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Senate Bill 213 (as enrolled)  
Sponsor: Senator Shirley Johnson  
Senate Committee: Education  
House Committee: Education

**PUBLIC ACT 735 of 2002**

Date Completed: 1-22-03

**CONTENT**

**The bill amends the Revised School Code to:**

- **Permit the board of a school district or an intermediate school district (ISD) to enter into a contract with a person or entity for it to furnish substitute teachers to the school district or ISD as needed to carry out its operations.**
- **Specify provisions that must be included in a contract to furnish substitute teachers.**
- **Permit a district or ISD that contracts for substitute teachers to purchase liability insurance.**
- **Exempt substitute teachers from the Code's provisions on hiring and contracting with qualified teachers, including a requirement that a person hold a valid teaching certificate when a contract begins.**
- **Exempt substitute teachers who are employed by or under contract with a person or entity that contracts with a district or ISD from the Code's provisions on leave time, salary, and hiring privileges for substitute teachers.**

The bill will take effect March 31, 2003.

A contract will have to include the following provisions:

- Assurance that the person or entity will furnish the school district or ISD with qualified teachers in accordance with the Revised School Code and rules promulgated under it.
- Assurance that the person or entity will not furnish to the school district or ISD any teacher who, if employed directly by the school district or ISD, would be ineligible

for employment as a substitute teacher under the Code.

- A description of the level of compensation and fringe benefits to be provided to employees of the person or entity who are assigned to the school district or ISD as substitute teachers.
- A description of the type and amounts of insurance coverage to be secured and maintained by the person or entity and the school district or ISD under the contract.

(The bill defines "entity" as a partnership, nonprofit or business corporation, labor organization, limited liability company, or any other association, corporation, trust, or other legal entity.)

The contract also must include assurance that before assigning a person to serve as a substitute teacher in the school district or ISD, the person or entity will comply with the Code's requirements that a criminal history check of employment applicants be conducted. (The Code requires the board of a school district, local act school district, or ISD or the governing body of a public school academy or nonpublic school upon making an offer to a person of initial employment as a teacher or a school administrator or for a position requiring State Board of Education approval, to request from the Criminal Records Division of the State Police a criminal history check on the person, and before employing him or her as a regular employee to have received the report from the State Police (MCL 380.123). In addition, a board or governing body must request the State Police to conduct a criminal records check through the FBI on an applicant, or person who is hired, for a position as a teacher or a school administrator or in a position requiring State Board approval (MCL 380.1230a).)

The person or entity must comply with respect to the individual to the same extent as if the person or entity were a school district employing the person as a substitute teacher, and must give the school district or ISD board the criminal history record information and the results of the criminal records check. The State Police must provide information to a person or entity requesting information under the bill to the same extent as if the person or entity were a school district making the request under the Code.

A school district or ISD that contracts with a person or entity for it to furnish substitute teachers may purchase liability insurance to indemnify and protect the district or ISD and the person or entity against losses or liabilities incurred by the district or ISD and the person or entity arising out of any claim for personal injury or property damage caused by the school district or ISD, its officers, employees, or agents. A school district or ISD may pay premiums for the insurance out of its operating funds. The bill specifies that the existence of any insurance policy indemnifying the school district or ISD and the person or entity against liability for damages will not be a waiver of any defense otherwise available to the school district or ISD in the defense of the claim.

The Code requires a school district to hire and contract with qualified teachers. Contracts must be in writing and signed on behalf of the school district; specify the agreed upon wages; and be filed with the school board secretary with a copy furnished to the teacher. In addition, the Code specifies that a contract with a teacher is not valid unless the person holds a valid teaching certificate at the time the contractual period begins. A contract must terminate if the certificate expires by limitation and is not renewed immediately or if it is suspended or revoked by proper legal authority. The Code also permits a school board, after a teacher has been employed by the board for at least two years, to enter into a continuing contract with a certificated teacher. The bill specifies that under these provisions, "teacher" does not include a substitute teacher.

In addition, the Code provides that if a teacher is employed as a substitute with an assignment to one specific teaching position, then after 60 days of service in that assignment the teacher must be granted, for the duration of that assignment, leave time and other privileges granted to regular

teachers by the school district, including a salary that is not less than the minimum salary on the current salary schedule for that district. Also, a teacher employed as a substitute teacher for at least 150 days during a legal school year of at least 180 days, or employed as a substitute for at least 180 days in an ISD that operates any program for at least 220 days, must be given during the balance of the school year or during the next legal school year only, the first opportunity to accept or reject a contract for which the substitute teacher is qualified, after all other teachers of the district are reemployed in conformance with the terms of a master contract. The bill specifies that these provisions do not apply to a substitute teacher who is under contract with or employed by a person or entity that contracts with a school district or ISD pursuant to the bill, nor do they apply to a substitute teacher who is fulfilling the teaching duties of a teacher who is unable to teach due to a terminal illness.

Currently, a contract in a primary school district must require a teacher to keep certain information about pupils, grades, and attendance, which must be filed with the ISD superintendent and the board secretary at the end of the school year. A teacher in a primary school district is not entitled to receive the last payment for services until this report has been filed. The bill deletes these provisions.

MCL 380.1231 et al.

Legislative Analyst: Claire Layman

### **FISCAL IMPACT**

The bill will have no fiscal impact on State government.

Districts or ISDs choosing to purchase liability insurance for contracted substitute teachers will incur the total cost of that insurance and will purchase such insurance with their general fund operating revenues. The remaining amendments in the bill will have no fiscal impact.

Fiscal Analyst: Joe Carrasco

### **S0102\s213es**

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.