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BILL ANALYSIS

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Senate Bill 365 (Substitute S-1 as passed by the Senate)
Senate Bill 366 (substitute S-1 as passed by the Senate)
Senate Bill 367 (Substitute S-3 as passed by the Senate)
House Bill 4453 (Substitute H-1 as reported without amendment)
Sponsor: Senator Nancy Cassis (S.B. 365)
Senator Alan L. Cropsey (S.B. 366)
Senator Wayne Kuipers (S.B. 367)
Representative Jacob Hoogendyk (H.B. 4453)
Committee: Education

Date Completed: 7-16-03

RATIONALE

Michigan, like most other states, is experiencing its largest revenue shortfall in decades. State leaders have had to propose spending cuts to nearly every government service, including K-12 education. In January 2003, Governor Granholm estimated that, in order to continue services at the level provided in fiscal year 2001-2002, the 2003-2004 School Aid Fund was short \$364 million. In May 2003, State budget leaders estimated an additional \$106 million shortfall to the School Aid Fund.

While lack of money is never welcome, public school officials have said that the current and upcoming cutbacks have come at a particularly difficult time. Costs to public schools continue to increase, as parents and State and Federal government have demanded or mandated lower class sizes, yearly proficiency testing, and increased teacher quality, among other reforms. It has been suggested that some State mandates or restrictions on spending be loosened or removed, in order to allow local school districts to use their State dollars more flexibly.

CONTENT

Senate Bills 365 (S-1) and 367 (S-3) would amend the State School Aid Act, Senate Bill 366 (S-1) would amend the Revised School Code, and House Bill 4453 (H-1) would amend the Public School Employees Retirement Act, to do the following:

- **Eliminate the requirement that a district provide to its teachers each year a minimum number of professional development days.**
- **Allow flexibility in the use of at-risk funding for schools meeting the Federal adequate yearly progress standards in both math and English.**
- **Require that the Center for Educational Performance and Information (CEPI) collect all information from school districts and intermediate school districts, as required by State or Federal law, that is currently submitted to various State departments, officers, or agencies.**
- **Replace the minimum number of days (170) a school employee must be employed to earn one year of retirement service credit, with a minimum number of hours (1,020) in a school fiscal year.**

A more detailed explanation of each bill follows.

Senate Bill 365 (S-1)

The bill provides that, by August 15, 2004, each State department, officer, or agency that collects information from districts or intermediate districts would have to make arrangements with CEPI and the districts to have CEPI collect the information and then provide it to the department, officer, or agency as necessary. To the extent that it did not cause financial hardship, CEPI would have

to arrange to collect the information electronically. Each affected State department, officer, or agency would have to provide CEPI with any details necessary for it to collect information.

Senate Bill 366 (S-1)

The Revised School Code requires that the board of each school district, intermediate school district, or public school academy provide at least five days of professional development to its teachers every school year. The bill instead would require that school boards comply with the professional development requirements of the Federal No Child Left Behind Act. (Under that Act, districts must meet adequate yearly progress standards or spend a portion of their Title I funds on professional development. Districts also may use some of their Title II funds for professional development. The Act does not mandate a particular number of professional development days.)

The bill also would eliminate the requirement that, for the first three years of their classroom teaching, new teachers receive at least 15 days of professional development (not including the five described above), the experience of effective practices in university-linked professional development schools, and regional seminars conducted by master teachers and other mentors.

Senate Bill 367 (S-3)

Section 31a of the State School Aid Act allocates a sum from the State School Aid Fund to eligible districts and public school academies, based on the number of pupils in membership in the district or academy who met the income eligibility criteria for free breakfast, lunch, or milk in the preceding fiscal year (commonly referred to as "at-risk funding"). A district or public school academy must use this funding only to provide instructional programs and direct noninstructional services, including medical or counseling services, for at-risk pupils; for school health clinics; and for school breakfast programs. Under the bill, for an individual school or schools operated by a district qualifying for at-risk funds under Section 31a, the district could submit to the Michigan Department of Education (MDE) an application for flexibility in using the at-risk funds

attributable to the pupils in the school or schools. First, however, the MDE would have to have determined that the school met the adequate yearly progress standards of the Federal No Child Left Behind Act in both mathematics and English language arts at all applicable grade levels for all applicable subgroups.

The application for flexible use of at-risk funds would have to identify the affected school or schools and the affected funds. The application also would have to contain a plan for using the funds for specific purposes identified by the district that were designed to benefit at-risk pupils in the school, but that could be different from the purposes otherwise allowed under Section 31a.

The MDE would have to approve the application if it determined that the purposes identified in the plan were reasonably designed to benefit at-risk pupils in the school. If the Department did not act to approve or disapprove an application within 30 days after it was submitted, the application would be considered approved. If an application were approved, the district could use the funds identified in it for any purpose identified in the plan.

The Act requires a district or academy to spend \$10 per at-risk pupil on a school breakfast program, if the district provides a breakfast program; under the bill, this requirement would apply except as otherwise provided in the proposed flexibility language. The Act also allows a district to use 100% of its at-risk funds to reduce class sizes in buildings having a disproportionate number of at-risk pupils; under the bill, this would be subject to the flexibility provisions.

In addition, the Act provides for an adjustment to a district's foundation allowance for 2002-2003 if the district received a grant under former Section 32e in the preceding year. The district must use the funds resulting from the adjustment for purposes allowed under that section. (Section 32e had allocated funding in 2000-2001 and 2001-2002 for grants to eligible districts for programs to maintain or establish small classes in grades K-3 in eligible buildings. Section 32e was repealed by Public Act 191 of 2002.) Under the bill, for a school in a district qualifying for small class size funding, that met the

adequate yearly progress standards in math and English, the district could submit to the MDE an application for flexibility in using the funds. The application would have to identify the school and the affected funds, as well as contain a plan for using the funds for specific purposes that were designed to reduce class size but could be different from the purposes otherwise allowable under former Section 32e. Provisions for approval of an application and use of the funds would parallel those proposed for at-risk funding flexibility.

The bill would take effect on October 1, 2003.

House Bill 4453 (H-1)

The Public School Employees Retirement Act requires the Retirement Board to grant one year of service credit to a member who had been employed and remunerated for services performed for at least six hours per day and for at least 170 days. The bill would instead require the Board to grant one year of service credit for services performed for at least 1,020 hours in a school fiscal year.

Under the bill, in determining whether a member was entitled to service credit, the retirement system would have to calculate service credit using the payroll cycle reported to the retirement system by the member's employer. If a biweekly payroll cycle were reported, the member would have to accrue more than 60 hours in a payroll cycle; in a semimonthly payroll cycle, more than 72 hours; in a monthly payroll cycle, more than 138 hours; and in a quarterly payroll cycle, 396 hours.

The Act requires that a part-time member or a member employed for a fraction of the fiscal year receive service credit for full-time service on the basis of 30 or more hours per week, and proportionate credit for less than 30 hours. The bill, instead, would require that a part-time member receive credit for full-time service on the basis of 60 or more hours per biweekly period, and proportionate credit for less than 60 hours.

MCL 388.1694a (S.B. 365)
380.1526 et al. (S.B. 366)
388.1620 & 388.1631a (S.B. 367)
38.1368 (H.B. 4453)

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

The Senate bills would ease restrictions on local schools and allow them to focus on educating students. Senate Bill 365 (S-1) would simplify the arduous reporting requirements schools endure as they submit reports to the MDE, the Department of Treasury, the Office of Retirement Services, the Department of Career Development, and various other agencies and departments. Requiring State agencies to coordinate necessary data collection with the Center for Educational Performance and Information would be consistent with the mission of CEPI. According to the State School Aid Act, the purpose of CEPI, in part, is to "coordinate the collection of all data required by state and federal law from all entities receiving funds under the act"; and to "collect data in the most efficient manner possible in order to reduce the administrative burden on reporting entities". Senate Bill 365 (S-1) would provide a practical means to accomplish these goals. School officials claim that submitting the volumes of forms to one agency electronically would reduce their administrative burden, thus freeing up support staff, saving them money and time.

Senate Bill 366 (S-1) also would save districts scarce resources by eliminating the requirement for a minimum number of days of professional development for teachers. This provision in the Revised School Code amounts to an unfunded mandate, as districts must provide, or pay someone else to provide, an average of 10 days of training per year for new teachers, and five days per year for all other teachers. In addition to funding the training, districts often must pay substitute teachers to cover the faculty who are attending the training. While keeping teachers up to speed on the latest developments in their profession is worthwhile, individual districts (or schools) should be able to determine themselves how much professional development is necessary and to whom it is provided. Further, since teachers are required to earn a certain number of continuing education credits in order to renew their teaching certificates periodically, teachers and

administrators often view the professional development requirement as duplicative and meaningless. Under Senate Bill 366 (S-1), districts would be able to offer meaningful, targeted training to their teachers, perhaps in the form of on-line learning that could be accomplished outside of student instruction time.

Senate Bill 367 (S-3) would allow some flexibility and creativity in the use of funds to assist at-risk students, while still requiring that the money be used for at-risk students. While small class sizes, breakfast programs, and counseling services are important programs for these pupils, a school or district may want to use another program that would increase the learning and well-being of at-risk students. The bill also would recognize the importance of accountability by requiring a district wishing to apply for flexibility to have attained adequate yearly progress standards as established under the No Child Left Behind Act, which would reinforce the Act's academic standards.

Response: Supporters of Senate Bill 366 (S-1) have claimed that State-mandated professional development is *in addition to* the continuing education credits teachers must acquire to update their teaching certificates. This is not true in all cases. In fact, a teacher may count graduate education courses toward his or her professional development training if the school district pays for all or some of that teacher's classes. Further, under Section 101 (11) of the State School Aid Act, a district may count up to 51 hours of professional development for teachers as hours of pupil instruction. Under this exemption, districts frequently hold their required professional development in the late summer, before students return to school, thus eliminating the need for substitute teachers while providing valuable teacher training. Additionally, teachers negotiate professional development into their contracts, as it is something they have come to value.

Supporting Argument

House Bill 4453 (H-1) would enable teachers to take advantage of a school schedule based on annual hours, rather than annual days. Teachers and other school personnel who contribute to the Michigan Public School Employees Retirement System would be credited for a full year of service if they worked on an adjusted schedule. Currently, districts must apply for a waiver from the MDE if they wish to forgo the 180-day requirement

but maintain the minimum hourly requirement. Senate Bill 364, which was tie-barred to House Bill 4453, would have eliminated the number of days required for all schools, leaving the annual hourly requirement. On June 30, 2003, the Governor vetoed Senate Bill 364 because all of the proposed changes were not before her. If House Bill 4453 (H-1) were enacted, the retirement system component would be in place, should the 180-day requirement be repealed.

Opposing Argument

Senate Bill 366 (S-1) would eliminate a requirement that many see as key to improving teacher quality and student learning. Requiring districts to provide, or set aside time for, professional development enables educators to keep up to date with a field that is constantly evolving. In particular, new research on the brain has exciting implications for teaching and learning, and teachers should be afforded the time and opportunity to learn how to reach students better. Further, professional development is important in light of a new Federal mandate that schools achieve adequate yearly progress, a measurement based largely on student test scores. While proponents of the bill claim that districts would continue to provide some level of professional development if it were not mandated, this cannot be known. The requirement was enacted as part of Public Act 289 of 1995 in response to the perception that districts were not providing enough time for teachers to be taught themselves. Eliminating the requirement entirely because of a lapse in funding could prove to be unwise.

Response: There appears to be no evidence directly linking student achievement to teacher professional development training. If a district, and often its faculty, does not see value in requiring a minimum number of days of training, then the district should not be forced to provide an expensive service that does not provide results.

Opposing Argument

In opening up at-risk funds to flexible spending, Senate Bill 367 (S-3) could divert money from school breakfast and small class size programs. These two programs for at-risk students are specifically protected under Section 31a of the State School Aid Act because they are widely regarded as successful. For example, many at-risk students do not eat proper meals at home,

and free breakfasts at school prepare students to learn by providing essential nutrition at the beginning of the day. Small class sizes are likewise important to student learning, especially for those students who need extra attention and guidance from teachers or paraprofessionals.

Additionally, current requirements for use of at-risk funds already provide for a great deal of flexibility. The School Aid Act requires that a school's at-risk money (not otherwise allocated under the Act) be used to provide instructional programs and direct noninstructional services, such as counseling and medical services, but the Act states specifically that fund use is not limited to these programs. The bill is unnecessary and potentially harmful to successful programs.

Legislative Analyst: Claire Layman

FISCAL IMPACT

Senate Bill 365 (S-1)

The fiscal impact of this bill is indeterminate, at both the State and the local levels. On the State side, it is likely that there would be additional costs initially, as CEPI would gear up to collect new information currently received by other State agencies. The Center would have increased personnel needs and possibly increased hardware and software application costs, in order to collect and/or compile electronically the information required by other State agencies. Over time, however, once the systems were implemented, the need for increased personnel would be diminished. The Center still would need to compile the information and pass it along to the other State agencies that currently receive reports from districts, but this process, too, would become more streamlined over time. At the same time, the need for staff in other State agencies dedicated to collecting and compiling these data would probably diminish, as CEPI would take over this function.

On the local side, the fiscal impact is more difficult to characterize. Since districts still would be faced with the same reporting requirements, the only change would be that they would be reporting to one State agency, CEPI, rather than to multiple State agencies. If there is currently duplication of reporting (i.e., the same information provided to two or more State agencies), then local districts would experience cost savings when CEPI

eliminated the duplication. Also, it is feasible that by reporting to a single State agency, districts would centralize the employees who send the data to the State, and perhaps increase efficiencies among personnel, possibly needing fewer employees who would become experienced at submitting electronic data in standardized formats provided by CEPI. Putting an actual dollar figure to this analysis is not practicable.

Senate Bill 366 (S-1)

By eliminating the five-day and the 15-day professional development requirements, and instead requiring districts to comply with the No Child Left Behind (NCLB) Act, the bill would result in savings for all school districts. Under the NCLB Act, districts that fail to meet the adequate yearly progress requirements for two or more consecutive years will be required to spend at least 10% of their Title I funds for the following two years on professional development. Under the bill, districts meeting the adequate yearly progress requirements would not have to provide any professional development.

For districts meeting the NCLB Act requirements, the exact amount of savings is indeterminate since the cost of professional development for teachers varies widely among school districts and is directly related to the number of teachers in each district. Although the actual cost of professional development training is indeterminate, it is possible to estimate the savings attributable to the cost of hiring substitute teachers for each day that a full-time teacher is involved in professional development training. The statewide average cost of a substitute teacher on a per-day basis is \$75. Thus, for the five days of professional development that are currently required annually for both new and veteran teachers, a school district could expect to save an estimated \$375 per year per teacher who is absent due to professional development training. Based on the estimated 90,000 teachers statewide, the potential savings could reach \$30 million to \$35 million annually on a statewide basis. These estimated savings would be in addition to whatever savings resulted from avoiding the cost associated with the actual professional development training.

Senate Bill 367 (S-3)

The bill would allow flexibility in the use of

funding received under Section 31a for at-risk pupils. This would have no fiscal impact on local districts since the amount of funding would remain the same. However, the changes could enable school districts to use all of the funds allotted to them. Currently, unused funds must be returned to the Department of Education. Flexibility in the use of these funds would allow a district to use the money for any purpose deemed necessary by the school district, which would enable the district to use the funds rather than having to return unspent funding.

House Bill 4453 (H-1)

The bill would have no fiscal impact on State or local government.

Fiscal Analysts: Joe Carrasco
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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.