the bill.

Senate Bill 982

Under the bill, if the Superintendent of Public Instruction designated a public school as a turnaround school and appointed a chief educational officer to operate the school, then for the purposes of collective bargaining, the CEO would be a joint employer of the public school employees at the turnaround school along with the public school employer that previously operated the school, for as long as the turnaround school was operated by the CEO.

A public school employer's collective bargaining duty under the Act and a

collective bargaining agreement entered into under the Act would be subject to proposed Section 1280c of the Code (which would govern the authority of a CEO to operate a turnaround school or school district).

MCL 380.449 et al. (S.B. 981)
423.215 (S.B. 982)
388.1606 (S.B. 983)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

State: The Department of Education would incur administrative costs associated with the legislation. Specifically, the following requirements would require additional staff time and administrative expense:

- Determination of which schools meet the "turnaround" criteria and notifying those schools of that determination.
- Appointment of review teams to evaluate turnaround schools.
- Appointment of chief educational officers for turnaround schools.
- Creation of a high-performing school review team to identify people or entities that operate high-performing public schools, or contracting with an entity to do so.
- Publication of a "watch list" of public schools in danger of meeting the turnaround criteria, and notification to schools on the watch list.
- Submission of a quarterly report on progress being made in improving pupil proficiency.

To the extent that the establishment of turnaround schools would result in the retention of students who otherwise would have dropped out, the State would incur additional costs equal to the number of students staying in school, multiplied by the additional years in school, multiplied by the turnaround school's per-pupil funding.

Local: Under the legislation, school districts would be responsible for all costs associated with the appointment of a chief educational officer. No additional funds are provided under the legislation, so the additional costs of employing a chief educational officer would have to be absorbed by the school districts in which the turnaround schools were located.

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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.