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BILL



ANALYSIS

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Senate Bill 619 (as enacted)
Sponsor: Senator Patrick J. Colbeck
Senate Committee: Education
House Committee: Education

PUBLIC ACT 129 of 2012

Date Completed: 6-25-12

CONTENT

The bill amends the Revised School Code to do the following:

- Delete the limit of two on the total number of cyber school contracts that may be issued by all authorizing bodies.
- Phase-in a limit of 15 on the total number of cyber school contracts that may be issued by universities and Federal tribally controlled community colleges.
- Permit other authorizing bodies to issue one cyber school contract each.
- Phase-in an increase in the maximum number of pupils in a cyber school from 1,000 to 10,000.
- Provide that new cyber school contracts may not be issued, and cyber schools may not enroll new pupils, in the 2013-2014 school year if total cyber school enrollment exceeds 1.0% of fiscal year (FY) 2011-12 total public school membership.
- Beginning July 1, 2013, provide that new cyber school contracts may not be issued, and cyber schools may not enroll new pupils if total cyber school enrollment exceeds 2.0% of FY 2011-12 total public school membership.
- Allow new cyber school contracts to be issued and new pupils to be enrolled for a school year in which the Department of Education determines that the 2.0% limit is not exceeded.
- Require a cyber school to offer each pupil's family a computer and to subsidize the cost of internet access.
- Allow a cyber school contract to authorize the school to operate outside the boundaries of the district issuing the contract.
- Delete requirements that cyber school pupils previously be enrolled in public school, and that a cyber school offer all of grades K through 12.
- Revise the requirement for experience that an entity applying for a cyber school contract must demonstrate.
- Allow a cyber school to make available to other public schools for purchase any of the course offerings that the cyber school offers to its own pupils.
- Require reports on the costs of online learning, and on the number of pupils enrolled in cyber schools or other distance learning programs.
- Require cyber schools to provide parent-student orientation.

The bill will take effect on the 91st day after the Legislature adjourns the 2011-2012 legislative session.

Cyber School Contracts

The Code allows authorizing bodies to issue contracts for schools of excellence (SOEs), and allows two contracts to be issued by all authorizing bodies for SOEs that are cyber schools. (An authorizing body may be the board of a school district that operates

grades K-12, an intermediate school board, the board of community college, the governing board of a State public university, or two or more of those entities exercising authority jointly under an interlocal agreement.) The contract for a cyber school must contain all of the provisions required in a school of excellence contract, as well as additional provisions. Cyber schools must provide full-time instruction to pupils through online learning or otherwise on a computer or other technology, and the instruction may occur remotely from a school facility.

The bill deletes the provision that limits the number of cyber school contracts to two. Subject to the limitations described below, the bill permits an authorizing body to issue contracts for one or more schools of excellence that are cyber schools. The board of a school district, an intermediate school board, the board of a community college that is not a statewide authorizing body, or two or more public agencies acting jointly, may not act as the authorizing body for more than one SOE that is a cyber school.

Until December 31, 2013, the combined total number of contracts issued by all statewide authorizing bodies for SOEs that are cyber schools may not exceed five. Until December 31, 2014, the total number may not exceed 10. After that date, the total number may not exceed 15.

(The bill defines "statewide authorizing body" as the governing board of a State public university or the board of a Federal tribally controlled community college that is recognized under the Tribally Controlled Colleges and Universities Assistance Act of 1978 and is determined by the Department to meet the requirements for accreditation by a recognized regional accrediting body.)

Currently, the board of a school district, intermediate school district (ISD), or community college district may not issue a contract for a school of excellence to operate outside the boundaries of that district. Under the bill, if the board of a school district, ISD, or community college district issues a contract for an SOE that is a cyber school, the contract may authorize the school to operate outside the district's boundaries.

Cyber School Criteria

Currently, a school of excellence must meet the following requirements to be a cyber school:

- The school is available for enrollment to all pupils in the State who were previously enrolled in a public school.
- The school offers all of grades K to 12.
- The entity applying for the contract demonstrates experience in serving urban and at-risk student populations through an educational model involving a significant cyber component.

The bill, instead, prohibits an authorizing body from issuing a contract for an SOE that is a cyber school unless the school meets all of the following:

- The school is available for enrollment to all pupils in the State.
- The school offers some configuration, or all, of grades K to 12.
- The entity applying for the contract demonstrates experience in delivering a quality education program that improves pupil academic achievement.

In determining whether the last requirement is met, an authorizing body must refer to the standards for quality online learning established by the National Association of Charter School Authorizers or other similar nationally recognized standards for quality online learning.

The bill also would require a cyber school to offer each pupil's family a computer and to subsidize the cost of internet access.

Number of Cyber School Pupils

Currently, the initial enrollment in an SOE that is a cyber school may not exceed 400 pupils. In the second and subsequent years, the school may expand enrollment to exceed that limit by adding one pupil for each enrolled pupil who is identified as a dropout in the Michigan student data system maintained by the Center for Educational Performance and Information. The school must account annually for the number of enrolled pupils who are identified as dropouts and report that information to the Department of Education. The school must maintain its ratio of pupils who are identified

as dropouts. Maximum enrollment may not exceed 1,000 pupils.

The bill deletes all of these provisions. The bill limits the enrollment of a cyber school to the following maximum number of pupils in membership:

- 2,500 for the first school year of operation.
- 5,000 for the second school year of operation.
- 10,000 for the third and subsequent school years of operation.

If the Department determines that the combined total statewide final audited membership for all pupils in membership in cyber schools for the 2012-13 State fiscal year exceeds a number equal to 1.0% of the combined total statewide final audited membership for all pupils in membership in public schools for FY 2011-12, then the following will apply:

- An authorizing body may not issue a new contract for a new cyber school to begin operations in the 2013-2014 school year.
- A cyber school may not enroll any new pupils in the 2013-2014 school year.

Beginning on July 1, 2013, if the Department determines that the combined total statewide final audited membership for all pupils in membership in cyber schools for a State fiscal year exceeds a number equal to 2.0% of the combined total statewide final audited membership for all pupils in membership in public schools for FY 2011-12, then the following will apply, subject to the provision below:

- An authorizing body may not issue a new contract for a new cyber school to begin operations in a school year that will begin after that determination is made.
- A cyber school may not enroll any new pupils in a school year that will begin after that determination is made.

If the Department determines that the combined total statewide final audited membership for all cyber school pupils for a State fiscal year does not exceed a number equal to 2.0% of the combined total statewide final audited membership for all public school pupils for FY 2011-12, the restrictions on new contracts and new

enrollments will not apply for a school year that begins after that determination is made, unless the Department makes a new determination that the membership limits have been exceeded.

For the purposes of these provisions, the bill requires the Department, by July 1 each year, to determine the percentage of the combined total statewide final audited membership for all pupils in membership in public schools who are pupils in membership in cyber schools for the State fiscal year that includes that July 1.

(As used in these provisions, the bill defines "membership" as the term is defined in the State School Aid Act, MCL 388.1606.)

Reporting Requirements

Under the bill, if a district, an ISD, a public school academy, or the Education Achievement System offers online learning, its board or board of directors must submit a report to the Department. The report must detail the per-pupil costs of operating the online learning and include, on a per-pupil basis, at least all of the following costs:

- Textbooks, instructional materials, and supplies, including electronic instructional material.
- Computer and other electronic equipment, including internet and telephone access.
- Salaries and benefits for the online learning employees.
- Fees associated with oversight and regulation.
- Travel costs associated with school activities and testing.
- Facilities costs.
- Costs associated with special education.

(The Education Achievement System is the statewide school system that was created to operate the lowest-performing 5.0% of schools in Michigan that are under an emergency manager or do not achieve satisfactory results on a redesign plan.)

The bill requires the Department to issue to the Legislature a report that includes all of the following:

- A review of the data submitted.
- A comparison of costs of substantially similar programs in other states and

- relevant national research on the costs of online learning.
- Any conclusions concerning factors or characterizations of online learning programs that make a difference in the costs of operating the programs.

The bill also requires the board of directors of a cyber school, and the board of a school district, ISD, or public school academy that operates an online or other distance learning program, to report monthly to the Department on the number of pupils enrolled in the cyber school or in the online or other distance learning program, during the preceding month.

Orientation

The bill requires the board of directors of a cyber school to ensure that, when a pupil enrolls in the school, the pupil and his or her parent or legal guardian are provided with a parent-student orientation. The orientation may be provided to just the pupil if he or she is at least 18 or is an emancipated minor.

MCL 380.552

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

If the expansion of cyber schools leads to an increase in the enrollment of pupils not currently in the public K-12 system (dropouts, nonpublic students, or home-schooled students), then there will be an increase in State costs to pay for the additional pupils counted in membership. However, there is no way to forecast the potential change in enrollment that might occur as a result of this legislation. Each additional pupil in membership will cost the State at least the minimum amount of per-pupil funding, which will be \$6,966 in FY 2012-13.

Both the Department of Education and local districts will see increased reporting costs associated with the new reporting requirements found in this legislation. The Department will be required to analyze new reports provided by schools on the enrollments and costs of distance or online learning, or cyber schools. Schools will have to report monthly on enrollments, and report on the costs of online or distance

learning, or on the costs of cyber education. In addition, cyber schools will have to provide parent-student orientation, and provide a computer and subsidized internet access to enrolled students.

To the extent the employees at the cyber schools will not be part of the Michigan Public School Employees' Retirement System (MPERS), there will be an impact on the retirement system. Each time membership within that system declines (due to privatization, retirements, cyber schools, etc.), the cost of the existing accrued unfunded liabilities is spread among remaining payrolls of all participating entities, and the contribution percentages remitted by the remaining payrolls increase. Therefore, the resulting fiscal implications are not uniform. Again, the unfunded liabilities are a fixed number, to be paid off by spreading the cost over total payroll. When MPERS payroll declines in a nonuniform fashion, entities or their payrolls remaining in the system will be adversely affected by having to pay for the liabilities that were stranded by the payrolls that exited the system.

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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.