

# Legislative Analysis

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## EXPANDING DUAL ENROLLMENT

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**Senate Bills 622 & 623 (Substitutes H-2)**

**Senate Bills 709 & 710 (Substitutes H-2)**

**Sponsor: Sen. Judy K. Emmons**

**House Committee: Education**

**Senate Committee: Education**

**Complete to 2-14-12**

## A SUMMARY OF SENATE BILLS 622 & 623 AND 709 & 710 AS REPORTED FROM HOUSE COMMITTEE 2-8-12

### BRIEF SUMMARY:

The bills would broaden the guidelines for students eligible to participate in dual enrollment, expanding opportunities for high school students. Dual enrollment is the practice of enrolling in a high school and in an eligible postsecondary institution simultaneously, earning college credit while a high school student, with the cost of any tuition and fees for that course, subject to limitation, paid for by the school district using state funds.

Senate Bill 622 (H-2) would amend the Postsecondary Enrollment Options Act (MCL 388.513) and Senate Bill 623 (H-2) would amend the Career and Technical Education Act (MCL 388.1903).

Specifically, the bills would do the following:

- Remove the requirement that a student be in at least grade 11 to participate in dual enrollment.
- Include in the definition of "eligible student" a student enrolled in a state-approved nonpublic school.
- Clarify that an eligible course is one offered for postsecondary credit.
- Allow a student to take up to 10 courses, overall (if receiving tuition and fee support under the act), as follows: If enrolling beginning in grade 9, then a limit of two courses in the first, second, and third academic years, and not more than 4 courses in year four; if enrolling beginning in grade 10, not more than 2 courses the first year, and not more than 4 courses during the second and third academic years; and if first enrolling in grade 11 or 12, not more than 6 courses during either of those academic years.

The bills are tie-barred to each other and to Senate Bills 709 and 710 so that none could go into effect unless all of the bills were enacted into law.

Senate Bills 709 (H-2) and 710 (H-2) would also amend the Career and Technical Preparation Act and the Postsecondary Enrollment Options Act, respectively, to extend dual enrollment provisions to state-approved nonpublic school students, require the Department of Treasury to pay the eligible charges for those students at a postsecondary institution, and revise the calculation of the payment to a postsecondary institution made on behalf of a public school student.

## **DETAILED SUMMARY:**

Senate Bills 622 (H-2) and 623 (H-2), as well as Senate Bills 709 (H-2) and 710 (H-2), are described in detail below.

### **Senate Bill 622 (H-2)**

Under current law, a student must be in at least grade 11 and must achieve a qualifying score on all subject areas of the Michigan Merit Exam, or achieve a qualifying score on specific subject areas, in order to enroll in eligible courses and qualify for dual enrollment. Also, students may enroll in computer science or foreign language courses not offered by the district, or a course in fine arts as permitted by the district, even if a qualifying score has not been achieved.

The Postsecondary Enrollment Options Act defines "eligible course" as one offered by an eligible postsecondary institution (i.e., a community college, state university, or independent nonprofit degree-granting college or university in Michigan) that is not offered by the school district, or that is offered but not available because of a scheduling conflict. An eligible course also must be an academic course not ordinarily taken as an activity course, a course that the postsecondary institution normally applies toward satisfaction of degree requirements, a course that is not a hobby craft or recreational course, one not ordinarily taken as an activity course, and a course that is not in the area of physical education, theology, divinity, or religious education.

The statute defines "eligible student" as a student enrolled in at least one high school class in at least grade 11 in a school district. Also, a student is an eligible student only for the limited purpose of enrolling in one or more eligible courses in a subject area for which a qualifying score was achieved, or for a computer science, foreign language, or fine arts course, as permitted.

The bill would remove the requirement that eligible students be enrolled in at least 11th grade. Also, the bill would include in the definition of "eligible student" a student enrolled in a state-approved nonpublic school (if the student has at least one parent or legal guardian who is a resident of Michigan), and would amend the definition of "eligible course" to refer to a course offered for postsecondary credit.

The statute defines "eligible charges" as tuition and mandatory course fees, material fees, and registration fees required by an eligible institution for enrollment in an eligible

course. The bill would retain this definition (removing the Senate-passed requirement that all students be charged the same tuition rate as those living in the college district).

Finally, the bill would include new limits on the number of dual enrollment courses that could be taken by any eligible student (public or nonpublic), by amending the definition of "eligible course." Specifically (unless there were a written agreement between the student's school district and the postsecondary institution to waive these limits) for each individual student, a course would be eligible if it did not exceed the following limits: (1) not more than 10 courses, overall (if receiving tuition and fee support under the act), as follows: (2) If enrolling beginning in grade 9, then a limit of 2 courses in the first, second, and third academic years, and not more than 4 courses in year four; (3) if enrolling beginning in grade 10, not more than 2 courses the first year, and not more than 4 courses during the second and third academic years; and (4) if first enrolling in grade 11 or 12, not more than 6 courses during either of those academic years.

### **Senate Bill 623 (H-2)**

The Career and Technical Education Act mirrors the Postsecondary Enrollment Options Act, but for programs that teach a trade, occupation, or vocation. The changes proposed to the act by Senate Bill 623 (H-2) mirror the changes detailed above under Senate Bill 622 (H-2).

### **Senate Bills 709 & 710**

Senate Bills 709 (H-2) and 710 (H-2) would amend the Career and Technical Preparation Act and the Postsecondary Enrollment Options Act, respectively, to:

- Extend provisions for dual enrollment in postsecondary institutions to high school students in state-approved nonpublic schools.
- Require the Department of Treasury to pay the tuition for a postsecondary course taken by a nonpublic school student based on a prorated percentage of the statewide pupil-weighted average foundation allowance.
- Require the Legislature to appropriate funds to the Department of Treasury for making required payments.
- Extend repayment provisions to nonpublic school students who did not complete an eligible course.
- Require repayment by a public or nonpublic student who enrolled in an eligible course for postsecondary credit only and did not successfully complete it.
- Allow a dually enrolled nonpublic school student to receive only postsecondary credit for a course, unless it would be considered a "nonessential elective course."
- Require a postsecondary institution to report annually to the Department of Education.

In addition, under the bills, for a dually enrolled public school student, the payment to a postsecondary institution would have to be based on a prorated percentage of the statewide pupil-weighted average foundation allowance.

(The Postsecondary Enrollment Options Act and the Career and Technical Preparation Act permit eligible high school students to enroll in courses at community colleges or universities, or at career and technical preparation programs operated by colleges and universities, for the purpose of earning high school or postsecondary credit or both. As discussed in the fiscal analysis below, a nonpublic student currently may dually enroll in a postsecondary institution only if he or she also enrolls in a nonessential elective course at a public school.)

The bills would take effect on July 1, 2012. They are tie-barred to each other and to Senate Bills 622 and 623.

Senate Bills 709 (H-2) and 710 (H-2) are described in detail below. Except where noted, the provisions in both bills are the same, and references in this summary to a "postsecondary institution" include a career and technical preparation program as well as a community college or university.

Readiness Assessment Costs. Each act contains provisions for students to take a readiness assessment (or a job skills assessment test) for the purpose of determining eligibility to participate in dual enrollment. Unless the school district in which a student is enrolled elects to pay the costs related to the assessment, the student is responsible for the costs. Under the bills, a student also would be responsible for the costs if the state-approved nonpublic school in which he or she was enrolled did not elect to pay the costs.

Letter of Eligibility; Notice of Enrollment. Each act requires the school district in which an eligible student is enrolled to give the student a letter signed by the principal indicating the student's eligibility under the act, at the student's request. The bills would extend this requirement to a state-approved nonpublic school.

Currently, within a reasonable time after registration, a postsecondary institution must send to an eligible student and the school district written notice indicating the student's course or courses and hours of enrollment. Under the bills, this would apply in the case of an eligible student enrolled in a school district. However, for an eligible student enrolled in a state-approved nonpublic school, the postsecondary institution would have to notify the student, his or her nonpublic school, and the Michigan Department of Education (MDE).

Billing & Payment for Public School Students. Currently, unless otherwise provided between a postsecondary institution and a eligible student's school district, after the institution's drop/add period for the course expires, the institution must send the school district a bill detailing the eligible charges for each eligible course in which the student is enrolled under the act.

The school district then must pay to the postsecondary institution an amount equal to the lesser of the amount of the eligible charges or a percentage of the state portion of the foundation allowance paid on behalf of the student, prorated by the proportion of the school year that the student attends the postsecondary institution.

Under the bills, the amount a school district must pay to a postsecondary institution would be lesser of the eligible charges or the prorated percentage of the statewide pupil-weighted average foundation allowance, as calculated under the State School Aid Act, for all school districts for the state fiscal year beginning on October 1 of the academic year of enrollment in the postsecondary institution, with the proration based on the proportion of the school year that the student attended the postsecondary institution. In the calculation of the statewide pupil-weighted average foundation allowance for this purpose, however, if a school district's foundation allowance is above the basic foundation allowance, the district's foundation allowance would have to be considered the basic foundation allowance.

By September 1 of each year, the MDE would have to notify the Department of Treasury of the amount of the statewide pupil-weighted foundation allowance as calculated for these purposes.

Billing & Payment for Nonpublic Students. For an eligible student who was enrolled in a state-approved nonpublic school, after the drop/add period for the course expired, the postsecondary institution would have to send the MDE a bill detailing the eligible charges for each eligible course in which the student was dually enrolled. The MDE would have to determine the amount of the eligible charges to be paid by the Department of Treasury to the postsecondary institution on behalf of the eligible student and deliver this information to the Treasury Department by appropriate electronic means.

The Department of Treasury then would have to pay to the postsecondary institution an amount equal to the lesser of the amount of the eligible charges or the prorated percentage of the statewide pupil-weighted average foundation allowance (as described above for dually enrolled public school students). By September 1 of each year, the MDE would have to notify the Department of Treasury of the amount of the statewide pupil-weighted foundation allowance as calculated for these purposes.

The eligible student would be responsible for paying the remainder of the costs associated with enrollment in the postsecondary institution that exceeded the amount paid by the Department of Treasury.

(The acts define "eligible charges" as tuition and mandatory course fees, material fees, and registration fees required for enrollment in an eligible course. Eligible charges do not include transportation or parking costs, or activity fees.

An "eligible course" is defined as a course offered by a postsecondary institution that is not offered by the school district (or intermediate school district or area vocational-technical education program, under the Career and Technical Preparation Act) in which an eligible student is enrolled, or that is offered but is not available to the student because of a scheduling conflict beyond the student's control; that is an academic course not ordinarily taken as an activity course; that is a course the postsecondary institution normally applies toward satisfaction of degree requirements; and that is not a hobby craft or recreational course. Also, under the Postsecondary Enrollment Options Act, an eligible

course must be in a subject area other than physical education, theology, divinity, or religious education.

Repayment by Public School Students. Currently, if an eligible student is enrolled in an eligible course under either act, and the student does not complete the course, and if the school district has paid money for the course on the student's behalf, the postsecondary institution must forward to the school district any funds that are refundable. The school district then must forward to the student any refunded money in excess of the amount paid by the district for the course.

Under the bills, these requirements also would apply if a student enrolled in an eligible course for postsecondary credit only and did not successfully complete the course.

The Career and Technical Preparation Act also requires the student to repay the district any funds it spent for the course that were not refunded to the school, unless the student did not complete the course due to a family or medical emergency, as determined by the program. Senate Bill 710 (H-2) would add the same language to the Postsecondary Enrollment Options Act.

Repayment by Nonpublic Students. Under both bills, for an eligible student who was enrolled in a state-approved nonpublic school, if the student did not complete an eligible postsecondary course or, if the student enrolled in the eligible course for postsecondary credit only and did not successfully complete the course, and if the Department of Treasury had paid money for the course on the student's behalf, the postsecondary institution would have to forward to the Treasury Department any funds that were refundable. If applicable, the postsecondary institution then would have to refund to the student any funds that were refundable and in excess of the amount paid by the department for the course on the student's behalf.

The student would have to repay to the Department of Treasury any funds that it spent for the course that were not refunded to the Department by the postsecondary institution, unless the student did not complete the course due to a family or medical emergency, as determined by the institution.

Course Credit. The acts allow an eligible student to enroll in, and receive payment by the school district for, an eligible course for high school credit or postsecondary credit, or both. At the time of enrollment, the student must designate whether the course is for high school credit or postsecondary credit, or both, and must notify the high school and the postsecondary institution of that designation.

Under the bills, except as provided below, an eligible student in a state-approved nonpublic school could enroll in, and receive payment by the Department of Treasury for, an eligible course only for postsecondary credit, and could not receive high school credit for the course.

If an eligible nonpublic school student was enrolled in an eligible course that would have



been considered a nonessential elective course under Snyder v Charlotte Public School District, 421 Mich 517 (1984), then the student could enroll in, and receive payment by the Treasury Department of all or part of eligible charges for an eligible course under either act for high school credit or postsecondary credit, or both. At the time of enrollment, the student would have to designate whether the course was for high school or postsecondary credit, or both, and notify the high school and the postsecondary institution of that designation.

(In Snyder v Charlotte Public School District, the Michigan Supreme Court addressed whether the public school district was required to provide "shared time instruction" in a band class to a student who was enrolled in the Charlotte Christian Academy. The Court held that a state-approved nonpublic school must teach subjects comparable to those taught in the public schools, such as basic reading, writing, mathematics, and English, but is not required to offer identical courses. "Thus, 'nonessential elective courses,' such as band, art, domestic science, advanced math, and science classes, etc., need not be taught in nonpublic schools. These are the types of courses that have traditionally been offered on a shared time basis.")

As currently provided, an eligible student taking more than one eligible course could make different credit designations for different courses.

Full-Time Enrollment. The acts' requirements for notice of enrollment, billing, payment, and repayment do not apply to postsecondary courses in which an eligible student is enrolled in addition to being enrolled full-time in his or her school district. Under the bills, the requirements also would not apply if a student were enrolled full-time in a state-approved nonpublic school.

Currently, in determining full-time enrollment in a school-district or full-time equated membership under the State School Aid Act, for a pupil enrolled in a postsecondary institution, the pupil's enrollment in both the school district and the postsecondary institution must be counted as enrollment in the school district, and a pupil cannot be considered to be enrolled in a school less than full-time solely because of the effect of his or her postsecondary enrollment on the number of class hours provided by the district to the pupil.

The bills would add comparable provisions concerning full-time enrollment in a state-approved nonpublic school.

Information & Counseling. Currently, each school district must provide information to all high school students on the postsecondary enrollment options under the acts, including enrollment eligibility, the programs and types of courses eligible for participation, the decision-making process for granting academic credits, and an explanation of eligible charges that will be paid.

To the extent possible, a school district must provide counseling services to an eligible student and a parent or guardian before the student enrolls in a postsecondary course.

By March 1 of each school year, a school district must provide general information about the postsecondary options to all pupils in grade 8 or higher.

Before enrolling in an eligible course at a postsecondary institution, an eligible student and the parent or guardian must file with the institution a signed form provided by the school district stating that the student is eligible and has received the required information and counseling. Upon request, the MDE must provide technical assistance to a school district and a postsecondary institution in developing forms and counseling guidelines.

The bills would extend these provisions to state-approved nonpublic schools. With respect to the information that must be provided to all high school students regarding postsecondary enrollment options, the bills would require the information to include the possibility of being required to repay the school district or Treasury Department for money paid on behalf of a student.

Annual Report. The bills would require each postsecondary institution to report all of the following annually to the Department of Education:

- The number of eligible students who enrolled in the postsecondary institution under the act during the preceding academic year.
- The total number of eligible courses completed by dually enrolled students during the preceding academic year.
- The number of eligible courses for which the institution granted postsecondary credit to the eligible student.
- The number of eligible courses for which the institution declined to grant postsecondary credit to the eligible student.

## **FISCAL IMPACT:**

The bills would amend the Postsecondary Enrollment Options Act and the Career and Technical Education Act by expanding opportunities for state-paid dual enrollment for 9th and 10th graders and nonpublic school students, and by altering the formula used to determine funding for dual enrollment courses at eligible postsecondary institutions or career and technical education (CTE) preparation programs. Dual enrollment enables qualified students to enroll in certain academic or career preparation courses at eligible postsecondary institutions, with the cost of any tuition and fees for that course, subject to limitation, paid for by the school district using state funds.

Expanding eligibility for state-paid tuition assistance for dual enrollment would now enable 9th and 10th graders (and potentially younger students) to also be eligible for dual enrollment under the acts.<sup>1</sup> This change in itself, absent the tuition payment changes also

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<sup>1</sup> The acts impose a number of requirements for the payment of tuition by the school district on behalf of dual enrolled students, but the acts do not necessarily limit dual enrollment of these students per se. The acts, MCL 388.518 and 388.1909, note that they do not restrict the ability of an eligible student or any other pupil to enroll in any postsecondary institution or CTE preparation program without tuition and fee support under this act. Moreover,



included in these bill, would have no material fiscal impact on the state, as the state already provides a per pupil foundation allowance for each of these students. Generally, schools may count dually enrolled pupils as 1.0 full-time equivalent (FTE) student if the number of classes the student attends and enrolls in at the high school and the postsecondary institution or CTE program equals the number of scheduled classes per day at the high school necessary to reach the minimum required hours for a full-time pupil.<sup>2</sup>

Easing restrictions on dual enrollment opportunities for nonpublic students would tend to increase the number of students eligible for state-paid assistance for dual enrollment courses, and increase state expenditures accordingly. Currently, nonpublic students must first enroll in the public school in at least one nonessential elective course, in order to be eligible for tuition assistance under current law for the dual enrolled course. It's not immediately known how many students enroll in a public school in order to be eligible for tuition assistance under the act, though reportedly not very many avail themselves of that option; nor is it known how many nonpublic students participate in dual enrollment without tuition assistance provided by the local school district. Permitting these students to dual enroll without also enrolling in the public school district would reduce pupil counts, to a small degree, to the extent that these students choose to no longer enroll in the public school, given that nonpublic students who dual enroll through the district are counted in a school district's FTE pupil membership.<sup>3</sup>

The bills also would provide that funding for dual enrollment for nonpublic students be made directly by the Department of Treasury, with the Legislature required to appropriate funds to the department to make the required payments. The source of funds is not identified in the bill. The bill provides the students would be responsible for repaying the Department of Treasury for any funds paid by the department for non-completed courses. Money owed to the department would be collected under the authority of the Revenue Act, 1941 PA 122, in the same manner as tax debt and other debts owed to state agencies.

The bills also would alter the funding formula used to determine the amount of funding paid on behalf of eligible students. Current law provides that school districts are to pay the lesser of (1) the amount of eligible tuition and fee charges and (2) the prorated share of the state portion of the districts foundation allowance.<sup>4</sup> The bills, instead, provide that school districts are to pay the lesser of (1) the amount of eligible tuition and fee charges

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the Pupil Accounting Manual notes that the acts "do not prohibit a district from supporting any pupil regardless of grade level [who are] taking college courses. Districts have always had the 'choice' of supporting pupils in appropriate course work that may include college courses. A local school board may elect to support college level courses or career preparation courses for any pupil if it is in the best interest of the pupil."

<sup>2</sup> See Section 5GA of the Pupil Accounting Manual, <http://www.michigan.gov/mde/0,4615,7-140--22360--,00.html>.

<sup>3</sup> The part-time membership FTE for a nonpublic student enrolled in a nonessential elective course is determined by dividing the number of classes the pupils enrolls in and attends by the number of classes required to be a full-time pupil (1.0 FTE). See Section 5E of the Pupil Accounting Manual.

<sup>4</sup> See, also, Section 21b of the State School Aid Act (MCL 388.1621b). The language in that section closely tracks the language in the Postsecondary Enrollment Options Act and the Career and Technical Education Act, although the package of reform bills does not include legislation amending MCL 388.1621b so that it conforms to these bills. Districts may pay more to a postsecondary institution on behalf of a student than what is required under the acts using local school operating revenue.

and (2) the prorated share of the statewide pupil-weighted average foundation allowance for the state fiscal year that begins on October 1 during the academic year of enrollment in the post-secondary or career technical program.<sup>5</sup> The impact of this change on individual school districts depends on the postsecondary institution that provides instruction (because of variations in the amount of eligible charges) and whether the district paid more than what was required under the acts.

Currently, the weighted average foundation allowance is about \$7,200. This equates to \$600 for one course for one semester (assuming a high school requires six courses to be a full-time student). For FY 2011-12, for nearly all school districts, 1/12th of their state portion is less than \$600, suggesting that this change would increase costs to school districts. One-twelfth of the weighted average state portion is about \$481 currently. This change would increase the costs for nearly all districts, to the extent that students dual enroll in a four-year institution (assuming \$300 per undergraduate credit hour, or about \$900 per 3-credit course for one semester). Districts would see their costs increase from \$481 (on average) to \$600.

If a student dual enrolls in a community college course, it's likely that fewer than 100 districts would be impacted. These would be districts whose prorated state portion is less than the cost of the course at a community college, as the bill ties the amount a district would pay to a statewide average, rather than a district-specific amount. The average in-district tuition rate at the state's 28 community colleges is around \$257 per 3-credit course (excluding mandatory fees) for the Fall 2011 semester. Those school districts whose prorated (1/12th) state portion is less than \$257 would see their required costs per course increase from \$119 on average to \$257 on average.

According to data from the Center for Educational Performance Information (CEPI), in 2010-11 school districts paid \$12.6 million in eligible tuition charges for 14,524 students completing 51,830 courses. That equates to an average of \$242 per course.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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<sup>5</sup> The bill provides that the MDE would have to calculate the weighted average amount and notify the Department of Treasury by September 1. However, as a practical matter, the MDE cannot calculate the weighted average foundation allowance by September 1st for a fiscal year that starts the following October 1st, because pupil counts aren't made until the pupil membership count day (the first Wednesday in October), and typically aren't finalized until December.