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BILL ANALYSIS



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House Bill 4508 (Substitute H-7 as passed by the House)
Sponsor: Representative Bill McConico
House Committee: Commerce
Senate Committee: Education

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CONTENT

The bill would amend the Revised School Code to require that a special election be held in Detroit on March 16, 2004, to decide whether to return the school district to the form of governance in effect before March 26, 1999 (an 11-member elected school board) or to approve a form of governance proposed in the bill. The form of governance receiving the most votes would be implemented 30 days after the special election.

The bill proposes the following:

- **Dissolving the powers of the current Detroit Public Schools reform board and its chief executive officer (CEO) on January 1, 2005.**
- **Removing the requirement that the question of whether to retain the reform board and its CEO be placed on the ballot in the November 2004 general election.**
- **Requiring the mayor of Detroit to appoint a new CEO of the Detroit Public Schools to assume all rights, duties, and obligations of an elected school board of the district.**
- **Requiring the mayor, by May 1, 2004, to establish nine voting districts within the Detroit school district boundaries (to be approved by the Legislature).**
- **Requiring Detroit voters to elect one school board member per voting district at the November 2004 general election.**
- **Providing that the elected board, effective January 1, 2005, would serve in an advisory role to the CEO and the mayor.**

- **Prohibiting the mayor and the CEO from entering into contracts with parties with whom they had a substantial conflict of interest.**

The Code and the bill refer to a "qualifying school district", which means a school district of the first class. The Code defines first class school district as one with at least 100,000 pupils; the Detroit school district currently is the only first class district. Under the bill, all requirements applying to mayoral appointments of a CEO, CEO powers and duties, voting districts, board elections, board responsibilities, and reform boards also would apply to any district that became a first class district in the future.

The provisions described below would apply if the voters of Detroit approved the form of governance proposed by the bill.

Chief Executive Officer

The bill would require the Detroit Mayor to appoint a CEO of the Detroit school district by January 31, 2005. The CEO's rights, duties, and obligations would include, but not be limited to, all of the following:

- Authority over the expenditure of all school district funds, including proceeds from bonded indebtedness and other funds dedicated to capital projects.
- Rights and obligations under collective bargaining agreements and employment contracts entered into by the previous school board or by a previous CEO.
- Rights to prosecute and defend litigation.
- Obligations under any judgments entered against the school district.

- Rights and obligations under statute, rule, and common law.
- Authority to delegate any of the CEO's powers and duties to one or more designees.
- All other rights, duties, and obligations provided under Part 6 (School Districts of the First Class) for the CEO or provided under the Revised School Code or other state law for a school board (except those for a school board established under the bill).

In addition, the CEO could terminate any contract entered into by a previous school board, except for a collective bargaining agreement. Any terminated contracts would be void. The bill provides, however, that this would not allow any termination or diminishment of obligations to pay debt service on legally authorized bonds.

Upon appointment of a CEO, each employee of the district whose position was not covered by a collective bargaining agreement would be employed at the will of the CEO.

The CEO would have to appoint a district chief financial officer (CFO), chief academic officer, chief operations officer, and chief purchasing officer. Appointment of a CFO would be subject to the bill's conflict of interest and antinepotism provisions.

Beginning on January 1, 2005, the current CEO of Detroit Public Schools would have to serve as the interim CEO. All of the bill's provisions that would apply to the new CEO would apply to the interim CEO, and he or she could exercise all the powers and duties otherwise vested by law in the CEO of a first class school district until a permanent CEO was appointed for the school district (on January 31, 2005).

Elected School Board

Voting Districts. Currently, the board of a first class district must redetermine seven voting districts by April 15 following the release of the Federal census every 10 years. The bill instead would require the Detroit mayor to establish nine voting districts within the school district boundaries by May 1, 2004. The districts would have to be approved by a resolution adopted by the Legislature. The CEO would have to redetermine these

boundary lines by April 15 of the first year following the release of the Federal census. As currently required, voting districts would have to be compact, contiguous, and as equal as possible in population.

Nomination. Each candidate for the Detroit school board would have to be nominated at the August 2004 primary election. As currently required for Detroit school board elections, no more than two candidates could be nominated at the primary election for each voting district, and petitions nominating the candidates would have to contain between 250 and 500 signatures of registered school electors of the voting district. The bill specifies that a signature on a nominating petition would not be valid unless the petitioner were a registered school elector of the voting district in which the candidate was running for election.

The bill also would require that a nominating petition meet the requirements of Section 544c of the Michigan Election Law (which specifies the form and contents of a nominating petition), and that it be filed with the clerk of the City of Detroit before 4:00 pm of the 12th Tuesday before the primary election. The city clerk could compare the signatures on the petitions with the signatures appearing on the registration records, or in some other proper manner determine whether the signatures appearing on the petition were genuine and complied with the bill's requirements.

Candidates would have to file an affidavit of identity (as provided in Section 558 of the Election Law) with the petitions. The city clerk would have to notify the county clerk of the name and address of each candidate within three days after the last day for candidate withdrawal. Candidates for subsequent elections would be subject to the Code's current requirements for board elections in the Detroit school district.

Election; Terms. At the November 2004 general election, the registered school electors of Detroit would have to elect a board member to represent each voting district. These elected members would have to serve for terms expiring December 31, 2008. After this initial election, board members would be elected for four-year terms at the general election held in November 2008, and at the

November general election every four years after 2008. School board members could not hold or be a candidate for any other elective office during the period of their service, or for a period of one year after they ceased to be members of the board.

Meetings. The newly-elected Detroit school board would have to hold its first meeting on the first Monday after January 1, 2005. At that meeting, the board could elect from among its members a president, vice president, secretary, and other officers as it considered necessary or appropriate. After the first election of officers, the board would have to elect its officers in January of each odd-numbered year.

A majority of members of the board would constitute a quorum of the transaction of business. A majority of the members elected and serving would be required for official action of the board.

Activities. The Detroit school board could do all of the following:

- Monitor pupil performance and serve in an advisory role to the CEO and the mayor regarding pupil performance and other issues.
- Review the district's budget, annual financial audits, and all contracts entered into by the CEO.
- Provide the mayor with an annual evaluation of the CEO's performance.
- Form committees as the board considered necessary or desirable to fulfill its functions.

The board also could organize and establish community assistance teams to work with the board to implement a cohesive, full service community school program addressing the needs and concerns of the school district's population, including family, community, cultural, and recreational activities to promote the academic mission of the schools. The teams also could develop parental involvement activities.

Contracts; Conflict of Interest

The Detroit mayor would be prohibited from appointing a person as CEO, and a CEO could not appoint a person as CFO, if the person at the time of the appointment had a pecuniary (financial) interest in a contract to which the

district was a party, or in a subcontract under such a contract, other than an employment contract.

The CEO would have to ensure that the district did not award a contract (and that a subcontract was not awarded under a contract with the district) to the mayor, the CEO, the CFO, or a school district board member; or to the mayor's, CEO's, CFO's, or board member's spouse or spouse's sibling or child, sibling or sibling's spouse or child, child or child's spouse, or parent or parent's sibling or spouse.

The mayor, CEO, CFO, or a board member would be prohibited from having a direct or indirect pecuniary interest in any contract with the district that caused a substantial conflict of interest (which the bill would define as a pecuniary interest that was of such substance as to induce action on the person's part to promote the contract for his or her own personal benefit). The bill species situations that would *not* be considered conflicts of interest, including entering into a contract between the district and a corporation in which the person owned 1% or less of the total stock; a contract between the district and a professional limited liability company if the person were an employee but not a member of the company; and a contract for public utility services where the rates for the services were regulated by State or Federal government.

Other Provisions

Improvement Plan. Within 90 days after the initial appointment of a CEO, and at least annually thereafter, the CEO would have to develop and submit to the mayor, school board, and Michigan Department of Education a school district improvement plan that included at least detailed academic, financial, capital, and operational goals and benchmarks for improvement and a description of strategies to be used to accomplish those goals and benchmarks. The plan would have to include an assessment of available resources and recommendations concerning additional resources or changes in statute or rule, if any, needed to meet those goals and benchmarks. Also, the plan would have to include an evaluation of local school governance issues, including criteria for establishing building-level governance.

Annual Report. The CEO would have to submit an annual report to the mayor, school board, Governor, and Legislature, and make the report available to the community in the school district. The annual report would have to contain at least all of the following:

- A summary of the initiatives that had been implemented to improve school quality in the first class school district.
- Measurements that could be useful in determining improvement in school quality in the district. These measurements would have to indicate changes from baseline data from the school year before the appointment of the CEO, and include standardized test scores, dropout rates, daily attendance figures, enrollment figures, and other information specified in the bill.
- A description of long-term performance goals that could include statewide averages or comparable measures of long-term improvement.

Monthly Report. The CEO would have to submit a monthly report to the school board, and make the report available to the community. The report would have to contain daily attendance figures, enrollment figures, dropout rates, a summary of the initiatives that had been implemented to improve school quality in the district, and other information specified in the bill. The report would be a public record.

Definition of "School Board". Except in Part 5A of the Code (Appointment of School Reform Boards) or Part 6 (School Districts of the First Class), beginning January 1 2005, "board" or "school board" in the Code would mean the CEO of a first class school district, for a district organized as such on December 1, 2003 (i.e., the Detroit Public Schools). This definition also would apply to a district five years after the date it became a first class district.

Repeals

The bill would repeal the following sections of the Code, which pertain to the Detroit school district:

- Section 405, which required an election in 1981 regarding the elimination of regional boards.

- Section 411a, which requires the election of at-large board members.
- Section 471a, which allows the school board to appoint a superintendent.
- Section 483a, which requires the school board to perform certain functions.

MCL 380.3 et al.

Legislative Analyst: Claire Layman

FISCAL IMPACT

Section 20(20) of the School Aid Act provides additional funding to the Detroit Public Schools in the amount of \$15 million. That funding is contingent upon there being a reform board in place. This bill could result in the elimination of the reform board and the subsequent loss of \$15 million to the Detroit school system. On the other hand, the State then would save \$15 million as this funding would no longer be required as provided in Section 20(20) of the School Aid Act.

The cost of the March election is estimated to be \$1.5 million.

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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.