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TEACHER REFERENCE CHECKS

House Bill 4801 (Substitute H-3) Second Analysis (9-24-98)

Sponsor: Rep. David Anthony
First Committee: Education
Second Committee: Labor and Occupational Safety (Discharged)

THE APPARENT PROBLEM:

Under the Revised School Code, before hiring an applicant for employment, schools must request information from the applicant's current employer or most recent employer regarding any unprofessional conduct by the applicant and request any documents in the personnel record relating to that unprofessional conduct. Not later than 20 business days after receiving a request, an employer must provide the information requested and make the relevant documents available. Applicants are required to sign a statement authorizing the disclosure of information and releasing the current or former employer from liability. These provisions were part of Public Act 189 of 1996 (House Bill 5060) and were prompted in part by revelations that some school districts entered into secret agreements not to divulge information about the unprofessional conduct of teachers who were resigning. Some problems with the process have arisen. For example, some substitute teachers work for several school districts, or for the same school district in consecutive years, and it seems unnecessary for each district to request the same information about a single teacher each year, or for one district to continually request information about the same teacher year after year. What's more, the act makes no provision for the sharing of information or for a repository of information at the intermediate school district level.

THE CONTENT OF THE BILL:

Under the Revised School Code, before hiring an applicant for employment, schools must request information from the applicant's current employer or most recent employer regarding any unprofessional conduct by the applicant and request any documents in the personnel record relating to that unprofessional conduct. Not later than 20 business days after receiving a request, an employer must provide the information requested and make the relevant documents available. Applicants are required to sign

a statement authorizing the disclosure of information and releasing the current or former employer from liability. The bill would amend the code in the following ways.

Second request. If the requesting school district, public school academy, or nonpublic school does not receive a reply from the employer within the specified 20-day time period, a second request would have to be mailed by registered mail. The bill would not require receipt of a reply before hiring an applicant.

Substitute teachers. The bill would permit a district or school hiring a person as a substitute teacher to use information received by another district or school or maintained the Department of Education rather than requesting information from a current or previous employer directly. Also, an intermediate school district that maintained a list of substitute teachers for its constituent school districts could request information from employers on behalf of its constituent districts and maintain the information for use by the districts. However, this would not be necessary for a substitute teacher who requests a permit in consecutive years in the same school district because he or she would be considered a continuous employee. If an applicant agreed in writing to allow a district or school to share information, a district or school could then satisfy the requirement about contacting a current or previous employer by obtaining a copy of the information from another district or school.

Unprofessional conduct. Under the bill, "unprofessional conduct" is defined to mean either of the following: that the individual has resigned, has been discharged, or has been disciplined by suspension for any of the following and that the discharge or suspension has not been vacated as a result of any appeals process, including grievance or arbitration: moral turpitude; criminal conduct; inappropriate conduct involving a minor; or that the individual has

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been convicted of a crime involving moral turpitude relating to his or her employment.

MCL 380.1230b

The Michigan Association of School Boards supports the bill. (9-23-98)

BACKGROUND INFORMATION:

House Bill 4801 (H-1) was reported from the House Education Committee with the recommendation that it pass on October 15, 1997. On May 5, 1998, however, the bill was referred to the House Committee on Labor and Occupational Safety. Notice to discharge that committee of the bill was approved on September 22, 1998. A floor substitute, H-3, has been offered.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill could have a small fiscal impact on the state and local school districts stemming from the requirements that a second notice be sent to employers. (Fiscal Note dated 9-23-98)

ARGUMENTS:

For:

The bill addresses some difficulties in applying the current provisions in the Revised School Code requiring schools to request information on any unprofessional conduct about job applicants from a current or most recent employer. The bill also permits the sharing of information with other schools about substitute teachers who work in more than one school district, and allows intermediate school districts to be an information-gathering point for substitutes. This helps to prevent duplication of effort by school districts.

POSITIONS:

The Michigan Education Association supports the bill. (9-23-98)

The Michigan Association of School Administrators supports the bill. (9-23-98)

The Michigan Federation of Teachers and School Related Personnel supports the bill. (9-23-98)

Analyst: C. Couch/J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.