

# Legislative Analysis



## ALLOW SHARED ISD-LOCAL SCHOOL SUPERINTENDENTS, ETC.

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House Bills 4232, 4233, & 4234 as enrolled  
Public Acts 104, 105, & 106 of 2011  
Sponsor: Rep. Matt Huuki  
House Committee: Education  
Senate Committee: Education

### Second Analysis (9-1-11)

**BRIEF SUMMARY:** These three bills would allow a local school district board to contract with its intermediate school district board to arrange for the intermediate superintendent, or another person, to serve as the local school district superintendent.

[House Bill 4232 would, in addition, allow a township supervisor to be appointed as a member of a county board of public works without violating the conflict of interest rules that prohibit holding incompatible offices in the public sector. (This provision was originally contained in House Bill 4419, and is related to provisions in Senate Bill 215, which was enacted as Public Act 110 of 2011.) Further, House Bill 4232 contains language that allows public officers or employees of a transportation authority to serve in that capacity for another transportation authority, if both authorities have identical political subdivisions as members. The transportation authority language was the focus of House Bill 4366 (Public Act 122 of 2011).]

**FISCAL IMPACT:** The bills would have no fiscal impact on the state and an indeterminate fiscal impact for districts and ISDs. To the extent that the bills would allow districts and ISDs to reduce staff costs by sharing a superintendent, it could create local savings. For county boards of public works and transportation authorities, House Bill 4232 would have no state fiscal impact, and could have an indeterminate fiscal impact for those counties and transportation authorities that utilize its provisions.

### **THE APPARENT PROBLEM:**

School districts continue to experience significant fiscal stress. According to state calculations, nearly 10,000 teacher and other school professional layoffs were averted in 2010 in Michigan because of federal stimulus funding under the American Recovery and Reinvestment Act. In the current fiscal year--Fiscal Year 2011--there is little remaining federal stimulus funding that can be used to avert layoffs. Further, during the coming 2012 fiscal year school officials face significant funding cuts in their per-pupil foundation allowance-- \$470 per student reduction under the newly enacted budget (but a cut that some say amounts to more than \$700 per student when the rising costs of retirement system are considered.)

In Michigan, there are 551 traditional local school districts and 247 charter schools educating about 1.5 million students in more than 3,800 school buildings. Those local

school districts are located within 57 intermediate school districts--sometimes called ISDs or RESAs (regional education services agencies). See **Background Information**. Customarily, local school officials coordinate services (professional development, information technology, career-tech and special education) with their regional ISD or RESA. In addition, many local districts also coordinate administrative and purchasing services.

Nearly every local and regional school district is headed by a school superintendent--in all, there are hundreds of school leaders in Michigan. The local school superintendents oversee both the business and educational operations of their districts, through a network of school building principals. In large districts, a school superintendent can be responsible for scores of school buildings, while in a K-8 district, a superintendent can be responsible for oversight of a single school building. The average salary of a Michigan school superintendent is \$137,000 plus fringe benefits.

One way that school districts can save money is to share a local superintendent, and a few do so. Another cost-saving measure that has helped very small rural K-6 or K-8 school districts stay in business is to contract with their regional ISD superintendent to provide operational oversight and leadership. State law allows local school districts to share a superintendent, and it also allows ISD superintendents to serve as local superintendents in K-6 or K-8 school districts. For example, the Copper Country ISD superintendent also serves as the local superintendent for three K-6 school districts within his region.

Although the law allows regional superintendents to also serve as local superintendents in K-6 or K-8 school districts, the law currently prohibits intermediate superintendents from also leading local K-12 districts within their region. That prohibition was put in place to avoid creating conflicts of interest, because all ISD superintendents are responsible for verifying by formal audit the pupil count in each of their constituent school districts. Then that audited pupil count then serves as the basis upon which to calculate each school district's per capita state aid payment.

Legislation has been introduced to allow an intermediate school district superintendent to simultaneously serve as local K-12 school district superintendent where that is feasible, or alternatively for the ISD to make another person available for the task.

Like school districts, local units of government have experienced a downturn in revenue. Local property tax collections are down as taxable values have declined. Additionally, the state has trimmed its State Revenue Sharing program, designed to assist local governments pay for services, by 31 percent--that is, more than \$4 billion--over the past decade. Consequently, local units of government are seeking ways to combine their operations, and provide services to their residents by sharing the costs.

For example, Grand Traverse County expanded the service area of its waste treatment plant to the citizens in area townships, and then attempted to include each township supervisor on its board of public works, ensuring that all who shared in the costs (and who serve as guarantors of the bonds issued to finance construction of the waste water facility) were represented. However, local officials discovered their initiative would require changes in state statutes--both to raise the nine-member cap that exists for county boards of public works, and to ensure that township supervisors who serve on county

boards of public works are not in violation of conflict of interest laws that prohibit them from holding incompatible offices. (See also the analysis of Senate Bill 215 and House Bill 4419 for a discussion of this issue.)

***THE CONTENT OF THE BILLS:***

House Bill 4233 would amend the Revised School Code (MCL 380.1229) to specify that a school district board, instead of directly employing a superintendent of schools, could contract with its intermediate school district board to arrange for the intermediate superintendent, or another person, to serve as the local school district superintendent.

House Bill 4232 would amend Public Act 566 of 1978 (MCL 15.183), which prohibits the holding of incompatible public offices, to specify that this standard of conduct would not prohibit a superintendent of an intermediate school district from serving simultaneously as superintendent of a local school district, or prohibit an intermediate school district from contracting with another person to serve as superintendent of a local school district, even if the local school district were a constituent district of the ISD.

Further, House Bill 4232 embraces two other issues imported from other legislation. (1) It would allow public officers or employees of a transportation authority to serve in that capacity for another transportation authority, if both authorities have identical political subdivisions as members. (See House Bills 4366 and 4367 as enacted, Public Acts 122 and 123 of 2011.) (2) It would also allow a township supervisor to be appointed as a member of a county board of public works without violating the conflict of interest rules that prohibit holding incompatible offices in the public sector. (See Senate Bill 215 as enacted, Public Act 110 of 2011, and House 4419.)

House Bill 4234 would amend Public Act 317 of 1968 (MCL 15.323a), which prohibits conflicts of interest in contracts with public entities, to specify that this standard of conduct would not prohibit a superintendent of an ISD from serving simultaneously as superintendent of a local school district, nor would it prohibit an ISD from contracting with another person to serve as superintendent of a local schools district, even if the local school district were a constituent district of the ISD.

***BACKGROUND INFORMATION:***

Michigan's 57 regional or intermediate school districts include:

Allegan ISD	Alpena-Montmorency-Alcona ESD
Barry ISD	Bay-Arenac ISD
Berrien ISD	Branch ISD
Calhoun ISD	Charlevoix-Emmet ISD
Cheboygan-Otsego-Presque Isle ESD	Clare-Gladwin RESD
Clinton County RESA	Copper Country ISD
Delta-Schoolcraft ISD	Dickinson-Iron ISD
Eastern Upper Peninsula ISD	Eaton ISD
Genesee ISD	Gogebic-Ontonagon ISD
Gratiot-Isabella RESD	Hillsdale ISD
Huron ISD	Ingham ISD

Ionia ISD  
Jackson ISD  
Kent ISD  
Lenawee ISD  
Livingston ESA  
Manistee ISD  
Mason-Lake ISD  
Menominee ISD  
Monroe ISD  
Muskegon Area ISD  
Oakland Schools  
Ottawa Area ISD  
Sanilac ISD  
St. Clair County RESA  
Traverse Bay Area ISD  
Van Buren ISD  
Wayne RESA  
Crawford Oscoda Ogemaw Roscommon (COOR) ISD

Iosco RESA  
Kalamazoo RESA.  
Lapeer ISD  
Lewis Cass ISD  
Macomb ISD  
Marquette-Alger ISD  
Mecosta-Osceola ISD  
Midland County ESA  
Montcalm Area ISD  
Newaygo County RESA  
Oceana ISD  
Saginaw ISD  
Shiawassee Regional ESD  
St. Joseph County ISD  
Tuscola  
Washtenaw ISD  
Wexford-Missaukee ISD

***ARGUMENTS:***

***For:***

State law allows local school districts to share a school superintendent. For example, the Wyoming and Godwin Heights districts (located in Kent County) share superintendents. Likewise, Hudson and Morenci schools (located in Lenawee County) share the \$110,000 salary of their single administrator. And state law also allows ISD superintendents to serve as superintendents in small K-6 or K-8 school districts (that is, districts having just one school offering classes for kindergarten through sixth or eighth grades). For example, the Copper Country ISD superintendent also serves as the local superintendent for three K-6 school districts within his region. However, the law currently prohibits intermediate superintendents from also leading local K-12 districts within their region.

House Bills 4232, 4233, and 4234 would allow a regional or intermediate school superintendent to serve simultaneously as a local school district superintendent (or for the ISD to provide a different person). That way, small school districts (and perhaps others) needing to save money could contract with their regional superintendent to provide operational oversight and leadership. This cost-saving measure can help small school districts stay in business, and because the consolidation is voluntary, the bills would ensure the continuation of local control.

***For:***

House Bill 4232 also contains language allowing the board of public works in Grand Traverse County to expand its membership to include township supervisors. This provision was originally found in House Bill 4419 and is a complement to a provision in enrolled Senate Bill 215 (PA 110 of 2011), which amended Public Act 185 of 1957, a statute dealing with county public works agencies. This would ensure that all of the cities, villages, and townships now served by the county waste water plant would have a representative on the public works board. Currently some townships that have served as guarantors of the bonds used to finance the facility do not have representation, due to the

state statute that prohibits overlapping board membership for township supervisors, in an effort to avoid conflicts of financial interest. House Bill 4232 would enable the board of public works to eliminate its cumbersome advisory committee structure, and reduce administrative costs an estimated \$40,000, according to committee testimony. This legislation would then, increase efficiency, and also ensure equitable representation of all local government stakeholders.

***Against:***

A spokesman for the Macomb Intermediate School District argues that House Bill 4233 should be amended to prevent conflicts of interest that could easily lead to fraud and abuse. He notes that House Bill 4234 would seem to waive such conflicts of interest in statute, but the bill would not alleviate or eradicate such conflicts of interest legally.

This is why. Currently, the law prohibits intermediate school superintendents from also leading local K-12 school districts within their region, in order to prevent conflicts of interest. That prohibition was put in place because all ISD superintendents are responsible for verifying, by formal audit, the pupil count in each of their constituent school districts. That audited pupil count then serves as the basis upon which to calculate each school district's per capital state aid payment. Since House Bill 4233 invests one ISD superintendent with two mutually exclusive and competing fiduciary responsibilities--that is, both to conduct a student count, and also to verify or audit that count--the bill creates legal conflicts of interest.

In order to avoid this conflict of interest, House Bill 4233 should be amended to require that an objective third-party--perhaps the superintendent in an adjacent ISD--conduct the pupil count audit.

***Against:***

While House Bills 4232, 4233, and 4234 are acceptable bills, they could prolong the existence of small school districts that might more efficiently be consolidated with others nearby. Indeed, instead of over 550 school districts (not including charter schools), Michigan could have 83 (one district for each county), and perhaps an additional eight or 10 to serve large metropolitan areas. Then, Michigan could, like other states, effectively and efficiently administer its schools on a county-wide basis, reducing many costs and sharing services. Organized in this manner, taxpayers would save even more money.

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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.