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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

Senate Bill 116 (Substitute S-1)
 Sponsor: Senator Harmon Cropsey
 Committee: Education and Mental Health

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RATIONALE

Since 1921, Public Act 302 has provided for the supervision of private, denominational, and parochial schools, which includes providing for the certification of teachers in those schools. Certain church school officials contend that teachers in these private, religious schools should not be required to meet State certification standards because they consider their teachers to be "ministers" and because they don't believe that teacher certification is an accurate measure of a school's ability to educate. Public Act 302, some people believe, should be amended to allow the operation of private schools, which for religious reasons do not want to be supervised by the State.

CONTENT

The bill would amend Public Act 302 of 1921, which provides for the supervision of private, denominational, and parochial schools to:

- Require the State Superintendent of Public Instruction to supervise each private school, except those that for religious reasons annually decided not to come under the Superintendent's supervision.
- Permit each private school to decide annually whether or not it would be supervised by the Superintendent and provide a method for indicating that decision.
- Require children not enrolled in a public or State supervised private school to be tested in specified grades with a nationally standardized norm reference test with scores being made available to the Department of Education. If the average scores fell below the 34th percentile, the school would have three years to raise the scores or be in violation of the bill.
- Require children not enrolled in a public or State supervised private school to be taught by a State certified or "qualified" teacher, who had earned a bachelor's degree or had training that would allow him or her to teach with a permit in a public school.
- Require parents or legal guardians of children enrolled in a non-State supervised school to make certain information available to the Department of Education by submitting it directly to the Department, the superintendent of their local intermediate school district, or a "third party"
- Require that students attending a private school that did not comply with the bill's provisions to be compelled to attend the public schools or approved private schools, including home schools.
- Define "private" school and "third party".

The bill also would make several technical changes to update language in the Act.

State Supervision of Private Schools

The Superintendent of Public Instruction would be required

to supervise each private school in the State in the matters described in the bill except a private school that for religious reasons annually decided not to come under the Superintendent's supervision, pursuant to provisions in the bill. Currently, the State Superintendent supervises private, denominational, and parochial schools in the State.

Each private school would decide annually whether or not it would be supervised by the Superintendent of public instruction. A private school that elected to be supervised by the State Superintendent would indicate its decision by filing a pupil membership count at the same time and in the same manner as provided for school districts under the State School Aid Act. A private school that elected not to be supervised by the State Superintendent would indicate its decision by not filing a pupil membership count.

"Private school" would mean any school other than a public school that gives instruction to children who are less than 16 years of age in the first eight grades as provided for the public schools of the State and is not under the exclusive supervision and control of officials having charge of the State's public schools. Under current law, this definition applies to a "private, denominational or parochial school".

Conditions for Enrollment in a Private School

If a school-aged child were not enrolled in a public or State supervised private school, all of the following conditions would have to be met:

- The child would be tested during the second, fourth, seventh, and tenth grade years with a nationally standardized norm reference test of the school's choosing. The test would be administered in consultation with a person trained in the administration and evaluation of such tests, to evaluate the child's educational progress. Copies of the test scores would be made available to the Department of Education in a manner provided in the bill.
- The child would be taught by a qualified or State certified teacher whose credentials were made available to the Department of Education in a manner provided in the bill. "Qualified teacher" would mean a person who had earned at least a bachelor's degree or who had training that would allow him or her to teach with a permit in a public school in the State.

Responsibilities of Parents/Legal Guardians

A parent or legal guardian who enrolled his or her child in a non-State supervised school would be required to make available to the Department of Education, not later than September 30 of each school year in which the child was not enrolled in a State supervised school, the name and address of the non-State supervised school in which the child was enrolled and any other information that was

S.B. 116 (5-20-87)

required to be made available to the Department under the bill.

The parent or legal guardian would be required to make this information available to the Department of Education by submitting the information directly to one of the following:

- The Department of Education.
- The superintendent of the intermediate school district in which the parent or legal guardian resided.
- A third-party which would be required to keep the information as a matter of public record and forward the information to the Department of Education. "Third party" would mean a private, statewide agency, organization, or coalition; a Legislator; or an attorney.

Annual Testing

A non-State supervised private school would be required annually to test all of its pupils enrolled in the second, fourth, seventh, and tenth grades by using a nationally standardized norm reference test of the school's choosing. The average test scores for each grade would have to be made available to the Department of Education as provided in the bill. If any of the private school's test scores averaged below the 34th percentile of the national norm, that private school would have three years in which to raise its average test score to the 34th percentile on a national scale. If a private school did not raise its test score average within three years to the 34th percentile, that private school would be considered to be in violation of the bill and subject to provisions in the bill concerning violations.

Teacher Certification

A person who did not hold a certificate that would qualify him or her to teach a course in a public school in the State would not be able to teach that course in any State supervised private school in the State. Teaching in a private school, whether State supervised or non-State supervised, would be equivalent to teaching in the public schools for obtaining a certificate.

Currently, teachers affected by the Act "may take" any examination as provided by law for certification. Under the bill, teachers affected by the Act would have to be examined, as provided by law.

Violations

The Act now provides that when there is a violation, the Superintendent of Public Instruction must notify the person, corporation, association, or agency that operates, maintains, and conducts a private, denominational, or parochial school of the time and place of a hearing that takes place within 15 days after the date of notice. The bill would require notification to the same entities that operate, maintain, and conduct a private school of a hearing that would have to take place not less than seven days nor more than 15 days after the date of the notice and require the Superintendent to indicate why he or she believed that there was just cause for the issuance of the complaint.

Under the current Act, children attending a private, denominational, or parochial school that does not comply with the Act, after hearings have been held, must be compelled to attend the public schools or approved private, denominational, or parochial school. The bill provides, instead, that children, in cases of noncompliance, would be compelled to attend the public schools or approved "private schools, including home schools".

MCL 388.551 et al.

FISCAL IMPACT

Senate Bill 116 (S-1) would have an indeterminate impact on State government. The Department of Education currently collects membership and personnel reports from nonpublic schools, indicating the number of students by grade and the number of teachers having valid teaching certificates. For the 1985-86 school year, these reports covered approximately 205,000 students in 1,180 nonpublic schools. The Department's costs of collecting and monitoring the individual and school-average test score data that would be mandated by Senate Bill 116 (S-1) could range between \$25,000 and \$50,000 annually. The Department's costs for hearings on private schools in violation of the test score standards of the bill would depend upon the number of schools found to be in violation.

ARGUMENTS

Supporting Argument

The United States Supreme Court, without comment, has refused to hear an appeal in a case brought by two Saginaw-area Christian schools that cite religious reasons for hiring noncertified teachers. The decision lets stand Public Act 302 of 1921, which allows the State to require certification of public and private school teachers. The bill is an attempt to reconcile the need to establish teacher qualification requirements and the rights of the State to do so, in relation to parental rights and religious freedom. The bill is a reasonable and balanced attempt to accommodate the State's legitimate interest in ensuring that all students receive a quality education, including private school students, while maintaining the individual's right to free exercise of religion.

Response: The Supreme Court's decision not to hear the case and let stand a decision allowing Michigan to close schools that refuse to have their teachers certified by the State upholds the State's current certification requirements. There should be no variation in the State's standards, which would be allowed under the bill.

Supporting Argument

The bill's requirement that a teacher in a private school have earned a bachelor's degree is the least intrusive way to determine whether an individual is literate and has demonstrated certain academic skills. State law requires teachers in public and nonpublic schools, including home schools, to meet certain preparation standards. Certification and permit are two methods of meeting teacher preparation requirements. In order for a person to receive a one-year, renewable permit to teach in a public or nonpublic school, there must be a school that will hire and supervise the individual, who must have earned a bachelor's degree. Teacher certification requires additional education courses. The bachelor's degree may come from a religiously affiliated school, and one-half of the teacher preparation institutions in the State are religiously affiliated. These requirements do not demand any form of philosophical test in order for a person to be certified.

Supporting Argument

In order to give a haircut, manicure nails, or landscape a lawn in Michigan, the person purporting to provide that service must be licensed or board certified by the State. Teaching is just as important—if not more so—as being a barber, cosmetologist, or landscape architect. Anyone with direct responsibility for the education of students must meet initial certification requirements, including a demonstrated ability to meet established standards for pedagogical

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skills, mastery of subject area, and knowledge of developmental learning stages of children and youth. A teaching certificate does guarantee that the teacher has a certain amount of knowledge about the subject or subjects being taught, while guaranteeing that the teacher has been exposed to the science of teaching and can recognize that all children do not learn in the same way. It is not enough to argue that because a person can read a person can teach reading. Teaching is a profession and like other professions, such as medicine, law, and accounting, must require that its practitioners meet certain minimum standards.

Supporting Argument

Last year, the Legislature passed Senate Bill 447 (Public Act 267 of 1986) which requires that, beginning in 1991, prospective teachers pass both a basic skills examination and appropriate subject area examinations prior to certification. The requirement of Senate Bill 116 (S-1) that private schools employ certified teachers or those persons who have received a permit to teach in a public school would uphold the State's standards for teachers. Any relaxation of these standards would be inappropriate in light of the Legislature's decision to institute reforms, such as Public Act 267, to make education more effective.

Supporting Argument

Under the bill, children attending a private school that refused to comply with the requirements of the bill would be compelled to attend a public school or approved private school, including home schools. The bill would provide a recognition in the law of home schools, which enable parents and guardians to instruct their children at home.

Response: While Michigan does not have a law regulating home schools, State officials have relied on a 1979 Attorney General's opinion to require that children schooled at home be taught by a certified teacher. "[A] parent may not provide for his or her child's education at home without having a certified teacher providing instruction in courses comparable to those offered in the public school district in which the child resides", according to the Attorney General's opinion. The bill, in light of this opinion, would not aid home school advocates who believe it is their right to control the education of their children, which includes not being required to employ a certified teacher in their home schools.

Opposing Argument

The bill would create a special class of private schools that for religious reasons decided not to be supervised by the State Superintendent. Furthermore, these schools would not be subject to the State's standards for teachers. In fact, these schools would have to comply with a reduced standard for teachers. Under the bill, these schools could hire a State certified or "qualified" teacher. A "qualified" teacher would have to have earned at least a bachelor's degree or had "training", which is not defined in the bill, that would allow him or her to teach with a permit in a State supervised public school.

In order to be certified, a prospective high school teacher, for example, currently must hold a bachelor's degree from a State approved program, according to the Department of Education. This includes at least: 30 semester hours in a major field of study, 20 semester hours in a minor, six semester hours of supervised student teaching, and 40 semester hours in a liberal arts education, as well as completion of a professional education sequence of at least 20 semester hours. Basically the same provisions apply to

an elementary teaching certificate, except that the prospective teacher is expected to have three minor areas of study rather than a major and a minor.

As for obtaining a permit, according to Department officials, an individual cannot get a permit: only a school district can apply for a permit. In order to apply for a permit, a school district must demonstrate that a fully certified teacher is not available. To obtain a full-year teacher permit, for example, a person must have earned at least 120 semester hours of credit in an approved teacher education program of which at least 15 semester hours were in teacher preparation courses. A person with a bachelor's degree may be eligible for a substitute permit only on an "extreme" emergency basis.

Just having earned a bachelor's degree, therefore, does not allow a person to be a certified teacher in the State. In an attempt to accommodate home schools, the State has allowed parents who have earned a bachelor's degree to apply for an emergency permit. A bachelor's degree alone, however, is not equivalent to the State's current certification standard. The bill would create exceptions that dilute the State's standards for teachers.

Opposing Argument

Demanding State certification of teachers in all private schools would do more harm than good, making instruction in those schools worse rather than better. The State should have alternative ways of determining when a private school is acceptable for the purposes of the State's compulsory school attendance law. There is no clear evidence concerning the preparation that leads to superior teaching. Lacking that evidence, those who formulate standards for certification and credential requirements are forced to choose from conflicting opinions, which often turn out to be wrong. There should be room for experimentation with various methods of measuring teacher preparedness, while demanding results. If a student learns well, does it matter whether teachers have been certified according to an official vision of good teaching? If students do not learn, what comfort is it to know that the teachers are fully certified?

Opposing Argument

The substitute for Senate Bill 116 would call for teacher certification, which is inconsistent with the design of the original bill—to rely on testing, and not certification, as the best method for ensuring a quality education. The best way to determine whether a school is doing its job is to look at its results—the students. The only sure way to prove that learning is occurring is to measure that learning directly. If the goal is to teach children to read, for example, teacher certification will not guarantee it. Schools that have graduated children who are illiterate employed fully certified teachers. Testing, as would be required in the bill, is the best method for determining whether a child can read. What better way to determine whether a student has learned to read than to hand the student a book, ask him or her to read aloud, and quiz the student about the meaning of the book? If the answers are accurate, who can say the child did not learn to read? Simple, direct testing methods can provide a straightforward answer to the question of whether the child has learned.

Opposing Argument

Since the enactment of Public Act 302 more than 65 years ago, Michigan's citizens have been assured that schools operating in the State, whether public or private,

conformed to the same standards. Such standards have included using certified teachers, requiring a minimum of 180 days of instruction, operating a safely constructed school building, and using a comparable curriculum between public and nonpublic schools. This uniformity between public and nonpublic school education has not restricted a private school in maintaining its individual philosophy and integrity. Rather, this has enabled students to transfer from one private school to another, or from a private school to a public school, without jeopardizing their academic credits since the receiving school knows that the course work completed in the former school was similar, had been presented by certified instructors, and had taken place within a standard time frame and within a known educational environment. There should be no relaxation or lowering of these kinds of standards.

Response: The issue is not uniform education but unacceptable interference and control by the State. Private school officials do not oppose fire and sanitary requirements, for example, that are designed to protect the safety and welfare of their students. Private schools, however, should be free from licensure standards that prohibit these schools from hiring persons that these school officials consider qualified to teach their students.

Opposing Argument

Requiring the use of certification and other methods to dictate the qualifications of a teacher is an attempt to make private schools more like public schools on the mistaken conclusion that public schools offer the best model for teaching. Yet, private school students generally out-perform their public school counterparts. This is the result of the fact that private schools are not forced to operate like public schools—they are locally autonomous; they are linked to the families they serve; and they have special ways of recruiting, selecting, and motivating their teachers. Since private schools seem to work much better than public schools, it does not make sense to impose on private schools a pattern of certification or qualifications for teachers that has not produced positive results in the public schools. Teacher certification cannot be regarded as a potent safeguard when some of the worst schools in the country, namely some public schools, are staffed with fully certified teachers.

Opposing Argument

Supporters of the bill argue that testing is the best method for determining and assuring that students attending private schools are learning. Yet, standardized tests do not always paint a true picture of student performance. Critics of these tests contend that they lead to myopic teaching—teachers teaching only the information needed to score well on the test—and foster erroneous conclusions. As a result, some schools may shortchange students in the achievement of complex skills such as applying mathematics or writing essays. Supporters of national standardized tests also contend that rising test scores indicate that learning is improving. This may actually mean that teachers only are doing a better job of fitting their instruction to the demands of the test. Tests are not a comprehensive measure of educational achievement and should not be the sole criterion for determining whether an educational program is successful.

Opposing Argument

Children enrolled in a private school, as defined in the bill, would have to be tested with a nationally standardized norm reference test. If the average scores fell below the 34th percentile, the school would have three years to raise those scores or would be in violation of the bill. While this appears to be an attempt to guarantee a level of

achievement, the 34th percentile is the bottom third of the scores, hardly a high level of achievement. In fact, this level is not even considered "mediocre", which has been used to describe public schools that have placed in the 50th percentile. The State over the last few years has embarked on an effort to upgrade education through such efforts at the State board of education's "A Blueprint for Action". Permitting schools to achieve only the 34th percentile may represent an attempt to guarantee quality, but it offers no incentive to attain higher scores.

Opposing Argument

According to some church officials, teachers in private, religious schools should not be required to be certified by the State because these teachers are ministers by divine calling and, as such, under the doctrine of the separation of church and state should not have to be licensed by the State. In fact, some church officials contend that State standards mandate a religious direction, a system that some have labeled as "Humanity". These church officials claim that State guidelines are obtrusive and hinder their freedom to teach their children in "Christianity".

Response: While church officials may consider their teachers to be under divine mandate, the State has a compelling social responsibility to assure that there is an educated citizenry. Besides, State certification requirements do not contain any sort of philosophical test. In order to discharge its responsibility, the State must have some oversight over the schooling of all children.

Legislative Analyst: L. Arasim

Fiscal Analyst: N. Johnson

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.