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SFA



BILL ANALYSIS

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Senate Bill 297 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Dan L. DeGrow
Committee: Education

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RATIONALE

The State's largest school district, the Detroit Public Schools, ranks among the worst school districts in the State in such areas as dropout rates and test scores, according to the Department of Education's 1998 Michigan School Report. For the 1996-97 school year, which reflects the most recent available data, the dropout rate for Detroit's high school students was 26.4%. In addition, only 29.7% of the ninth graders who began high school in Detroit graduated in the usual four years. This compares with the Statewide average dropout rate of 6.6% in 1996-97 and a four-year graduation rate of 76.2% for the same period, according to the Department. According to many, these figures illustrate the failure of the current system to improve significantly student performance on State proficiency tests and reduce soaring dropout rates. Furthermore, many people believe that problems with the governance and management of the district have only impeded any school improvement efforts. The Revised School Code permits the State to intervene in school districts where low proficiency test scores result in a school's being unaccredited or having an interim accreditation by the State. The law, however, applies only to individual schools and not entire districts. Some people believe that the State's intervention laws should be broadened to cover an entire school system, in particular the Detroit Public Schools, that has failed to attain acceptable academic achievement.

CONTENT

The bill would amend the Revised School Code to add Part 5A (Appointment of Reform School Boards), which would do the following:

- **Require the mayor of the city with a qualifying school district to appoint a seven-member reform school board, within 60 days after the bill took effect.**
- **Suspend the powers and duties of the district's elected board unless and until a new board was elected.**
- **Transfer the powers and duties of the elected board to the mayor, until the reform school board was appointed, and then to**

that board.

- **Specify additional powers and duties of the reform school board.**
- **Create the School District Accountability Board in the Department of Education.**
- **Provide that each employee of the qualifying school district whose employment was not covered by a collective bargaining agreement would be employed at the will of the mayor, until the reform school board was appointed, and then at the will of the board.**
- **Require the reform board to appoint certain chief administrators who would be employed at the will of the mayor.**
- **Require the reform school board to submit an annual report containing specific information and a district improvement plan that provided certain goals and benchmarks for school improvement.**
- **Provide that, after five years following the appointment of the reform school board, the question of retaining that board would have to be placed on the ballot in the qualifying school district.**

The bill would define "qualifying school district" as a school district of the first class. Currently, a school district with a pupil membership of 120,000 is a first class district; the bill would refer instead to a school district with a pupil membership of at least 100,000. The bill states that all powers and duties of the school board of the first class school district and of its officers would be subject to Part 5A.

Appointment of Reform Board

Not later than 60 days after the bill's effective date, the mayor would have to appoint for the qualifying school district a board of seven members who would serve at the will of the mayor. Members would serve for four-year terms; of the members first appointed, however, one would have to be appointed for a one-year term, two for two years, two for three years, and two for four years. If a member were removed from office by the mayor or could not complete his or her

term, the mayor would have to appoint a successor for the balance of the unexpired term. At the end of the member's term, the mayor would have to appoint a successor or reappoint the member.

The mayor would have to call the first meeting of the reform school board and designate a chairperson of the board from among its members. If there were a vacancy in the office of chairperson, the mayor would have to designate a successor. At the board's first meeting, it could elect from among its members other officers as the board considered necessary or appropriate. After the first meeting, the board would have to meet at least monthly, or more frequently at the call of the chairperson or if requested by at least four members.

A majority of the members of the reform board would constitute a quorum for the transaction of business. A majority of the members present and serving would be required for official action of the reform board.

Members of the reform school board would have to serve without compensation, but could be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as board members.

Suspension of Elected Board/Transfer of Powers

Beginning on the bill's effective date, the powers and duties of the elected board of the qualifying school district and of its secretary and treasurer would be suspended unless and until a new board was elected as provided in Part 5A.

Beginning on the bill's effective date and until the appointment of the reform school board, all provisions of the Code that otherwise would apply to the board of the qualifying school district or to the reform school board would apply to the mayor, who immediately could exercise all the powers and duties otherwise vested by law in the board of the district and in its secretary and treasurer, and all powers and duties of the reform school board as provided under Part 5A.

Reform School Board's Powers and Duties

Upon the appointment of the reform school board, all provisions of the Code that otherwise would apply to the board of the qualifying school district would apply to the reform school board. The reform school board immediately could exercise all of the powers and duties otherwise vested by law in the board of the qualifying school district and in its secretary and treasurer, and all additional powers and duties provided under Part 5A. The reform board would accede to all the rights, duties, and obligations of the elected school board of the qualifying district. These powers, rights, duties, and obligations would include,

but not be limited to, all of the following:

- Authority over the expenditure of all school district funds, including proceeds from bonded indebtedness and other funds dedicated to capital projects.
- Rights and obligations under collective bargaining agreements and employment contracts entered into by the elected school board, except for employment contracts of those employees whose employment was not covered by a collective bargaining agreement and who would be employed at the will of the mayor.
- Rights to prosecute and defend litigation.
- Obligations under any judgments entered against the elected school board.
- Rights and obligations under statute, rule, and common law.
- Authority to delegate any of the reform school board's powers and duties to the chief executive officer or one or more other designees, with proper supervision by the reform school board.

In addition to its other powers, the reform school board could terminate any contract entered into by the elected board of the qualifying school district except for an individual employment contract or a collective bargaining agreement. A contract terminated by the reform board under this provision would be void.

At-Will Employees

Beginning on the bill's effective date and until the appointment of the reform school board, each employee of the district whose employment was not covered by a collective bargaining agreement would be employed at the will of the mayor. Upon the appointment of the reform school board, each employee whose employment was not covered by a collective bargaining agreement would be employed at the will of the reform school board.

The bill specifies that the Code's provisions on the employment of a first class school district's superintendent and administrators (MCL 380.471a) would be subject to Part 5A.

Appointment of Chief Officers

The reform school board would be required to appoint for the qualifying school district a chief financial officer, chief academic officer, chief operations officer, chief purchasing officer, and chief executive officers, each of whom would be employed at the will of the mayor.

If a vacancy occurred in one of more of these offices, the reform board would be required to appoint a

successor, who would be employed at the will of the reform board.

School District Accountability Board

The School District Accountability Board would be created in the Department of Education, and would consist of the following five members: the Superintendent of Public Instruction, the State Treasurer, the State Budget Director, and two members of the general public appointed by the Governor with the advice and consent of the Senate. The State Treasurer would serve as the chairperson of the accountability board.

The accountability board would be required to do all of the following with respect to the qualifying school district:

- Receive and review the district improvement plan submitted under the bill.
- Monitor the progress being made by the reform school board in achieving the goals and benchmarks identified in the district improvement plan.
- Make recommendations to the Governor for additional resources for the qualifying school district, based on successes achieved by the reform school board in achieving its goals and benchmarks.

The powers and duties of the accountability board would be limited to the qualifying school district. The accountability board would be subject to the Open Meetings Act and the Freedom of Information Act.

Improvement Plan

Within 90 days after the initial appointment of the reform school board and at least annually thereafter, the reform school board would have to develop and submit to the School District Accountability Board a district improvement plan that included at least detailed academic, financial, capital, and operational goals and benchmarks for improvement and a description of strategies to be used to accomplish those goals and benchmarks. The plan also would have to include an assessment of available resources and recommendations concerning additional resources or changes in statute or rule, if any, needed to meet those goals and benchmarks.

Annual Report

The reform school board would have to submit an annual report to the mayor, Governor, School District Accountability Board, and Legislature, and make the annual report available to the community in the qualifying school district. The annual report would have to contain at least all of the following: a summary of the initiatives that had been

implemented to improve school quality in the qualifying school district, and measurements that could be useful in determining improvements in school quality in the district. These measurements would have to compare the performance of the district to statewide averages, where available; indicate changes from baseline data from the school year before the appointment of the reform school board; and include at least all of the following: pupils' standardized test scores, dropout rates, daily attendance figures, enrollment figures, high school completion and other pertinent completion rates, and changes made in course offerings.

Ballot Question

After the expiration of five years following the initial appointment of the reform school board, the question of whether to retain the reform school board and the authority to appoint it would have to be placed on the ballot in the qualifying school district. The question would have to be placed on the ballot at the next November general election occurring at least 90 days after the expiration of five years following the date of the initial appointment of the reform school board. The question would have to be in substantially the form described in the bill, in which a vote in the affirmative would continue the reform school board.

If the question were approved by a majority of the school electors voting on it, all of the following would apply: The reform school board would continue in place as the governing body of the qualifying school district; the authority of the mayor to appoint members of the reform school board would continue in the qualifying school district; and the question could not be placed on the ballot again in the qualifying school district until the expiration of five years after the election.

If the question were not approved by a majority of the school electors voting on it, the reform school board would have to arrange with local election officials for the election of a new elected school board for the school district. This election would have to be at a special election held as soon as practicable, but not sooner than 90 days after the election on the ballot question. The special election would have to be conducted in the manner otherwise provided under the Code for an initial school board election in a newly formed first class school district.

Effective 30 days after the election, the new elected school board would serve as the governing body of the qualifying school district and the elected board and its secretary and treasurer would be fully vested with all powers and duties that those officials had before the appointment of the reform school board. Also effective 30 days after the special election, the powers of the reform school board and of all officers appointed under the bill would cease, and the

provisions of Part 5A would not apply to the qualifying school district.

Immunity from Obligation or Claim

The bill states that the mayor, the Superintendent of Public Instruction, the State Board of Education, the School District Accountability Board, the State, the city in which the qualifying school district was located, the reform school board, or an officer employed under Part 5A would not be liable for any obligation of or claim against the qualifying school district resulting from an action taken under Part 5A.

MCL 380.402 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The Detroit Public Schools 1998 annual report, "Schools for the 21st Century", states the problems facing the school system: "Our mandate is clear: The schools need help - now. The signs of serious trouble are everywhere. Student achievement scores, though improving, are still low, and many parents have given up on Detroit Public Schools. Our community sees our public schools as an aged fortress, walled off from the very people it was designed to serve." The district, with 180,000 students and 20,000 employees, has been too slow to raise test scores and lower dropout rates. Only one in three Detroit ninth-graders graduates in four years, and less than one in 10 high school graduates reads at the 12th-grade level. Figures on the number of students who have taken and passed State proficiency tests show a decline in student participation in the testing process and underachievement in academics. For example, 11,000 students who make up the 1999 graduating class took the State proficiency tests when they were in the eighth grade. By the time these students were high school juniors in 1998, only 4,200 students took the tests. Of those students, only 239 passed all portions of the test. Furthermore, differences among elected school board members and district administrators have been detrimental to effective school management. While there have been numerous strategies and reform plans initiated in the district in the past two decades, some have met with limited success and most have not made enough of a difference in preparing graduates for a productive future. Parents, students, and Detroit residents are tired of waiting for major improvements in school quality. The bill would make a fundamental change in the governance of the Detroit school district by focusing decision-making and accountability on a single elected official, the mayor of Detroit, to bring

about more quickly the improvement of the school district.

Response: The troubles of the Detroit Public Schools go beyond management problems facing the district. Many students live in poverty, come from single-parent homes, have parents and family members who are undereducated, as well as live in areas where housing is substandard, and crime and drugs are rampant. A State takeover is a simplistic response to complex problems. Furthermore, there is concern about granting control over the school district to a mayor who already is responsible for running a large urban city. It is not clear how a mayor who has not alleviated serious problems facing the city, such as abandoned houses, garbage-strewn alleys, broken street lights, inadequate snow removal, and other deficiencies in city services, can assume the additional duties of running a large, urban school district.

Supporting Argument

In 1987, then-U.S. Secretary of Education William Bennett characterized the Chicago Public Schools, the third largest school district in the country with 430,000 students, as the "worst in the nation". Last December, current Education Secretary Richard Riley called Chicago's reform efforts a "national model". Senate Bill 297 (S-2) is based on the successful efforts of Chicago to take dramatic steps to rescue a failing school district. The Illinois General Assembly in 1995 enacted sweeping legislation that changed the governance of the Chicago Public Schools by replacing the 15-member Board of Education with a five-member Chicago Reform School Board of Trustees. Mayor Richard Daley was given the authority to appoint the new board of trustees and a management team to run the schools. Among the actions taken by the reform board were privatizing some services, requiring 44,000 students to attend summer school, expanding after-school programs in 300 schools, removing 11 principals, and placing on probation 109 schools where less than 15% of the students could meet national test averages. The approach in Chicago appears to be working, as the city's schools are reporting higher scores on standardized tests, better attendance, higher graduation rates, and lower dropout rates. But Chicago is not the only school district where states have intervened to rescue troubled schools. Although the methods of intervention vary, states have taken action to reform the governance of schools in a number of school districts, including those in Hartford, Connecticut; Baltimore, Maryland; Boston, Massachusetts; Newark, New Jersey; and, Cleveland, Ohio. Senate Bill 297 (S-2) would give the mayor of Detroit authority similar to that granted to the mayor of Chicago to reform the school system in Michigan's largest city.

Supporting Argument

The economic renaissance of the City of Detroit is

contingent on school improvements. Many business leaders in the metropolitan Detroit area complain about a lack of qualified candidates available to fill positions. For example, job applicants often do not possess the basic communication skills that are needed of employees who wish to compete in a global economy. There is much interest in improving Detroit's economic future by attracting new companies, constructing new entertainment venues such as casinos and stadiums, and lowering taxes. Without a school system that effectively educates its students, however, a bright economic future will be dimmed by the lack of an educated work force.

Opposing Argument

The Detroit public school district is not the worst district nor is it the worst urban district in the State. In fact, in areas where Detroit schools have been characterized as failing academically and financially, other districts in the State are in similar circumstances. Senate Bill 297 (S-2), however, would not set objective performance standards by which *any* school district in the State could be considered eligible for takeover by the State. During the past five years, the Detroit Public Schools have made a number of changes and instituted key reforms that have produced credible improvements.

For example, in order to make substantial physical repairs and improvements in the district's schools and buildings, Detroit voters approved in 1994 a \$1.5 billion physical facilities bond program. In 1995, the district faced a financial crisis with an unbalanced budget and a \$20 million deficit. A series of budget adjustments, cost-saving procedures, and across-the-board cutbacks have enabled the district to balance its budget for the past three years. At the end of the 1997-98 fiscal year, the district's budget reflected a \$93 million surplus.

In 1998, to revive an bloated organizational structure, the district underwent a complete reorganization that resulted in the removal of six geographic area offices, six area superintendents, and other administrative staffs. The central office was reorganized into four management divisions and site-based management, with site-based councils, was instituted in all schools. In addition, all schools were organized into K-12 learner centered constellations to put resources closer to the student, and all principals were required to report directly to the Superintendent.

Moreover, the district's graduation rate is 56% and not the approximate 30% asserted by the bill's proponents. To improve the graduation rate, a ninth grade restructuring program was initiated in 1995 to provide special resources and funds for all high schools, with special attention paid to at-risk students. The district also has started an exit skills program that addresses academic failure in later grades by ensuring that a student attain specified

skills in earlier grades before progressing to the next grade. Finally, all schools in the district are accredited by the State; Detroit schools have outscored a number of districts across the State in elementary proficiency tests; and, during the last two years, the district has allocated the highest percentage of its budget in the past 20 years to instructional programs. The urgency to improve education in Detroit schools has been a top priority in the district for a number of years. The success resulting from these changes and improvements demonstrates that intervention from the State is not needed because the district possesses the desire and ability to continue its upward progression.

Opposing Argument

The Detroit Board of Education, including the four newly elected members, recently issued six reform proposals to improve the local schools. Under the proposals, the board would increase educator accountability by evaluating teachers and administrators partly on how their students perform on State proficiency tests; deliver supplies and services faster and at lower costs by hiring private companies for transportation, security, food service, and maintenance; improve discipline and reduce distractions by requiring students to wear uniforms; cut red tape by giving the superintendent more authority over spending and purchasing; improve school security by encouraging teachers and administrators to file criminal complaints against violent students and their parents; and, raise academic performance by giving budgetary autonomy to schools with reading and math scores on the State's proficiency tests that are higher than the scores of at least 40% of the students tested statewide. These proposals were issued by a locally elected board that should be given the opportunity to implement its plan to boost academic achievement and be accountable to the local electorate.

Response: The Detroit Public Schools could have avoided any State takeover effort if, years ago, it had enacted reforms similar to those now being proposed. Many parents feel that the board's proposals are too little, and they come too late.

Opposing Argument

Under the bill, the powers and duties of the elected Detroit Board of Education would be suspended unless and until a new board was elected. In addition, the powers and duties of the elected board would be transferred to the mayor and then to the reform board upon its appointment by the mayor. The abolishment of the Detroit Board of Education would overturn the electoral decisions of the local citizens, which in effect would disenfranchise the city's residents who recently elected four new board members. Before abolishing the school board and implementing a takeover plan, the State should permit Detroit residents to vote on the proposal. Removing the current board would take away a

measure of local control and undermine the right of Detroit residents to elect their own school board. Furthermore, similar attempts by other states to take over low-performing school districts have prompted lawsuits and accusations that such actions single out predominantly minority school districts and violate the right of voters to choose their own local school officials.

Some people argue that Section 5 of the Federal Voting Rights Act of 1965 requires certain states and other jurisdictions to win clearance from the U.S. Justice Department for any actions that could affect the voting rights of racial, ethnic, or language minorities. The Justice Department reportedly has interpreted the provision to apply to state interventions in school districts that might affect the responsibilities of locally elected officials. As of January 1998, this issue reached the U.S. Supreme Court in a case that involved a Texas law enacted in 1995. Under the law, if a school district falls short of accreditation criteria, the state's education commissioner may impose various sanctions, including appointment of a master to oversee the district's operations or appointment of a management team to direct operations. After a U.S. Assistant Attorney General cautioned that these sanctions might violate Section 5 of the Voting Rights Act under certain circumstances, Texas filed a complaint in the Federal district court seeking a declaration that Section 5 did not apply. The court did not reach the merits of the case, however, because it concluded that the state's claim was not ripe for adjudication. In March 1998, the U.S. Supreme Court agreed, finding that the Texas's problem was too speculative.

Response: The concerns being raised about the ability of the citizens of Detroit to elect their own school board as well fears of disenfranchisement are understandable, but it should be noted that the bill would vest the authority to appoint a reform board in a locally elected official, the mayor of Detroit.

Opposing Argument

The bill is said to be modeled after the reform legislation enacted by the Illinois General Assembly that was used to take over the Chicago Public Schools; however, the governing structure that existed in Chicago schools in 1995 when the takeover was implemented does not exist in the Detroit Public Schools. The Chicago Board of Education historically has been appointed by the mayor of the city. Detroit Public Schools, on the other hand, have a long-held tradition of local voters' electing persons to serve on the board of education. A history of the nomination and appointment procedures for the Chicago board, as compiled by the Chicago Public Schools, indicates that prior to 1988, the mayor with the approval of the city council appointed an 11-member board. Following an early period of reform in 1988, the mayor appointed a new seven-member board, with the approval of the city

council, to serve as an interim board. The terms of the interim board members expired in 1990, at which time the mayor appointed a 15-member board according to nominating procedures that included the formation of a school board nominating commission that submitted board nominations to the mayor. The commission comprised five mayoral appointees and representatives of subdistrict councils from each of the city's 11 subdistricts. The mayor's representatives had to have expertise in business, educational management, and human relations and did not require city council approval. The subdistrict representatives were parents or community members appointed by their subdistrict council.

With the 1995 school reform, the terms of the existing board members expired 30 days after the law took effect, and the mayor was required to appoint, without the approval of the city council, a five-member Chicago School Reform Board of Trustees whose terms of office expire June 30, 1999. Within 30 days of the expiration of the reform board, the mayor is required to appoint, without council approval, a seven-member board to take office by July 1, 1999. Three members will serve terms ending June 30, 2002, and four will serve until June 30, 2003. After a term expires, the mayor will have to appoint, without council approval, a successor to hold office for four years.

In comparison, the bill would not require the Detroit reform board to include local citizens as board members, much less require any member to have expertise in the teaching profession or educational management. Without local involvement in the reform board, it is not clear how Detroit citizens could be prepared to govern the district if and when voters chose to return the control of the district to locally elected board members.

Response: While the bill would abolish Detroit's elected school board and transfer its powers and duties to a reform board, that board would be appointed by the mayor of Detroit who is a locally elected official. The school accountability board also would have to include two members of the general public. Furthermore, the bill provides that after five years following appointment of the reform board, the question of retaining that board would have to be placed on the ballot in the Detroit school district.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no impact on State resources. All funding for school operations would continue to be disbursed to the local school district. The funds would be managed by the mayor and then the reform school board in the same manner as currently, and would continue to be subject to the provisions in the School Code and the School Aid Act.

The only additional local cost would be the expense of preparing and submitting the proposed annual report to the mayor, Governor, Legislature, and the School District Accountability Board. In addition, the Reform School Board would have to submit a district improvement plan to the School District Accountability Board within 90 days from the date the reform school board was created, and annually thereafter. The report would be paid for from the district's annual operating revenue; however, this would be a new cost that would be incurred by the qualifying school district.

Fiscal Analyst: J. Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.