

Legislative Analysis



REPEAL PROHIBITION ON LENGTH OF SERVICE AS AN ALLOWABLE COLLECTIVE BARGAINING ITEM

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House Bill 4820 as introduced
Sponsor: Rep. Phil Skaggs
Committee: Education
Revised 6-20-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4820 would amend section 1248 of the Revised School Code to modify the extent to which seniority (now referred to as length of service) may be used in a policy governing certain personnel decisions made by a school board, intermediate school board (ISD), or public school academy (PSA) board of directors, as well as making other changes to law regarding what may be part of such a policy.

The bill would amend the definition of who constitutes a teacher for purposes of applicability of the provisions of section 1248. At present, *teacher* means a certificated individual employed for a full school year by any board of education or controlling board.

Under the bill, *teacher* would mean an individual who has a valid Michigan teaching certificate or authorization or who is engaged to teach under section 1233b of the code; who is employed, or contracted for, by a school district, intermediate school district, or public school academy; and who is assigned by the school district, intermediate school district, or public school academy to deliver direct instruction to pupils in any of grades K to 12 as a teacher of record.

Under current law, the school board of a school district or intermediate school district may not adopt a policy under which length of service or tenure status is the *primary* or *determining* factor when it comes to making certain personnel decisions regarding eliminating, hiring, layoff, or recall from recall decisions. The bill would use the term "seniority" instead of "length of service or tenure status" and would prohibit a board from adopting a policy under which use of seniority is the *sole* factor in making personnel decisions. It also would amend the scope of applicability regarding the use of seniority, so that it would apply to filling a vacancy, placing a teacher in a classroom, conducting a staffing or program reduction, or any other staffing determination stemming from elimination of a position. This would eliminate a current provision that the policy would also cover layoff recalls and hiring to fill a vacancy following a staffing reduction.

Current law also requires that the policy prioritize retaining effective educators and that, as part of the policy, individual performance be the majority factor in determining personnel decisions (using specified criteria). It also stipulates that an individual who was rated as ineffective under the educator evaluation system in section 1249 of the code is not eligible for any preference under a policy adopted by a board.

These provisions would be eliminated by the bill. The bill would add language stating that a board must adopt, implement, maintain, and comply with clear and transparent procedures for

all personnel decisions under section 1248. The bill would further specify that any relevant factors may be used for personnel decisions, including the following:

- Effectiveness as measured under the performance evaluation system in section 1249 of the code or as otherwise collectively bargained.
- The teacher’s length of service in a grade level or subject area.
- Relevant special training (this is already in law).

Finally, the bill would eliminate a provision that states that a teacher’s sole form of legal remedy for an alleged violation of section 1248 is a court order of reinstatement commencing within 30 days of the court decision and cannot include lost wages, lost benefits, or other economic damages.

The bill would take effect July 1, 2024.

The bill cannot take effect unless House Bill 4821 is also enacted into law.

MCL 380.1248

FISCAL IMPACT:

The bill would have no impact on the state and would have an indeterminate impact on local school districts, ISDs, and PSAs. The bill permits, but does not require, other factors that determine personnel placement (e.g., seniority) to be included in a collective bargaining agreement. The bill expands the scope of personnel decisions that would apply, and limits the scope of the definition of “teacher” for whom the provisions would apply. The fiscal impact on an individual district, ISD, or PSA will depend on how the district, ISD, or PSA revises a collective bargaining agreement given the changes in the bill.

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