

Legislative Analysis



SCHOOL DISTRICT DISSOLUTION

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House Bill 4813

Sponsor: Rep. David Rutledge

House Bill 4815

Sponsor: Rep. Bill Rogers

Committee: Education

Complete to 6-11-13

A SUMMARY OF HOUSE BILLS 4813 AND 4815 AS INTRODUCED 6-6-13

The bills would allow for the dissolution of a school district, and provide for the transfer of a dissolved district's students to one or more receiving schools. A more detailed description of each bill follows.

House Bill 4813 would amend the Revised School Code (MCL 380.12) to put in place the criteria and procedures for dissolution of a school district, and the attachment of the dissolved district's territory to one or more school districts nearby (to be known as receiving districts).

House Bill 4815 would amend the School Aid Act (MCL 388.1607 et al) to revise its references to the Local Financial Stability and Choice Act, and provide for the implementation of school district dissolution.

House Bill 4813

A more detailed description of the bill follows.

Under House Bill 4813, a school district would lose its organization and be declared dissolved if any of the following conditions were met:

- there were not enough people residing in the school district and qualified under law to hold all of the offices of the school district (or who would accept the offices of the school district);
- the state school superintendent and state treasurer jointly determined that both of the following applied: (1) the school district had not submitted its required deficit elimination plan, or lacked the capability to both implement a plan and meet the district's obligations to provide public educational services in a manner that complied with the Revised School Code, the State School Aid Act, and the rules promulgated by the Department of Education; and (2) the school district was not financially viable and was unable to educate students in grades K-12 residing in the district by operating for a full school year and providing the required number of instructional hours.

If one or more of the conditions above were met, then the intermediate school board or the state school superintendent (if requested to do so by the intermediate school board) would declare the school district dissolved, and immediately order attachment of the district's territory (in whole or in part) to one or more other organized receiving school districts. [The bill defines "receiving school district" to mean a school district to which all or part of the territory of a dissolved school district is attached.]

The bill specifies that in attaching the territory of the dissolved school district to other school districts, the intermediate school board or the state superintendent should take into account the number of students who are transferred into each of those other school districts relative to the number of students already enrolled in the receiving school district, as well as the number of students who qualify for free and reduced price lunch.

Within 21 days after a school district is declared dissolved, that district must account to the intermediate school district for all records, funds, and property of the school district, and make an equitable distribution of them, consistent with the ordered attachment to each receiving school district.

Outstanding Debt of Dissolved District

Under the bill, if a dissolved school district has outstanding debt, then it would retain a limited separate identity, and the territory of that dissolved school district would continue as separate taxing unit until the debt was retired or refunded. The board and other officers of the school district to which the largest share of the state equalized value of the dissolved district was attached would perform the functions of the dissolved district relating to the debt, including, but not limited to, all of the following:

- certifying and levying taxes for satisfaction of the debt in the name of the dissolved district;
- holding debt retirement funds of the dissolved district separately from the funds of the receiving district; and
- doing all other things relative to the outstanding debt required by law, including, but not limited to levying or renewing a school operating tax under Section 1211.

Renewal of Debt Millage

The bill specifies that the question of renewal of a school operating tax pledged to the repayment of debt would be submitted only to school electors who reside within the geographic area of the dissolved district, and would not require approval by electors of a receiving district.

Audit of Assets and Liabilities

Upon attachment of a dissolved school district, the intermediate school board would audit the assets and liabilities of the dissolved district, and if a considerable discrepancy were found, the intermediate school board would order the dissolved district to pay the discrepancy. After first satisfying debt obligations, the dissolved school district would repay that amount from money available to the dissolved district including voted millage, within a period of time determined by the intermediate school board.

Tax Levy in Receiving District

Further, if a tax was authorized within a receiving school district at an amount greater than the amount in the dissolved district at the time of the dissolution, that tax could not be levied within the geographic area of the dissolved district until approved by the school electors residing in the dissolved district or by all school electors within the receiving district, including any expanded geographic area of the receiving district.

Sinking Funds

If a dissolved school district levied a sinking fund tax (under Section 1212) at the time of dissolution, then the identity of the dissolving district as a legal entity would not be lost, and its territory would remain as a taxing unit for the limited purpose of levying a sinking fund tax, until that authorization expired. The bill specifies that for the purposes of this subsection, the board and other officers of the receiving school district that received the largest share of the state equalized valuation of the dissolved district would perform the functions of the dissolved district, and would distribute the proceeds of the levy to each receiving school district that operated a school building previously operated by the dissolved district.

The proceeds of a sinking fund levy could be used only within the geographic area of the dissolved district for purposes authorized under Section 1212. A receiving district could not renew or authorize a new sinking fund tax levy only within the geographic area of the dissolved school district.

Foundation Allowance Determination

The bill further specifies that it is the intent of the legislature to amend the State School Aid Act to ensure that it is consistent with the following. In determining the foundation allowance for a receiving school district, the local school operating revenue of the receiving district could not include revenue generated within a dissolved school district by a school operating tax levied under Section 1211 on behalf of the dissolved district for the purpose of satisfying outstanding debt of the dissolved district.

For the four (4) state fiscal years immediately after the dissolution, a receiving district could elect to receive either of the following foundation allowances for each student who was enrolled in the dissolved district immediately before the dissolution, who is subsequently enrolled in, and counted in membership in the receiving district:

- A foundation allowance equal to 1.1 times the foundation allowance of the receiving school district; or
- A foundation allowance equal to 1.1 times the foundation allowance of the dissolved district if the dissolved district had not been dissolved under this section and had continued to educate its students directly on its own.

Employees of Dissolved District

The bill also specifies that an individual who was employed by a dissolved district immediately before the dissolution who remained employed by a receiving district would be entitled to all the rights and benefits to which the person would otherwise be entitled,

had the person been employed by the receiving district during the time he or she was employed by the dissolved district, including, but not limited to, any rights under 1937 (ex sess) PA 4, MCL 38.71 to 38.191. An employment agreement in effect at the time of the dissolution with the dissolving district and with each receiving school would remain in full force and effect for the duration of the agreement for employees covered by those agreements, until a successor agreement with the receiving district was effective.

Test Scores

Under the bill, the Michigan Department of Education would be prohibited from including the test scores of students from the dissolved district when determining adequate yearly progress status, or for "top-to-bottom" rankings of the receiving school districts for the first three (3) school years after dissolution.

Student Rights

The bill specifies that the students formerly enrolled in the dissolved district would have all the legal and constitutional rights and privileges of the other students enrolled in the receiving school districts.

Employee Hiring

Under the bill, for a period of two (2) years following dissolution, all new employees hired by a receiving school district, except for administrators, would have to be hired from among those who were first interviewed and employed by the dissolved school district within the last year before the dissolution.

Federal Grants and Funds

Finally, the bill specifies that, as permitted under federal law, if a school district is dissolved, or if the functions and responsibilities of a school district are transferred to another public entity, including but not limited to a transfer to another public entity under Section 1280c, the state school superintendent must grant each receiving school district or other public entity, an allocation of grants under certain specified federal laws, as well as an allocation of other federal funds that would otherwise be made available for grants to, or federal funding for, the public school (or to make other adjustments in the allocation of federal funds to implement the dissolution of the school district or other transfer of functions and responsibilities).

House Bill 4815

House Bill 4815 would amend the School Aid Act (MCL 388.1607 et al) to revise its references to the Local Financial Stability and Choice Act, and provide for the implementation of school district dissolution.

The bill specifies that if a district eligible for payments under the act is dissolved under Section 12 of the Revised School Code, then each receiving district to which some or all of the dissolved district was attached would receive an amount otherwise payable to the dissolved district, proportionate to the receiving district's share of the state equalized value (SEV) of the dissolved district. The receiving district that received the largest

share of the SEV would perform any functions and responsibilities of the board and other officers of the dissolved district necessary under the School Aid Act, on behalf of the dissolved district.

House Bill 4815 specifies that for a receiving district, if school operating taxes continued to be levied on behalf of a dissolved district to satisfy debt obligations of the dissolved district, then when calculating the taxable value per membership pupil of property in the receiving district, the taxable value of property within the geographic area of the dissolved district would be excluded.

Under House Bill 4815, for the four (4) fiscal years following the dissolution of a dissolved district, a receiving district could elect to receive either of the following foundation allowances for each resident of the geographic area of the dissolved school district who is enrolled in, and in membership in, the receiving district:

- A foundation allowance equal to 1.1 times the foundation allowance of the receiving school district; or
- A foundation allowance equal to 1.1 times the foundation allowance of the dissolved district if the dissolved district had not been dissolved under this section and had continued to educate its students directly on its own.

Further, the bill specifies that after the four (4) fiscal years following the dissolution of a dissolved district, when the payment of a foundation allowance for a receiving district is calculated under subsection (8) of the act, the receiving district's foundation allowance would be the average of the foundation allowances of the receiving districts and the dissolved district, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the receiving district who resided in the geographic area of the portion of the dissolved district attached to the receiving district.

House Bill 4815 specifies that for a receiving district, if school operating taxes were to be levied on behalf of a dissolved district to satisfy debt obligations, then 'taxable value per membership pupil' of all property in the district that is non-exempt property, and the 'taxable value per membership pupil' of property in the district that is commercial personal property, would not include property within the geographic area of the dissolved district; ad valorem property tax revenue of the district captured under tax increment financing acts (TIFAs) would not include ad valorem property tax revenue captured within the geographic boundaries of the dissolved district under tax increment financing acts; and certified mills would not include the certified mills of the dissolved district.

The bill exempts receiving school districts from that section of the act that describes the manner in which consolidating school districts have determined their foundation allowance.

House Bill 4815 would add a new definition of "dissolved district" to mean a district that loses its organization, is attached to one or more other school districts, and is dissolved as provided under Section 12 of the Revised School Code.

The bill would add a new definition of "receiving district" to mean a school district to which some or all of a dissolved district was attached under Section 12 of the Revised School Code, MCL 380.12.

The bill would also modify the definition of the phrase "school operating purposes" so that it would extend to purposes authorized under section 1211 of the Revised School Code, MCL 380.1211.

FISCAL IMPACT:

The bills could have a significant fiscal impact on the State School Aid budget, the Michigan Department of Education, and both school districts and intermediate school districts.

While the bills could apply to any district that met the proposed conditions for dissolution, there are currently three school districts that are most likely to be eligible for dissolution before the beginning of the 2013-2014 school year: Pontiac, Inkster, and Buena Vista.

The fiscal implications are summarized in four major categories below; costs could equal as much as \$56.5 million for the first year. The detailed cost estimates for each district are in the table below.

Diversion of Local Portion of Foundation Allowance

First, the bills would shift local school operating costs to the School Aid Fund by dissolving a district with debt and allowing the district's local school operating mills (up to 18 mills on all non-homestead property) to be used solely for paying the debt until the debt is gone. Currently those local revenues make up a portion of each district's foundation allowance.

When a pupil from the dissolved district becomes a resident in one of the receiving districts (through the attachment of the property from the dissolved district to a receiving district), there will not be any local revenue until the debt is paid off with which to support the foundation allowance tied to that pupil. Thus the School Aid Fund will bear the entire cost of that pupil.

In the case of the three immediately potential districts, using FY 2012-13 data, the costs of replacing this diverted local school operating revenue would total approximately \$34.0 million annually until the debt is paid in full and the local school operating revenue is again used for school operating costs in whichever receiving district the relevant property were attached to.

Increased Foundation Allowances for Transition Costs

The bills would provide for short-term increased funding to the receiving districts through increased foundation allowances for the first four years following a dissolution.

Each district would be allowed to choose the highest of either the dissolving district's or receiving district's foundation allowance plus a premium of 10% of the chosen foundation allowance for students from the dissolved district. For the immediately potential three districts, the 10% premium could cost between \$5.6 million and \$9.5 million each year depending on the foundation allowance of the relevant dissolved and receiving districts.

After the first four years the foundation allowance of the receiving district would be the per pupil weighted average foundation and thus would have no net fiscal impact on the State, but could either increase or decrease the receiving district's foundation allowance depending on the original foundation allowances of both the dissolved and receiving districts.

Michigan Public School Employees' Retirement System (MPERS) Unfunded Liabilities

Currently MPERS employers pay both the normal costs (cost of benefits earned in the current year) and the unfunded liabilities (costs tied to previously earned benefits) based on their current payroll. The employer contribution rate for unfunded liabilities is capped at 20.96% of payroll and the School Aid Fund pays for the additional costs beyond that contribution rate cap in Sec. 147c of the School Aid Act. The appropriation for Sec. 147c for FY 2013-14 is \$404.6 million.

When a district is dissolved and no longer has employees or payroll, it will no longer be contributing toward those unfunded liabilities, and those costs will be added to the State's share of the costs thus necessitating an increased appropriation in Sec. 147c. For the three districts in question, the total annual cost of the MPERS unfunded liabilities could be as high as \$13.0 million. A portion of those costs could be offset by increased local contributions from the receiving districts to the extent that their payrolls increase to accommodate increasing pupil membership from the dissolved district.

District	Deficit (millions)	FY 13 Foundation	FY 13 Local Portion	FY 13 State Portion	FY 13 Pupils	Total Local Foundation Revenues	FY 12 MPERS Total Contribution	10% Foundation Premium Range	
								Minimum	Maximum
Pontiac	\$37.7	\$7,021	\$6,039	\$982	5,195	\$31,372,605	\$8,808,127	\$3,678,060	\$6,234,000
Buena Vista	\$1.0	\$7,776	\$3,932	\$3,844	430	\$1,690,760	\$1,136,618	\$304,440	\$516,000
Inkster	\$12.8	\$7,573	\$432	\$7,141	2,292	\$990,144	\$2,971,959	\$1,622,736	\$2,750,400
TOTAL						\$34,053,509	\$12,916,704	\$5,605,236	\$9,500,400

Administrative Costs

The bills would add to the administrative duties of the receiving districts, intermediate districts and the Michigan Department of Education and could create additional related costs.

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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.