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BILL  ANALYSIS

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Senate Bill 1051 (as enrolled)  
Sponsor: Senator Joe Hune  
Senate Committee: Education  
House Committee: Education

Date Completed: 1-2-13

### **CONTENT**

The bill would amend the Revised School Code to prohibit a member of the board of a school district, intermediate school district (ISD), or public school academy (PSA) from voting on a contract or other financial transaction that required board approval, if the board member believed or had reason to believe that he or she had a conflict of interest with regard to that contract or transaction. The bill would then require the board member to disclose the specific conflict of interest. Also, if a person serving as legal counsel, or otherwise acting as an advisor or consultant to the board, believed or had reason to believe that he or she had such a conflict of interest, that person would be required to disclose the conflict to the board before the vote on the contract or financial transaction. If a majority of board members were to be required to abstain from voting, the members who were not required to abstain would constitute a quorum of the board, and a majority of those members eligible to vote would be required for approval of the question.

A person would be presumed to have a conflict of interest if he or she, or his or her family member, had a financial interest, or a competing financial interest, in the contract or other financial transaction. A board member also would be presumed to have a conflict of interest if he or she, or his or her family member, were an employee of the district, ISD, or PSA. The bill would define "family member" as a spouse, child, sibling, sibling's spouse or child, child's spouse, parent, or parent's spouse, and would include these relationships as created by adoption or marriage.

An individual would not be considered to have a financial interest in a contract or other financial transaction between the school district, ISD, or PSA and any of the following:

- A corporation in which he or she owned 1.0% or less of the total stock outstanding in any class if the stock were not listed on a stock exchange, or owned stock with a present market value of \$25,000 or less if the stock were listed on a stock exchange.
- A corporation in which a trust owned stock as described above, if the individual were a beneficiary under the trust.
- A corporation in which the individual was not a director, officer, or employee.
- A corporation or firm that had indebtedness owed to the individual.
- A professional limited liability company of which he or she was an employee but not a member.
- A firm, partnership, or other unincorporated association, in which he or she was not a partner, member, or employee.

An individual also would not be considered to have a financial interest in a contract between an ISD and a constituent district; or in a contract awarded to the lowest qualified bidder, upon receipt of sealed bids pursuant to a published notice for bids if the notice did not bar, except as authorized by law, any qualified person, firm, corporation, or trust from bidding. The latter provision would not apply to amendments or renegotiations of a contract or to additional

payments under the contract that were not authorized by the contract at the time of the award.

If a person had a child who was a pupil of the district, ISD, or PSA, that relationship alone would not constitute a conflict of interest or financial interest.

Proposed MCL 380.1203

### **FISCAL IMPACT**

The fiscal impact on school districts, ISDs, and charter schools (PSAs) is indeterminate. To the extent a board member's or legal counsel's conflict of interest currently hinders the cost effectiveness of a school board's decisions over contracts and financial transactions, the bill could result in cost savings for those districts, ISDs, or charter schools.

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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.