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BILL ANALYSIS



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Senate Bill 249 (as introduced 3-16-17)
Sponsor: Senator Mike Shirkey
Committee: Education

Date Completed: 4-18-17

CONTENT

The bill would create the "Educational Instruction Access Act" to limit the powers of local government bodies regarding the sale, transfer, lease, or rental of property for educational purposes.

Specifically, a local governmental body offering property for sale, lease, or rent would be prohibited from refusing to sell, lease, or rent that property to an educational institution or private school solely because that educational institution or private school intended to use the property for a lawful educational purpose.

The proposed Act also would prohibit local governmental bodies from adopting, enforcing, or administering an ordinance, local policy, local resolution, or deed restriction that would prohibit property sold, leased, or transferred by that local governmental body to an educational institution or private school if that land would be used for a lawful educational purpose. Any such deed restriction in effect on the effective date of the Act would be void.

The Act would not apply to a zoning ordinance adopted by the local government body under the Michigan Zoning Enabling Act. The proposed Act also would not apply to the administrative review of a site plan as provided in the Revised School Code.

If a local governmental body did not comply with this Act, a civil action could be brought against it to compel compliance or to enjoin further noncompliance. The action could be commenced by the Attorney General, the prosecuting attorney of the county in which the local governmental body served, or the educational institution or private school aggrieved by the local governmental body. The action would have to be commenced in the circuit court, and venue would be proper in any county in which the local governmental body served. An educational institution or private school commencing an action would not be required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order. If successful in obtaining relief in the action, the educational institution or private school could recover court costs and reasonable attorney fees.

As used in the proposed Act, "educational institution" would mean a school district, an intermediate school district, a public school academy, or a community college.

"Local governmental body" would mean any local government or its subdivision, including a city, village, township, county, or educational institution; a local public authority, agency, board, commission, or other local governmental, quasi-governmental, or quasi-public body; or a public body that acts or purports to act in a commercial, business, economic development, or similar capacity for a local government or its subdivision.

"Private school" would mean a private, denominational, or parochial school.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have an unknown fiscal impact on local government. Similar language already in the Revised School Code prohibits a local school district or intermediate school district (ISD) from applying deed restrictions that would prevent property sold by the district from being used for a lawful educational purpose, unless a district obtains permission from the State Board of Education. By including local and intermediate school districts in the proposed Educational Instruction Access Act, the bill would eliminate the option for a local school district or ISD to seek approval from the State Board of Education for a deed restriction that limits educational use. In addition, other types of local governments would become subject to a prohibition on deed restrictions that would limit educational use. The fiscal impact of the bill would depend on local policies, the specific characteristics of property that might be for sale, and the market for similar property for sale in an area. A local government that violated the proposed law could incur increased costs for legal fees and court costs.

Fiscal Analyst: Elizabeth Pratt

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