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BILL



ANALYSIS

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Senate Bill 1509 (as reported without amendment)
Sponsor: Senator Wayne Kuipers
Committee: Education

Date Completed: 10-5-10

RATIONALE

As part of the "Race to the Top" reforms enacted in 2009, Public Act 205 of 2009 made a number of amendments to the Revised School Code. These included a new requirement that the board of a school district, intermediate school district (ISD), or public school academy (PSA), with the involvement of teachers and school administrators, adopt and implement a performance evaluation system for all teachers and administrators. The system must evaluate a teacher's or administrator's performance, measure student growth, and evaluate a teacher's or administrator's job performance. The evaluations must inform decisions regarding various factors, including the promotion, retention, and development of teachers and administrators and the removal of ineffective teachers and administrators after they have had opportunities to improve. Evidently, in the course of discussions regarding the 2009 reforms, it was widely understood that schools were not meant to violate existing contracts in order to comply with these requirements, but that was not explicitly stated in the legislation. (Article I, Section 10 of the State Constitution, however, prohibits any law from impairing the obligations of a contract.) Some people believe that the School Code should delay the performance evaluation requirements until a collective bargaining agreement has expired, if an agreement preventing compliance was in effect on January 4, 2010 (the effective date of the 2009 legislation).

In addition, because many school districts and PSAs may need guidance in developing and conducting the required evaluations, it has been suggested that the Department of

Education be required to develop and make available at least one model evaluation system.

CONTENT

The bill would amend the Revised School Code to do both of the following:

- Make an exception to the requirement that a school board adopt and implement a performance evaluation system, if a collective bargaining agreement that prevented compliance with that requirement were in effect on January 4, 2010, until that agreement expired.**
- Require the Department of Education to work with organizations that represent employees and management to develop one or more models for a performance evaluation system.**

Under the Code, with the involvement of teachers and school administrators, the board of a school district, ISD, or PSA must adopt and implement for all teachers and school administrators a rigorous, transparent, and fair performance evaluation system. The system must evaluate a teacher's or administrator's performance at least annually, while providing timely and constructive feedback.

The system also must establish clear approaches to measuring student growth and provide teachers and administrators with relevant data on student growth, as well as evaluate a teacher's or

administrator's job performance using multiple rating categories that take into account data on student growth as a significant factor.

The system must use the evaluations to inform decisions regarding all of the following:

- The effectiveness of teachers and administrators.
- Promotion, retention, and development of teachers and administrators.
- Whether to grant tenure or full certification, or both, to teacher and administrators.
- Removing ineffective tenured and untenured teachers and administrators after they have had ample opportunities to improve.

Under the bill, if a collective bargaining agreement were in effect for a district's, ISD's, or PSA's teachers or school administrators as of January 4, 2010, and if that agreement prevented compliance with the performance evaluation requirement, the requirement would not apply to that district, ISD, or PSA until after the collective bargaining agreement expired.

The Department of Education would have to work with organizations that represent public school employees and management and that have served members on a statewide basis for at least 10 years, to develop and make available to public schools one or more model evaluation systems that met the performance evaluation system requirements.

MCL 380.1249

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 2009 Race to the Top reforms were enacted with an eye toward Michigan's meeting criteria to qualify for certain Federal programs and funding. Those criteria include the implementation of teacher evaluation systems, using data on student growth as a significant factor. The question of whether teacher performance evaluation should be based on student achievement is

and has long been a contentious issue, and many collective bargaining agreements require the use of other standards to evaluate teachers for the purpose of promotion, retention, and development and the determination of whether to grant them tenure and/or full certification. Since the statutory reforms enacted in 2009 may conflict with those collective bargaining agreements, the School Code should specify that the reforms do not apply to a district, ISD, or PSA where there is such a conflict until after the collective bargaining agreement expires.

Supporting Argument

Some districts and PSAs may not have the resources or expertise to develop and implement the required performance evaluation systems for teachers and administrators. The bill would address this concern by requiring the Department of Education to develop and make available to public schools one or more model evaluation systems, and to work with organizations representing school employees and management in doing so.

Response: The bill is too limited regarding what groups the Department could work with in developing model systems. It should give the Department the latitude to work with other interested parties.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The Department would see increased costs in the development of one or more model evaluation systems as required by this legislation. The bill would have no fiscal impact on local government.

Fiscal Analyst: Kathryn Summers

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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.