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**BILL ANALYSIS**

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Senate Bill 711 (Substitute H-2 as passed by the House)  
Senate Bill 820 (Substitute H-2 as passed by the House)  
Senate Bill 822 (Substitute H-4 as passed by the House)  
House Bill 5383 (Substitute H-2 as passed by the House)  
House Bill 5384 (Substitute H-4 as passed by the House)  
House Bill 5387 (Substitute H-4 as passed by the House)  
Sponsor: Senator Goeff Hansen (S.B. 711 & 820)  
          Senator David Knezak (S.B. 822)  
          Representative Amanda Price (H.B. 5383)  
          Representative Daniela Garcia (H.B. 5383)  
Senate Committee: Government Operations (S.B. 711, 820, & 822)  
House Committee: Appropriations

Date Completed: 6-7-16

**CONTENT**

The following is a brief description of legislation that would transfer the Detroit Public Schools to a new district, and make related changes.

As used in this summary, "qualifying school district" refers to the "old" Detroit Public Schools (DPS), which would remain in existence only for the purposes of levying mills to pay off debt. "Community district" means the "new" district established to continue all rights, functions, and responsibilities of educating children, with the exception of paying off old operating debt.

**Senate Bill 711 (H-2)**

The bill would amend the Michigan Financial Review Commission Act to exclude the superintendent and board chair of the "old" DPS from membership on the Financial Review Commission (FRC), although the superintendent and board chair of the "new" DPS would be on the FRC. The bill also provides that the "new" district could not alter the terms and conditions of an employment contract with or the benefits of its superintendent or terminate its superintendent without the approval of the FRC, and the superintendent and board chair would not have a vote on the FRC's approval of changes related to the superintendent. Finally, the bill would require the FRC to approve all reimbursement to the community district's school board members, officials, and employees for travel outside Michigan.

(Note that in this bill and in Senate Bill 820 (H-2), a "qualified" school district is different from a "qualifying" school district because, in these two bills, both the "old" DPS and the "new" DPS would be considered a "qualified" school district.)

The bill is tie-barred to House Bill 5384.

**Senate Bill 820 (H-2)**

The bill would amend the statute that prohibits the holding of incompatible public offices to provide that the superintendent or chairperson of a qualified school district could serve on a

financial review commission for the qualified school district. In addition, the bill would allow an emergency manager to serve as a transition manager.

The bill is tie-barred to Senate Bill 711 and House Bill 5384.

#### **Senate Bill 822 (H-4)**

The bill would amend the Emergency Municipal Loan Act to allow the Emergency Loan Board to authorize a loan to a qualifying district of up to \$150.0 million for transitional operating costs, with a cap of \$25.0 million of that loan authorized for deferred facilities maintenance. Also, if *any* municipality were delinquent in repaying an emergency loan, the bill would allow the State Treasurer to withhold the municipality's revenue under the Local Community Stabilization Share Tax.

The bill is tie-barred to House Bill 5384.

#### **House Bill 5383 (H-2)**

The bill would amend the Michigan Trust Fund Act to create the Community District Education Trust Fund (the Fund) and to earmark and deposit \$72.0 million of tobacco settlement revenue each year into the Fund, beginning in fiscal year 2016-17, until a total of \$617.0 million was deposited into the Fund.

The Department of Treasury has estimated one version of a repayment plan scenario to have a total cost of \$705.1 million for the House-passed DPS package, which consists of \$565.0 million in principal and \$140.1 million in estimated interest costs. Of the \$140.1 million in estimated interest, \$58.6 million is interest on the payment owed to the Michigan Public School Employees' Retirement System (MPSERS) and \$34.0 million is interest for the emergency loan. The remaining \$47.5 million in interest costs would be paid to outside lenders. Due to the cap of \$617.0 million in this bill for tobacco settlement revenue deposited into the Fund (which then would be used to offset costs in the School Aid budget), there would be a net cost to the School Aid budget equal to the difference between the estimated total cost of \$705.1 million and the \$617.0 million from tobacco settlement revenue, or an estimated \$88.1 million. This is an estimate because actual debt service (interest costs) would depend on various factors such as market rates, timing, and debt structure. Future budgets and legislators would have to determine whether the net costs not covered by the \$617.0 million in tobacco settlement dollars would be funded from the School Aid Fund, the General Fund, or some other State support.

The bill is tie-barred to House Bill 5384.

#### **House Bill 5384 (H-4)**

The bill would amend the Revised School Code to establish the community district. Specifically, the key amendments would do the following:

- Broaden the definition of "public school" to include an educational entity established under other laws of the State, and operated by "another public body".
- Allow a school district to educate pupils by directly operating one or more public schools on its own, or causing public education services to be provided for pupils of the district through an agreement, contract, or other cooperative agreement with another public entity.
- Transfer all records, funds, and property of the qualifying district to the community district on the transfer date, which is defined as July 1, 2016; but provide for proceeds from bonds, notes, or emergency loans, taxes levied by or payable to the qualifying district, and all qualifying school district functions to be retained by the qualifying district.

- Provide that the qualifying district would retain a limited separate identity as a separate taxing unit only for the limited purpose of repayment of the debt until the debt was retired.
- Appropriate \$250,000 from the State's General Fund to the Department of Treasury for the purpose of providing support for the organization and administration of the community district.
- Dissolve the qualifying district upon certification of repayment of debt.
- Require the Governor to designate the emergency manager of the DPS as the transition manager for the community district until the elected members of the school board of the community district were elected and took office; require the transition manager to oversee the community district, but provide that he or she could not negotiate or enter into any collective bargaining agreement that would bind the elected school board of the community district; and require the transition manager to appoint an interim superintendent until a superintendent was selected by the elected board, and to adopt an initial budget for the community district for its first fiscal year.
- Provide for the board for the community district to be elected in November 2016, and consist initially of seven members, elected on a districtwide basis, with staggered terms; and provide that subsequent terms would be four years in duration.
- Provide that the community district would acquire and assume the collective bargaining agreements applicable to the qualifying school district on the transfer date, and provide that the community district would be the successor employer of employees of the qualifying district.
- State that an individual who was entitled to employment by the qualifying district would be entitled to employment by the community district on the transfer date.
- Require the board to employ a superintendent, and on an annual basis, and to evaluate and issue a report on the performance of the district based on pupils' proficiency on State assessments, the proportion of pupils achieving at least one year of academic growth in a school year, and the proportion of graduates (or pupils enrolled in the district) who were enrolled in some form of postsecondary or career and technical education.
- Require the board to annually review each school administrator's employment contract and make an affirmative decision to renew the contract or to provide notice of nonrenewal.
- Require the community district to be subject to financial oversight by the Financial Review Commission.
- Require the State School Reform/Redesign Officer (SRRO) to establish, implement, and administer a community district accountability system for all public schools located within the boundaries of the community district, including all charter schools and schools operated by the community district, beginning with the second full school year starting after the transfer date.
- Require the accountability system annually to assign a letter grade to each school within the boundaries of the community district, based on a school's performance on proficiency measures, growth measures, and nonacademic measures.
- Require the SRRO to order the community district to close a school operated by the district that was among the lowest achieving 5% for the immediately preceding three years, until the new accountability system had been in place for three years, unless the SRRO determined that closure of the school would result in unreasonable hardship to the pupils.
- Require the SRRO to order the community district to close a school operated by the district if the school had been assigned an "F" for the immediately preceding three years, unless the SRRO determined that closure of the school would result in unreasonable hardship to the pupils.
- Prohibit the community district from opening a new school at the same location as a closed school within three years after the closure of the school, unless the new school would be substantially different.
- Require the community district to have and maintain an advisory council, which annually would have to prepare a report on the physical state and use of school facilities, the siting of existing and future public schools, the efficient and equitable distribution of facilities, and transportation.
- Prohibit the community district from renewing or extending a lease with the Education Achievement Authority (EAA) after June 30, 2017; require the qualifying district to take

- action as soon as possible after the transfer date to withdraw from the interlocal agreement with Eastern Michigan University creating the EAA; and prohibit the qualifying district from exercising any powers under that interlocal agreement after June 30, 2017.
- Prohibit an authorizing body from issuing a contract for a new charter school located in the community district unless the governing body of the authorizing body certified to the SRRO that the authorizing body was accredited by a nationally recognized accreditation body.
  - Prohibit a new charter school in a community district if: 1) the proposed charter school would operate at the same location as a public school that was in the lowest 5% for the previous three years, or had an "F" letter grade in three of the previous five years, or if the proposed charter school would operate at the same location as a charter school that had its contract revoked or terminated; and, 2) the proposed charter school would have substantially the same board of directors and curricular offerings as the public school that previously operated at that location.
  - Reduce the number of days for notification of nonrenewal of employment for the community district's superintendent and other administrators from at least 90 to at least 30.
  - Allow the community district to employ or contract for, or both, qualified teachers and other qualified instructional personnel at a school that formerly operated as an achievement school.
  - Allow the community district to engage a full-time or part-time noncertificated, nonendorsed teacher if the appropriate official in the district determines that, due to the individual's combination of education and experience, it would be appropriate and in the best interests of the pupils of the community district; and provide that if the individual completed three years of successful classroom teaching, that experience would have to be used and student teaching would be waived for the purpose of receiving a provisional teaching certificate.
  - Require the community district to implement and maintain a method of compensation that included job performance and job accomplishments as the primary factor in determining compensation for teachers and administrators hired after the letter grade accountability system had been implemented; prohibit length of service from being considered for compensation; and permit consideration of an advanced degree in compensation only when applicable to subject area endorsements.
  - Eliminate the operating deficit floor of \$100 per pupil in order to issue notes or bonds for funding the deficit; allow a district with outstanding State aid anticipation notes to issue notes or bonds for funding the deficit with the approval of the State Treasurer; allow a district to do such borrowing (which has been prohibited since January 1, 1994); and, extend the maximum repayment period for school financing stability bonds from 10 years to 25 years.

The bill is tie-barred to Senate Bill 711. The bill would repeal Part 5a (the appointment of school reform boards) and Sections 403, 404, 412, 416a, 420, 421, 449, and 485 (all pertaining to the board or the chief executive officer of a "first class district") of the Revised School Code.

#### **House Bill 5387 (H-4)**

The bill would amend Public Act 336 of 1947, which prohibits strikes by certain public employees, to restructure Section 2a of the Act, which provides the process for addressing violations of the prohibition against strikes. Specifically, the bill would do the following:

- Reduce from 60 to 15 days for the time frame in which the Michigan Employment Relations Commission must conduct a hearing to determine if conditions constituting a strike or a lockout exist, and require the Commission to issue its decision within three business days after the hearing.
- Allow a public school employee who received a notice that he or she was suspected of engaging in a strike to challenge that allegation; and provide that the employee would

bear the burden of proof at the hearing to determine whether the employee was engaged in a strike.

- Require the public school employer to deduct one day's pay for an employee determined to have been engaged in a strike, for each full or partial day that the employee was on strike.
- Allow the Superintendent of Public Instruction to institute collection proceedings if a public school employer did not deduct money from an employee's pay or if the Commission did not receive payment of a fine.
- Provide that if a circuit court found that an illegal strike or lockout had occurred, the court would be required to order the deduction of one day's pay from each public school employee on strike, for each day of a strike, or \$5,000 for each day of a public school employer lockout (along with the \$250 daily fine for each governing board member), and money collected would be remitted to the State School Aid Fund.
- Require the court to order the strike or lockout to end, and award costs and attorney fees to a plaintiff who prevailed in an action alleging the strike or lockout.
- Shorten the time frame from 10 to five days for the commencement of a proceeding to whether a public employee has violated the Act; shorten from 10 to two days for a decision to be made after the conclusion of the proceeding; and allow a public employer to consolidate employee hearings unless an employee demonstrated manifest injustice from the consolidation.

The bill would take effect 90 days after the date is enacted into law.

MCL 141.1633 et al. (S.B. 711)  
15.183 (S.B. 820)  
141.932 et al. (S.B. 822)  
12.252 et al. (H.B. 5383)  
380.3 et al. (H.B. 5384)  
423.202a & 423.206 (H.B. 5387)

### **FISCAL IMPACT**

State: The package would earmark \$617.0 million of tobacco settlement dollars into the Trust Fund, to be used to help offset the majority of the costs of the plan, but likely not all of the costs; the amount above \$617.0 million would then be paid for by the School Aid Fund, General Fund, or other State support (as discussed above in the description of House Bill 5383 (H-2)). The package would allow school districts to "cause education to be provided" for pupils through an agreement with another public entity, and if those other public entities were not part of the retirement system, it is possible that higher stranded retirement costs could occur, paid by the School Aid Fund. The additional requirement for the State Reform/Redesign Office (SRRO) to develop an accountability system for schools located in the community district could require additional resources; since the SRRO is funded under the Department of Technology, Management, and Budget, this could be an additional State cost. If the Department of Treasury's Financial Review Commission required additional staff, services, contracts, or supplies in order to review a qualified school district (which would be the proposed community district in Detroit), in addition to the City of Detroit, then there would be increased State costs. Under current law, a Financial Review Commission already exists for review of the City of Detroit, and under the bill, the Commission's role would be expanded to review the finances of the "new" Detroit school system. The Department of Treasury earlier estimated that the additional cost to the Financial Review Commission for oversight of the "new" system would be \$1.0 million, which would be used primarily to support outside assistance and expertise to assist with necessary review and analysis on both the financial and academic sides of the district, as well as the transition itself from the "old" to the "new" system. The State could see increased stability in repayments of emergency loans due to proposed language that would allow the withholding of a municipality's portion of the revenue generated by the local community stabilization share tax levied under the Use Tax Act (i.e.,

reimbursement for the loss of personal property tax revenue), in addition to the existing language that allows the withholding of a municipality's revenue sharing payments.

In addition, House Bill 5384 (H-4) would appropriate \$250,000 from the General Fund to the Department of Treasury for organization and administration of the community district.

Local: The bills would allow districts with outstanding State aid anticipation notes to borrow and issue bonds for refunding and refinancing. These changes could allow deficit districts to refinance any existing debt, or issue debt to pay off a deficit and, depending on interest rates available at the time of the borrowings or refinancings, could lead to district savings. The elimination of the Education Achievement Authority would result in additional revenue to the community district and other surrounding districts or public school academies, based on the number of EAA enrollments that occurred.

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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.