



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

BILL ANALYSIS

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

Senate Bill 103 (as enacted)
Sponsor: Senator Phil Pavlov
Senate Committee: Education
House Committee: Education

PUBLIC ACT 173 of 2015

Date Completed: 4-21-17

RATIONALE

Legislation enacted in 2011 made various changes to the teachers' tenure Act, the public employment relations Act, and the Revised School Code. Among other things, the legislation revised the requirements and procedures for teacher and administrator performance evaluations, and established a broad outline upon which to base those evaluations. The legislation that amended the Revised School Code also established a temporary commission, the Governor's Council on Educator Effectiveness, which was subsequently renamed the Michigan Council for Education Effectiveness.¹ The Council was charged with issuing a report with recommendations on a variety of subjects, including State evaluation tools for teachers and administrators.

In July 2013, the Council issued a report with its final recommendations. While some believed that the legislative changes made in 2011 did not provide enough specificity for teachers and administrators to be evaluated appropriately, others contended that the Council's recommendations placed too much emphasis on State control of teacher and administrator evaluation. To address both of those concerns, it was suggested that some of the Council's recommendations be incorporated into the Revised School Code.

CONTENT

The bill amended the Revised School Code to do the following:

- **Delay until the 2017-2018 school year the implementation of teacher and school administrator performance evaluation requirements.**
- **Revise conditions for the measurement and use of student growth and assessment data in conducting the evaluations.**
- **Eliminate a requirement that a school district, intermediate school district (ISD), or public school academy (PSA) adopt a specific evaluation tool prescribed by the State or a local tool consistent with the State tool.**
- **Authorize a school district, ISD, or PSA to develop its own evaluation tool.**
- **Require the evaluation tool used by a school district, ISD, or PSA to be used consistently among all of the schools it operates.**
- **Reduce the portion of a teacher's or administrator's year-end evaluation that must be based on student growth and assessment data.**
- **Require a school district, ISD, or PSA to give teachers and administrators training on the measures used in the evaluation system.**
- **Require a school district, ISD, or PSA to post information online regarding its tools for teacher and administrator evaluations.**

¹ The Council was created as the Governor's Council on Educator Effectiveness in Public Act 102 of 2011. Executive Reorganization Order 2012-2 assigned the Council to the Department of Technology, Management, and Budget and renamed it the Michigan Council for Educator Effectiveness. See MCL 18.444.

- **Require the Department of Education to establish and maintain a list of recommended evaluation tools.**
- **Prohibit a school district, ISD, or PSA from assigning a pupil to be taught in the same subject area for two consecutive years by a teacher who has been rated as ineffective for two consecutive years; and require parental or guardian notification if the school district, ISD, or PSA is unable to comply.**
- **Prohibit issuance of a teaching certificate to an individual who does not meet prescribed conditions, beginning July 1, 2018.**

The bill took effect on November 5, 2015.

Performance Evaluation System

The Code requires the board of a school district or ISD or the board of directors of a PSA, with the involvement of teachers and school administrators, to adopt and implement for all teachers and administrators a rigorous, transparent, and fair performance evaluation system that does all of the following:

- Evaluates the teacher's or administrator's job performance at least annually while providing timely and constructive feedback.
- Establishes clear approaches to measuring student growth and provides teachers and administrators with relevant data on student growth.
- Uses the evaluations to inform decisions regarding the effectiveness of teachers and administrators; promotion, retention, and development of teachers and administrators; whether to grant tenure and/or full certification; and removing ineffective tenured and untenured teachers and administrators.

Previously, the evaluation system also had to evaluate a teacher's or administrator's job performance, using multiple rating categories that took into account data on student growth as a significant factor. The bill retains this requirement but requires the rating categories to take into account student growth and assessment data. The bill requires student growth to be measured using multiple measures that may include student learning objectives, achievement of individualized education program goals, nationally normed or locally developed assessments that are aligned to State standards, research-based growth measures, or alternative assessments that are rigorous and comparable across schools within the district, ISD, or PSA.

Teacher Evaluations

The Code requires the board of a school district, ISD, or PSA to ensure that the performance evaluation system for teachers meets the following conditions:

- The system must include an annual year-end evaluation for all teachers; a mid-year progress report for a teacher who is in the first year of a five-year probationary period for new teachers or who received a rating of minimally effective or ineffective on his or her most recent annual evaluation; and classroom observations to assist in the evaluations.
- The system must assign to each teacher an effectiveness rating of highly effective, effective, minimally effective, or ineffective, based on his or her score on the annual evaluation.
- A school district, ISD, or PSA is encouraged to assign a mentor or coach to each teacher who is subject to a mid-year progress report.
- The system may allow for exemption of student growth data for a particular pupil for a school year upon the recommendation of the school administrator conducting the annual evaluation or his or her designee and approval of the school district or ISD superintendent or his or her designee, or the PSA chief administrator.
- The system must require the school district, PSA, or ISD to dismiss a teacher from employment if he or she is rated as ineffective on three consecutive annual evaluations.
- The system must permit the school district, ISD, or PSA to conduct a year-end evaluation biennially instead of annually if a teacher is rated as highly effective on three consecutive evaluations.

- The system must permit a teacher to request a review of the evaluation and the rating by the school district or ISD superintendent or PSA chief administrator, as applicable, if the teacher is not in a probationary period and is rated as ineffective on an annual evaluation.

Formerly, beginning with the 2015-2016 school year, at least 50% of a teacher's annual year-end evaluation had to be based on student growth and assessment data. The bill eliminated this requirement. Instead, for the 2015-2016, 2016-2017, and 2017-2018 school years, 25% of the annual year end evaluation must be based on student growth and assessment data. Beginning in the 2018-2019 school year, 40% of the evaluation must be based on student growth and assessment data.

Beginning with the 2018-2019 school year, for core content areas in grades and subjects in which State assessments are administered, the bill requires 50% of student growth to be measured using the State assessments, and requires the portion of student growth not measured using the assessments to be measured using multiple research-based growth measures or alternative assessments that are rigorous and comparable across schools within the school district, ISD, or PSA. The bill provides that student growth also may be measured by student learning objectives or nationally normed or locally adopted assessments aligned to State standards, or based on achievement of individualized education program goals. Previously, the Code required all student growth and assessment data to be measured using the student growth assessment tool required under legislation enacted after review of the recommendations contained in the report of the former Michigan Council for Educator Effectiveness.

Beginning with the 2016-2017 school year, the bill requires an annual evaluation to meet the following additional requirements: a) the portion of the evaluation not based on student growth and assessment data must be based primarily on a teacher's performance as measured by the evaluation tool developed or adopted by the school district; and b) the portion of the evaluation that is not measured by student growth and assessment data, or the evaluation tool, must incorporate criteria enumerated in Section 1248(1)(b)(i)-(iii) not otherwise evaluated by those data or the evaluation tool. (Section 1248 pertains to policies regarding personnel decisions resulting in the elimination of a position, and requires the policies to be based on retaining effective teachers. The personnel decisions must be based on specified criteria, which include, for example, individual performance (consisting of evidence of student growth, demonstrated pedagogical skill, and attendance and disciplinary record), relevant special training, and significant accomplishments and contributions.)

The bill also requires a school district, ISD, or PSA to provide training to teachers on the evaluation tool or tools used by the district, ISD, or PSA in its performance evaluation system and on how each tool is used. Training may be provided by the district, ISD, PSA, or a consortium of two or more of these. Also, the school district, ISD, or PSA must ensure that training is provided to all evaluators and observers by an individual who has expertise in the tool or tools used. The individual providing the training may include either a consultant on that tool or framework, or an individual trained to instruct others in the use of the tool or tools. This provision does not prohibit a school district, ISD, PSA, or consortium from providing the training if the trainer has expertise in the tool or tools used. The training for teacher evaluations must be paid for from the money available in the Educator Evaluation Reserve Fund created under the State School Aid Act.

For the purposes of conducting an annual year-end evaluation, the bill requires a school district, ISD, or PSA to adopt and implement one of the evaluation tools listed by the Department of Education (as described below). However, if a school district, ISD, or PSA has one or more local teacher evaluation tools or modifications of a listed evaluation tool, and if it posts the required information about the tool on its website, the district, ISD, or PSA may conduct annual year-end evaluations for teachers using the local tool or modifications. The tool or tools used by a district, ISD, or PSA must be used consistently across the schools it operates so that all similarly situated teachers are evaluated using the same tool. Formerly, the Code required a school district, ISD, or PSA to adopt and implement the State evaluation tool required under legislation enacted after review of the recommendations of the Council on Educator Effectiveness, or a consistent local evaluation tool.

Previously, the manner in which a classroom observation was conducted had to be prescribed in the evaluation tool. The bill eliminated this requirement.

The Code specifies that, unless a teacher receives a rating of effective or highly effective on his or her two most recent annual year-end evaluations, there must be at least two classroom observations of the teacher each school year. At least one of the observations must be unscheduled, and the school administrator responsible for a teacher's performance evaluation must conduct at least one of the observations. Other observations may be conducted by other observers, including teacher leaders, who are trained in the use of the district's or PSA's evaluation tool.

A school district, ISD, or PSA must ensure that the teacher is provided with feedback from the observation within 30 days.

The bill specifies that Section 1249 (the section containing these provisions) does not affect the operation or applicability of Section 1248.

Administrator Evaluations

The Code requires the board of a school district or ISD or board of directors of a PSA to ensure that the performance evaluation system for building-level school administrators and for central office-level school administrators who are regularly involved in instructional matters includes at least an annual evaluation for all school administrators by the school district or ISD superintendent or his or her designee, or chief administrator of the PSA, as applicable. (A superintendent or chief administrator must be evaluated by the board or board of directors).

In addition, the applicable board must ensure that the administrator evaluation system meets all of the following conditions:

- A percentage of the evaluation must be based on student growth and assessment data, as required for teacher evaluations.
- The system must assign to each school administrator an effectiveness rating of highly effective, effective, minimally effective, or ineffective.
- The system must ensure that if a school administrator is rated as minimally effective or ineffective, the person conducting the evaluation develops and requires the administrator to implement an improvement plan to correct the deficiencies.
- The system must provide that, if a school administrator is rated as ineffective on three consecutive annual evaluations, the school district, PSA, or ISD is required to dismiss the administrator from employment
- The system must provide that, if an administrator is rated as highly effective on three consecutive evaluations, the school district, ISD, or PSA may choose to conduct a year-end evaluation biennially instead of annually.

Formerly, at least 50% of the annual year-end evaluation had to be based on student growth and assessment data. Under the bill, the percentage of the annual year-end evaluation that must be based on student growth and assessment data is the same as for teachers for the years specified.

For the purpose of conducting an annual administrator evaluation under the performance evaluation system, the bill requires the school district, ISD, or PSA to develop or adopt and implement an evaluation tool for school administrators. The portion of a school administrator's annual evaluation that is not based on student growth must be based primarily on his or her performance as measured by the tool.

The bill also provides that the portion of the evaluation that is not based on student growth and assessment data or on an evaluation tool must be based on the administrator's proficiency in using the evaluation tool for teachers; the progress made by the school or school district in meeting the goals set forth in the school's school improvement plan or the school district's school improvement plans, as applicable; pupil attendance in the school or school district, as applicable; and student,

parent, and teacher feedback, and other information considered pertinent by the superintendent or other administrator conducting the performance evaluation or the school board, ISD board, or PSA board of directors. Previously, the evaluation described above did not include consideration of the adopted administrator evaluation tool. The bill also eliminated a requirement that an administrator's evaluation include a random sampling of his or her, or his or her designee's, teacher performance evaluations to assess the administrator's or designee's input in the teacher evaluation system.

Formerly, the Code required that a school district, ISD, or PSA adopt and implement the State evaluation tool or a local tool consistent with the State tool. Under the bill, a school district, ISD, or PSA must adopt and implement one or more of the school administrator evaluation tools included on the Department's list of evaluation tools. This requirement is subject to exceptions, and conditions similar to those prescribed for teacher evaluation tools. Additionally, the bill requires the measures used by the school district, ISD, or PSA in its evaluation system for school administrators to be used consistently among the schools it operates so that all similarly situated administrators are evaluated using the same measures.

Previously, the requirement to dismiss an ineffective administrator applied only if the three consecutive evaluations were conducted using the same evaluation tool and under the same evaluation system. The bill eliminated this condition.

The bill requires a school district, ISD, or PSA to ensure that training is provided to school administrators on the measures used in the performance evaluation system and on how each of the measures is used. The training may be provided by a school district, ISD, PSA, or consortium of these entities. A school district, ISD, or PSA also must ensure that training is provided to evaluators and observers in a manner similar to the training provided to teacher evaluators and observers. The training for administrator evaluations must be paid for from the money available in the Educator Evaluation Reserve Fund.

Online Information

The bill requires a school district, ISD, or PSA to post on its website all of the following information about the evaluation tool or tools it uses for its teacher and administrator performance evaluation systems:

- The research base for the evaluation framework, instrument, and process.
- The identity and qualification of the author or authors.
- Either evidence of reliability, validity, and efficacy, or a plan for developing that evidence.
- The evaluation frameworks and rubrics with detailed descriptors for each performance level on key summative indicators.
- A description of the processes for conducting classroom observations, collecting evidence, conducting evaluation conferences, developing performance ratings, and developing performance improvement plans.
- A description of the plan for providing evaluators and observers with training.

As an alternative to the first three items listed above, if the school district, ISD, or PSA adapts or modifies an evaluation tool from the Department list, the district, ISD, or PSA must post the following:

- The research base for that tool and an assurance that the adaptations or modifications do not compromise the validity of that research base.
- The identity and qualifications of a person with expertise in teacher evaluations who has reviewed the adapted or modified tool.
- An assurance that the adaptations or modifications does not compromise the reliability, validity, or efficacy of the evaluation tool or process.

Evaluation Tool List

The bill requires the Department of Education to establish and maintain a list of teacher evaluation tools that have demonstrated evidence of efficacy and that may be used for evaluating teachers. The list initially must include evaluation models recommended in the final recommendations released by the Michigan Council on Educator Effectiveness in July 2013. The list also must include a statement indicating that school districts, ISDs, and PSAs are not limited to the tools included on the list.

The bill includes similar provisions with regard to tools for evaluating school administrators. The school administrator evaluation list must include at least the two evaluation models recommended in the Council's final recommendations.

A school district, ISD, or PSA does not have to use the same evaluation tool for teacher evaluations and administrator evaluations, or use evaluation tools that have the same author or authors for both sets of evaluations. The Department must promulgate rules establishing standards and procedures for adding an evaluation tool to or removing a tool from either list. The rules must include a process for a school district, ISD, or PSA to submit its own evaluation tool for review for placement on a list.

Collective Bargaining Agreement

Under the Code, if a collective bargaining agreement that prevented compliance with the requirement to adopt and implement a performance evaluation system was in effect for teachers or school administrators as of July 19, 2011, the requirement does not apply until after the agreement expires. Under the bill, this exception applies only if the same agreement was still in effect on the bill's effective date.

Instruction by Ineffective Teachers

Formerly, beginning in 2015-2016, if a pupil was assigned to be taught by a teacher who had been rated as ineffective on his or her two most recent annual evaluations, the board of the school district or ISD or the PSA board of directors was required to notify the pupil's parent or legal guardian. The notice had to identify the teacher. The bill deleted these provisions.

Instead, beginning with the 2018-2019 school year, a school district, ISD, or PSA may not assign a pupil to be taught in the same subject area for two consecutive years by a teacher who has been rated as ineffective on his or her two most recent annual evaluations. If the school district, ISD, or PSA is unable to comply with this provision, the board must notify the pupil's parent or legal guardian and include an explanation of why the board cannot comply.

Teaching Certificate

Notwithstanding any other provision of the Code or a rule to the contrary, beginning July 1, 2018, the bill prohibits the Superintendent of Public Instruction from issuing an initial professional teaching certificate to an individual unless the individual presents evidence satisfactory to the Superintendent demonstrating that he or she has successfully completed at least three full years of classroom teaching, and a) was rated as effective or highly effective on his or her annual year-end performance evaluation for the three consecutive school years immediately preceding his or her application for the certificate, or b) was rated as effective or highly effective for at least three nonconsecutive school years before his or her application and the individual submits a recommendation from the chief school administrator of the school where he or she is currently employed that he or she should be issued a certificate.

Also, beginning on the bill's effective date, the Superintendent of Public Instruction may not issue an initial advanced professional education certificate to an individual, or renew such a certificate, unless the individual presents evidence satisfactory to the Superintendent of Public Instruction that he or she meets all of the following: a) has been rated as highly effective on his or her annual

year-end evaluation for three out of the five most recent school years; b) has not been rated ineffective on his or her annual evaluation within the last five school years; and c) meets additional criteria established by the Department.

Exceptions to Evaluation System Requirements

Formerly, a school district, ISD, or PSA was not required to comply with the Code's requirements regarding the performance evaluation system for teachers and administrators if all of the following applied to a public school operated by the district, ISD, or PSA:

- As of July 19, 2011, the school district, ISD, or PSA had already implemented and was using an evaluation system that met certain conditions for that school.
- The school district, ISD, or PSA notified the former Governor's Council on Educator Effectiveness by November 1, 2011, that it was exempt from the requirements.
- The school district, ISD, or PSA posted a description of its evaluation system on its website.

The bill deleted these provisions as well as the criteria for continued use of an existing evaluation system.

The Code also provided that, after July 19, 2011, if a school district, ISD, or PSA began operating a new public school, or implemented a new performance evaluation system for an existing public school, the district, ISD, or PSA was not required to comply with the Code's evaluation system requirements if both of the following applied:

- The system adopted and implemented for that school replicated and was identical to the evaluation system of a public school that met the criteria for exemption.
- The school district, ISD, or PSA posted a description of the system on its website.

The bill eliminated this exemption.

MCL 380.1249 et al.

BACKGROUND

As discussed above, the Michigan Council for Educator Effectiveness (MCEE) was established under Public Act 102 of 2011. The Act required the MCEE to issue a report with recommendations for the following: a) State evaluation tools for teachers and administrators, b) student growth and assessment tools for students, c) changes to professional teaching certificate requirements, and d) an evaluation process for local administrator and teacher evaluation tools. In addition to conducting regular meetings, referring to research and reports from a variety of sources, and consulting with subject matter experts, the MCEE conducted a \$6.0 million pilot study of four different educator effectiveness tools in 13 Michigan school districts. The Council was disbanded in June 2013, and its recommendations were issued in a report the following month.²

In its report, the MCEE recommended that classroom evaluation observations should be conducted using one of four evaluation tools: Charlotte Danielson's Framework for Teaching, the Marzano Teacher Evaluation Model, the Thoughtful Classroom, or 5 Dimensions of Teaching and Learning. The report specified that the Legislature should select one of the recommended piloted teacher observation tools through a competitive request for proposal process to serve as the State-selected tool. Once selected, the MCEE suggested that the State should provide technical support and training for the schools that adopted that tool. Under the Council's recommendations, schools would be free to use one of the other recommended tools, but would have to pay for any expenses above base funding provided by the State for the selected tools. The Council suggested that any observer performing an evaluation should be trained in observation protocol, regardless of the tool

² Michigan Council for Educator Effectiveness, "Building an Improvement-Focused System of Educator Evaluation in Michigan: Final Recommendations", July 2013.

selected, and recommended the use of multiple teacher evaluations, including at least one unscheduled observation.

The Council also issued recommendations relating to student growth assessments. Among other things, these included continuing to develop or select, and support, assessments that are aligned with State-adopted content standards in core content areas, and high-volume noncore content standards where content standards exist. The MCEE report also suggested changes and recommendations for administrator evaluations, categorizing and providing feedback to teachers and administrators through the evaluation process, professional teaching certification, and a waiver process to exempt schools attempting to develop their own evaluation tools from State requirements.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

It is appropriate for the State to require that districts use research-based evaluation tools. Many school districts were developing educator evaluation tools, or had already implemented their own tools. Those districts would have seen their efforts wasted if they had been required to adopt a single tool or model developed by the Department of Education. While the bill encourages the continued development of local evaluation tools, it does not mandate strict adherence to a particular model. The bill also requires that a significant portion of a teacher's evaluation be based on student growth and assessment data; however, schools are free to consider various other metrics for the remainder of the evaluation. A school district or PSA has the flexibility to create or select a model that works best for it, but the district or PSA must demonstrate some basis for the model in student growth and education research. This framework accommodates the differences found in schools across the State, and allows school districts and PSAs to consider the local needs of their students.

In addition, the bill requires any evaluation system adopted by a school district or PSA to be used consistently by each school operated by the district or PSA. This mandate ensures that similarly situated teachers and administrators are evaluated under the same standards.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

State: The bill will have a minimal fiscal impact on the Department of Education. The changes to the teacher certification process, from three years of satisfactory performance currently required for a provisional teaching certificate to three years of effective or highly effective performance that the bill will require for an initial professional teaching certificate, will result in little cost to the Department. This does not change the process for issuing a teaching certificate and the Center for Education Performance and Innovation (CEPI) already collects teacher effectiveness ratings, so the information for issuing teacher certification or advanced professional education certification is readily available. The Department estimates total costs to be \$50,000.

The Department will not incur costs to maintain the list of approved teacher evaluation tools and administrator evaluation tools, because those models have already been selected and are known.

Local: The bill may result in additional costs to schools. Schools and districts must review their evaluation systems to ensure that the evaluation model, including the percentage requirement of student achievement and growth, is in line with the Code. If a district's evaluation system does not meet statutory requirements, the district must adopt one of the approved models or develop a system within the district that is supported by research. Either

activity will result in additional costs to the district, which will have to pay for one of the models, or devote time and resources toward developing a system that complies with the Code. Since the State will no longer be issuing statewide requests for proposals for the evaluation models, the costs per district may increase as the economies of scale are reduced. Some of the costs may be offset by the Educator Evaluation Reserve Fund, but the bulk of the costs will likely come from the district's operation budget. The costs of developing an evaluation model, and how many districts will need to create or purchase an evaluation tool, are currently indeterminate.

The Educator Evaluation Reserve Fund will likely have a positive effect on local schools, depending on the status of a district's evaluation system, and how much is appropriated in the Fund. If a district already has an evaluation system that complies with the Code, the district still will be able to receive funding for training new administrators in the school building or the central office that oversees the evaluation of teachers. The impact on the district may be positive, although, districts that already have an approved evaluation system in place will likely receive less from the Fund since current administrators will likely already have the proper training to conduct evaluations.

If a district does not already have an evaluation model that satisfies the statute, the district potentially may receive more from the Educator Evaluation Reserve Fund, since it likely will have to provide training for school and central-level administrators in evaluating teachers. It is not known how many schools will need to implement a new evaluation system in order to meet the evaluation requirements.

There also will be minor costs associated with informing teachers, principals, and the community about the changes to evaluations. There will be ongoing costs associated with ensuring that each teacher is observed twice yearly by either the school principal or his or her designee. Those costs are indeterminate.

The prohibition against schools' assigning pupils to be taught in the same subject for two consecutive years by an ineffective teacher may have indeterminate, but likely negative ramifications for staffing levels and costs at a school.

Fiscal Analyst: Cory Savino