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BILL ANALYSIS

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House Bill 5457 (Substitute H-5 as passed by the House)
Sponsor: Representative Brian Palmer
House Committee: Education
Senate Committee: Education

Date Completed: 9-30-04

CONTENT

The bill would amend the Revised School Code to do the following:

- **Provide that intermediate school districts (ISDs) would be subject to random audits conducted by an independent auditor under the direction of the Department of Treasury.**
- **Require an audit to address at least three aspects of an ISD's operations.**
- **Require the Department to select five ISDs for audits every two years.**
- **Allow the Department to direct an audit of additional ISDs if it considered appropriate.**
- **Require an independent auditor to submit an audit report to the Center for Educational Performance and Information.**
- **Require the Department to file a copy of an audit report with the Attorney General if the audit disclosed a violation of State law governing financial operations.**
- **Require the Department to pay the costs of the random audits, subject to an appropriation.**

The random audits would be in addition to the annual financial audits currently required under the Code. An audit conducted under the bill would have to be based in part on an examination of an ISD's accounts, financial records, and accounting procedures, and would have to address at least three of the following aspects of the ISD's operations:

- Whether the intermediate school board members, administrators, and employees were adhering to ethics policies adopted by the board or required by State law.
- Whether board members, administrators, and employees were adhering to conflict of interest policies adopted by the board or required by State law.
- Whether a modification to an existing contract that resulted in an additional financial obligation to the ISD was made during the audit period and the modification was not competitively bid.
- Whether the ISD's policies and practices for responding to Freedom of Information Act (FOIA) requests and its actual responses during the audit period were in compliance with FOIA, including whether the costs charged for responding to requests exceeded the costs permitted under FOIA.
- Whether intermediate school board members, adminstrators, and employees were adhering to travel guidelines and practices adopted by the board or required by State law.
- Whether the ISD had accurately accounted for and reported all information related to stipends, salaries, benefits, or other compensation paid to administrators.
- Whether the ISD had used public funds in violation of law to pay for food, gifts, or other items not used for instructional purposes.

The Department of Treasury would have to select the ISDs to be audited on a random basis. Between July 1 and July 15 of each year, the Department would have to announce the districts that would be subject to an audit that year for the immediately preceding school fiscal year. The Department would have to select five ISDs for audit every two years. The Department also could direct an audit of one or more additional ISDs selected by the Department if it considered the additional audit or audits to be necessary.

Upon the Department's request, an ISD would have to notify the Department of the name, address, and contact person of the independent auditor selected by the intermediate school board to perform the annual financial audit for the district. The Department would have to enter into an auditing procedures agreement with the selected independent auditor, identifying the matters to be audited and establishing the rate of payment to oversee the conduct of the audit by the auditor to the extent the Department considered necessary. The rate of payment could not exceed the rate the Department would charge for the same type of audit unless the board already was under contract with an auditing firm for the year to be audited.

An intermediate school board and ISD officials would have to provide all information requested by the independent auditor or the Department, and would have to cooperate with them to the fullest extent possible.

An independent auditor would have to submit an audit report to the Center for Educational Performance and Information as prescribed by the Center. The Center would have to submit a copy of the audit report to the Department, the applicable intermediate school board, the Senate and House standing committees with jurisdiction over education legislation, and the Department of Education.

If the Department of Treasury determined that an audit conducted under the bill disclosed that the intermediate school board or any ISD official or employee had violated any State law governing the district's financial operations, then the Department would have to file a copy of the report with the Attorney General. The Attorney General would have to review the report and, if he or she considered it appropriate, commence proceedings against the board, official, or employee, or direct the prosecuting attorney for the county where the violations occurred to do so. The proceedings would have to include at least a civil action for the recovery of any public money determined by the audit to have been illegally spent, and for the recovery of any public property determined to have been converted or misappropriated.

The Department of Treasury would have to pay the costs of the additional audits conducted under the bill. This obligation would be limited to the amount of a separate line item appropriation identified for the purpose of funding the Department's duties under the bill, and included in the annual act making appropriations for the Department.

Proposed MCL 380.622a — Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate impact on the Department of Treasury depending on the number of audit hours required. The average cost of contracted audits is approximately $85 per hour. Costs to the Department of Attorney General would depend on the number of reports citing violations of State laws filed with the Department of Attorney General.

Fiscal Analyst: Bill Bowerman

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