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BILL ANALYSIS

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Senate Bill 609 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 610 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 611 (Substitute S-1 as reported)
Senate Bill 612 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Senator Wayne Kuipers (S.B. 609 & 610)
 Senator Jason E. Allen (S.B. 611)
 Senator Shirley Johnson (S.B. 612)

Committee: Education

CONTENT

Senate Bill 609 (S-2) would amend the teachers' tenure Act to specify that the rights of a teacher on continuing tenure would be subject to Section 1230d of the Revised School Code (which would require school employees to report certain criminal charges and convictions, as proposed by Senate Bill 612) and Section 1535a of the Code (which provides for the suspension of a teaching certificate for certain crimes). A conviction for a violation of Section 1230d, or a violation of one of the crimes listed in Section 1535a, would be considered to be reasonably and adversely related to the person's ability to serve in an elementary or secondary school and would be sufficient grounds to support the discharge or demotion of a teacher on continuing tenure.

The Act provides that, if a teacher is suspended following the filing of criminal charges, the controlling board may discontinue his or her salary upon the date of a felony conviction. Under the bill, the board would have to discontinue a suspended teacher's salary upon his or her conviction of a felony for which registration is required under the Sex Offenders Registration Act (SORA).

Senate Bill 610 (S-2) would amend the Revised School Code to include the following in the list of crimes for which the Superintendent of Public Instruction must summarily suspend a person's teaching certificate or State Board of Education approval: a second or subsequent conviction of accosting, enticing, or soliciting a child for immoral purposes; involvement in child sexually abusive activity or material; kidnapping a child under 14; pandering for purposes of prostitution; sodomy, if a victim is under 18; except for a juvenile disposition or adjudication, gross indecency, if a victim is under 18; kidnapping, if a victim is under 18; and an offense committed by a person who was, at the time of the offense, a "sexually delinquent person" as defined in the Michigan Penal Code.

The bill also would do all of the following:

- Include a misdemeanor SORA listed offense in the crimes for which the Superintendent must notify a person of the possibility of suspension and of the right to a hearing.
- Require the wages of a person who was suspended from active duty to be placed in escrow, pending administrative proceedings, after a conviction for certain crimes, and require the forfeiture of those wages to the employing district or school if the person's teaching certificate or approval were suspended or revoked.

- Prohibit the reinstatement of a person's teaching certificate or State Board approval if he or she were convicted of a SORA listed offense.
- Revise the requirements that the prosecuting attorney and the court notify the Superintendent and the employing district or school when a person holding a teaching certificate or State Board approval is convicted of certain crimes.
- Require the Department of Information Technology to develop a quarterly automated comparison of individuals holding teaching certificates or State Board approval with criminal convictions.

Senate Bill 611 (S-1) would amend the Code of Criminal Procedure to include in the sentencing guidelines failure by a school employee to report a charge or conviction (as Senate Bill 612 would require). The offense would be a Class G felony against the public safety, with a statutory maximum sentence of two years' imprisonment.

Senate Bill 612 (S-2) would amend the Revised School Code to require a person who was employed by, applied for a position with, or worked under contract in, a school district, intermediate school district (ISD), public school academy (PSA), or nonpublic school to report if he or she were charged with or convicted of certain crimes. A violation of this requirement that involved a felony would be a felony punishable by up to two years' imprisonment and/or a maximum fine of \$2,000; a violation involving a misdemeanor would be a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000.

A person who reported being charged with a crime could request the Department of Education and the school district, ISD, PSA, or nonpublic school to delete the report from its records if he or she were not convicted of that crime, and the Department and the district or school would have to do so.

The bill also would require the Department of Information Technology to work with the Departments of Education and State Police to develop and implement an automated program that would conduct a quarterly comparison of the Department of Education's list of registered education personnel with the conviction information received by the State Police, including convictions contained in a nonpublic record. If the quarterly comparison disclosed that a person on the list of registered educational personnel had been convicted of a crime, the Department of State Police would have to notify the superintendent or chief administrator of the employing school district, ISD, PSA, or nonpublic school.

Senate Bills 609 (S-2), 610 (S-2), and 612 (S-2) are tie-barred to each other. Senate Bill 611 (S-1) and 612 (S-2) are tie-barred to each other. The bills would take effect October 15, 2005.

MCL 38.101 et al. (S.B. 609)
380.1535a & 380.1539b (S.B. 610)
777.13p (S.B. 611)
Proposed MCL 380.1230d (S.B. 612)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 609 (S-2) would have no fiscal impact on State or local government.

Senate Bills 610 (S-2) and 612 (S-2) could result in a cost to the Department of Information Technology associated with developing and implementing an automated program that did a monthly comparison of those with teaching certificates and criminal convictions. Information technology costs would range from \$100,000 to \$250,000

The bill would have no fiscal impact on local government.

Senate Bills 611 (S-1) and 612 (S-2) would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many individuals would be convicted of failing to report a criminal charge or conviction. Local units of government incur the costs of misdemeanor probation and incarceration in local facilities, both of which vary by county. The State incurs the cost of felony probation at an average annual cost of \$2,000 and the cost of incarceration in a State facility at an average annual cost of \$28,000.

Date Completed: 6-29-05

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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.