



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bill 5392 (Substitute H-3 as passed by the House)  
Sponsor: Representative Margaret O'Brien  
House Committee: Education  
Senate Committee: Education

Date Completed: 6-6-12

### **CONTENT**

**The bill would amend the State School Aid Act to require a seat time waiver granted for the 2011-2012 fiscal year or a subsequent fiscal year to remain in effect unless it was revoked by the Superintendent of Public Instruction. The bill also would exempt a program that provided online or other distance learning from the currently required minimum instruction hours and days, and current calculation of a full-time equivalent student, if that program met a number of proposed criteria. The bill would establish new guidelines in calculating the full-time equivalency of a pupil in such a program.**

The Act requires each district to provide at least 1,098 hours and at least 165 days of pupil instruction for 2010-2011 and 2011-2012. Beginning in 2012-2013, the required minimum number of hours will remain at 1,098, while the required minimum number of days of pupil instruction will be 170. The Act also specifies that a district may not provide fewer days of pupil instruction than it provided in 2009-2010. A district failing to comply with these requirements is required to forfeit a portion of its total State aid allocation based on the number of hours and days the district was in noncompliance.

A district that operates an approved alternative education program may apply for a waiver from these requirements (commonly called a seat time waiver). If the waiver is approved by the Superintendent of Public Instruction and the district complies with its terms, for the fiscal year covered by the waiver the district is not subject to State aid forfeiture from noncompliance with required minimum pupil instruction time.

The bill would require a seat-time waiver to remain in effect unless it was revoked by the Superintendent. The Superintendent could revoke a waiver only in the case of a violation of the waiver standards set forth in the pupil accounting and auditing manuals or a violation of State law.

In providing the minimum number of hours and days of pupil instruction required, the Act requires a district to use the following guidelines and maintain records to substantiate its compliance with them:

- Except as otherwise provided, a pupil must be scheduled for at least 1,098 hours of instruction, excluding study halls, or at least 1,188 hours, including up to two study halls.

- Tutorial activity in a block schedule may be considered instructional time, unless an audit determines that time to be a study hall period.
- Except as otherwise provided, a pupil in grades 9 to 12 for whom a reduced schedule is determined to be in the individual's best educational interest must be scheduled for at least 80% of the required minimum number of hours of pupil instruction to be considered a full-time equivalent pupil. A pupil in grades 9 to 12 who is scheduled in a four-block schedule may receive a reduced schedule of at least 75% of the required minimum number of hours of pupil instruction to be considered a full-time equivalent pupil.
- If a pupil in grades 9 to 12 who is enrolled in a cooperative or special education program cannot receive the required minimum number of hours of pupil instruction due to travel time between instructional sites, up to three hours of travel time per school week will be considered as instructional time. If a district demonstrates this travel restriction would result in undue costs or hardship to the district, the Department may consider more travel time to be instruction time.
- In grades 7 through 12, instructional time that is part of a junior reserve officer training corps program must be considered to be pupil instruction time, assuming certain criteria are met.

Except as otherwise provided, the Act requires the Department of Education to apply the guidelines listed above in calculating full-time equivalency of pupils.

The bill also would exempt programs that provided online or other distance learning from the required minimum instruction hours and days and full-time equivalent calculations described above, if that program met the conditions described below.

The program would have to be approved by the district's board or board of directors or by the intermediate district's board for the purpose of awarding credit that met the requirements of Michigan grade level content expectations or the curriculum prescribed by the Michigan merit standard, and the credits earned for satisfactory completion of online courses or other credit-earning activities were comparable to credits earned for a high school diploma or grade progression in the district's or intermediate district's traditional program setting. The board approval would have to allow the program director to comply with this requirement.

The primary method of delivery for instruction would have to be online or other virtual learning. Technology using interactive television could also serve as an appropriate means of instructional delivery. For a district or intermediate district located where broadband access is severely limited for the purposes of the online learning, offline computer-based delivery of instruction and alternative means of providing teacher-pupil interaction could be used with the approval of the Department and appropriate documentation as required by the Department.

Each online course or other credit-bearing activity would have to meet all of the following: be facilitated by a highly qualified certificated teacher; be approved by the district's board or board of directors or by the intermediate district's board; generate credit toward the pupil's high school diploma or grade progression; and have course content aligned with the Michigan grade level content expectations or the curriculum prescribed by the Michigan merit standard.

Each pupil enrolled in the program would be required to construct, with a mentor or a school counselor, a class schedule that detailed the credits anticipated to be earned by a predetermined course of study over the school year or a learning plan that included the number of credits to be earned through other credit-earning activities comparable to credits earned for a high school diploma or grade progression in the district's or intermediate district's traditional program setting. Each pupil's class schedule or learning plan would

have to be made current within four weeks of each pupil membership count day, supplemental count day, and June 30 of each year that the pupil was enrolled. Upon request, the district or intermediate district would be required to make the class schedule or learning plan for each pupil available to the pupil accounting auditor within five business days of the request.

The program would be required to use the following academic measures, as appropriate: grade-appropriate Michigan Education Assessment Program (MEAP) assessment examinations; the Michigan Merit Examination (MME); and the MI-Access assessments developed by the Department.

The district or intermediate district would have to pay any associated tuition charges or fees for the online courses and other credit earning activities in the program on behalf of each pupil, and also offer to provide a computer for each pupil enrolled in the program. The computer would have to include internet capacity and appropriate software configuration for use by the pupil in the home for the length of time that the pupil was enrolled in the program. In addition to offering to provide a computer, the district or intermediate district would have to offer to provide broadband internet for a pupil enrolled in the program. The broadband internet capacity would have to be a minimum of one mbps up/three mbps down for use in the home for the length of time that the pupil was enrolled in the program. For a district or intermediate district located where broadband access is severely limited for the purposes of the online learning, offline computer based delivery of instruction and alternative means of providing teacher-pupil interaction could be used with the approval of the Department and appropriate documentation as it required.

The district or intermediate district would have to identify the teacher of record for each pupil.

A certificated teacher employed by the district or intermediate district would have to be assigned to each pupil to serve as his or her mentor. The mentor would have to be available for assistance, monitor the pupil's progress, and meet with or have two-way interaction with the pupil at least weekly.

In addition, the bill would require the Department of Education to apply the guidelines described below in calculating the full-time equivalency of a pupil in such a program.

The pupil would be required to have a course-specific class schedule, or a learning plan that included the number of credits to be earned through the other credit-earning activities comparable to credits earned for a high school diploma or grade progression in the district's or intermediate district's traditional program setting, in effect as of the most recent pupil membership count day or supplemental count day, and the pupil would have to log into at least one program-sponsored, online course on each pupil membership count day or supplemental count day. Upon request, the district or intermediate district would have to provide the course-specific class schedule and the login and other online activity reports to the pupil accounting auditor within five business days of the request.

Participation would have to be measured by logging into at least one program-sponsored online course or credit-earning activity on each pupil membership count day or supplemental count day and for nine additional calendar days during the 30-calendar day count period and documented weekly two-way interaction between the on-site mentor and pupil for each week of the count period. Except as otherwise provided, a pupil who did not log in on the pupil membership count day or supplemental count day and who did not log in during the 10 consecutive calendar days immediately following the pupil membership count day or supplemental count day, except for a pupil who had been excused by the district, would not be counted as 1.0 full-time equated membership. A pupil who was excused but failed to log in within 30 calendar days after the pupil membership count day or

supplemental count day would not be counted as 1.0 full-time equated membership. Pupils not counted as 1.0 full-time equated membership due to a failure to log in to one or more classes would have to be counted as a prorated membership for the classes for which they logged in. The district or intermediate district would have to keep a login record and documentation of weekly interaction during the count period for each pupil and, upon request would have to make these available to the pupil accounting auditor within five business days of the request.

Each course would count as one class on the pupil's class schedule or learning plan and would generate that portion of a full-time equivalency that a comparable on-site course offered by the district or intermediate district would generate.

MCL 388.1701

Legislative Analyst: Cameron S. Mock

### **FISCAL IMPACT**

State: There would be the potential for some administrative savings to accrue to the Department of Education under this legislation, because of the automatic renewal of seat-time waivers in effect for 2011-12, replacing the yearly review of requests for those waivers. However, some new administrative requests could arise if the Superintendent had to begin or engage in the process of revoking an existing waiver.

Local: Since the majority of the changes proposed in the bill would incorporate standards already found in the Pupil Accounting Manual regarding the counting of students in online courses for the purposes of State aid, the bill should have little fiscal impact on local districts currently using online programs. However, new programs could see some relief from administrative costs by not having to seek a seat-time waiver before engaging in online learning, as long as the program met the requirements as outlined in the legislation.

Fiscal Analyst: Kathryn Summers

S1112\S5392sa.

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.