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 BILL ANALYSIS

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House Bill 4787 (Substitute H-5 as passed by the House)
House Bill 4788 (Substitute H-3 as passed by the House)
House Bill 4789 (Substitute H-1 as passed by the House)
Sponsor: Representative Tim Melton (H.B. 4787 & 4789)
Representative Bert Johnson (H.B. 4788)

House Committee: Education
Senate Committee: Education

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CONTENT

House Bill 4787 (H-5) would create Part 6D (Turnaround Schools) of the Revised School Code, and amend other parts of the Code, to do the following:

- Permit the State Superintendent to designate a public school as a failing public school and place it under the control of a State School Reform/Redesign Officer if the Department of Education (DOE) determined that the school had been unaccredited for four consecutive years or had failed to achieve the Federal pupil performance standard for four or more consecutive years and that less than a designated percentage of all pupils had scored at least proficient on the most recent State assessment.
- Require the State Superintendent to hire a State School Reform/Redesign Officer.
- Require the School Reform/Redesign Officer to appoint a review team to evaluate a failing school, identify the reasons for its failures, and make recommendations for corrective measures.
- Permit the School Reform/Redesign Officer to enter into a memorandum of understanding (MOU) with the failing school that gave the Officer general oversight and supervision of the school and established requirements for it to continue operating under the MOU.
- Create a State School Reform/Redesign District, and permit the School Reform/Redesign Officer to place failing schools into the District.
- Permit the School Reform/Redesign Officer, if he or she placed a public school in the School Reform/Redesign District, either to assume autonomous control and oversight of the school or to authorize a "turnaround school".
- Permit the District (referred to as the authorizing body) to issue a contract for the organization and operation of a turnaround school that corresponded to a failing school in the District.
- Permit a qualified entity (one that operated a high-performing public school academy or a high-performing similar school in another state) to apply for a contract to operate a turnaround school.
- Require a contract to include performance goals, which would have to include at least an 80% graduation rate, at least 80% attendance, and, if the turnaround school were a high school, an average score of at least 18 on the college entrance exam portion of the Michigan Merit Exam.

- Permit the authorizing body to revoke a contract or not reissue a contract if a turnaround school failed to meet its educational goals or for other specified reasons.
- Require a turnaround school to offer at least the same grade levels as the corresponding failing school, and to allow a pupil who previously was enrolled in the failing school to enroll in the turnaround school.
- Prohibit a turnaround school from charging tuition or discriminating in its admission policies based on intellectual or athletic ability, measures of achievement or aptitude, disabilities, or any other basis that would be illegal if used by a school district.
- Require the School Reform/Redesign Officer to create a high-performing review team to evaluate and identify high-performing public school academies (PSAs) and similar high-performing schools in other states, or contract with an entity to perform those functions.
- Require the DOE to publish an annual watch list identifying schools that were in danger of being designated as failing public schools.
- Establish requirements for contracts between public schools and educational management companies.
- Include a turnaround school corporation and the School Reform/Redesign School District in the Code's definition of "public school", and include a turnaround school in the definition of "public school academy".

House Bill 4788 (H-3) would amend the public employment relations Act to include the State School Reform/Redesign Officer or the State School Reform/Redesign District as a joint employer of employees at a public school for the purposes of collective bargaining, if the Superintendent of Public Instruction designated the public school as a failing school under Part 6D of the Revised School Code.

House Bill 4789 (H-1) would amend the State School Aid Act to provide that a pupil enrolled in a failing public school that was placed in the State School Reform/Redesign District and managed

by a qualified person or entity under a performance contract would have to be counted in membership in the district or PSA that operated the school before it was designated as a failing public school.

The bill also would include a turnaround school in the definition of "public school academy".

House Bill 4787 (H-5) is tie-barred to House Bills 4788 and 4789, each of which is tie-barred to House Bill 4787. House Bills 4787 and 4788 are described in detail below.

House Bill 4787 (H-5)

School Reform/Redesign Officer

The Superintendent of Public Instruction would have to hire a State School Reform/Redesign Officer to carry out the functions described below and as otherwise prescribed by law.

The School Reform/Redesign Officer would have to be chosen solely on the basis of his or her competence and experience in educational reform and redesign, and would be exempt from civil service. The Officer would be responsible directly to the Superintendent of Public Instruction to ensure that the purposes of the bill were carried out.

The DOE would have to request that the Civil Service Commission establish the position of State School Reform/Redesign Officer as a position that was exempt from the classified State civil service.

The State School Reform/Redesign Officer could exercise all the powers and duties otherwise vested by law in the school board that previously operated a school placed in the State School Reform/Redesign School District and in its officers, except those relating to taxation or borrowing, and could exercise all additional powers and duties provided in the bill. The School Reform/Redesign Officer would accede to all the rights, duties, and obligations of the school board with respect to that school, including all of the following:

- Authority over the expenditure of all funds attributable to pupils at that school, including that portion of proceeds from

bonded indebtedness and other funds dedicated to capital projects that otherwise would be apportioned to that school by the school board according to the terms of the bond issue or financing documents.

- Subject to provisions regarding the management of a redesigned public school, rights and obligations under collective bargaining agreements and employment contracts entered into by the school board for employees at the school.
- Rights to prosecute and defend litigation.
- Rights and obligations under statute, rule, and common law.
- Authority to delegate any of the School Reform/Redesign Officer's powers and duties to one or more designees, with proper supervision by the Officer.
- Power to terminate any contract or portion of a contract entered into by the school board that applied to that school.

A contract terminated by the School Reform/Redesign Officer under those provisions would be void. However, those provisions would not allow any termination or diminishment of obligations to pay debt service on legally authorized bonds and would not allow a collective bargaining agreement to be affected except as described below.

School Reform/Redesign School District

The State School Reform/Redesign School District would be a school district for the purposes of Article IX, Section 11 of the State Constitution (which established the State School Aid Fund) and for receiving school aid under the State School Aid Act. It would be subject to the leadership and general supervision of the State Board of Education over all public education under Article VIII, Section 3 of the State Constitution (which invests the Board with general supervision over all public education in the State except institutions of higher education).

The School Reform/Redesign School District would be a body corporate and a governmental agency, and would consist of schools that were placed in the District, as described below.

The School Reform/Redesign Officer would have to act as the superintendent of the

School Reform/Redesign District. With respect to schools placed in the District, the School Reform/Redesign Officer would have all of the powers and duties described above, and all provisions of the Code that otherwise would apply to the school board that previously operated a school placed in the District would apply to the Officer with respect to that school, except those relating to taxation or borrowing.

Failing Schools

Beginning after the 2008-2009 school year, if the DOE determined that a public school had been unaccredited for four consecutive years or had failed to achieve the Federal pupil performance standard for all pupils for academic performance for four or more consecutive years and that less than a designated percentage of all pupils enrolled in the public school had scored at least proficient on the most recent Michigan Education Assessment Program (MEAP) test or Michigan Merit Exam, as applicable, in both mathematics and English language arts, then the Superintendent of Public Instruction could issue an order designating the public school as a failing public school and placing it under the control and supervision of the State School Reform/Redesign Officer.

("Designated percentage" would mean 30% for 2009-2010, 33% for 2010-2011, 36% for 2011-2012, 39% for 2012-2013, 42% for 2013-2014, and 45% for 2014-2015 and subsequent years.)

If the Superintendent decided to issue such an order, he or she would have to do so within 15 days after determining that the public school met those criteria. If the Superintendent decided not to issue such an order for a public school that was determined to meet those criteria, he or she would have to work with the public school and its governing board to ensure that they were continuing all ongoing restructuring and reform efforts and to ensure that they were reporting regularly to the Superintendent.

Within 15 days after an order was issued, the School Reform/Redesign Officer would have to appoint a review team to conduct an evaluation of the failing public school. The review team would have to consist of at least a teacher, a support staff member, a

parent, a school administrator, a school board member, a member of the local community, and a designee of the State Superintendent.

The evaluation would have to focus on issues at both the school district level and the school building level and would have to cover, at a minimum, standards and expectations, curriculum, instruction, time on task, learning environment, prevalence of transient pupils, parental involvement, community involvement, staff development, planning and assessment, and governance and leadership.

Within 30 days after being appointed, the review team would have to submit to the School Reform/Redesign Officer a report based on its evaluation that identified the reasons for the school's failures and contained recommendations on the measures that the Officer should take with regard to the school. The board of a school district or a public school academy would have to cooperate fully with the review team.

If a public school were designated as a failing public school by the Superintendent of Public Instruction, then all of the following provisions would apply.

If the public school were a public school academy, the Superintendent would have to notify its authorizing body that the PSA had been designated as a failing public school. The Superintendent then could order the public school academy's authorizing body to revoke the PSA's contract, and the public school academy could be closed. If the Superintendent did not order revocation of the contract, the School Reform/Redesign Officer would have to proceed with a memorandum of understanding for the PSA or would have to place it into the State School Reform/Redesign School District and take action as described below.

If the failing public school were not a PSA, then the School Reform/Redesign Officer would have to confer with the school board that operated the school along with collective bargaining representatives of all of the bargaining units at the school to attempt to enter into a memorandum of understanding with the school board. If the parties were unable to agree to an MOU by the next January 31 after the public school

was designated as a failing public school, then the School Reform/Redesign Officer would have to impose an MOU on the parties and proceed based on the imposed MOU.

The School Reform/Redesign Officer would have to place the failing public school into the School Reform/Redesign School District and take action as described below if either of the following occurred:

- The school had operated for at least two full school years under an MOU and had failed to meet the requirements for continuing to operate under an MOU.
- The Superintendent of Public Instruction determined that the school board had failed to comply with the MOU.

Memorandum of Understanding

If the State School Reform/Redesign Officer entered into a memorandum of understanding with the school board or board of directors that operated a failing public school, the MOU would have to provide for at least all of the following:

- General oversight and supervision of the failing public school by the School Reform/Redesign Officer.
- The requirements for continuing to operate under the MOU.

The memorandum of understanding also would have to provide for continued day-to-day operation of the failing public school by the school board or board of directors, but only after modification of policies and renegotiation of applicable collective bargaining agreements to provide for any of the following that were determined by the School Reform/Redesign Officer to be necessary to achieve the established educational goals:

- That any contractual or other seniority system that otherwise would be applicable would not apply at the public school.
- That any contractual or other work rules the School Reform/Redesign Officer determined to be impediments to achieving satisfactory pupil performance would not apply at the public school.
- That the School Reform/Redesign Officer would have to direct the expenditure of all funds attributable to pupils at the public school and the principal or other

school leader designated by the Officer would have full autonomy and control over curriculum and discretionary spending at the school.

The memorandum of understanding also would have to provide that for the purposes of collective bargaining under Public Act 336 of 1947 (the public employment relations Act), the School Reform/Redesign Officer would be a joint employer of the employees at the public school along with the board of the school district or board of directors of the PSA that operated the public school.

In addition, the MOU would have to provide that, except as otherwise provided by law, an individual could be employed to teach at the school only if her or she held a valid Michigan teaching certificate.

Performance Contract

If the School Reform/Redesign Officer placed a public school in the State School Reform/Redesign District, the Officer would have to assume autonomous control and oversight of the public school through a performance contract with a qualified person or entity to manage the school, or authorize a turnaround school under Part 6D.

If the Officer assumed control and oversight of the school, the School Reform/Redesign District would have to publish a request for proposals for qualified people or entities to enter into a performance contract with the District to manage the school. The District would have to select a qualified person or entity and enter into a performance contract with that person or entity to manage the school as a redesigned public school.

A performance contract would have to contain at least the following:

- The educational goals the redesigned public school was to achieve.
- The methods by which it would be held accountable, and a description of the method to be used to monitor the school's compliance with applicable law and its performance in meeting its targeted educational objectives.
- A description of the process for amending the performance contract during its term.
- Procedures for revoking the contract and grounds for revocation, which would have

to include failure to meet the educational goals of the redesigned public school.

- A requirement that the qualified person or entity give the School Reform/Redesign District the same information that an educational management company must give a governing board under the Code.

If the School Reform/Redesign Officer authorized a turnaround school, he or she would have to solicit applications from qualified entities for organizing a turnaround school to correspond to the failing public school, and the Reform/Redesign District would have to issue a contract to a qualified entity authorizing the turnaround school. If the Reform/Redesign District issued a contract for a turnaround school, the State Superintendent then would have to issue an order closing the public school.

Redesigned Public School

For a redesigned public school, the school district or PSA that previously operated the failing public school would remain the employer of all staff employed at the school, but for the purposes of collective bargaining, the School Reform/Redesign District would be a joint employer of those employees along with the board of the school district or board of directors of the PSA.

The qualified person or entity managing the school or a school leader designated by the qualified person or entity could remove a staff member from a job assignment at the school in accordance with any applicable collective bargaining agreement that applied to the school, after any modification of the agreement as described above, and direct that he or she be assigned elsewhere. This provision would apply only to assignment at that school and would not allow a staff member to be terminated from his or her employment with the district or PSA that previously operated the school.

The principal or other designated school leader could hire and assign employees to work at the school. An employee who worked at the school at the time it was designated a failing school would have to reapply and be rehired for assignment at the school. This provision would apply only to assignment at that school and would not allow a staff member to be terminated from

his or her employment with the district or PSA that previously operated the school.

With the approval of the School Reform/Redesign District, contractual or other work rules that otherwise would apply, and any contractual or other seniority system that otherwise would apply, would not apply at the redesigned public school. This provision would not allow unilateral changes in pay scales or benefits.

The principal or other designated school leader would have full autonomy and control over curriculum and discretionary spending at the school.

The qualified person or entity managing the redesigned public school could assign only an individual holding a valid Michigan teaching certificate to teach at the school.

The school board or board of directors that operated the public school before it was designated a failing public school would have to ensure that all of its school officials and employees cooperated with the School Reform/Redesign Officer and with the person or entity managing the redesigned public school under a performance contract.

The redesigned public school would be part of the School Reform/Redesign School District for management of the school, but for purposes of calculating school aid under the State School Aid Act, it would be considered part of the school district or PSA that operated it before it was designated a failing public school.

The School Reform/Redesign Officer would have to establish a school advisory council for the redesigned school consisting of parents and community leaders and would have to meet with the school advisory council periodically to receive their input. The Officer also could include the following on the council:

- One or more pupils.
- Representatives of local community organizations offering health, social, or educational services.
- Representatives of local workforce development boards or postsecondary institutions serving the local community.

Turnaround School

The bill would permit the authorizing body (the State School Reform/Redesign School District) to issue a contract for the organization and operation of a turnaround school. In the contract, the body would have to identify the failing public school that corresponded to the turnaround school. The authorizing body would have to issue the contract to a qualified entity selected on a competitive basis after receiving and evaluating applications from qualified entities.

"Qualified entity" would mean one of the following, as determined by the Superintendent of Public Instruction:

- An entity that has been issued and is currently a party to a contract to organize and operate at least one PSA, if the high-performing school review team created under the bill determined that it operates high-performing schools.
- An entity that operates or provides comprehensive educational, administrative, management, or instructional services or staff for a school in another state that is similar to a public school in this State, if the high-performing school review team determined that it operates or provides services or staff for high-performing schools.

A contract would have to be issued for an initial term of five years, and could be renewed for subsequent five-year terms if at the end of the initial term the Department of Education determined that the turnaround school met all of the following requirements:

- At least 80% of the school's pupils graduated from high school or were determined by the DOE to be on track to graduate.
- The school had at least 80% average attendance, and, if the school were a high school, its pupils had an average score of at least 18 on the college entrance exam component of the Michigan Merit Exam.
- The school was meeting the other educational goals set forth in the contract.
- The school was operating in substantial compliance with Part 6D.

Contract Application

To obtain a contract to organize and operate one or more turnaround schools, a qualified entity would have to apply to the authorizing body. The contract would have to be issued to a turnaround school corporation designated by the qualified entity applying for the contract.

The application would have to include the name of the qualified entity applying for the contract and, subject to the requirements of the authorizing body, a list of the proposed members of the board of directors of the turnaround school and a description of the qualifications and method of appointment or election of board members. The board of directors would have to include representation from the local community.

The application also would have to include the proposed articles of incorporation, which would have to contain the following:

- The name of the proposed turnaround school to which the contract would be issued.
- The purpose of the turnaround school corporation.
- The proposed time when the articles of incorporation would be effective.
- Other matters considered desirable to be in the articles of incorporation.

In addition, the application would have to include a copy of the proposed bylaws of the turnaround school and documentation meeting the authorizing body's application requirements, including the following:

- The governance structure of the turnaround school.
- A copy of its educational goals and the curricula to be offered.
- The methods of pupil assessment to be used in the school.
- The admission policy and criteria to be maintained by the turnaround school, including a description of how the applicant would provide adequate notice to the general public that a turnaround school was being created and adequate information on the admission policy, criteria, and process.
- The school calendar and school day schedule.
- The age or grade range of pupils to be enrolled, which would have to include at

least all of the same grade levels offered by the failing public school corresponding to the turnaround school.

The application also would have to include descriptions of staff responsibilities and of the turnaround school's governance structure; a description of and address for the proposed building or buildings in which the school would be located; and a financial commitment by the qualified entity applying for the contract to construct or renovate the building or buildings.

The authorizing body would not be required to issue a contract to any entity. Contracts would have to be issued on a competitive basis taking into consideration the resources available for a proposed turnaround school, the population to be served, and the educational goals to be achieved by the turnaround school.

The School Reform/Redesign Officer could solicit applications from qualified entities. In evaluating an applicant's qualifications, the authorizing body would have to examine the proposed performance standards, proposed academic program, financial viability of the applicant, and the ability of the proposed board of directors to meet the contract goals and objectives. The authorizing body could not issue a contract unless it required the turnaround school to enter into an agreement for operation of the school by an established educational management organization approved by the DOE.

Application or Contract Fee

The authorizing body could not charge a fee or require reimbursement of expenses for considering an application for a contract, issuing a contract, or providing oversight of a contract for a turnaround school in an amount that exceeded a combined total of 3% of the total State school aid received by the turnaround school in the school year in which the fees or expenses were charged.

The authorizing body could use that fee only for the following purposes:

- Considering applications and issuing or administering contracts.
- Compliance monitoring and oversight of turnaround schools.
- Training for turnaround school applicants, administrators, and boards of directors.

- Technical assistance to turnaround schools.
- Academic support to turnaround schools or to their pupils or graduates.
- Evaluation of turnaround school performance.
- Training of teachers, including supervision of teacher interns.
- Other purposes that assisted the turnaround schools or traditional public schools in achieving improved academic performance.

The authorizing body could provide other services for a turnaround school and charge a fee for those services, but could not require such an arrangement as a condition to issuing the contract authorizing the turnaround school.

Terms of Contract

A contract issued to organize and administer a turnaround school would have to contain the educational goals the turnaround school was to achieve and the methods by which it would be held accountable.

To the extent applicable, the progress of pupils in the turnaround school would have to be assessed using at least a MEAP test or the Michigan Merit Exam, as applicable.

The educational goals of a turnaround school would have to include that, by the last year of the contract, at least 80% of the school's pupils would graduate from high school or be determined by the DOE to be on track to graduate from high school, the school would have at least 80% average attendance, and if the school were a high school, its pupils would have an average score of at least 18 of the college entrance exam portion of the Michigan Merit Exam.

A contract also would have to contain the following:

- A description of the method to be used to monitor the turnaround school's compliance with applicable law and its performance in meeting its targeted educational objectives.
- A description of the process for amending the contract during its term.
- A certification, signed by an authorized member of the turnaround school board of directors, that the school would

comply with the contract and all applicable law.

- Procedures for revoking the contract and grounds for revocation, including failure to meet the requirements for renewal of the contract within five years.
- A description of and address for the proposed building or buildings in which the school would be located.
- Requirements and procedures for financial audits, which would have to be conducted at least annually by an independent certified public accountant in accordance with generally accepted governmental auditing principles.
- A requirement that the board of directors ensure compliance with Public Act 317 of 1968 (which deals with contracts of public servants with public entities).
- A requirement that the board prohibit specifically identified family relationships between board members, individuals who had an ownership interest in or who were officers or employees of an educational management company involved in the operation of the school, and employees of the school.
- A requirement that the board make information concerning its operation and management available to the public and to the authorizing body in the same manner as required by State law for school districts.
- A provision that the authorizing body would have to review and could disapprove any agreement between the board and an educational management organization before the agreement was final and valid.
- A requirement that the board prohibit any individual from being employed by the school in more than one full-time position and simultaneously being compensated at a full-time rate for each of those positions.
- A requirement that, if requested, the board report to the authorizing body the total compensation for each individual working at the school.

The contract also would have to include a requirement that the board of directors collect, maintain, and make available to the public and the authorizing body, in accordance with applicable law and the contract, all of the following information concerning the operation and management of the turnaround school:

- A copy of the contract.
- A list of currently serving members of the board, including name, address, and term of office.
- Copies of policies approved by the board.
- Board meeting agendas and minutes.
- A copy of the budget approved by the board.
- Copies of bills paid for amounts of \$10,000 or more as they were submitted to the board.
- Quarterly financial reports submitted to the authorizing body.
- A current list of teachers working at the school, including their individual salaries.
- Copies of the teaching certificates or permits of current teaching staff.
- Evidence of compliance with the criminal background and criminal records checks and unprofessional conduct check required under the Code for all teachers and administrators working at the school.
- Curriculum documents and materials given to the authorizing body.
- Proof or insurance as required by the contract.
- Copies of facility leases or deeds, or both, and of any equipment leases.
- Copies of any management contracts or services contracts approved by the board.
- All health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspection, boiler inspection, and food service.
- Any management letters issued as part of the annual financial audit.
- Any other information specifically required under the Code.

In addition, the contract would have to include a requirement that the board of directors demonstrate the following to the satisfaction of its authorizing body, regarding its admission process:

- That the turnaround school had made a reasonable effort to advertise its enrollment openings.
- That the school had made additional efforts to recruit pupils who were eligible for special education programs and services or English as a second language services to apply for admission.
- That the open enrollment period for the school was at least two weeks in

duration, and that enrollment times included at least some evening and weekend times.

The authorizing body and turnaround school could include in the contract provisions that permitted the qualified entity that applied for the contract to do any of the following:

- Participate in the recruiting, interviewing, and nominating process for members of the turnaround school board of directors.
- Conduct an independent educational review, on a periodic basis, to determine whether the school was successful in implementing the educational goals in the contract.
- Serve as contract administrator between the board of directors and any educational management company contracted to operate the school.
- Make recommendations to the authorizing body and school on how to improve the school's operation.

Legal Requirements, Immunity & Exemptions

A turnaround school would have to comply with all applicable law, including the Open Meetings Act, the Freedom of Information Act, the public employment relations Act, the Uniform Budgeting and Accounting Act, the Revised Municipal Finance Act, the Federal No Child Left Behind Act, and other specified acts that deal with prevailing wage requirements, incompatible public offices, and contracts of public servants with public entities.

A turnaround school also would have to comply with sections of the Revised School Code that require a district to tag the records of missing students; require a pupil to provide proof of his or her age and identity upon enrollment for the first time in a school district or intermediate school district (ISD); permit a district to establish a single-gender school, class, or program under certain circumstances; permit a district to provide bilingual instruction for children of limited English-speaking ability; establish zoning and other requirements for the construction of a school building; require a district to obtain competitive bids for purchases over a certain amount; and require each public school in a district to be accredited or be subject to certain sanctions.

A turnaround school and its incorporators, board members, officers, employees, and volunteers would have governmental immunity from tort liability under Section 7 of the governmental immunity Act. An authorizing body and its board members, officers, and employees would be immune from civil liability, both personally and professionally, for any acts or omissions in authorizing or oversight of a turnaround school if the authorizing body or the person acted or reasonably believed he or she had acted within the authorizing body's or the person's scope of authority.

A turnaround school would be exempt from all taxation on its earnings and property. Instruments of conveyance to or from a turnaround school would be exempt from all taxation. A turnaround school could not levy ad valorem property taxes or any other tax for any purpose.

A turnaround school could acquire, hold, and own in its own name buildings and other property for school purposes, and interests in those buildings or property, and other real and personal property, including interests in property subject to mortgages, security interests, or other liens, necessary or convenient to fulfill its purposes. For the purposes of condemnation, a turnaround school could proceed under the Uniform Condemnation Procedures Act (excluding Sections 6 to 9 of that Act), or other applicable statutes, but only with the express written permission of the authorizing body in each instance of condemnation and only after just compensation had been determined and paid.

An agreement, mortgage loan, or other instrument of indebtedness entered into by a turnaround school would not constitute an obligation of the State or the authorizing body. The full faith and credit or the taxing power of the State or any agency of the State, or the full faith and credit of the authorizing body, could not be pledged for the payment of any turnaround school bond, note, agreement, mortgage, loan, or other instrument of indebtedness. Part 6D would not impose any liability on the State or the authorizing body for any debt incurred by a turnaround school.

Turnaround School Operations

A turnaround school could be located in all or part of an existing public school building, and could not operate at a site other than the single site requested for the configuration of grades that would use the site, as specified in the contract. A turnaround school would have to be located within the attendance area of the failing public school that was identified as corresponding to the turnaround school, as established by the school district that operated the failing public school.

A turnaround school could not charge tuition, and could not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a handicapped person, or any other basis that would be illegal if used by a school district. However, a turnaround school could limit admission to pupils who were within a particular range of age or grade level or on any other basis that would be legal if used by a school district, in compliance with the following provisions.

Except for a foreign exchange student who was not a United States citizen, a turnaround school could not enroll a pupil who was not a State resident. Enrollment would have to be open to all pupils residing in the State who met the admission policy. If there were more applications to enroll than there were spaces available, pupils would have to be selected through a random selection process. A turnaround school would have to allow any pupil who was enrolled in the school in the previous school year to enroll in the school in the appropriate grade unless that grade was not offered.

A turnaround school would have to allow a child who previously was enrolled in the corresponding failing public school to enroll in the turnaround school. A turnaround school also could give enrollment priority to a sibling of a pupil enrolled in the school or a child of a person who was employed by or at the turnaround school or who was on its board of directors.

A turnaround school would have to include at least all of the same grade levels offered by the corresponding failing school. A turnaround school also could include other

grades or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract.

Duties; Powers of Turnaround School

In addition to other powers set forth in Part 6D, a turnaround school could take action to carry out the purposes for which it was incorporated, including all of the following:

- To sue and be sued in its name.
- To acquire, hold, and own in its own name real and personal property, or interests in real or personal property, for educational purposes; and to sell or convey the property as the interests of the school required.
- To receive, disburse, and pledge funds for lawful purposes.
- To enter into binding legal agreements with people or entities as necessary for the school's operation, management, financing, and maintenance.
- To incur temporary debt in accordance with Section 1225 of the Code (which permits the board of a school district or ISD to borrow money for school operations).
- To solicit and accept any grants or gifts for educational purposes and to establish or permit to be established on its behalf one or more nonprofit corporations, whose purpose would be to assist the school in furthering its public purposes.
- To borrow money and issue bonds in accordance with Section 1351a of the Code (which permits the board of a district or ISD to borrow money to construct, remodel, or equip school buildings) and with Part VI of the Revised Municipal Finance Act (which deals with refunding securities).

Bonds issued under that provision would be full faith and credit obligations of the turnaround school, pledging the general funds or any other money available for such a purpose, and would be subject to the Revised Municipal Finance Act.

A turnaround school's borrowing of money or issuance of bonds would not be subject to Section 1351(2) to (4) or Section 1351a(4) of the Code. (Under Section 1351(2) to (4), a school district may not borrow money or issue bonds for a sum that totals more than 5% of the State equalized valuation of the taxable property within the district, or issue

bonds for an amount greater than 15% of the total assessed valuation of the district, and bonds or notes issued by a school district or ISD are full faith and credit tax limited obligations of the district. Section 1351a(4) gives a resident of a district standing to bring suit against the district to enforce borrowing requirements of the Code.)

A turnaround school could develop and implement new teaching techniques or methods or significant revisions to known techniques or methods and would have to report those to the authorizing body and State Board of Education, to be made available to the public. A turnaround school could use any instructional technique or delivery method that could be used by a school district.

With the approval of the authorizing body, a turnaround school could employ or contract with personnel, or enter into a contract with another party to furnish teachers or other personnel, as necessary for the operation of the school, prescribe their duties, and fix their compensation.

If the board of directors of a turnaround school provided medical, optical, or dental benefits to employees and their dependents, it would have to provide the benefits in accordance with the Public Employees Health Benefit Act, and would have to comply with that Act.

Duties of Authorizing Body

If the authorizing body issued a contract for a turnaround school, the body would have to do all of the following:

- Ensure that the contract and the application for it complied with the requirements of Part 6D.
- Submit a copy of the contract to the DOE within 10 days after issuing it.
- Establish the method of selection, length of term, and number of members of the board of directors of each turnaround school that it authorized, and ensure that the board included representation from the local community.
- Oversee the operations of each turnaround school operating under a contract issued by the authorizing body, sufficient to ensure that the school was in

compliance with the terms of the contract and with applicable law.

- Develop and implement a process for holding a turnaround school board of directors accountable for meeting applicable academic performance standards in the contract and for implementing corrective action for a school that did not meet those standards.
- Take necessary measures to ensure that a turnaround school board of directors operated independently of any educational management company involved in the operation of the school.
- Oversee and ensure that the pupil admission process was operated in a fair and open manner and was in compliance with the contract and Part 6D.
- Ensure that the turnaround school board maintained and released information as necessary to comply with applicable law.

The authorizing body could enter into an agreement with one or more authorizing bodies of PSAs to carry out any of those functions.

The authorizing body for a turnaround school would be the fiscal agent for that school. A school aid payment for a turnaround school would have to be paid to the authorizing body, which would have to forward the payment to the turnaround school.

Contract Revocation or Termination

A contract issued under Part 6D could be revoked by the authorizing body if it determined that one or more of the following had occurred:

- The turnaround school failed to abide by and meet the educational goals set forth in the contract.
- The turnaround school failed to comply with all applicable law.
- The turnaround school failed to meet generally accepted public sector accounting principles.
- There existed one or more other grounds for revocation as specified in the contract.

The authorizing body's decision to issue, reissue, or reconstitute a contract, or to revoke a contract, would be solely within the discretion of the authorizing body, and would be final and not subject to review by a

court or any other State agency. If the authorizing body did not issue, reissue, or reconstitute a contract, or revoked a contract, it would not be liable for that action to the turnaround school, the turnaround school corporation, a pupil of the school, the parent or guardian of a pupil of the school, or any other person.

Before the authorizing body revoked a contract, it could consider and take corrective actions to avoid revocation. The authorizing body could reconstitute the turnaround school in a final attempt to improve student educational performance or to avoid interruption of the educational process. The authorizing body could include a reconstituting provision in the contract that identified those corrective measures, including removing one or more members of the board of directors, withdrawing approval to contract for an agreement with an educational management company, or appointing a new board of directors or a trustee to take over operation of the school.

If the authorizing body revoked a contract, it would have to work with a school district or another public school, or with a combination of those entities, to ensure a smooth transition for the affected pupils. If the revocation occurred during the school year, the authorizing body, as the fiscal agent for the turnaround school, would have to return any school aid funds that were attributable to the affected pupils to the State Treasurer for deposit into the State School Aid Fund.

The State Treasurer would have to distribute funds to the public school in which the pupils enrolled after the revocation, using a methodology established by the DOE and the Center for Educational Performance and Information.

Within 10 days after a turnaround school's contract ended or was revoked, the authorizing body would have to notify the Superintendent of Public Instruction in writing of the name of the school whose contract was terminated or had been revoked and the date of contract termination or revocation.

If a turnaround school's contract terminated or were revoked, title to or interest in all real and personal property and other assets owned by the school would revert to the State.

Within 30 days following the termination or revocation, the board of directors would have to hold a public meeting to adopt a plan of distribution of assets and to approve the dissolution of the turnaround school corporation, in accordance with Chapter 8 of the Nonprofit Corporation Act.

The turnaround school would have to file a certificate of dissolution with the Department of Energy, Labor, and Economic Growth within 10 business days following board approval. At the same time, the turnaround school board of directors would have to provide a copy of its plan of distribution of assets to the State Treasurer for approval. Within 30 days, the State Treasurer or his or her designee would have to review and approve the plan of distribution. If the proposed plan were not approved within 30 days, the State Treasurer or his or her designee would have to give the board of directors an acceptable plan of distribution.

The State Treasurer would have to monitor the turnaround school's winding up of the dissolved corporation in accordance with the approved plan of distribution of assets. As part of the plan, the board of directors would have to designate the Director of the Department of Management and Budget or his or her designee to dispose of all real property of the turnaround school corporation in accordance with the directives developed for disposition of surplus land and facilities under the Management and budget Act.

If the board of directors of a turnaround school failed to take any necessary action required under those provisions, the State Treasurer or his or her designee could suspend the turnaround school board of directors and appoint a trustee to carry out the board's plan of distribution of assets. Upon appointment, the trustee would have all the rights, powers, and privileges under law that the board had before being suspended.

Following the sale of the property or interests in the property and after payment of any turnaround school debt secured by the property or interest in property, the turnaround school board of directors, or an appointed trustee, would have to forward any remaining money to the State

Treasurer, who would have to deposit the money in the State School Aid Fund.

Organization of Turnaround Schools

A turnaround school would be a public school under Article VIII, Section 2 of the State Constitution (which prohibits the use of public money to aid or maintain any nonpublic pre-elementary, elementary, or secondary school), for the purposes of Article IX, Section 11 of the Constitution, and for the purposes of Sections 1225 and 1351a of the Code (which permit the board of a school district to borrow money for school operations and for school buildings, respectively).

A turnaround school would be subject to the leadership and general supervision of the State Board of Education.

A turnaround school would be a body corporate and a governmental agency. The powers granted to a turnaround school under Part 6D would constitute the performance of essential public purposes and governmental functions of the State.

A turnaround school would have to be organized and administered under the direction of a board of directors in accordance with Part 6D and bylaws adopted by the board.

A turnaround school corporation would have to be organized under the Nonprofit Corporation Act, except that it would not be required to comply with Sections 170 to 177 of Public Act 327 of 1931. (Those sections govern educational corporations created for the purpose of conducting a school, academy, seminary, college or other institution of learning.)

To the extent disqualified under the State or Federal Constitution, a church or religious organization could not organize or have any organizational or contractual affiliation with a turnaround school.

High-Performing PSA Review Team

The School Reform/Redesign Officer would have to create a high-performing review team to evaluate PSAs in the State and similar public schools in other states to identify people or entities that operate high-performing public schools. The review team

would have to consist of at least teachers, school administrators, and other educational experts. In identifying high-performing public schools, the review team would have to take into account the past academic performance of pupils at a school, past grade offerings at the school, and the demographics of pupils at the school.

Alternatively, the Officer could contract with an entity to perform those functions.

The School Reform/Redesign Officer would have to use the review team's or the contracting entity's evaluations when soliciting proposals from qualified people or entities for the purpose of managing a redesigned public school or operating a turnaround public school.

Watch List

At least annually, the DOE would have to publish a watch list identifying public schools that were in danger of meeting the criteria for designation as a failing public school. The Department would have to include a public school on the list if it determined that the school had failed to achieve the Federal pupil performance standard for three or more consecutive years and that less than 45% of all pupils enrolled in the school scored at least proficient in both math and English language arts on the most recent MEAP assessment or Michigan Merit Exam, as applicable, for which results were available. The DOE also could include other public schools if it determined that there were other reasons that they were in danger of meeting the failing public school criteria.

If a public school were included on the watch list, the DOE would have to notify the board or board of directors and the collective bargaining representatives of all collective bargaining units with members who worked at the school. The board or board of directors would have to notify employees and parent organizations at the school that it had been placed on the watch list and would have to publish a notice to that effect on its website.

Educational Management Company Contract

Beginning with contracts that were entered into after the bill's effective date, if the governing board of a school district entered

into a contract with an educational management company to carry out the operations of a public school under the Code, the governing body would have to ensure that it had conducted sufficient due diligence to conclude that it had sufficient educational expertise and management experience to provide the agreed services. The governing board also would have to ensure that it would obtain independent legal counsel in all negotiations with the educational management company.

In addition, if the governing board were the board of directors of a PSA, it would have to ensure that under the contract between it and the educational management company or organization, the educational management company would give to the board all financial and other information required to comply with the reporting requirements contained in the contract between the board and its authorizing body.

Beginning with contracts that were entered into after the bill's effective date, if the governing board of a public school entered into a contract with an educational management company to carry out the operations of a public school, the contract would have to contain a provision requiring the educational management company to give to the governing board information regarding any teachers, administrators, and support staff employed by the management company and assigned to work at the school, including the following personal information:

- Name.
- Education, including highest degree attained.
- Salary.
- A copy of the employee's teaching certificate or other required permit or credential, if required for the position.
- A description of relevant experience.
- The employee's employment record.

The contract also would have to include a provision requiring the educational management company to give to the governing board information regarding the business operations of the public school, including the following:

- Financial records and information concerning the operation of the school.

- Financial records and information concerning leases to which the governing board was a party, including leases for equipment, physical facility space, or institutional and educational materials.
- Financial records and information concerning mortgages and loans to which the governing board was a party.

Those provisions would not apply to a contract to furnish substitute teachers entered into under the Code.

Other Provisions

The bill would encourage the School Reform/Redesign Officer to consider taking measures to increase the number of qualified school counselors serving a failing public school to ensure that there was at least one qualified counselor for every 250 pupils.

If the Superintendent of Public Instruction determined that the resources available to the DOE and the Reform/Redesign School District were insufficient to address all the public schools in the State that met the criteria to be designated failing public schools, the Superintendent would have to prioritize his or her efforts by addressing the lowest-performing public schools first and addressing others as resources became available.

At least quarterly, the School Reform/Redesign Officer would have to report to the House and Senate Education Committees on the progress being made in improving pupil performance due to measures described in the bill.

House Bill 4788 (H-3)

The bill would amend the public employment relations Act to include the State School Reform/Redesign Officer or the State School Reform/Redesign District as a joint employer of the employees at a public school for the purposes of collective bargaining, if the Superintendent of Public Instruction designated the public school as a failing school under proposed Part 6D of the Revised School Code.

Specifically, if the public school were operated under a memorandum of understanding under Part 6D, then for the purposes of collective bargaining, the State

School Reform/Redesign Officer would be a joint employer of the public school employees at the public school along with the public school employer that operated the school for as long as the public school was operated under the MOU.

If the public school were placed in the School Reform/Redesign District and the School Reform/Redesign Officer assumed autonomous control and oversight of the public school through a performance contract with a qualified person or entity to manage the school, then, for the purposes of collective bargaining under the Act, the School Reform/Redesign District would be a joint employer at the public school along with the public school employer that previously operated the public school for as long as the school was operated in that manner.

A public school employer's collective bargaining duty under the Act and a collective bargaining agreement entered into under the Act would be subject to proposed Section 1280c of the Code (which would govern the authority of the School Reform/Redesign Officer and create the School Reform/Redesign District).

Currently, collective bargaining between a public school employer and a bargaining representative of its employees may not include the granting of a leave of absence to an employee of a school district to participate in a public school academy, the decision of whether to contract with a third party for noninstructional support services, the procedures for obtaining the contract, the identity of the third party, or the impact of the contract on individual employees or the bargaining unit. The bill would delete those restrictions.

- MCL 380.5 et al. (H.B. 4787)
- 423.215 (H.B. 4788)
- 388.1606 (H.B. 4789)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

State: The Department of Education would see increased costs from the appointment and hiring of a State School Reform/Redesign Officer and the duties of the officer, and associated departmental requirements as detailed in the bills. There

would be costs associated with the officer's execution of his or her job including, but not limited to, the following: soliciting and determining qualified educational entities, acting as a superintendent of the school reform/redesign district with all related powers and duties, reviewing the report of failing schools' review teams and acting on recommendations, conferring with the failing schools' boards and producing memoranda of understanding regarding the governance and plans for the failing schools, overseeing and governing schools in the school reform/redesign district, and issuing bids for entities to manage schools in the district and overseeing such contracts.

Some of the additional administrative requirements that would lead to costs to the Department include: annually publishing a watch list of public schools in danger of meeting failing schools criteria and notification to such schools; determining whether a turnaround school had met its graduation and other educational requirements over a five-year period; and approving educational management organizations.

To the extent this legislation would retain in school students who otherwise will drop out, the State would experience increased costs equal to the number of students multiplied by the additional years in school, multiplied by the district's or public school academy's foundation allowance.

Local: Districts and public school academies that were deemed failing and then identified as turnaround schools would lose the funding associated with students attending those schools, since the turnaround schools would take the form of new, independent charter schools and take the pupils and funding with them.

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.