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BILL ANALYSIS

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Senate Bill 297 (Substitute S-3 as passed by the Senate)
Sponsor: Senator Dan L. DeGrow
Senate Committee: Education
House Committee: Education

Date Completed: 3-23-99

CONTENT

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

- Require the mayor of the city with a qualifying school district to appoint a seven-member school reform board, within 30 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.
- Permit the elected school board to continue as an advisory board to the school reform board, until the elected board members' terms expired.
- Transfer the powers and duties of the elected board to the mayor, until the school reform board was appointed, and then to that board.
- Require the school reform board, within 30 days of its appointment, to appoint a chief executive officer, who would have the powers and duties of the elected board.
- Provide that each employee of the qualifying school district whose position was not covered by a collective bargaining agreement would be employed at the will of the chief executive officer, upon his or her appointment.
- Create the School District Accountability Board in the Department of Education.
- Require the chief executive officer, with the reform board's approval, to submit a district improvement plan, as well as an annual report containing initiatives implemented to improve school quality and measurements to determine school improvement.
- Provide that, after five years following the appointment of the school reform board, the question of retaining that board and the chief executive officer would have to be placed on the ballot in the qualifying school district.
- Permit the question to be placed on the

ballot again at least five years after the most recent election on the question, upon the submission of petitions calling for the question to be on the ballot.

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

Within 30 days after the bill's effective date, the mayor would have to appoint for the qualifying school district a school reform board of seven members. Six members would be appointed by the mayor, and for one year after the bill's effective date, the Superintendent of Public Instruction or his or her designee would serve as the seventh member. After one year, the mayor would appoint the seventh member of the school reform board. A person who was a current member of the elected school board would not be eligible for appointment as a member of the school reform board. The bill specifies that the Code's provisions on the eligibility of a school elector for election or appointment to office (MCL 380.1101(1)) would not disqualify any person from appointment to a school reform board or from appointment to an office under the bill. Except for the State Superintendent or a designee, members of a school reform board would serve at the will of the mayor. Members would serve for four-year terms; of the members first appointed, however, two would have to be appointed 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 school reform 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 school reform 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. Until each individual member's current term expired, the members of the elected school board could continue to meet as an advisory board to provide input to the school reform board on an advisory basis. Notwithstanding the Code's provisions prohibiting compensation but permitting a per diem payment (MCL 380.417a), or any board policy, bylaw, or resolution to the contrary, the advisory board members would have to serve without compensation or reimbursement, and funds of the qualifying school district could not be used to staff or otherwise support the advisory board in any way.

Beginning on the bill's effective date and until the appointment of the school reform board, all provisions of the Code that otherwise would apply to the board of the qualifying school district or to the school reform board or chief executive officer 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 school reform board as provided under Part 5A.

Upon the appointment of the school reform board and until appointment of a chief executive officer, all provisions of the Code that otherwise would apply to the board of the qualifying school district or to the chief executive officer would apply to the school reform board. The school reform 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.

Chief Executive Officer Appointment and Duties

Within 30 days after the school reform board was appointed, it would have to appoint a chief executive officer, who would be employed at the will of the board. The chief executive officer, with approval of the reform board, would have to appoint a chief financial officer, chief academic officer, chief operations officer, and chief purchasing officer, who would be employed at the will of the chief executive officer. If a vacancy occurred in one of these positions, a successor would have to be appointed in the same manner as the original appointment.

All provisions of the Code that otherwise would apply to the elected school board would apply to the chief executive officer upon his or her appointment. The chief executive officer could exercise immediately all the powers and duties otherwise vested by law in the elected school board and in its secretary and treasurer, and all additional powers and duties provided under Part 5A. The chief executive officer would accede to all the rights, duties, and obligations of the elected school board. These powers, rights, duties, and obligations would include, but would 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 position was not covered by a collective bargaining agreement.
- 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 chief executive officer's powers and duties to one or more designees, with proper supervision by the school reform board.

In addition to his or her other powers, the chief executive officer could terminate any contract entered into by the elected board except for an individual employment contract or a collective bargaining agreement. The bill specifies that this provision would not allow any termination or diminishment of obligations to pay debt service on legally authorized bonds. A contract terminated by the chief executive officer under this provision would be void.

At-Will Employees

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

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

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 school reform 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 and on changes in statute or rule, if any, needed to achieve reform, based on the experience of the school reform board in its efforts to achieve reform.

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 chief executive officer and at least annually thereafter, the chief executive officer, with the

approval of the school reform 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 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. The plan also would have to include an evaluation of local governance issues, including criteria for establishing building-level governance.

Annual Report

The chief executive officer, with the approval of the school reform 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, measurements that could be useful in determining improvements in school quality in the district, and a description of long-term performance goals that could include statewide averages or comparable measures of long-term improvement. The measurements would have to indicate changes from baseline data from the school year before the appointment of the school reform 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, changes made in course offerings, and the proportion of the school district's resources devoted to direct educational services.

Ballot Question

After the expiration of five years following the initial appointment of the school reform board, the question of whether to retain the school reform board and the chief executive officer and the authority to appoint them 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 school reform 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 school reform board and the chief executive officer, and would continue the mayor's authority to appoint members of the reform board.

If the question were approved by a majority of the

school electors voting on it, all of the following would apply: The school reform board and chief executive officer would continue in place as the governing body of the qualifying school district; the authority of the mayor to appoint members of the school reform 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 at which the question had been approved.

The question could be placed on the ballot again in the district if petitions calling for the question to be placed on the ballot were filed with the county clerk for the county in which the school district was located not sooner than four years after the question had been most recently on the ballot and if the petitions were signed by a number of school electors of the district at least equal to 10% of the number of votes cast within the city in which the school district was located for Secretary of State in the most recent November general election in which a Secretary of State had been elected. If those petitions were submitted and verified, the question would have to be placed on the ballot in the district at the next November general election occurring at least five years after the question had been most recently on the ballot and at least 90 days after the petitions were submitted and verified.

If the question were not approved by a majority of the school electors voting on it either initially or at least five years later, the school reform 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 on July 1 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 school reform board. Also effective on July 1 after the special election, the powers of the school reform board, the chief executive officer, and 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 school reform board, the qualifying school district, the chief executive officer, 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.

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, the school reform board, and then the chief executive officer 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 chief executive officer would have to submit a district improvement plan to the School District Accountability Board within 90 days from the date the school reform 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.