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BILL



ANALYSIS

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Senate Bills 709 and 710 (as enacted)
Sponsor: Senator Judy K. Emmons
Senate Committee: Education
House Committee: Education

PUBLIC ACTS 133 & 134 of 2012

Date Completed: 10-18-12

CONTENT

Senate Bills 709 and 710 amended 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 who do not complete an eligible course.**
- **Require repayment by a public or nonpublic student who enrolls in an eligible course for postsecondary credit only and does 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, for a dually enrolled public school student, the bills require the payment to a postsecondary institution 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 previously could dually enroll in a postsecondary institution only if he or she also enrolled in a nonessential elective course at a public school.)

The bills took effect on July 1, 2012. They were tie-barred to each other and to Senate Bills 622 and 623. Those bills amended the same Acts to include in the definitions of "eligible student" a student enrolled in a State-approved nonpublic school, and exclude a student who does not have at least one parent or legal guardian who is a resident of this State; remove the requirement that a student be in at least grade 11 to participate; and limit the number of postsecondary courses in which an eligible student may enroll.

Senate Bills 709 and 710 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 is responsible for the costs if the State-approved nonpublic school in which he or she is enrolled does 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, upon his or her request, to give the student a letter signed by the principal indicating the student's eligibility under the Act. The bills extend this requirement to a State-approved nonpublic school.

Within a reasonable time after registration, the Acts require a postsecondary institution to send to an eligible student and his or her school district written notice indicating the student's course or courses and hours of enrollment. Under the bills, this applies in the case of an eligible student enrolled in a school district.

For an eligible student enrolled in a State-approved nonpublic school, the bills require the postsecondary institution to notify the student, the nonpublic school, and the Michigan Department of Education (MDE).

Billing & Payment

Public School Students. Under either Act, unless otherwise provided between a postsecondary institution and an 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.

Previously, the school district then was required to 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 attended the postsecondary institution.

Under the bills, the amount a school district must pay to a postsecondary institution is the 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 attends 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 must be considered the basic foundation allowance.

The bills require the MDE, by September 1 of each year, to notify the Department of Treasury of the amount of the statewide pupil-weighted foundation allowance as calculated for these purposes.

Nonpublic School Students. For an eligible student who is enrolled in a State-approved nonpublic school, after the drop/add period for the course expires, the bills require the postsecondary institution to send the MDE a bill detailing the eligible charges for each eligible course in which the student is dually enrolled. The MDE must 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 must 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 must notify the Department of Treasury of the amount of the statewide pupil-weighted foundation allowance as calculated for these purposes.

The bills provide that the eligible student is responsible for paying the remainder of the

costs associated with his or her enrollment in the postsecondary institution that exceed 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 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

Public School Students. 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 apply if a student enrolls in an eligible course for postsecondary credit only and does 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 added the

same language to the Postsecondary Enrollment Options Act.

Nonpublic School Students. Under both bills, for an eligible student who is enrolled in a State-approved nonpublic school, if the student does not complete an eligible postsecondary course or, if the student enrolls in the eligible course for postsecondary credit only and does not successfully complete the course, and if the Department of Treasury has paid money for the course on the student's behalf, the postsecondary institution must forward to the Treasury Department any funds that are refundable. If applicable, the postsecondary institution then must refund to the student any funds that are refundable and in excess of the amount paid by the Department for the course on the student's behalf.

The bills require the student to repay to the Department of Treasury any funds that it spent for the course that are not refunded to the Department by the postsecondary institution, unless the student does 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 his or her 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 may enroll in, and receive payment by the Department of Treasury for, an eligible course only for postsecondary credit, and may not receive high school credit for the course.

If an eligible nonpublic school student is 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 may 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 must designate whether the course is for high school or postsecondary credit, or both, and notify his or her 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 the Acts provide for a dually enrolled public school student, a dually enrolled nonpublic school student taking more than one eligible course may 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 do not apply if a student is enrolled full-time in a State-approved nonpublic school.

Under the Acts, 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 added comparable provisions concerning full-time enrollment in a State-approved nonpublic school.

Information & Counseling

The Acts require each school district to 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 his or her 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 his or her 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 extended 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 require the information to include the possibility of having to repay the school district or Treasury Department for money paid on behalf of a student.

Annual Report

The bills 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.

MCL 388.1903a et al. (S.B. 709)
388.513a et al. (S.B. 710)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

State: The bills require the Department of Treasury to make payments to eligible postsecondary institutions for eligible courses, on behalf of nonpublic students participating in dual enrollment as allowed under the bills. Under prior practice, a nonpublic or home-schooled student could participate in dual enrollment and generate State payment for the course if the student first enrolled in at least one nonessential elective course at a public school. When a nonpublic student enrolled in at least one elective course at a public school, *the public school could count the portion of the day that student was enrolled in both the elective and the dual enrollment course*, and the school district, using State funds, was responsible for a portion of the district's foundation allowance equal to the portion of time spent in the elective course and eligible postsecondary course.

The bills allow a nonpublic student to dual enroll directly in an eligible postsecondary course and require the Department of Treasury to pay for that portion of the day spent in the dually enrolled course, without requiring the student to first enroll in a class at the public school. The bills include language requiring the Legislature to make an appropriation to the Department of Treasury for making payments required under the Act, for a dually enrolled nonpublic student, and this direct appropriation to the Department will likely be from the State's General Fund. This is different from the previous practice, because prior practice had the public school count the student, receive a foundation allowance payment, and pay the postsecondary institution out of the State portion of that foundation allowance funding.

The bills also change the basis for payments from the State portion of a district's foundation allowance to the statewide pupil-weighted average foundation allowance, which may result in some changes at both the public school and the postsecondary institution. In addition, the bills require a dually enrolled student to reimburse the district or State for any funds spent by the district or State that are not refunded by the postsecondary institution, when a student fails to successfully complete a course. This requirement was not previously in the statute, and may result in some slight new revenue being returned in some situations.

The net fiscal impact on the State is indeterminate. First, by removing the requirement that a nonpublic student enroll with a public school first before dually enrolling, the bills likely will lead to increased participation, which will result in increased State costs. At the same time, if some of the existing participants (those who are enrolled in at least one public school course plus the dual enrollment course) choose to disenroll from the public school and directly enroll at the postsecondary institution, there will be some State savings because the State will be paying only for the portion of the day spent at the postsecondary institution, rather than also the portion of the day enrolled at the public school. However, it seems likely that the probable increase in participation will outweigh the potential savings (which will occur only when those students who would have dually enrolled instead enroll only at the postsecondary institution), though the magnitude is unknown. For each additional dual enrollment course taken by a nonpublic student who does not first enroll in a public district, the cost will be about \$1,200 per year, if the eligible charges total one-sixth of the statewide average foundation allowance. Again, a direct appropriation to the Department of Treasury will be necessary in order to provide funding for the eligible expenses. In FY 2010-11, \$12.6 million was spent by school districts to pay for eligible expenses under the dual enrollment provisions; this included the costs for both public and nonpublic students.

The bills require the Department of Education to process and calculate eligible costs of the dual enrollment courses taken by nonpublic students, and forward that information to the Department of Treasury

for payment to the postsecondary institutions providing dual enrollment courses. Therefore, the Department of Education may see some increased costs related to these processes, and Treasury may see some increased costs associated with processing the new payments.

Local: Because the legislation allows nonpublic students to use dual enrollment provisions without first enrolling in a public school, it is likely that public schools will see a decrease in revenue tied to this occurrence. Under prior practice, a public school that enrolled a nonpublic student in at least one course, as well as a dual enrollment course, received foundation allowance payments for the portion of the school year the student was enrolled. Therefore, if removing the requirement that a nonpublic student first enroll in the public school before dually enrolling results in fewer nonpublic students enrolling at the public school, the public schools will see decreased foundation allowance revenue from the State.

The change in the basis for payments from the State portion of a district's foundation allowance to the pupil-weighted average foundation also may result in some local impacts, which likely will cost districts additional funding to pay for dual enrollment. A district's foundation allowance is a mix of State and local funding, and prior law required the district to pay to the postsecondary institution only the prorated piece of the State portion of the foundation allowance. However, the change requires a district to pay to the postsecondary institution the prorated piece of the entire statewide pupil-weighted average foundation allowance, which was estimated at roughly \$7,200 in FY 2011-12.

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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.