



**House  
Legislative  
Analysis  
Section**

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**SCHOOL REORGANIZATION**

**House Bill 5306 (Substitute H-3)  
First Analysis (9-26-90)**

**Sponsor: Rep. Robert DeMars  
Committee: Education**

***THE APPARENT PROBLEM:***

When the Wayne-Westland and Cherry Hill school districts planned to reorganize into a single school district in 1984, legislation was enacted to facilitate the merger and require the districts, or other districts wishing to reorganize in the same way, to take certain steps which could help secure community support for a school reorganization. Public Act 154 of 1984 implemented provisions specifically to accommodate these districts' merger which, among other things, require affected school district boards to adopt a resolution approving the proposed merger detailing in advance the merger's terms; require approval of the reorganization (which, in the Cherry Hill/Wayne-Westland case, was done via "annexation") by state education officials, who must convene hearings on the issue in the area it affects; and provide for advance planning and contract bargaining for the assignment of employees in the merger.

Due to declining enrollments during the last decade, of a total of 562 school districts, about 330 have fewer than 2,000 students and 38 of these districts have enrollments smaller than 150. As declining enrollments and a lack of resources have made it more difficult for many districts to offer comprehensive programs for all students at all grade levels, the state has provided various incentives for schools to study the feasibility (and possibility) of reorganizing two or more districts or partial districts. Since October of 1987, however, all eight of the reorganization votes taken have failed. Some people feel Public Act 154 played a significant role in bringing about the Cherry Hill/Wayne-Westland annexation and feel that if similar provisions were adopted to apply to other school reorganization procedures, more school districts could be encouraged to reorganize.

***THE CONTENT OF THE BILL:***

The School Code governs the process of reorganization of school districts, regulating such things as election procedures, transfer of authority, debt transfer, and the granting of new taxing powers. The bill would amend the act to recodify procedures for school reorganization (including consolidation, annexation, attachment, and partial district transfer); generally, however, most of the bill's provisions would follow current reorganization guidelines, except that new time frames under which reorganization could occur would be established. The bill, however, would add new provisions governing school district employee rights, including the protection and transfer of seniority rights and tenure, and collective bargaining agreements that would apply under any school reorganization method. The following briefly summarizes the bill's major provisions for new reorganization procedures.

Protection of School Employees' Rights. If a school or part of a school was closed for reorganization purposes, a school district employee laid off or terminated due to the closure would have seniority and other employment rights that had already accrued (in the former district) in any

district that accepted all or part of a closed grade or school. Within 20 days after a vote to close a school, the employee would temporarily be considered an employee of both the closing and receiving districts; also, he or she would retain seniority and other employment rights from the original district, and would have those that accrued in the new district. Seniority would have to be determined under the new district's appropriate collective bargaining agreement or, if none existed, according to the new district's seniority standards and would have to be granted as if the employee originally had worked there.

An employee of a closing district who was on layoff on June 1 of the school year just before closure occurred could not displace an active employee in any accepting district. However, a tenured teacher with employment rights pursuant to the bill could replace a probationary teacher who worked in a position for which the tenured teacher was certified. A district could not lay off or recall employees to skirt the bill's protections. Except as otherwise specified, when an employee accepted a position with an accepting district his or her employment rights in all other districts would terminate; also, the employee would be due all rights and benefits which he or she otherwise would have had if employed originally by the accepting district, unless provided for by a collective bargaining agreement. Rights and benefits provided under the teachers' tenure act would also be due, including tenure status, as if he or she had worked there originally.

If a district reopened and operated part or all of a discontinued district, an employee of that district who transferred elsewhere could choose, based on seniority, to return to the reopened district. An employee of the accepting district who was laid off or terminated due to the reopening and operation of the closed district would have employment rights based on seniority and those rights that accrued during employment in the reopened district. Within 20 days after school electors voted to reopen part or all of a district, the employee would temporarily be considered an employee of both the reopened and accepting districts, and would retain seniority and other rights in his or her original district as well as those that accrued based on seniority in the reopened district. These seniority rights would have to be determined under the appropriate collective bargaining agreement or, if none existed, under that district's seniority standards, and the rights would have to be granted as if the employee were originally employed by that district. A change of seniority in any successor agreement consistent with the parties' obligations could be made under the Public Employment Relations Act.

An employee of an accepting district who was on layoff on June 1 of the school year just before a discontinued district was reopened could not displace an active employee in the reopened district. A tenured teacher who was granted employment rights, however, could replace a probationary

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teacher who was employed in a position for which the tenured teacher was certified. Upon accepting a position with a district that reopened and operated an employee's employment rights in all other districts would terminate.

Within 20 days after the official canvass date of an election on reorganization, an employee of a sending district would be considered a receiving district's employee. An employee with these employment rights would have seniority and those rights which accrued based on seniority in the receiving district. These rights would have to be determined under the receiving district's collective bargaining agreement or, if none existed, according to the district's seniority standards. Seniority rights would have to be granted as if the employee had originally been employed by the receiving district.

An employee of a sending district who was on layoff on June 1 of the school year just prior to the reorganization's effective date could not displace an active employee in the receiving district. A tenured teacher granted employment rights pursuant to the bill, however, could replace a probationary teacher who worked in a position for which the tenured teacher was certified. A district could not lay off or recall employees to skirt these provisions. Also, unless otherwise provided by a collective bargaining agreement, a receiving district would pay a salary or provide other monetary benefits to an employee who obtained employment rights pursuant to the bill until he or she provided services to the school district.

Under a reorganization that occurred as an attachment or partial district transfer, when an employee accepted a position with a receiving district his or her employment rights in all other districts would terminate.

**Other Employment Rights.** Unless modified by a collective bargaining agreement, a person employed under a reorganization plan would be entitled to all rights and benefits to which he or she otherwise would have been entitled if he or she originally had been employed by the district to which these rights were attached. An employee of a sending district employed by a reorganized district would be entitled to all rights and benefits provided for under the teachers' tenure act, to which he or she would have been entitled if employed originally by the reorganized district, including tenure status.

**Collective Bargaining under Reorganization.** Questions regarding an appropriate collective bargaining representative or unit composition involving a reorganized district's employees would have to be filed with the employment relations commission, created under Public Act 176 of 1939 (which provides for mediation between various groups). If filed within 60 days after the official canvass date of the election, the commission — pursuant to authority granted it under its enabling act — would have to hold a hearing, if required, within 30 days after the filing and issue a decision within 30 days after the hearing. If an election was required by the commission it would have to be held within 30 days after the order was issued. Not later than four months after the official canvass date, but earlier upon request of either party, the reorganized district's interim board would have to meet and bargain with the employees' respective collective bargaining agents over wages, hours, and other terms and conditions of employment after the reorganization's effective date.

If an agreement in a consolidation had not been reached by the bargaining agent(s) of the consolidated district's employees before the consolidation's effective date, the consolidated district would have to implement on an interim

basis, until an agreement was reached, the collective bargaining agreement of the sending district with the most pupils on the official canvass date. If this occurred, an employee would be entitled to all rights and benefits that arose under the interim agreement as if he or she had been employed originally by the district with the most pupils.

If an agreement in an attachment, annexation, or partial district transfer had not been reached with the appropriate bargaining agent(s) of the receiving district's employees before the reorganization's effective date, the receiving district would have to implement its existing collective bargaining agreement. In this case, an employee would be entitled to all rights and benefits that arose under the interim agreement as if he or she had originally been employed by the receiving district.

**Increase of Constitutional Tax Limitation.** If an original district that voted to increase the constitutional limitation on taxes for either building and site or general fund purposes (in which the term of years for which the millage was voted had not expired) proposed to take part in a reorganization, the board resolution required for reorganization could provide that reorganization would take effect only if the original district's electors approved a similar increase in the constitutional limitation on taxes (for the same amounts, purposes, and number of years as were effective for the original district).

MCL 380.5 et al.

## **FISCAL IMPLICATIONS:**

According to the Department of Education, the bill would have both state and local fiscal implications depending on whether districts decided to reorganize, although costs could not be determined. The department would have added costs in conducting hearings on the advisability of school reorganization. Local and intermediate school districts would have added costs as the bill would add new, complicated requirements concerning reorganizations and employees rights arising from them. (9-25-90)

## **ARGUMENTS:**

### **For:**

The bill would follow the pattern established for school reorganization procedures under Public Act 154 of 1984, which provided a new type of school reorganization process (annexation and property transfer) specifically for the Cherry Hill/Wayne-Westland situation. The bill's provisions are aimed at building public awareness of and involvement in school reorganization by requiring detailed resolutions to be adopted by all affected school boards, a public hearing by the state board, and advance planning for the transfer of employees. These requirements would allow districts to work with all affected parties and gain their support — a crucial factor in achieving a successful school reorganization. With shrinking state and local resources for education, the state should work to encourage school reorganizations with the goal of having fewer, more economically run districts which could provide wider educational opportunities for a maximum number of students.

### **For:**

The bill would ensure that all school reorganization procedures are uniform in the way they provide for the transfer of employees before a school reorganization could

take place. The bill would provide for the transfer of employment rights and seniority in a reorganization and would eliminate the probationary period authorized under the Teacher's Tenure Act (where districts may eliminate employees who are unable to meet the district's expectations). A reorganized district, however, would not be obligated to provide salary or other monetary benefits to an employee with employment rights under the bill until the employee actually "provided services" to the district. By removing the uncertainty over employee job security, employee groups would be much more likely to lend their support to a reorganization.

**Response:** The main reason for encouraging school reorganizations in the first place is so that overall educational costs can be reduced through consolidation (or elimination) of large or inefficient teaching and administrative staffs. Unfortunately, education officials cannot try to save taxpayers money while also aiming to protect a firmly entrenched educational system. If employee protections are to be made, it would be better to provide for protections in legislation that could be applied to specific reorganization plans. By providing such comprehensive school employee protections before any reorganizations have been planned, the bill seems to suggest that no reason (economical or otherwise) now exists to try to reorganize school districts.

### ***Against:***

The bill would only complicate the school reorganization process and, thus, would discourage school districts from seeking to reorganize. Establishing lengthy and detailed procedures that all school districts would have to follow to reorganize would do little to help district residents understand the ramifications of a reorganization on their children's future education, on local property values, or on possible property tax rate changes. The bill is simply aimed at "helping" one of the many interested parties in any reorganization plan: school employees. For instance, the bill should require that a school board reorganization proposal include an explanation of the effect of a proposed merger on tax rates of all affected districts. If a proposed reorganization would reduce millage rates for an affected district, a public discussion of this could help sway voters toward approval. If millage rates would go up under a plan it is only fair — indeed, constitutionally required — to indicate this in advance.

### ***Against:***

The bill would require the State Board of Education to conduct hearings on the appropriateness of an annexation, attachment, consolidation, or partial district transfer. Currently, the Department of Education may assist districts who are interested in reorganizing by supplying technical assistance and providing reorganization grant awards to districts which, in the department's opinion, have the best chance of reorganizing. The department studies each situation before it provides grant money and technical assistance to interested districts. (As voter-approved reorganizations have become increasingly rare — the last eight voted on have all failed — the department tries to limit its time and money to districts most likely to succeed.) The bill would cost the department additional money without guaranteeing an increase in successful school reorganizations.

### ***POSITIONS:***

The Michigan Education Association supports the bill. (9-25-90)

The Michigan Federation of Teachers supports the bill. (9-25-90)

The Michigan Association of School Boards does not support the bill. (9-25-90)

The Department of Education has not yet taken a position on the bill. (9-25-90)