

REVISIONS TO SCHOOL CODE

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House Bill 5623 (Substitute H-2)

Sponsor: Rep. Tim Melton

Committee: Education

First Analysis (12-8-09)

BRIEF SUMMARY: The bill would amend the School Code to establish certain annual teacher evaluation requirements; require charter school contract rewards to be based on student performance; revise the compulsory attendance requirements to phase-in the school starting age to 5 and to raise the school-leaving age to 18; require the certification of administrators, and "grandfather" those now administering schools; create alternative administrator certification pathways; and allow officials in the lowest tier schools to start classes before Labor Day.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact on the state and school districts. See *Fiscal Information*.

THE APPARENT PROBLEM:

As part of the Obama Administration's American Recovery and Reinvestment Act of 2009, the U. S. Department of Education has announced a \$4.35 billion stimulus package that has come to be known as the Race to the Top Fund---a competitive grant program available to select states who demonstrate innovation and reform in their educational improvement programs. See *Background Information*. Each state grant is expected to be about \$400 million.

The U. S. Secretary of Education Arne Duncan, former Superintendent of the Chicago Public Schools, has outlined five core education reform areas in which states must demonstrate proficiency, in order to be eligible to apply for the funds. States must:

- Adopt standards and assessments that prepare students to succeed in college and the workplace, and compete in the global economy.
- Build data systems that measure students' growth and success, and that inform teachers and principals about how they can improve instruction.
- Recruit, develop, reward, and retain effective teachers and principals, especially where they are needed most.
- Turn around the state's lowest performing schools.
- Create and sustain state reform conditions that make education funding a priority, and ensure successful conditions for high-performing charter schools and other innovative schools.

The application process—phase I applicants must apply before January 19, 2010—also requires that states adopt (or retain) educational policies that address six priorities. In sum, states must demonstrate:

(1) A systemic approach to educational reform, including how they will, in collaboration with local school districts, use funds to increase student achievement, decrease achievement gaps across student subgroups, and increase rates of high school graduation.

(2) A high quality plan to offer rigorous coursework in mathematics, the sciences, technology, and engineering.

(3) Improved school readiness.

(4) Expanded statewide longitudinal data systems, using data to improve instruction, and to inform decisions about compensating, promoting, and retaining teachers and principals.

(5) A vertically and horizontally aligned education system to create a more seamless preschool-through graduate school (P-20) route for students. (Vertical alignment occurs at each transition between grades, for example, in curriculum; and horizontal alignment is the coordination of services across schools, state agencies, and community partners.)

(6) Schools that have been provided with flexibility and autonomy so school officials may, among other things, implement new structures and formats for the school day or year that increase learning time, and create school climates and cultures that remove obstacles to, and actively support, student engagement and achievement.

In an effort to meet the requirement that schools "*recruit, develop, reward, and retain effective teachers and principals, especially where they are needed most,*" legislation has been introduced to require administrator certification (currently administrator certification is voluntary in Michigan), as well as create alternate certification pathways for both school administrators and teachers.

To fulfill the requirement that schools be provided "*with flexibility and autonomy so school officials may, among other things, implement new structures and formats for the school day or year that increase learning time,*" the legislation also includes provisions that would allow underachieving school officials to lengthen the school year, beginning instruction before Labor Day in September, and requiring school attendance for all Michigan youth from ages 5 to 18 (rather than 6 to 16 now required in law).

To meet the requirement that schools throughout Michigan "*expand statewide longitudinal data systems, using data to improve instruction, and inform decisions about compensating, promoting, and retaining teachers and principals,*" the legislation would remove any current barriers under law that prohibit school superintendents and school boards from considering student performance when evaluating and compensating teachers and principals.

To address the requirement that state policy "*ensure successful conditions for high-performing charter schools and other innovative schools*," the legislation would require that all charter school contracts include standards for renewal, including the standard that student growth be measured by assessments and other objective criteria.

THE CONTENT OF THE BILL:

House Bill 5623 (H-2) would amend ten sections of the Revised School Code and create one new section to, among other things:

- Establish certain annual teacher and school administrator evaluation requirements, including students' measured academic growth as a significant factor.
- Set compensation for school employees using student performance as a significant factor.
- Revise the compulsory attendance requirements to phase-in the school-starting age to five beginning in the 2012-2013 school year.
- Raise the school-leaving age to 18, and revise the truancy laws.
- Require the certification of school administrators after the effective date of the bill, and "grandfather" those now administering schools.
- Allow schools in the lowest achievement tier to start classes before Labor Day.

A more detailed explanation of the bill follows.

Charter schools. The bill would require that all charter school contracts and also all urban high school academy and strict discipline academy contracts include the term of the contracts and a description of the process and standards for renewal of the contracts at the end of the term. Under the bill, those standards for renewal would have to include student growth as measured by assessments and other objective criteria as a significant factor in the decision of whether or not to renew the contracts.

School Attendance. The bill specifies that a person who resides in a school district has a right to attend school if the person is at least five years of age on December 1 and less than 20 years of age on September 1 of the school year; or if the person is a special education student who is enrolled and receiving instruction in a special education program or service approved by the Department of Education and is less than 26 years of age on September 1 of the school year.

Compulsory Attendance. Under the bill, the parent or guardian of a child who turned age 14 on or after December 1, 2007, or who was age 14 before that date and who entered Grade 9 in 2008 or later, would have to send the child to public school during the entire school year until age 18. However, the bill would allow parents or legal guardians to provide written permission to the school district granting their children permission to stop attending school at age 16. Currently the school-leaving age is 16 years of age.

Until the 2010-2011 school year, a child becoming six years of age on or before December 1 would be enrolled on the first day of the school year when the child's fifth

birthday occurred. For the 2012-2013 school year, a child becoming five years of age on or before September 1 would be enrolled on the first school day of the year in which the child's fifth birthday occurred. A child who turned five years of age after September 1 would be enrolled the following year. Currently under the code, children must begin school during the year in which they become six years of age before December 1, or the following year if they turn six after December 1.

The bill retains the exceptions to compulsory attendance currently found in the law.

Kindergarten. The bill requires that a school district or a charter school that provides Grade 1 also provide kindergarten, and entitles a child who is five on December 1 to enroll in district kindergarten.

Truancy. Currently under the law, children aged 7 to 16 in a school district are deemed juvenile disorderly persons and may be assigned to an un-graded school or department if they are class 1: habitual truants; class 2: incorrigibly turbulent, disobedient, insubordinate, or immoral in conduct; or class 3: not attending school and habitually frequenting streets and other public places having no lawful business, employment, or occupation. The bill would retain these provisions while removing the class 1, 2, and 3 designations, and would extend the provisions until a young person's 18th birthday for those who turned aged 14 on or after December 1, 2007, or were 14 before that date and entered Grade 9 in 2008 or after.

Administrator Certification; grandfather clause. Currently under the law, a school administrator must only complete continuing education requirements developed by the state school superintendent and prescribed by rule. The bill would prohibit a school district or charter school from continuing to employ a person as superintendent, principal, assistant principal, or other person whose primary responsibility was administering instructional programs, or as a chief business official, unless the person met one or more of the following requirements:

- (a) had completed the continuing education requirements -- for a superintendent, principal, assistant principal, or other person whose primary responsibility was administering instructional programs, or a chief business official, who was employed as a school administrator in Michigan on or before the effective date of this legislation; or
- (b) possessed a valid Michigan school administrator's certificate -- for a superintendent, principal, assistant principal, or other person whose primary responsibility was administering instructional programs and who was initially employed as a school administrator in Michigan after the effective date of this legislation.

Districts could employ administrators enrolled in a program leading to certification not later than six months after the effective date of this legislation, or six months after the administrator began employment, whichever was later. A person who was employed as a school administrator would have three years to meet the certification requirements. A person failing to do so could not continue to be employed as an administrator.

The bill would require the state school board to develop a school administrator's certificate and issue it to all school district and intermediate school district superintendents, school principals, assistant principals, other administrators whose primary responsibility is administering instructional programs and who meet newly established requirements. Standards would be developed by the State Board of Education, and procedures developed by the superintendent of public instruction. Those standards and procedures would have to address at least: educational and professional experience requirements; continuing education requirements and periodic re-certification; procedures for the application for and issuance of certificates; and standards and procedures for suspension and revocation of a certificate. To develop these standards and procedures, the department would consult with appropriate professional organizations, including those representing superintendents and building-level administrators.

A school administrator's certificate would be valid for five years, and could be renewed upon completion of renewal units, as determined by the state school superintendent. Under the bill, the state school superintendent would be required to promulgate the rules necessary to implement this section of the code.

Alternative certification for administrators. Under the bill, the Department of Education would be required to recognize alternative pathways to earning the basic school administrator's certificate based on experience or alternative preparation, or both, if the alternative certification program was submitted by an established state professional organization, and met criteria set forth by state board-approved school administrator program preparation standards.

Performance Evaluation System. The bill would require that, with the involvement of teachers and school administrators, the governing board of a school district (including charter schools) adopt and implement for all teachers and school administrators a rigorous, transparent, and fair performance evaluation system that evaluated the teacher's or school administrator's job performance at least annually, while providing timely and constructive feedback.

That performance evaluation system would have to establish clear approaches to measuring student growth and provide teachers and school administrators with relevant data on student growth; evaluate job performance using multiple rating categories that take into account data on student growth as a significant factor. (For these purposes, student growth would be measured by national, state, or local assessments and other objective criteria.) The evaluation system would have to use the evaluations, at a minimum, to determine the effectiveness of teachers and school administrators while ensuring that they are given ample opportunities for improvement; and to inform decisions regarding promotion, retention, and development of teachers and school administrators, including providing relevant coaching, instructional support, or professional development.

Performance Compensation System. The bill would require that a school district or charter school implement and maintain a method of compensation for its teachers and

administrators that include job performance and job accomplishments as a significant factor in determining compensation and additional compensation. The assessment of job performance would have to incorporate the rigorous, transparent, and fair evaluation system that evaluated a teacher's or school administrator's performance at least in part based upon data on student growth as measured by assessments and other objective criteria.

The bill specifies that if a collective bargaining agreement were in effect for teachers or school administrators of the school district or charter school on the effective date of this legislation that prevented compliance with this requirement, then the requirement would not apply to that school district or charter school until after the expiration of that collective bargaining agreement.

School Start Before Labor Day. Now under the law, with a few exceptions, a school may not begin its students' academic year before Labor Day. The bill would retain this prohibition, with exceptions.

If a public school had been determined by the state school superintendent to be among the lowest achieving five percent of all public schools in Michigan, as defined for the purposes of the federal incentive grant program created under Sections 14005 and 14006 of Title XIV of the American Recovery and Reinvestment Act of 2009, then this prohibition would not apply to that school, or others in the district. Although the bill would allow officials of the lowest tier schools to set the start of school before Labor Day, it would prohibit school session on the Friday before the Labor Day weekend. (Labor Day means the first Monday in September.)

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BACKGROUND INFORMATION:

For more information about the Race to the Top Competitive Grant Program, see <http://www.ed.gov/programs/racetothetop/executive-summary.pdf>

FISCAL INFORMATION:

The bill would have an indeterminate fiscal impact on the state and on school districts.

A number of the provisions may create temporary or ongoing administrative costs to both schools and the Department of Education by creating new requirements, including that student achievement data be used in both public school academy contract renewal processes and teacher evaluation and compensation systems.

The bill could also create additional administrative costs for the Department in having to implement a school administrator certification program, but requiring all school administrators to get a certificate would generate additional certification fee revenue.

Currently the certificate is voluntary for administrators at a cost of \$160 (\$210 for an out-of-state applicant) for 5 years.

Both requiring students to attend school at age 5 instead of 6 and requiring attendance until age 18 rather than 16 would likely increase the number of students attending school and therefore could increase costs significantly for both the state and school districts. However, to the extent that parents choose to keep their 5-year-old children home through home-schooling and that parents attain waivers to allow their children to leave school after their 16th birthday, those costs would be diminished. More detailed cost information regarding these two provisions will follow as soon as it is available.

ARGUMENTS:

For:

The U. S. Department of Education has announced a \$4.35 billion stimulus package that has come to be known as the "Race to the Top" fund---a competitive grant program available to select states whose education leaders demonstrate innovation and reform in their statewide educational improvement programs. Each state grant is expected to be about \$400 million, and could be as great as \$600 million. The application for the first round of grant awards is in mid-January 2010, and awards will be announced the following April. (A second round of grant applications will be accepted in the summer of 2010.)

The Race to the Top grant applications will be evaluated against criteria published by the U. S. Department of Education. See *Background Information*. A state's application gains points if certain innovational education policies are in place.

For example, when this bill is enacted into law, evaluation points will be available for several new policies, all of which allow school leaders greater flexibility to focus more directly on student achievement. Two of the policies would establish annual evaluation systems and set methods of compensation for both teachers and school administrators that are related to their students' academic growth. In addition, a third policy would heighten the knowledge and know-how of Michigan's school administrators, making certification mandatory--reversing Michigan's voluntary certification policy adopted more than a decade ago--and also allowing alternate certification pathways sponsored by professional organizations. (Alternative certification pathways for teachers are embodied in House Bill 5596 and Senate Bill 965 Substitute H-1.) Finally, a fourth set of policy changes would increase the time students are in school by phasing in the school starting age to five beginning in the 2012-2013 school year; raising the school-leaving age to 18 while revising the state's truancy laws; and allowing school leaders in the lowest achievement tier to start classes before Labor Day--flexibility that is now prohibited because of a law that requires a post-Labor Day school start.

Proponents of this bill who have closely studied the grant application requirements note that these education reforms, and others, are necessary to Michigan's Revised School

Code if our state is to compete successfully for a grant in the federal "Race to the Top" program.

Against:

Opponents of this bill worry that the provision that allows school leaders in the lowest tier schools to begin their students' academic year before Labor Day (the first Monday in September) will harm the tourism industry. They note that families traditionally take their vacations during July and August. As a result August is one of two high-profit tourism months--and a time during which many school students work summer jobs.

The Michigan legislature adopted a post-Labor Day School start three years ago in an effort to spur the tourism industry, and the change in policy has stimulated far greater tourism during August. For example, the marketing vice president for the Grand Hotel located on Mackinac Island testified that in 2008, the first full year of the new post Labor Day school start policy, the Grand Hotel had 99.9 percent occupancy, the highest occupancy in the hotel's more than 100-year history. He and many other tourism officials representing golf courses, restaurants, and vacation parks, note that a pre-Labor Day school start could eliminate two to three weeks of prime vacation time, and reduce revenue and jobs between 30 and 40 percent.

Response:

The substitute bill reflects a compromise between school and tourism industry leaders. Now only those schools whose students are among the lowest five percent in academic achievement statewide may extend their school year by beginning classes before Labor Day.

Against:

One opponent of the bill has expressed concern that a pre-Labor Day school start might well jeopardize the timely delivery of the Adequate Yearly Progress Reports due to parents from schools each fall. Those reports must reach parents 14 days before school begins so that parents can, if they choose, transfer their children to more successful schools, thereby exercising their 'school choice' options under the federal No Child Left Behind law.

POSITIONS:

The State Superintendent of Public Instruction supports the bill. (12-8-09)

The American Federation of Teachers - Michigan supports the bill. (12-8-09)

The Michigan Education Association supports the bill. (12-8-09)

The Michigan Association of Public School Academies supports the bill. (12-8-09)

Timbukto Academy supports the bill. (12-8-09)

The American Federation of State, County, and Municipal Employees support the bill as amended. (12-8-09)

The West Michigan Chamber Coalition is neutral on the substitute bill. (12-8-09)

The Michigan Lodging and Tourism Association has no position on the substitute version of the bill. (12-8-09)

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■ 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.