



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 710 (Substitute S-2 as passed by the Senate)
Senate Bill 711 (Substitute S-4 as passed by the Senate)
Sponsor: Senator Goeff Hansen
Committee: Government Operations

Date Completed: 3-31-16

CONTENT

Senate Bill 710 (S-2) would amend the Revised School Code to provide for the transfer of a "qualifying school district" (Detroit Public Schools) to a proposed "community district" on July 1, 2016, and provide that the qualifying school district would retain a limited separate identity and its territory would continue as a separate taxing unit for the purpose of repaying outstanding debt until the debt was retired. Specifically, the bill would add Section 12b and Part 5B to do the following:

- Provide for the board of the qualifying school district to be dissolved upon the election of the board of the community district.
- Require the Governor to appoint a transition manager to perform the functions of the board of the community district and satisfy responsibilities of the board of the qualifying district relating to the repayment of debt and dissolution of that district, until the board of the community district was elected.
- Require the board of the community district to consist of nine school electors of the district.
- Require the initial board of the community district to be elected at the first regular August election after the transfer date.
- Provide that the community district would be subject to the financial oversight of the Financial Review Commission in place for the City of Detroit.
- Provide that the appointment of a chief financial officer for the community district would be subject to the approval of the Financial Review Commission.
- Require the appointment of an Education Commission for five to 10 years, and require the Commission to report on and make recommendations for the siting of public schools within the community district.
- Prohibit the opening of a new public school or the authorization of a new public school academy in the community district without the Education Commission's approval, while it was in place, subject to certain exceptions.
- Require the State School Reform/Redesign Officer (SRRO) to establish and implement a community district accountability system for all public schools within the district.
- Require the accountability system annually to assign a letter grade of A, B, C, D, E, or F to each public school in the district, based on a point scale, and require points to be assigned based on a school's performance on proficiency, growth, and nonacademic measures.
- Require the SRRO to order the community district to implement an intervention model for a school that had received an F grade, or was among the lowest-achieving 5% of public schools in the State, for three years.
- Provide that the terms and conditions of a collective bargaining agreement applicable to employees of the qualifying district on the transfer date would be the terms and conditions applicable to employees of the community district.

The bill would appropriate \$250,000 from the General Fund to the Department of Treasury for fiscal year 2015-16 for the purpose of providing financial support for the organization and administration of the community district during that fiscal year.

The bill also would amend the Code to do the following:

- Allow the board of a school district, rather than a school district that operates grades K-12, to be an authorizing body for a public school academy (PSA).
- Revise the conditions under which an authorizing body must be notified and take action when a site is among the 5% lowest-performing schools in the State.
- Expand provisions under which a school district is not required to employ a superintendent.
- Require a constituent district to transfer regional enhancement property tax revenue to another school district or public entity that operated a public school for the constituent district.
- Allow a district to provide public education services through an agreement, contract, or other cooperative arrangement with another public entity, including another school district or an intermediate school district.
- Allow the governing body of a year-round school to designate a date after May 31 and before the first Monday in September as the end of the school year for that school.

In addition, the bill would allow a district, with the approval of the State Treasurer, to issue "school financing stability bonds" for the purpose of eliminating an operating deficit or refunding or refinancing outstanding State aid anticipation notes issued through the Michigan Finance Authority; to pledge as security for repayment State school aid payment, school operating tax revenue, or other revenue; and to enter into an agreement with the Department of Treasury or the Michigan Finance Authority for direct payment of school aid to the Authority or a designated trustee. The bill also would extend borrowing authority to the community district.

Senate Bill 711 (S-4) would amend the Michigan Financial Review Commission Act extend it to a qualified school district; provide for the Financial Review Commission for Detroit also to be the Financial Review Commission for the school district; give the Commission generally the same oversight for the district as it has for the city; authorize the Commission to approve the appointment of the district's chief financial officer; and provide that the district could not terminate its chief financial officer without the Commission's approval.

The bills are tie-barred.

Senate Bill 710 (S-2)

Transfer of Qualifying School District; Transition Manager

The bill would define "qualifying school district" as a school district that was previously organized and operated as a first class school district governed by Part 6 of the Code that has a pupil membership of less than 100,000 enrolled on its most recent pupil membership count day, including a school district that was previously organized and operated as a first class school district before the bill's effective date. (Detroit Public Schools meets the criteria of the definition.)

Beginning on the bill's effective date, if a school district were or became a qualifying school district, the district would lose its organization and be dissolved as provided in the bill. In that

event, except as otherwise provided, all records, funds, and property of the district would be transferred on the transfer date to a community district created with the same geographic boundaries as the qualifying school district. A school building or other real property owned by and located in the qualifying school district would become part of and owned by the community district.

("Transfer date" would mean the first July 1 after the date a school district becomes a qualifying school district. For a school district that became a qualifying school district on the bill's effective date, the transfer date would be July 1, 2016.)

If the qualifying school district had outstanding debt on the transfer date, it would retain a limited separate identity as a school district and its territory would continue as a separate taxing unit only for the limited public purposes of repayment of the debt until it was retired and protecting the credit of the State and its school districts.

Before the transfer date, the Governor would have to appoint an individual authorized to exercise powers of the qualifying school district as the transition manager for the community district to perform functions and satisfy responsibilities until the elected members of the school board of the community district were elected and took office. Until that occurred, the transition manager would have to exercise the powers, perform the functions, and satisfy the responsibilities of the school board and officers of the community district, and would have to perform the functions and satisfy the responsibilities of the school board and officers of the qualifying district relating to the repayment of debt and the dissolution of the qualifying district. These functions and responsibilities would include at least all of the following:

- Certifying and levying taxes for satisfaction of the debt in the name of the qualifying school district.
- Conducting school district elections.
- Doing all other things relative to the repayment of the outstanding debt, including levying or renewing a school operating tax or refunding or refinancing debt at a lower rate.
- Doing all other things relative to the dissolution of the district.

All of the following would apply on the transfer date:

- The community district would acquire, succeed to, and assume the exclusive right, responsibility, and authority to own, occupy, operate, control, use, lease, and convey the facilities of the qualifying school district existing on the transfer date.
- The community district would acquire, succeed to, and assume all rights, title, and interests in and to the fixtures, equipment, materials, furnishings, and other personal property owned and used by the qualifying school district as of the transfer date.
- Except as otherwise provided, the community district would acquire, succeed to, and assume all of the rights of the qualifying school district relating to it under any ordinances, agreements, or other instruments and under law.
- The community district would have the right and authority to own, occupy, operate, control, use, lease, and convey the transferred facilities, subject to any liens on the real property and restrictions on its use.
- Except for debt or other obligations retained by the qualifying district, the community district would have the qualifying district's right, title, and interest in, and all of the qualifying district's responsibilities and authority arising under, leases, concessions, and other contracts for facilities.
- All records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, or general administration of the qualifying district would be transferred to the community district.

The community district also would acquire, succeed to, and assume all of the rights, duties, and obligations under a collective bargaining agreement applicable to the qualifying district

on the transfer date. The terms and conditions of that agreement applicable to employees of the qualifying district on that date would be the terms and conditions applicable to the employees of the community district, and the community district would be the successor employer for employees of the qualifying district on the transfer date.

A transfer to a community district would not impair a contract with a party in privity with the qualifying school district.

Upon the transfer to a community district, the qualifying school district would be relieved from all operational jurisdiction over the district and facilities, and from all further costs and responsibilities arising from or associated with operating a public school or providing public education services, except as otherwise required under obligations retained by the qualifying district, including debt.

The qualifying school district would be required to do all of the following:

- Refrain from any action that would impair the community district's exercise of powers granted to it under the bill, or that would impair the efficient operation and management of the community district.
- Take all action reasonably necessary to cure any defects in title to property transferred to the community district.
- Upon creation of the community district and before the transfer date, conduct operations of the qualifying school district in the ordinary and usual course of business.
- Comply with the terms and conditions of any loan agreement between the qualifying school district and the Local Financial Emergency Assistance Loan Board, including any terms and conditions providing for the payment of transitional operating costs.
- Notify the State Treasurer upon the repayment of all outstanding operating obligations of the qualifying school district.
- Notify the State Treasurer upon the repayment of all outstanding debt of the qualifying school district.

As permitted under Federal law, on the transfer date, the Superintendent of Public Instruction would have to allocate to the community district all applicable grants under specified sections of the U.S. Code, and other Federal funds that otherwise would be made available for grants to or Federal funding for the public school, or make other adjustments in the allocation of Federal funds to implement the transfer of functions and responsibilities for the public school.

Dissolution of Qualifying School District & Board

When the members of the initial elected school board of the community district were elected and assumed their duties, the school board of the qualifying school district would be dissolved and the functions and responsibilities of the district would have to be exercised by the community district on behalf of the qualifying school district until it was fully dissolved.

If the State Treasurer were notified that all outstanding operating obligations of the qualifying school district had been repaid, the Treasurer would have to verify whether all of its outstanding obligations had been repaid. The Treasurer also could determine that the outstanding operating obligations had been satisfied without notice. If he or she determined that all outstanding operating obligations had been repaid, the State Treasurer would have to certify the repayment in a written notice to the community district.

If the State Treasurer were notified that all outstanding debt of the qualifying school district had been repaid, he or she would have to verify that repayment. The Treasurer also could determine that the outstanding debt had been satisfied without notice. If the Treasurer determined that all of the outstanding debt of the qualifying district had been repaid, he or she would have to certify the repayment to the community district.

Upon certification by the State Treasurer that all outstanding debt had been repaid, the qualifying school district would be fully dissolved and any remaining assets would be transferred to the community district.

The bill would define "operating obligation" as debt of a school district incurred for purposes of financing the operation of a school district or public schools operated by a school district, including financial stability bonds and an emergency loan under the Emergency Municipal Loan Act, and transitional operating costs. Operating obligation would not include debt incurred for the purpose of constructing, renovating, maintaining, or otherwise improving school facilities unless the debt was incurred as a transitional operating cost.

"Transitional operating cost" would mean a cost of operating public schools incurred by the community district as a result of the transfer of functions and responsibilities from the qualifying school district to the community district, as agreed to in writing, including academic and instructional support, professional transition costs, payments to vendors, cash flow needs, insurance, academic program expenditures, deferred maintenance, space consolidation, and facilities rationalization. "Transitional operating cost" would include up to \$1.0 million per school year for up to 10 years to pay for the operation of any education commission in place for the community district.

"Debt" would mean that term as defined in the Revised Municipal Finance Act and all of the following:

- Obligations of the qualifying school district under an energy installment purchase contract.
- Obligations of the qualifying school district under a capital lease.
- Any unpaid amounts payable by the qualifying school district to the Michigan Public School Employees' Retirement Board.
- The repayment of any loan or obligations under any loan agreement between the qualifying school district and the Local Financial Emergency Assistance Loan Board, including any terms and conditions providing for the payment of transitional operating costs not to exceed an amount equal to 3% of the taxable value of the district.
- The repayment of school financing stability bonds.
- Any other monetary obligations of the qualifying school district.

(The Revised Municipal Finance Act defines "debt" as all borrowed money, loans, and other indebtedness, including principal and interest, evidenced by bonds, obligations, refunding obligations, notes, contracts, securities, refunding securities, municipal securities, or certificates of indebtedness that are lawfully issued or assumed, in whole or in part, by a municipality, or will be evidenced by a judgment or decree against the municipality.)

Community District

Creation. Effective 30 days after a school district became a qualifying school district, a community district would be created for the same geographic area of that qualifying school district to provide public education services for residents of that geographic area and to otherwise exercise the powers of a community district for that geographic area beginning on the transfer date.

The community district would be governed by Part 5B of the Code, which the bill would enact, the provisions of Article 2 of the Code that were not inconsistent with Part 5B, and Articles 3 and 4. (Article 2 addresses such topics as school elections, the powers and duties of school boards, bonds and notes, school taxes, condemnation, professional development, and compulsory school attendance. Article 3 pertains to special education programs and services. Article 4 pertains to violations.)

The community district would be a political subdivision and public body corporate separate and distinct from the State and other school districts in the State.

A school district governed by Part 5B would be under the jurisdiction of and governed by the school board of the community district, subject to Section 12b (which contains the provisions for the transfer of the qualifying district to the community district, including the appointment of a transition manager).

Except as otherwise provided in Part 5B, the community district would have to be organized and conducted in the same manner as a general powers school district. Except as otherwise provided by law, a community district would have all of the powers of a general powers school district and all additional powers granted by law to the community district or its school board.

The bill would include a community district in the Code's definition of "school district".

School Board. The school board for the community district would have to consist of nine school electors of the district. If the geographic boundaries of the community district included a single city and members of its governing body were elected from nine or fewer electoral districts, a member of the community district board would have to be elected from each of the electoral districts. If the city had fewer than nine electoral districts for members of its governing body, a member of the school board residing in each electoral district would have to be elected from each electoral district and the remaining members would have to be elected on a districtwide basis.

The initial members of the school board would have to be elected at the first August regular election after the transfer date. Three of the initial members would have to be elected for a term ending in the seventh December 31 after the transfer date, three for a term ending on the fifth December 31 after the transfer date, and three for a term ending on the third December 31 after that date. At least 30 days before the election, the transition manager would have to prescribe which position on the board would be elected for each initial term. The term of an initial member would begin upon the certification of his or her election. After the initial terms, each school board member would have to be elected to a six-year term beginning on January 1 following the member's election.

A member of the school board for the qualifying school district could not also serve as a member of the school board of the community district. A member of the board of the community district could not also serve as a member of the board of the qualifying district.

Superintendent; Annual Evaluation. The school board of the community district would be required to employ a superintendent. Within 90 days after the initial board took office, the board would have to appoint an initial superintendent for the district. The initial superintendent would have to be selected based upon his or her demonstrated ability, record of competence, experience in increasing academic achievement, experience with education reform and redesign, and expertise in the turnaround of academically underperforming urban schools.

On an annual basis, the school board would have to evaluate and issue a report on the performance of the superintendent.

Also on an annual basis, the board would have to evaluate and issue a report on the performance of the community district, based on the following factors:

- The proportion of pupils enrolled in the district who achieved scores at least equivalent to proficient on State assessments.
- The proportion of pupils enrolled in the district who achieved at least one year of academic growth in a school year.

-- The proportion of graduates from or pupils enrolled in the district who were enrolled in some form of postsecondary education or career and technical education.

Financial Oversight. The community district would be subject to financial oversight by a financial review commission to the extent provided in the Michigan Financial Review Commission Act. If a financial review commission were in place for the community district, the appointment of a chief financial officer for the district would be subject to the commission's approval. Before the appointment was final, the school board would have to submit the proposed appointment to the commission for its approval. If the commission did not approve the appointment within 45 days after it was submitted, the appointment would be denied.

In addition, if a financial review commission were in place for the community district, the district could not terminate the employment of the chief financial officer unless the commission approved that action.

Levy of School Operating Tax. If another school district were authorized to levy a school operating tax within the geographic boundaries of the community district during a tax year, the community district could not levy a school operating tax during that tax year.

Public Library. Part 5B would not repeal or affect a general law or local law governing the management and control of a public library established in the community district under Part 5B or a first class school district under Part 6. Any powers and duties of a qualifying school district relating to the management and control of a public library would be transferred to the community district on the transfer date.

Borrowing. Subject to certain restrictions, Section 1225 of the Code allows a school board or intermediate school board to borrow money and issue notes of the district in order to secure funds for school operations or to pay previous loans obtained for that purpose.

A school board or intermediate board may make more than one borrowing under Section 1225 during a school year. With the approval of the State Treasurer, a school board or intermediate board also may obtain a line of credit to secure funds for school operations or to pay previous loans for that purpose. Under the bill, these provisions also would apply to the school board of the community district.

Section 1351a allows a school district to borrow money and issue bonds of the district to defray the costs of purchasing, remodeling, or equipping school building and other facilities, furnishing school buildings, acquiring, developing, or improving sites for school buildings, and purchasing and equipping school buses. A school district may not borrow money and issue notes under Section 1351a for certain costs related to software and media. Under the bill, these provisions also would apply to the community district.

Hiring Teachers. The school board of the community district could employ qualified teachers and other qualified instructional personnel at a public school that formerly operated as an achievement school as necessary to carry out the purposes of the district. "Achievement school" would mean a school operated or authorized by a public body corporate created under an interlocal agreement between the school district and a State public university. (The Education Achievement Authority, which the bill would eliminate, was created under this interlocal agreement to operate a number of lowest-achieving schools in Detroit.)

For 24 months after the termination of the interlocal agreement or until June 30, 2018, whichever was earlier, the terms and conditions of a contract for or employment of individual previously contracted for or employed at a school that formerly operated as an achievement school would have to be the same as those terms and conditions that applied to the individuals before the termination of the interlocal agreement.

Presumption of Validity. The validity of the formation of the community district would have to be conclusively presumed unless questioned in an original action filed in the Court of Appeals within 60 days after the district was created. The Court would have to hear the action in an expedited manner.

Education Commission

Membership; Organization. The bill would require an Education Commission to be in place for the community district for five years after the transfer date, subject to a possible extension of up to five years (as discussed below). Except as provided for the initial members, the Commission would have to consist of seven members appointed by the chief administrative officer (the mayor of Detroit) as follows:

- Two members with at least five years of experience in teaching in, serving as a school administrator in, or serving on the board of directors of a public school academy that is located within the community district and is authorized by the governing board of a State public university that serves as the authorizing body for at least five PSAs within the district.
- Two members with at least five years of experience teaching or serving as a school administrator in a public school operated by the community district or by a first class school district with the same boundaries as the district.
- One member who, at the time of appointment, is the parent of at least one pupil who is currently enrolled, and has been enrolled for at least one full school year, in a PSA that meets the criteria for a PSA described above.
- One member who, at the time of appointment, is the parent of at least one pupil who is currently enrolled, and has been enrolled for at least one full school year, in a public school operated by the community district.
- One member with expertise in public school accountability systems and school improvement, and experience with the implementation of academic accountability systems.

In the case of a parent member, if the member ceased to have a child enrolled in a PSA meeting the bill's requirements or in a public school operated by the district, as applicable, the member would be considered to have vacated his or her office.

The chief administrative officer would have to ensure that, at all times, at least five members were residents of the community district.

Commission members would have to serve for staggered terms of four years. To achieve this, of the members initially appointed, the chief administrative officer would have to appoint two for initial terms of one year, two for initial terms of two years, two for initial terms of three years, and one for an initial term of four years.

The chief administrative officer would have to appoint the initial members within 60 days after the initial members of the school board of the community district took office. If the chief administrative officer did not make an appointment within that 60-day period, the Superintendent of Public Instruction would have to make the appointment within 75 days after the initial members of the school board took office.

The chief administrative officer could remove a member of the Education Commission from office for corrupt or willful malfeasance in office or for willful neglect of the duties of the member's office. The chief administrative officer also could remove a member who had ceased to be a resident if removal were necessary to comply with the bill's residency requirement.

The Commission would have to meet at least monthly for as long as it was in place, and would have to report regularly on its activities to the school board of the community district. Within

three months after its first meeting, the Commission would have to adopt and implement a conflict of interest policy.

The Commission and its members would have governmental immunity as provided in Section 7 of the governmental immunity law (which provides for immunity from tort liability for governmental agencies; boards, councils, and commissions of governmental agencies; and their officers, members, employees, and volunteers).

In carrying out its functions and responsibilities, the Education Commission would have to solicit input and consider recommendations from community groups, parent-teacher groups, and other interested parties with relevant experience.

Upon request by the chief administrative officer, the State School Reform/Redesign Officer could order that the Commission remain in place for an additional five-year period after the initial five-year period expired. The SRRO could not issue this order unless he or she determined that the Commission had been effective in achieving a turnaround in the community district based on the following factors:

- A stabilization of or increase in the total membership enrolled in public schools located in the district.
- The academic growth and performance of pupils enrolled in those schools.
- Improvement in the district's financial condition.

The Education Commission would be subject to the leadership and general supervision of the State Board of Education over all public education to the extent provided under the State Constitution. The Commission could accept and retain money or other assets from any public or private source for the purposes of performing its functions and satisfying its obligations under the Code and creating and providing incentives for public schools to locate in areas identified as priority zones (as discussed below). In distributing funds or assets to public school entities, the Commission could not discriminate between classes of public school entities.

The Education Commission would be exempt from all taxation on its earnings and property. Instruments of conveyance to or from the Commission would be exempt from all taxation, including the real estate transfer tax.

The Commission would have to select financial institutions for the deposit of its funds, and keep a set of coded accounts to be approved by the Superintendent of Public Instruction. The Commission would have to have its books audited at least annually by a certified public accountant, and give a copy of the audit report to the State Treasurer.

At the end of the initial five-year period or the additional five-year period, as applicable, the Commission would have to be fully dissolved and any remaining assets of the Commission would have to be transferred to the community district.

Unless expressly provided in the Code, the Commission could not directly or indirectly operate a public school or provide educational services to any pupil.

The Commission would have to comply with all of the following:

- The Open Meetings Act.
- The Freedom of Information Act.
- The Uniform Budgeting and Accounting Act.
- Public Act 317 of 1967 (which governs contracts of public servants with public entities).
- Public Act 566 of 1978 (which pertains to incompatible public offices).

Siting Report & Recommendations. Within six months after appointments to the Education Commission were completed, the Commission would have to prepare and make publicly available a report on the siting of existing and future public schools within the community district. The report would have to make specific siting recommendations for public schools within the district. After the Commission had completed that report, it would have to prepare and make publicly available an annual report updating the information and recommendations. The Commission would have to give a copy of the first report and each annual report to the board of the district, the SRRO, the authorizing body of each PSA within the district, and the standing committees of the Legislature with responsibility for education legislation.

The Commission would have to make its siting recommendations based on the siting of existing public schools within various geographic areas within the community district. The recommendations would have to identify as "priority zones" those geographic areas where there was extraordinary need for the siting of new public schools to serve residents of the areas. Also, the Commission would have to make its siting recommendations based on the siting of existing public schools within each of the zip codes in the district. The recommendations would have to be broken down by grade configurations and take into account at least all of the following:

- The ratio of school-age population to the enrollment capacity of existing public schools within each area.
- The academic opportunities available at the existing public schools within each area based on factors identified by the Commission, including standardized test scores, pupil attendance, employee attendance and turnover, and parental satisfaction.
- The condition of the existing public school facilities within each area, including their geographic distribution, physical condition, suitability for alternative grade configurations, and enrollment capacity.
- The demographics and general characteristics of neighborhoods within each area, including school-age population, enrollment trends, crime rates, and housing inventory.
- The adequacy of transportation and other public services available to existing public schools within each area.

These provisions would not authorize the Commission to establish or recommend a cap, ban, or moratorium on the opening of new public schools within the community district; to regulate or audit any aspect of the operations of an existing or future PSA or authorizing body; or to exercise any other power or authority not expressly granted to the Commission under Part 5B or necessarily incident to a power expressly granted.

As part of the required reports, the Commission could include an assessment of the academics and operations of the community district and make recommendations on the use of facilities, enrollment, building capacity, transportation, student proficiency and growth, graduation rates and trends, special education, wrap-around services, and other related matters.

Opening of New Schools

If the Education Commission were in place, the school board of the community district could not take action to approve the opening of a new public school and an authorizing body could not contract for a new PSA to be located in the district without siting approval by the Commission. Siting approval would not be required, however, if a school met either of the conditions described below.

First, if the accountability system proposed by the bill had been in effect for fewer than three school years, siting approval would not be required if the new school would be operated by the school board of the community district and would replicate a specific existing school that was operated by district and had achieved a letter grade of A or B for each school year for which the accountability system had been in place. If the accountability system had been in

effect for at least three years, approval would not be required if the new school would be operated by the board of the community district and would replicate an existing school operated by the district that, as of the date of final action to approve the new school, had achieved a letter grade of A or B for the three most recent school years for which data were available. For these purposes, there could not be more than one new school replicating a specific existing school.

The second exception to the siting approval requirement would be generally the same as the first, but would apply to a public school academy that would replicate a specific existing public school that was operated by the same governing board or educational management organization that would operate the new PSA.

A new school would be considered to be replicating an existing school if the new school would operate using the same educational and operational models as the existing school, would operate the same age or grade configuration as the existing school, and would have a demographically similar expected pupil population as the existing school.

For a proposed new public school that was not exempt from the siting approval requirement, before the school board of the community district took action to approve the school's opening or before an authorizing body issued a contract for a new PSA to be located in the district, the school board or authorizing body would have to submit a written request for siting approval to the Education Commission. The Commission would have to consider and approve or disapprove the request within 90 days after it was submitted. The request would be considered approved if the Commission did not disapprove it within that 90-day period.

If the Commission disapproved a siting approval request, the person submitting it could appeal that decision to the Superintendent of Public Instruction within 30 days after the date of disapproval. The Superintendent would have to consider the appeal within 60 days after it was submitted. Unless the Superintendent determined within that period that the disapproval was arbitrary and capricious, he or she would have to affirm the disapproval. If the Superintendent, within the 60-day period, issued to the person submitting the request and the Education Commission a finding that the disapproval was arbitrary and capricious, the siting approval request would have to be considered approved. The Superintendent's decision would be final and not subject to further appeal.

For a proposed new school that was exempt from the siting approval requirement, before the board of the community district took action to approve the opening of the school or an authorizing body issued a contract for a new PSA within the district, the school board or authorizing body would have to give the Education Commission at least 90 days to submit written comments concerning the location of the proposed new school, unless the Commission agreed in writing to waive the comment period. If the Commission submitted written comments, the school board or authorizing body would have to consider the comments as part of its decision whether to take final action to approve the opening of the new school or to issue a contract for the new PSA, as applicable.

As part of this comment process, the Education Commission could request the State School Reform/Redesign Officer to review a proposed new school to ensure that it met the standards for being considered to be replicating an existing school. If the SRRO determined that a proposed new school did not meet those standards, he or she would have to notify the school board or the authorizing body, as applicable, of that determination.

Community District Accountability System

Establishment, Implementation, Administration, & Adjustment. The bill would require the State School Reform/Redesign Officer to establish, implement, and administer a community district accountability system for all public schools located within the boundaries of the district,

including all schools operated by the district and all PSAs located within its boundaries. If the Education Commission were in place, the SRRO would have to establish and implement the accountability system according to the following:

- Within 30 days after it was created, the Commission could recommend to the SRRO an accountability system that complied with the bill.
- If the Commission timely submitted a recommendation, the SRRO would have to approve the recommendation or disapprove it with specific reasons for disapproval, within 30 days after receiving the recommendation, and would have establish and implement the recommended system if the recommendation were approved.
- If the Commission's recommendation were disapproved, the SRRO would have to submit the reasons for disapproval to the Commission, which then would have 15 days to submit a revised recommendation.
- If the Commission submitted a revised recommendation, the SRRO would have to approve it or approve it with changes, and establish and implement the recommended system, without being required to obtain any other review or approval.
- If the Commission did not submit a timely recommendation, the SRRO would have to establish and implement an accountability system that complied with the bill as he or she determined and would not be required to obtain any other review or approval.

As soon as possible after completing this process, the SRRO would have to implement and administer the accountability system. After the system was implemented, the SRRO could make adjustments to it, not more often than annually. If the Education Commission were in place, the Commission could request the SRRO to review the system and make adjustments, not more often than annually. If the Commission made such a request, the SRRO would have to review the system and each requested adjustment. The SRRO would have to make a requested adjustment unless he or she determined, after consultation with the Commission, that there was a substantial likelihood that better results would be achieved by not making the adjustment or that the adjustment was not consistent with the bill.

Letter Grade/Point Scale. The community district accountability system annually would have to assign a letter grade of A, B, C, D, E, or F to each public school located within the district's boundaries. The letter grades would have to be based on a point scale from 0 to 100, using the total points achieved by a school to determine the letter grade. The SRRO would have to determine how many points were necessary for each letter grade.

The points would have to be assigned based on a school's performance on proficiency measures, growth measures, and nonacademic measures. If possible, a school's performance on these measures would have to be based on the average of the results from the two most recent school years for which the data were available. If two years of data were not available for a particular measure, the school's performance for that measure would have to be based on the results from the most recent school year for which data were available.

In determining the number of points to be assigned for each public school in the community district, the SRRO would have to ensure that at least 80% of the total points assigned were based on the combined weight given to proficiency measures and growth measures. Of that combined weight, growth measures would have to account for at least 50% and not more than 70%.

For a public school that operated any of grades kindergarten to eight, proficiency measures would have to include overall proficiency as measured on the English language arts and math portions of the M-STEP, and proficiency for continuously enrolled pupils as measured on those portions of the M-STEP. ("M-STEP" would mean the Michigan Student Test of Educational Progress or a successor statewide assessment adopted by the Department of Education.)

For a public school that operated any of grades nine to 12, proficiency measures would have to include all of the following:

- The percentage of pupils graduating within four years.
- Pupil scores on the college entrance exam component of the Michigan Merit Exam.
- The percentage of pupils enrolled in the school in college-level equivalent courses and the percentage of those pupils who passed the courses and achieved the score on a college-level equivalent exam required to qualify for credit for each of those courses.
- Overall proficiency as measured on the social studies and science portions of the M-STEP.

For a public school that operated any of grades kindergarten to eight, growth measures would have to include all of the following:

- Overall growth among all pupils enrolled in the school for the full school year as measured by growth achieved from one school year to the next on the English language arts and math portions of the M-STEP.
- Growth among continuously enrolled pupils as measured on those portions of the M-STEP.
- Growth among the bottom 30% of pupils enrolled in the school as measured on those portions of the M-STEP.

For a public school that operated any of grades nine to 12, growth measures would have to include progress made in improving the percentage of pupils graduating within four years, and progress made in improving pupil scores on the college entrance exam component of the Michigan Merit Exam.

Nonacademic measures would have to be based on all of the following, regardless of grade level:

- Student survey results, which would have to be procured from a third-party vendor and include measures of student engagement and pupils' perceptions of school safety and learning environment.
- Year-to-year reenrollment rates.
- Absenteeism rates.
- Parent participation in school satisfaction surveys.

The accountability system required for the community district would have to remain in effect until a State accountability system for all public schools in the State was established by the Legislature and was designated as replacing the accountability system for the district.

Implementation of School Intervention Model

Except for an alternative school serving a special student population, and subject to requirements discussed below, if a school operated by the community district had been assigned a grade of F, or were among the lowest-achieving 5% of all public schools in the State, for three consecutive school years, or for three of the preceding four or five school years, the State School Reform/Redesign Officer would have to order the community district to implement one of the school intervention models specified in Section 1280c(2) or another intervention model authorized by the SRRO, effective by the end of the current school year.

(Under Section 1280c(2), schools that are identified as among the lowest-achieving 5% of all public schools in the State must be placed under the supervision of the SRRO and submit a redesign plan that requires the implementation of one of four intervention models: the turnaround model, restart model, school closure, or transformation model.)

If the Education Commission were in place, before ordering the community district to implement one of the intervention models for a school, the SRRO would have to notify the

Commission, which could make a recommendation on the model that should be implemented. The SRRO would have to order the district to implement the model recommended by the Commission unless he or she determined, after consultation with the Commission, that there was a substantial likelihood that better results would be achieved by implementation of another model. The SRRO's decision would be final and not subject to appeal.

Lease or Interlocal Agreement with EAA

If the qualifying school district were a party to a lease between the district and an achievement authority, the community district could not renew or extend the lease on or after the transfer date.

If the qualifying district were a party to an interlocal agreement with a State public university creating an achievement authority, as soon as possible after the transfer date the community district would have to take action to withdraw from that agreement to the extent it permitted. In addition, the community district would not be authorized to jointly exercise any powers, privileges, or authority under the agreement after the June 30 following the transfer date.

General Powers School District

The Code requires each school district to be organized and conducted as a general powers school district regardless of previous classification. This does not apply to a school district of the first class. The bill would make another exception for a community district.

A general powers school district has all of the rights, powers, and duties expressly stated in the Code; may exercise a power implied or incident to a power expressly stated in the Code; and, except as otherwise provided by law, may exercise a power incidental or appropriate to the performance of a function related to operation of the school district in the interests of public elementary and secondary education in the district. The bill would refer to a function related to operation of a public school and the provision of public education services.

The powers of a general powers school district include educating pupils. The bill specifies that a school district could do either or both of the following:

- Educate pupils by directly operating one or more public schools on its own.
- Cause public education services to be provided for pupils of the district through an agreement, contract, or other cooperative arrangement with another public entity, including another school district or an intermediate school district (ISD).

A general powers school district also may hire, contract for, schedule, supervise, or terminate employees, independent contractors, and others. Under the bill, these would include another school district or an ISD.

In addition, a general powers school district may enter into agreements or cooperative arrangements with other entities, or join organizations as part of performing the functions of the district. Under the bill, a general powers school district could enter into agreements, contracts, or other cooperative arrangements with other entities, including another school district or ISD, or join organizations.

Public School Academies

The Code allows certain entities to act as an authorizing body to issue a contract to organize and operate one or more public school academies. These entities include the board of a school district that operates grades K to 12. Also, the definition of "authorizing body" includes the board of a school district that operates grades K to 12. In both of these provisions, the bill

would refer, instead, to the board of a school district. (The bill would make the same changes with respect to the authorizing body of a school of excellence.)

The Code requires an application for a contract to organize and operate a PSA to contain specified information and documents, including a copy of the educational goals of the PSA, the curricula to be offered, and the methods of pupil assessment to be used. To the extent applicable, the progress of pupils must be assessed using at least a Michigan Education Assessment Program (MEAP) test. The bill, instead, would require pupil progress to be assessed using both the mathematics and reading portions of the M-STEP.

Currently, if a PSA site that has been operating for at least four years is determined to be among the lowest-achieving 5% of all public schools in the State, is in year two of restructuring sanctions under the No Child Left Behind Act, and is not currently undergoing reconstitution, the State School Reform/Redesign Officer must notify the PSA's authorizing body (which then must amend or revoke the PSA's contract). Under the bill, this would be required if a PSA site that had been operating for at least four years were determined to be among the lowest-achieving 5% of all public schools in the State for three consecutive school years or for three of the preceding four or five school years, and were not undergoing reconstitution. The bill also would require the SRRO to notify the PSA's authorizing body if he or she determined that a PSA site located in the community district had been assigned a grade of F for three consecutive school years or for three of the preceding four or five school years, unless the PSA were an alternative school serving a special student population.

The bill would make the same changes with respect to an urban high school academy and a school of excellence.

Contract for New PSA

The following provisions would apply to the issuance of a contract for a new public school academy to be located in the community district.

If the Education Commission were in place, the decision whether to issue a contract would be subject to the Commission siting approval requirement unless the new PSA were exempt from that requirement (as described above). Before an authorizing body issued a contract for a new PSA that was exempt from the approval requirement, the authorizing body would have to give the Education Commission at least 90 days to submit written comments about the location of the proposed PSA. If the Commission submitted comments, the authorizing body would have to consider them as part of its decision whether to take final action to issue a contract.

An authorizing body would be prohibited from issuing a new contract to organize and operate a PSA to an existing PSA that had had its contract with its previous authorizing body revoked, terminated, or not renewed or that was currently assigned a letter grade of F under the community district accountability system. This would not apply to the nonrenewal of a contract by an authorizing body if its governing board had made an official determination that it would not issue or renew any contracts under the Code authorizing the operation of a PSA regardless of the merits of renewing the contract.

The bill would make the same changes with respect to an urban high school academy and a school of excellence.

Superintendent

Currently, in a constituent district not employing a superintendent, the ISD superintendent must recommend all teachers to the school board; suspend a teacher for cause until the

school board of the constituent district employing the teacher consider the suspension; supervise and direct the work of the teachers; and classify and control the promotion of pupils.

Under the bill, these requirements would not apply to a constituent district if both of the following applied:

- The constituent district was not required to employ a superintendent as an employee of the district as provided in Section 1229.
- All of the public schools within the constituent district had been transferred to one or more other school districts or public entities.

Section 1229 provides that a school district, instead of directly employing a superintendent of schools, may contract with its ISD for the intermediate superintendent to serve as the superintendent of schools or to provide another person to do so. Under the bill, a school district also could contract with another person, including the superintendent of another school district, to serve as superintendent of schools for the district. If a school district did not operate a public school directly on its own, it would not be required to employ a superintendent.

Regional Enhancement Property Tax

The Code allows an ISD to levy a regional enhancement property tax of up to three mills if approved by the intermediate school electors. After receiving revenue from the tax, the ISD is required to calculate and pay each of its constituent districts an amount based on each district's proportionate pupil membership of the ISD.

Under the bill, if a constituent district had entered into an agreement with another school district or public entity to perform the functions and responsibilities of the constituent district for operating a public school, then for these purposes, the pupils in membership in that public school would have to be considered to be in membership in the constituent district, and the constituent district would have to transfer a proportionate share of the revenue payable to it to the school district or public entity performing the functions and responsibilities of the constituent district for operating the public school.

The proportionate share of revenue to be transferred would have to be determined according to the percentage of the constituent district's membership enrolled in the particular public school for the State fiscal year corresponding to the tax year.

Revenue from a regional enhancement property tax could not be allocated or paid to a constituent district that did not operate a public school directly but retained a limited separate identity for certain purposes (including the repayment of outstanding debt by a qualifying school district).

Operation of School; Transfer of Functions

The Code requires each intermediate superintendent annually to compile a list of constituent districts that did not operate a school within the district during the preceding two or more years. The superintendent must notify each district on the list to comply with certain requirements, which include either 1) attaching itself totally or partly to one or more operating school districts, or 2) reopening and operating its own school. Under the bill, a district would have to take one of those actions or transfer the functions and responsibilities of the constituent district relating to operating public schools to one or more other public entities authorized to operate public schools, including another school district or an ISD.

A constituent district would have to be considered to have operated a school within the district if it did either or both of the following:

- Directly operated one or more schools on its own.
- Caused public education services to be provided within the school district to residents of the district through an agreement, contract, or other cooperative arrangement with another public entity, including another school district or an ISD.

Kindergarten Enrollment

Under Section 1147 of the Code, beginning with the 2015-2016 school year, a child who resides in a school district may enroll in kindergarten if he or she is at least five years old on September 1 of the school year of enrollment. Under the bill, the child could enroll in kindergarten in a public school operated by the school district, or, for a community district or a school district that did not directly operate schools on its own, in another public school located within the geographic boundaries of the school district.

If a child residing in a district (or a nonresident child who is eligible to be counted in a district's membership under provisions of the State School Aid Act) is not five years old on that enrollment eligibility date but will be five by December 1 of a school year, his or her parent or legal guardian may enroll the child in kindergarten for that school year. Under the bill, the child could be enrolled in a public school operated by the school district, or, for a community district or a school district that did not directly operate schools on its own, in another public school located within the geographic boundaries of the school district.

The bill specifies that Section 1147 would not do either of the following: require a school district to operate a public school directly on its own; or require a school district or PSA that did not otherwise provide kindergarten to do so.

The bill also specifies that Section 1147 would not apply to a school district that did not operate a public school directly but retained a limited separate identity for certain purposes (including the payment of outstanding debt by a qualifying school district).

Designation of School Year End

Under the bill, the governing body for a public school that operated a year-round program or operated as a year-round school could designate a date after May 31 and before the first Monday in September as the end of the school year for the public school. A date adopted by the governing body would be the end of the school year for that school for purposes of the Code and other laws of the State.

School Financing Stability Bonds

The bill would amend Section 1356 to allow a school district that had an operating or projected operating deficit or that had outstanding State aid anticipation notes issued under Section 1225 through the Michigan Finance Authority (MFA), with the approval of the State Treasurer, to borrow and issue notes or bonds for the purpose of eliminating the deficit or refunding or refinancing the notes. The notes or bonds issued under Section 1356 would be known as "school financing stability bonds".

Before a school district issued these notes or bonds, the board of the district would have to provide by resolution for the submission to the Department of Treasury of the following certified and substantiated information:

- An operating deficit existed or would exist in the district or the district had outstanding State aid anticipation notes issued under Section 1225 through the MFA.
- If the district had a deficit, during or before the fiscal year in which the application was made, the district had made every available effort to offset the deficit.

-- The district had a plan approved by the State Treasurer that outlined actions to be taken to balance future expenditures with anticipated revenue and to repay any bonds or notes issued under Section 1356.

The State Treasurer could recognize a deficit elimination plan or an enhanced deficit elimination plan authorized under the School Aid Act as satisfying the requirement for an approved plan.

Using normal school accounting practices, the Department of Treasury would have to determine the existence and amount of an operating or projected operating deficit, and the amount necessary to refund or refinance any school aid anticipation notes issued under Section 1225 through the MFA. The amount of a note or bond could not exceed the amount determined by the Department.

The school district could pledge as security for the repayment of principal and interest on the notes or bonds money from State school aid payments paid or payable to the district, revenue from taxes levied by the district for school operating purposes, and other tax revenue or money of the district legally available as security.

A school district could enter into an agreement with the Department of Treasury or the Michigan Finance Authority, or both, providing for the direct payment on behalf of the district to the MFA or a designated trustee of State school aid pledged for the repayment of principal and interest on notes and bonds issued under Section 1356 in the same manner as an agreement under Section 17a(4) of the School Aid Act. (That section applies to an arrangement made by a district for which an emergency manager is in place or that has an approved deficit elimination plan.)

A school district also could provide for the deposit of revenue pledged for the payment of notes or bonds issued under Section 1356 in a separate account to pay principal and interest on notes or bonds, associated administrative costs, and any other obligations issued by the district secured by the revenue.

If the school district entered into an agreement with a person who had a duty or obligation to collect for, pay, remit, disburse, or distribute to the district all or part of the revenue pledged by the district, the agreement also would have to provide for the direct payment of that revenue, and that the district had pledged for the payment of the notes or bonds, to a trustee to be deposited in a trust account and used only for paying principal of and interest on the notes or bonds and related administrative costs and any other obligations issued or owing by the district and secured by the revenue.

If the school district had entered into an agreement with a trustee for the deposit of revenue pledged by the district into a trust account, then after the notes or bonds were issued and before the revenue was deposited into the trust account, the revenue to be deposited would be held in trust for the benefit of the trustee and the notes or bonds by any person coming into possession of the revenue. The revenue would remain subject to the trust regardless of any subsequent transfer until it was deposited into the trust account.

If the school district or other person held a residual or other interest in the revenue held in trust and to be deposited with the trustee into the trust account, the interest would be subordinate to a lien on the revenue in favor of the trustee for the purpose of ensuring delivery of the revenue to the trust account. The lien would arise by operation of law and without further act or notice of any kind at the earliest time that the school district had or acquired any rights in the revenue pledged under the agreement, would be and remain paramount and superior to any other lien and interest of any kind, and would be perfected without delivery, recording, or notice. The revenue held in trust and to be deposited into the trust account

would be exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the school district other than those expressly specified in the agreement.

Notes or bonds issued under Section 1356 would be valid and binding general obligation bonds of the school district. If a school district did not receive State school aid, the validity of a note or bond issued under Section 1356 would not be affected.

The proceeds of the sale of the notes or bonds, after the payment of the costs of issuance and interest, would have to be used solely for the purpose of paying necessary operating expenses of the school district.

The board of a school district that borrowed under Section 1356 would have to submit its budget for review and approval to the Department of Treasury. The Department would have to take necessary steps to assure that the district's expenditures did not exceed revenue on an annual basis and that the district maintained a balanced budget.

Repeal

The bill would repeal Part 5A of the Code, which provides for the appointment of a school reform board to govern Detroit Public Schools, and other sections of the Code related to a vote on the question of reapportioning the district.

Senate Bill 711 (S-4)

The Michigan Financial Review Commission Act creates a Financial Review Commission for a "qualified city", which is a city with a population of more than 600,000 that is subject to a plan of adjustment of its debts approved and entered by a U.S. bankruptcy court under Chapter 9 of Title 11 of the United States Code (i.e., Detroit).

Under the bill, a Financial Review Commission also would be created for a "qualified school district", which would be a community district organized under Part 5B of the Revised School Code, to which the functions of a qualifying school district had been transferred under Section 12b of the Code.

If a community district became a qualified school district under the Act and the district were located within the geographic boundaries of a qualified city for which a Financial Review Commission was operating under the Act, beginning on the transfer date, as defined in Section 12b of the Revised School Code, the Commission for the city also would be the Financial Review Commission for the school district, and no separate or additional commission would be created for the district.

The Commission must consist of nine members specified in the Act, including the mayor or chief executive officer of the qualified city, or his or her designee, as well as the president or chairperson of the city's governing body, or his or her designee. Under the bill, in addition to those individuals, the Commission would have to include the superintendent of the qualified school district and the chairperson of its school board. The superintendent and school board chairperson would not have a vote on matters relating to the city. The mayor or chief executive officer of the city and the president or chairperson of its governing body, or their designees, would not have a vote on matters relating to the school district.

The Act requires the Commission to provide oversight for the city. The bill also would require the Commission to provide oversight for the qualified school district beginning on the date that the school district became a qualified school district.

The Commission must ensure that the city is complying with the Act, the Revised Municipal Finance Act, the Uniform Budgeting and Accounting Act, and specified sections of the Publicly

Funded Health Insurance Contribution Act and the Home Rule City Act. The bill would require the Commission also to ensure that the qualified school district was in compliance with those laws, as applicable, and the following:

- The Revised School Code.
- Article 1 (State Aid to Public Schools, Early Childhood, and Adult Education) of the State School Aid Act.
- The Public School Employees Retirement Act.

The bill would authorize the Commission to approve the appointment of the qualified school district's chief financial officer. The appointment would be denied if it were not approved within 45 days after written submission by the district. The district could not terminate its chief financial officer without the Commission's approval. The superintendent and the chairperson of the school board would not have a vote on approval.

The Financial Review Commission Act requires the Commission to establish and maintain programs and requirements for the responsible fiscal management of the qualified city. Among other things, the programs and requirements must include the streamlining of the provision of services and review of the compensation and benefits of employees. The bill would extend these provisions to the qualified school district.

Currently, all applicable contracts are subject to review and approval by the Commission, but they must first be approved by the governing body and mayor of the city. The bill would require applicable contracts to be first approved by the governing body and the mayor or chief executive officer of the city or the qualified school district. ("Applicable contract" means a contract for goods or services that either exceeds \$750,000, or a higher amount determined by the Commission, or is for a term exceeding two years. "Applicable contract" also includes multiple contracts for less than \$750,000, or a higher amount determined by the Commission, with one entity that, in the aggregate, exceed \$750,000 or the higher amount within a 12-month period.)

Under the Act, the qualified city, when required by the Commission, must present written reports regarding its financial stability and must permit the Commission to audit or inspect financial statements, actuarial reports, revenue estimates, and all other documents, data, or findings that the Commission considers necessary to carry out its purpose. The bill would extend this requirement to the qualified school district.

The bill also would include references to the qualified school district, its governing body, or its chief financial officer in provisions that do the following:

- Require the Commission, on June 1 and December 1 of each year in which it has oversight over the city, to file a written report with the Governor.
- Require the Commission to approve all collective bargaining agreements to which the city is a party after approval of its governing body and mayor.
- Require the mayor, governing body, and chief financial officer of the city, at least 45 days before the beginning of each fiscal quarter, to certify to the Commission the amount of debt service due on bonds, leases, or other debt.

(Also, where current provisions refer to the city's mayor, the bill would add "or chief executive officer".)

In addition, the bill would include references to the qualified school district, its governing body, or its chief financial officer in provisions that authorize the Commission to do the following:

- Review, modify, and approve proposed and amended operational budgets of the city.

- Require the city's chief financial officer to give the Commission information it requests related to the city's finances, and require the city to remove the chief financial officer and appoint a successor if he or she fails to comply.
- Review and approve requests by the city to issue debt under the Revised Municipal Finance Act or any other law governing the issuance of bonds or notes.
- Review the appointment of the city's chief financial officer.
- Review the city's compliance with a deficit elimination plan.
- Require the development and implementation of financial best practices for the city.
- Require the pursuit of financial or managerial training to ensure the proper discharge of duties for the city.
- Require the city and its employees or agents to timely produce all information and documents, and provide access to all information on assets, services, records, and other materials or documents the Commission determines are necessary to carry out its responsibilities.
- Require officers or employees of the city to attend Commission meetings.

The Act requires the Commission to waive requirements concerning its oversight if various conditions are met. These include certification by the Commission that the city has adopted and adhered to deficit-free budgets for three consecutive years; demonstration by the city that it has sufficient ability to borrow in the municipal securities market; and certification by the Commission that the city is in substantial compliance with the Act. The city also must have established employee retirement plans that meet certain criteria. Under the bill, the Commission also would have to waive oversight requirements for the school district if generally the same conditions were met. Instead of the employment plans required of the city, the school district would be required to have fully satisfied all of its obligations to the system created under the Public School Employees Retirement Act.

The Act also requires the Commission to rescind its waiver of oversight if certain circumstances occur or there is a substantial likelihood that they will imminently occur. This applies, for example, if the city fails to pay the principal of or interest on any municipal securities when due or payable; the city incurs a budget deficit in a fiscal year equal to or more than 5% of the total expenditures in that year; the city issues municipal securities without the Commission's authorization or in violation of the Revised Municipal Finance Act; or the city's chief financial officer has resigned or been terminated and a successor has not been appointed within 180 days. The bill also would require the Commission to rescind its waiver of oversight for the school district under generally the same circumstances.

The Act requires the Commission to dissolve itself if it has waived its oversight requirements each year for the immediately preceding 10 consecutive fiscal years, and the plan for adjustment has expired. Under the bill, the Commission for the qualified district could not dissolve itself until the State Treasurer certified the payment in full of all outstanding debt of the school district from which functions and responsibilities were transferred to the qualified district under Section 12b of the Revised School Code.

If the Commission were in place for both the qualified city and the qualified district and the requirements for dissolution had been met for the qualified city or the requirements for dissolution had been met for the qualified district, the city or the district would have to be released from oversight by the Commission.

MCL 380.3 et al. (S.B. 710)
141.1632 et al. (S.B. 711)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 710 (S-2)

State: The fiscal impact of Senate Bill 710 (S-2) would depend, in part, on whether Senate Bill 819 is enacted. If Senate Bill 819 is enacted to provide for the financing of the Detroit Public Schools (DPS) debt to be paid by allowing the "old" district (the "qualifying district") to retain its identity as a taxing authority, while the "new" district (the "community district") would not levy basic operating millage to finance its foundation allowance (requiring the State to pay 100% of the community district's per-pupil funding), then the cost to the State of Senate Bill 710 (S-2) would be roughly \$71.0 million per year until the qualifying district's debt was repaid (estimated at 10 years). The existing debt is estimated by the Department of Treasury to total \$515.0 million, which includes \$45.0 million for fiscal year (FY) 2015-16 in cash assistance, recently included by the Legislature under House Bill 5296 (Public Act 54 of 2016). Senate Bill 710 (S-2) would allow for transitional operating costs not to exceed 3% of the taxable value of the qualifying school district (in this case, 3% of DPS' taxable value is roughly \$202.0 million) to be included in school financing stability bonds, thereby adding the \$202.0 million to the \$515.0 million in existing debt, for a total of an estimated \$717.0 million, which would be the cost to the State if the proposed plan were enacted.

However, the debt financing proposal described above would be only partially covered by Senate Bill 710 (S-2); in fact, Senate Bill 819 includes amendments to the State School Aid Act (SAA) to first provide the "new" district with a foundation allowance and then provide that the State would pay 100% funding of that foundation allowance. Currently, the SAA requires local districts to levy operational mills in partial support of the cost of a district's foundation allowance. In the current year, DPS levies 18 operational mills, bringing in \$71.3 million yearly. This equates to \$1,687 per general education pupil, which is applied toward DPS' \$7,434 per-pupil foundation allowance, and the State makes up the difference of \$5,747 per general education pupil. (This is the same formula calculation for all districts: Local districts are required to levy mills for basic operations, and the State pays the difference between what is received in local revenue and the district's foundation allowance, capped at the basic foundation allowance. Foundation allowances for public school academies, or charter schools, are 100% State funded because charters do not levy mills.)

If Senate Bill 710 (S-2) were enacted with the concurrent enactment of Senate Bill 819, that would trigger the fiscal impact on the State, estimated at \$71.0 million per year, which is equal to the diversion of the operating taxes to pay off debt. Again, this has been estimated by the Department of Treasury to total \$515.0 million in existing debt, plus the maximum \$202.0 million proposed under Senate Bill 710 (S-2) for allowable transition costs.

There are other provisions of the bill that could or would have fiscal impacts on the State. First, and most straightforward, the bill would appropriate \$250,000 from the General Fund to the Department of Treasury, which would be a cost increase to the State. Second, as mentioned above, the bill would allow for transitional operating costs (which would include up to \$1.0 million per year to fund the Education Commission) not to exceed 3% of the taxable value of the qualifying school district (or roughly \$202.0 million) to be included in school financing stability bonds, and ultimately considered part of the qualifying district's debt. Third, the bill would allow school districts to "cause education to be provided" for pupils through an agreement with another public entity, and if those other public entities were not part of the retirement system, it is possible that higher stranded retirement costs could occur, again paid by the School Aid Fund. Fourth, the additional requirement for the State Reform/Redesign Office (SRRO) to develop an accountability system for schools located in the community district could require additional resources; since the SRRO is funded under the Department of Technology, Management, and Budget, this could be an additional State cost.

Local (DPS): As mentioned above, amendments to the School Aid Act under Senate Bill 819 would provide the community district established under Senate Bill 710 (S-2) with a foundation allowance and allow for that foundation allowance to be fully funded by the State. The bill would provide up to an estimated \$202.0 million in "transitional operating cost" revenue to pay for the cost of operating schools incurred by a community district as a result of the transfer of functions and responsibilities from a qualifying district, and to support the costs of the Education Commission. Another local fiscal impact would be the costs to provide an annual evaluation and report on academic performance (if not already done by DPS). The bill also would allow the community district to borrow money and issue bonds for capital improvements. The elimination of the Education Achievement Authority (EAA) would result in additional revenue to DPS and other surrounding districts or public school academies, based on the number of EAA enrollments that occurred.

Local (All Districts): It is anticipated that the bill would have fiscal impacts on all districts, not just DPS, as follows: The bill would allow districts with outstanding State aid anticipation notes to borrow and issue bonds for refunding and refinancing. These changes could allow deficit districts to refinance any existing debt, or issue debt to pay off a deficit and, depending on interest rates available at the time of the borrowings or refinancings, could lead to district savings. Also, changes in the calculation and timing for determining the lowest-achieving 5% of schools could lead to a different group of schools being required to choose one of four intervention models compared to the group that would be determined under current law, which could affect their cost structures.

In addition, how the provisions related to the Education Commission's siting recommendations (in effect for up to 10 years) and provisions related to school grades in the accountability system (and, as applicable, whether a contract for a charter school was revoked by a previous authorizer) would affect the resulting locations of new schools also likely would affect which districts pupils enrolled in, which would shift funding among the districts and public school academies in ways different than current law. While there should be little State impact (since the pupils would be enrolled and counted for foundation allowance funding in one place or another), there could be fiscal impacts on the community district, surrounding local districts, or public school academies based on the Education Commission's siting plan, the accountability grades of the schools, and, as applicable, the public school academies' previous contract authorizations.

Senate Bill 711 (S-4)

State: If the Department of Treasury's Financial Review Commission required additional staff, services, contracts, or supplies in order to review a qualified school district (which would be the proposed community district in Detroit), in addition to the City of Detroit, then there would be increased State costs. Under current law, a Financial Review Commission already exists for review of the City of Detroit, and under the bill, the Commission's role would be expanded to review the finances of the "new" Detroit school system. The Department of Treasury has estimated that the additional cost to the Financial Review Commission for oversight of the "new" system would be \$1.0 million, which would be used primarily to support outside assistance and expertise to assist with necessary review and analysis on both the financial and academic sides of the district, as well as the transition itself from the "old" to the "new" system.

Local: The Financial Review Commission would be required to review and approve applicable contracts and collective bargaining agreements (CBAs) of the qualified school district (other than those approved by an emergency manager), and the school district would not be able to execute CBAs until approved by the Commission. It appears that the contracts in place on the transfer date (July 1, 2016) would remain in place, but new contracts and CBAs would be subject to approval by the Commission. Therefore, there could be some fiscal impact on the district if the Commission's approvals or disapprovals of contracts and CBAs caused the district

to change its financial planning compared to what it would have done in the absence of Commission oversight.

Similarly, the bill would allow the Commission to revise a revenue estimate prepared in connection with a budget of the qualified district if the Commission determined that the revenue estimate was not based on reasonable assumptions, which could lead to adjustments in the district's budget. Also, the bill would allow the Commission to review, modify, and approve proposed and amended operational budgets of the qualified district, and the proposed budget would not take effect unless approved by the Commission. Therefore, again, there could be some fiscal impact on the district if the oversight of the Commission caused it to use a different set of revenue and expenditures than it would in the absence of the oversight.

Fiscal Analyst: Kathryn Summers