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COMMUNITY COLLEGES: TRUSTEES AND ADMINISTRATORS

**House Bill 4654 as introduced
First Analysis (7-1-97)**

**Sponsor: Rep. Clyde LeTarte
Committee: Colleges and Universities**

THE APPARENT PROBLEM:

The ultimate authority for the well-being and effectiveness of a community college is held by the college's board of trustees. The board serves as a surrogate for the general public and carries out the role of overseeing administrative and faculty undertakings. Unfortunately, current law has been interpreted by some as restricting the powers of the board to those specifically enumerated in the Community College Act of 1966. In addition, the act's provisions regarding the authority that may be granted to the college's president or administrator by the board have been construed equally narrowly. Last year, the legislature amended the Revised School Code to expand the authority granted to school districts. The changes provided the school districts with the authority to exercise any powers expressly stated in the act, any power implied or incident to an expressly stated power, and, except as provided by law, any power incidental or appropriate to the performance of any function related to operation of the school district in the interests of public elementary and secondary education in the school district (see Public Act 289 of 1995, enrolled Senate Bill 679). It has been suggested that the effectiveness of community colleges would be increased if a similar expansion of powers were granted to them.

Furthermore, it has been suggested that the act also contains a number of other provisions that need updating and/or clarification. Legislation has been offered to clarify and expand the powers of community college boards of trustees and the extent to which those powers may be delegated to the college's president, as well as to update several other provisions.

THE CONTENT OF THE BILL:

House Bill 4654 would amend the Community College Act of 1966 to make several changes to the act, including expanding the powers of community college boards of trustees and chief executive officers, changing the qualification requirements for chief executive officers, and requiring the election of a vice-chairperson of the board of trustees.

Powers of the district and board. The bill would permit a community college board of trustees to enter into installment contracts for the purchase of real or personal property. Although current law allows boards of trustees to make purchases, the act does not specifically allow purchases to be made on an installment basis.

In addition, the bill would expand the powers of the community college districts and their boards of trustees, by specifically granting them the authority to exercise any powers that were implied or incident to any of their expressly stated powers. Unless otherwise barred by law, the bill would also allow a district or its board to exercise any power that was incidental or appropriate to the performance of any function that related to the operation of any educational and other programs and services offered by the district.

Chief executive officer of the community college. The bill would replace the terms "administrator" or "director" with the term "chief executive officer". In addition, the current minimum education requirements for chief executive officers (a bachelor's degree and a teaching certificate or the equivalent, or an earned doctorate degree) would be replaced with a requirement that a chief executive officer have earned at least a bachelor's degree from an accredited college or university.

In addition, a community college's board of trustees would be permitted to delegate to the community college's chief executive officer the authority to select and employ community college personnel; pay claims and demands against the college; purchase, lease, or otherwise acquire personal property for the college; invest funds of the college; and accept contributions, capital grants, gifts, donations, services, or other financial assistance from any public or private entity (subject to any terms and conditions set by the board of directors).

Meetings. Currently, the act requires that the organizational meeting of a community college district be held on the first Monday in January or July,

House Bill 4654 (7-1-97)

depending upon the chapter under which the college is operating,

after the date of the district election. The bill would allow these meetings to be held with the first board of trustees meetings in July or January, and would no longer require that they be held on the first Monday of those months. The bill would also require the board of trustees to elect, from among its members, both a chairperson (as now) and a vice-chairperson.

MCL 389.103 et al.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact. (6-24-97)

ARGUMENTS:

For:

The effectiveness of many community college boards of trustees has been limited by current law, which has been interpreted by some as limiting the authority of the colleges' boards of trustees. It is alleged that increasingly, when a community college board seeks to engage the college in activities that are not traditional educational functions, the board is being told by its legal counsel that the activities are not within the scope of the college's authority. In addition, some community college boards of trustees have been thwarted in their attempts to negotiate bonds to cover building improvements because the bonding agencies have been unwilling to accept the college's authority to enter into such agreements. The bill would clarify and expand the powers of community college boards of trustees, giving them more control over running and maintaining their colleges. As with changes made in the Revised School Code of 1995, the bill would allow a board of trustees to engage in an activity unless it was prohibited by the act, rather than being limited to taking only those actions that the act specifically permits. Further, by specifying that authority may be delegated to a college's chief executive officer, the bill would increase the ability of both the board of trustees and the chief executive officer to accomplish the mission and goals of their institution.

The bill will also improve several other sections of the community colleges act; for example, possible conflicts with the Fourth of July and New Year's Day will be avoided by allowing the organizational meeting of a community college district to be held with the first board of trustees meetings in July or January instead of the first Monday in those months. Further, the bill would expand the pool of persons eligible to become the chief executive officer of a community college. Current requirements bar a number of otherwise excellent administrators merely because they lack a background in teaching.

Against:

The bill would grant far more extensive powers to community college boards of trustees and in turn to the chief executive officers of those colleges than is needed to accomplish the goals of the institutions. Even if in some areas there have been questions about the authority of a board of trustees to do certain things, wouldn't it make more sense to specifically grant the authority to carry out those actions, rather than use the extremely broad grant of authority contained in the bill? Since much of the money spent by these institutions is supplied by taxpayers, restrictions on the powers of these boards and executive officers may not be unreasonable and may be needed. Furthermore, why is it necessary to allow the elected trustees to delegate almost all of their authority to a non-elected CEO? The current language appears to be too broad; although there may be some actions which necessitate such a delegation of authority, the grant of authority should be specifically limited to those particular actions.

Finally, why is it necessary to lower the education requirements for chief executive officers of community colleges? The requirement that the chief executive officer of a community college have a teaching background seems well-founded since the primary task of a community college is to teach its students. While monetary issues clearly are important, issues of education should take precedence in a college. Thus, a community college chief executive should have some background in education or at least a doctorate degree.

POSITIONS:

The Michigan Community College Association supports the bill. (6-26-97)

The Michigan Education Association opposes the bill. (6-30-97)

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.