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**BILL ANALYSIS**

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Senate Joint Resolution H (Substitute S-1)
Sponsor: Senator Wayne Kuipers
Committee: Education

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RATIONALE

Since 1963, when the State's current constitution was ratified by the voters of Michigan, the State Superintendent of Public Instruction has been appointed by the eight-member State Board of Education. Article VIII, Section 3 of the Constitution provides that the Superintendent of Public Instruction is the principal executive officer of the State Department of Education. The Superintendent also is the chairperson of the Board of Education without the right to vote, and is responsible for the execution of its policies. Michigan is one of 10 states with an elected Board of Education, and some people believe that a certain amount of voter apathy accompanies the election of its members. As a result, they claim, the State Superintendent is not accountable to the people of the State. It has been suggested that the State Constitution be amended to require that the Governor appoint the State Superintendent.

CONTENT

The joint resolution proposes an amendment to Article VIII, Section 3 of the State Constitution, to require the Governor, rather than the State Board of Education, to appoint the State Superintendent of Public Instruction and to set his or her term of office. The appointment could not occur without the advice and consent of the Senate.

The joint resolution would have to be submitted to the voters at the next general election, if two-thirds of the members elected to and serving in each house of the Legislature approved the resolution.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Under the resolution, and if approved by the voters, Michigan citizens could hold one person--as opposed to a relatively anonymous, eight-member board--responsible for school performance across Michigan. Anonymity, after all, can breed a lack of accountability. The Governor is the appropriate person to appoint the Superintendent because, typically, the chief executive is in touch with issues that are of concern to the citizenry, and has the power to generate public and political support for statewide initiatives and reforms.

The resolution would require that the appointment of the Superintendent occur with the advice and consent of the Senate. It is important that the legislative branch of State government approve the executive branch's appointment, as the Legislature plays an important role in shaping educational policy and providing oversight. Advice and consent of the Senate are required for other gubernatorial appointments of director-level positions, such as the Directors of the Departments of Transportation, Management and Budget, and Treasury. Requiring agreement between the two branches of government would help ensure that the individual appointed and his or her policies were acceptable to both branches.

The concept of having the Governor appoint the State Superintendent dates back to Michigan's first constitution, which was adopted in 1835 and overwhelmingly approved by the voters. This founding

document gave the Governor the power to appoint a State Superintendent and made no mention of a State board of education. Involving too many parties in the important work of education oversight and reform can lead to unnecessary conflict and lack of accountability.

Opposing Argument

Education should be protected from the shifting political winds as much as possible. This was the intent of the framers of Michigan's current constitution, who carefully considered the appointment and role of the State Superintendent. According to the Official Record of the Constitutional Convention, 1962, former Governor George Romney, chair of the education subcommittee of the Convention, stated that his committee had concluded that an elected board of education, rather than the Governor, should appoint the Superintendent in order to "remove the superintendent, as nearly as possible, from capricious or individual political considerations" (p. 1274). Frequently, it takes years to implement statewide educational reform, and years beyond that to see results. It would be unfair to teachers and students continually to alter important educational policies based on political vicissitudes. Arguably, an eight-member board is less vulnerable to partisan considerations than is a single governor.

Requiring the Governor to appoint the Superintendent while retaining the other duties of the State Board of Education would divide the loyalties of the Superintendent. Under Article VIII, Section 3 of the Constitution, the Board is responsible for the "[l]eadership and general supervision over all public education...and...shall serve as the general planning and coordinating body for all public education...". The Superintendent's role, under the Constitution, is to implement the Board's policies. If he or she were appointed by the Governor, conflict over whose policies to implement would be likely to result. This conflict could create roadblocks if the Governor and the majority of Board members represented different political parties. The roles of the State Board and the State Superintendent in overseeing and implementing educational policy are intertwined.

Every governor has served as an ex-officio member of the State Board of Education since 1963 and has had a significant influence on its policies, according to testimony submitted by the current Board. Further, the governors have played an active role in the appointment of every State Superintendent. The current system strikes an effective balance of power and has resulted in bipartisan policies that have placed Michigan at the forefront of the standards and accountability movement. The Federal No Child Left Behind Act, for example, now requires every state to have in place what Michigan pioneered 30 years ago: a test that assesses student learning on state curriculum standards. The resolution would interfere with the effectiveness of the current State Board and the Superintendent, and the implementation of long-term educational goals.

Response: Times change, and 41 years have passed since 1963. Increasingly, Michigan citizens are calling for education reform. The resolution would give stakeholders an opportunity to decide if this change is needed.

Legislative Analyst: Claire Layman

FISCAL IMPACT

The joint resolution would have no fiscal impact on State or local government.

Fiscal Analyst: Kathryn Summers-Coty

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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.