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BILL



ANALYSIS

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House Bill 4352 (as reported without amendment)
House Bill 4353 (Substitute H-2 as reported without amendment)
Sponsor: Representative Lisa Posthumus Lyons
House Committee: Education
Senate Committee: Education

CONTENT

House Bill 4352 would amend the Public Health Code to do the following:

- Allow a prescriber to prescribe auto-injectable epinephrine (AIE) to a school board.
- Allow a dispensing prescriber or a pharmacist to dispense AIE to a school board.
- Provide civil immunity to a person who prescribed or dispensed AIE to a school as authorized under the bill.
- Allow a school employee who was a licensed registered professional nurse or was trained in administering AIE to possess and administer it.

House Bill 4353 (H-2) would amend the Revised School Code to do the following:

- Require a school board to develop and implement policies that provided for each school to possess two AIE devices, and authorized school nurses and trained employees to administer AIE to someone who was believed to be having an anaphylactic reaction.
- Require a school board to ensure that a certain number of employees were trained in administering AIE (at least one trained employee in a school with an instructional and administrative staff of 10 or more, and at least one trained employee in a school with a staff of less than 10).
- Provide civil immunity to a school district, nonpublic school, and certain school officials with regard to an authorized person's provision of medicine or AIE to a pupil.
- Provide civil and criminal immunity to a school employee who in good faith administered AIE and complied with the provisions of the bill and school board policies, except in cases of grossly negligent or willful wonton misconduct.
- Require the Department of Education to revise medication administration guidelines, including training needs and requirements relating to AIE devices.
- Require a school district to report to the Department all instances of AIE administration at least annually.
- Require a school district to attempt to obtain funding or resources from a source other than the State to meet the bill's requirements.
- Allow a school board to apply to the Department for unfunded costs of complying with the bill.
- Require the Legislature to appropriate funds for the reimbursement.
- Require the Department to submit to the Legislature an annual report that detailed the number of school boards that applied for reimbursement and the number that secured alternative funding.

House Bill 4352 is tie-barred to House Bill 4353.

MCL 333.17745 et al. (H.B. 4352)
380.1178 et al. (H.B. 4353)

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

House Bill 4352 would have no fiscal impact on State or local government.

House Bill 4353 (H-2) would increase costs to the Michigan Department of Education by requiring the Department to identify, develop, and adopt appropriate revisions to the medication administration guidelines as specified under the bill. Costs likely would be minimal.

Costs for local schools would increase because of the proposed requirements for two epinephrine auto-injectors at each school building, training in the administration of epinephrine auto-injectors, and annual reporting on instances of administration of epinephrine auto-injectors. The bill would require school boards to seek funding or resources from private sources or sources other than the State, but if those funds were insufficient to cover the costs identified above, the school boards could apply to the Department for reimbursement. The bill would require the Legislature to appropriate funds for making the reimbursement.

It is unknown the extent to which private or other non-State funds would be available to pay for the requirements of this legislation. To estimate conservatively (by assuming no private or other non-State resources), the cost to the State for epinephrine auto-injectors could range from \$500,000 to \$600,000 per year (using a cost of \$140 for a two-pack of epinephrine auto-injectors multiplied by the number of school buildings in Michigan), on top of the cost for training staff in the administration of the medication, along with the potential cost of paying for a contracted nurse if a school board chose to use a contracted nurse instead of district staff for the administration of the medication, as the bill would allow.

The bill also could result in savings to affected local school districts by removing liability for damages in a civil action for injury, death, or loss to person or property allegedly arising from a person administering medication under current and proposed language. Current law states that personnel of a school are not liable in a criminal action or for civil damages, but does not provide such immunity to the districts themselves. Therefore, the proposed language could provide district savings if there were situations in which a district was sued for damages due to the administration of medication by district personnel, and the district was found guilty and, without this language, would be ordered to pay damages.

Date Completed: 11-6-13

Fiscal Analyst: Kathryn Summers

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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.