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**BILL ANALYSIS**

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House Bill 4822 (Substitute S-3)  
Sponsor: Representative Amanda Price  
House Committee: Education  
Senate Committee: Education

Date Completed: 3-15-16

**CONTENT**

**The bill would add Section 1280f to the Revised School Code to do the following:**

- **Require the Department of Education to approve three or more reading assessment systems for use by a school district or public school academy (PSA).**
- **Require the Department to recommend or develop an early literacy coach model.**
- **Specify the responsibilities and qualifications of an early literacy coach.**
- **Require a school board or PSA board of directors to select an approved assessment system to screen and diagnose reading deficiencies.**
- **Require a school district or PSA to assess a pupil's progress in reading at least three times per school year, during kindergarten through third grade.**
- **Require a school board or board of directors to provide a kindergarten to third-grade (K to 3) pupil who exhibited a reading deficiency with an individual reading improvement plan within 30 days after the reading deficiency was identified.**
- **Require a school district or PSA to provide reading intervention programs for pupils with reading deficiencies in grades K to 3.**
- **Require a school district or PSA to provide intervention services for pupils identified as English language learners.**
- **Prohibit the promotion of a pupil to grade 4 unless the pupil demonstrated a satisfactory reading score, or otherwise demonstrated a grade 3 reading level.**
- **Prohibit a school district superintendent or PSA chief administrator from allowing a child under 10 years old to enroll in grade 4 unless he or she demonstrated a satisfactory reading score, or otherwise demonstrated a grade 3 reading level.**
- **Require the Department to provide the Center for Educational Performance and Information (CEPI) with the grade 3 assessment scores for every grade 3 pupil.**
- **Require CEPI to identify grade 3 pupils who were subject to not being advanced to grade 4 and notify the parent or legal guardian and the school district or PSA of each pupil that the pupil would be subject to retention.**
- **Specify reasons and procedures for granting a good cause exemption from the grade 3 promotion and retention requirements.**
- **Prohibit a school district or PSA from requiring a pupil to repeat grade 3 more than once due to the operation of Section 1280f.**
- **Require a school district or PSA to develop a staffing plan if it could not furnish the number of teachers needed to provide services required under Section 1280f.**

The bill also states that Section 1280f "does not require or state an intention to require a school district or public school academy to supplant state funds with federal funds for implementing or supporting the activities under this section, and does not prohibit a school

district or public school academy from continuing to use federal funds for any of the purposes or activities described in this section".

The bill would take effect 90 days after its enactment.

#### Department of Education Responsibilities

The bill would require the Department to approve three or more valid and reliable screening, formative, and diagnostic reading assessment systems for selection and use by school districts and PSAs to ensure that more pupils achieved a score of at least proficient in English language arts on the grade 3 State assessment. Each approved assessment would have to provide a screening assessment, progress monitoring capabilities for monitoring progress toward a growth target, and a diagnostic assessment. In determining which assessment systems to approve, the Department would have to consider the following factors:

- The time required to conduct the assessments, with the intention of minimizing the impact on instructional time.
- The level of integration of assessment results with instructional support for teachers and pupils.
- The timeliness in reporting assessment results to teachers, administrators, and parents.

To ensure that more pupils achieved the specified score, the bill also would require the Department to recommend or develop an early literacy coach model, with the features described below.

#### Early Literacy Coach

An early literacy coach would have to support and provide initial and ongoing professional development to teachers in all of the following:

- Each of the five major reading components (phonemic awareness, phonics, fluency, vocabulary, and comprehension) as needed, based on an analysis of pupil performance data.
- Administering and analyzing instructional assessments.
- Providing differentiated instruction and intensive intervention.
- Using progress monitoring.
- Identifying and addressing reading deficiency.

("Reading deficiency" would mean scoring below grade level or being determined to be at risk of reading failure based on a screening assessment, diagnostic assessment, standardized summative assessment, or progress monitoring.)

The bill also would require an early literacy coach to do the following:

- Model effective instructional strategies for teachers.
- Facilitate study groups.
- Train teachers in data analysis and using data to differentiate instruction.
- Coach and mentor colleagues.
- Work with teachers to ensure that research-based reading programs such as comprehensive core reading programs, supplemental reading programs, and comprehensive intervention reading programs were implemented with fidelity.
- Train teachers to diagnose and address reading deficiency.
- Work with teachers in applying research-based reading strategies in other content areas.
- Help to increase instructional density to meet the needs of all pupils.
- Help lead and support reading leadership teams at the school.

- Continue to increase his or her knowledge base in best practices and reading instruction and intervention.
- For each teacher who taught in a classroom for grades K to 3, model for the teacher, and coach the teacher in, instruction with pupils in whole and small groups.

("Reading leadership team" would mean a collaborative system led by a school building's principal or program director and consisting of a cross-section of faculty who are interested in working to improve literacy instruction across the curriculum.)

In the context of performing the functions described above, an early literacy coach could not be asked to perform administrative functions that would confuse his or her role for teachers.

The bill would require an early literacy coach to meet all of the following: a) have experience as a successful classroom teacher; b) have sufficient knowledge of scientifically based reading research, special expertise in quality reading instruction and infusing strategies into content area instruction, and data management skills; c) have a strong knowledge base in working with adults; and d) have a minimum of a bachelor's degree and advanced coursework in reading or have completed professional development in research-based literacy instructional strategies.

An early literacy coach could not be assigned a regular classroom teaching assignment, but would be expected to work frequently with pupils in whole and small group instruction or tutoring in the context of modeling and coaching in or outside of teachers' classrooms.

#### Responsibilities of School Boards & Boards of Directors

Beginning in the 2016-2017 school year, to ensure that more pupils achieved a score of at least proficient in English language arts on the grade 3 assessment, the board of a school district or board of directors of a PSA would have select one of the assessment systems approved by the Department, as described above. A school district or PSA would have to use this assessment system for pupils in grades K to 3 to screen and diagnose difficulties, inform instruction and intervention needs, and assess progress toward a growth target. A school district or PSA would have to assess a pupil's progress in reading skills in grades K to 3 at least three times per school year. The first of these assessments for a school year would have to be conducted within the first 30 days of the school year.

For any pupil in grades K to 3 who exhibited a reading deficiency at any time, based on the reading assessment selected and used, the school board or board of directors would have to provide an individual reading improvement plan for the pupil within 30 days after the reading deficiency was identified. The reading improvement plan would have to be created by the pupil's teacher, school principal, and parent or legal guardian and other pertinent school personnel, and would have to describe the reading intervention services the pupil would receive to remedy the reading deficiency. A school district or PSA would have to provide intensive reading intervention for the pupil in accordance with the individual reading improvement plan until the pupil no longer had a reading deficiency.

If a pupil in grades K to 3 were identified as having an early literacy delay or reading deficiency, the school board or board of directors would have to give written notice to the pupil's parent or legal guardian of the delay or deficiency and would have to provide tools to assist the parent or guardian to engage in intervention and to address or correct the deficiency at home.

A school board or PSA board of directors also would have to require a school principal or chief administrator to do all of the following:

- For a teacher in grades K to 3, target specific areas of professional development based on the reading development needs data for incoming pupils.
- Differentiate and intensify professional development for teachers based on data gathered by monitoring teacher progress in improving pupil proficiency rates among their pupils.
- Establish a collaborative system within the school to improve reading proficiency rates in grades K to 3.
- Ensure that time was provided for teachers to meet for professional development.

The school board or board of directors would have to use, at least, early literacy coaches provided through the intermediate school district in which the school district or PSA was located, as provided for under the State School Aid Act, and use the early literacy coach model recommended or developed by the Department. The school board or board of directors also would have to identify how to best monitor the implementation and effectiveness of the model and assure communication between the central office, school administration, and the early literacy coach throughout the school year to address areas of concern.

### Reading Intervention Programs

The bill would require a school district or PSA to provide reading intervention programs for pupils in grades K to 3. For pupils who exhibited a reading deficiency, the school district or PSA would have to provide a reading intervention program that was intended to ensure that pupils were proficient readers by the end of grade 3 and that included some or all of the following features:

- Was provided to each pupil in grades K to 3 who was identified with a reading deficiency based on screening and diagnostic tools, and would identify and address the deficiency.
- Periodically screened and monitored the progress of each pupil's reading skills, at least three times per year.
- Provided evidence-based core reading instruction that was comprehensive and met the majority of the general education classroom needs.
- Provided parents, legal guardians, or other pupil care providers with a "read at home" plan, including parent, guardian, or care provider training workshops and regular home reading.
- Documented efforts by the school to engage the pupil's parent or legal guardian and whether those efforts were successful.
- Documented any dissenting opinions expressed by school personnel or a parent or legal guardian concerning the individual reading improvement plan provided for the pupil.

A reading intervention program also would have to provide a reading intervention that met, at a minimum, the following specifications: a) assisted pupils exhibiting a reading deficiency in developing the ability to read at grade level; b) provided intensive development in the five major reading components: phonetic awareness, phonics, fluency, vocabulary, and comprehension; c) was systematic, explicit, multisensory, and sequential; and d) was implemented during regular school hours in addition to regular classroom reading instruction.

For a grade 3 pupil exhibiting a reading deficiency as determined by the pupil's teacher through the diagnostic reading assessment system selected by the school district or PSA, the school district or PSA would have to provide a reading intervention program that was intended to correct the identified area or areas of reading deficiency and that included all of the following features as needed by the individual pupil:

- Was research-based and had proven results in accelerating pupil reading achievement within the same school year.
- Provided more dedicated time than the pupil's previous school year in research-based reading instruction and intervention.

- Provided daily targeted small group or one-to-one reading intervention based on pupil needs as determined by assessment data, including explicit and systematic instruction with more detailed and varied explanations, more extensive opportunities for guided practice, and more opportunities for error correction and feedback.
- Provided administration of ongoing progress monitoring assessments to frequently monitor pupil progress.
- Provided supplemental research-based reading intervention delivered by a teacher, tutor, or volunteer with specialized reading training that was provided before school, after school, during school hours but outside of regular English language arts classroom time, or any combination of these.
- Provided parents, legal guardians, or other pupil care providers with a "read at home" plan, including parent, guardian, or care provider training workshops and regular home reading.
- Documented efforts by the school to engage the pupil's parent or legal guardian and whether those efforts were successful.
- Documented any dissenting opinions expressed by school personnel or a parent or legal guardian concerning the individual reading improvement plan provided for the pupil.

### English Language Learners

For a pupil identified as an English language learner by the pupil's teacher or by the diagnostic reading assessment selected by the school district or PSA, the school district or PSA would have to provide intervention services that included at least all of the following:

- Ongoing assessments that provided actionable data for teachers to use in interventions.
- Instruction in academic vocabulary.
- Instruction in the five major reading components.
- Common English language development strategies such as modeling, guided practice, and comprehensive input.

### Summer Reading Camps

For every pupil exhibiting a reading deficiency as determined by the pupil's teacher through the diagnostic reading assessment system selected by the school district or PSA, the school district or PSA would be encouraged to offer summer reading camps staffed with highly effective teachers of reading, as determined by the teacher evaluation system under Section 1249, providing reading intervention services and supports to correct pupils' identified areas of reading deficiency.

(Section 1249 requires a school board or PSA board of directors to implement a performance evaluation system. The system is required to include ratings for teachers as highly effective, effective, minimally effective, or ineffective.)

### Promotion & Retention of Third Grade Pupils

The following provisions would apply beginning with pupils enrolled in grade 3 during the 2019-2020 school year.

The superintendent of the school district or chief administrator of the PSA in which a pupil was enrolled would have to ensure that the pupil whose parent or legal guardian had been notified by CEPI, as described below, was not enrolled in grade 4 until one of the following occurred:

- The pupil achieved a grade 3 level reading score as determined by the Department based on the grade 3 State English language arts assessment.

- The pupil demonstrated a grade 3 reading level through performance on an alternative standardized reading assessment approved by the Superintendent of Public Instruction.
- The pupil demonstrated a grade 3 reading level through a pupil portfolio, as evidenced by demonstrating competency in all grade 3 State English language arts standards through multiple work samples.

The Department would have to complete the scoring of the grade 3 State English language arts assessment, and release the results of the assessment, by June 1 of each year.

If a child younger than 10 years of age sought to enroll in for the first time in a school district or PSA in grade 4, the superintendent of the school district or chief administrator of the PSA could not allow the child to enroll unless one of the following occurred:

- The child achieved a grade 3 reading score as determined by the Department based on the reading portion of the grade 3 State English language arts assessment.
- The child demonstrated a grade 3 reading level through performance on an alternative standardized reading assessment approved by the Superintendent of Public Instruction.
- The child demonstrated a grade 3 reading level through a pupil portfolio, as evidenced by demonstrating competency in all grade 3 State English language arts standards through multiple work samples.

By May 23 of each year or within 14 days after the Department finalized the scoring for the grade 3 State assessments, whichever was earlier, the Department would have to provide CEPI with the assessment scores for every grade 3 pupil enrolled in a public school who was administered one or more of those assessments. By June 1 of each year or within 14 days after it received the grade 3 State assessment results, whichever was earlier, CEPI would have to identify, using those results, each pupil completing grade 3 that year who was subject to not being advanced to grade 4 and who was not eligible to enroll in grade 4. The Center would have to notify the parent or legal guardian and the school district or PSA of each of these pupils that he or she was subject to being retained in grade 3. The notification would have to be through certified mail, and clearly state at least all of the following:

- That, based on standardized testing, the State had determined that the pupil could be required to be retained in grade 3 as provided under State law, with a reference to Section 1280f.
- That the parent or legal guardian had the right to request a good cause exemption that, if granted, would allow the pupil to enroll in grade 4 in the next school year.
- That the parent or legal guardian would have to request the exemption within 30 days after the date of the notification and would have to direct the request to the school district or PSA in which the parent or legal guardian intended to enroll the pupil for grade 4.
- That the parent or guardian had the right to request a meeting with school officials to discuss the retention requirement and the standards and processes for a good cause exemption from that requirement.

If a parent or legal guardian received a notification from CEPI, he or she could request a meeting with school officials to discuss the retention requirement and the standards and processes for a good cause exemption from that requirement. If a parent or legal guardian requested a meeting, the school official to whom the request was made would have to ensure that an appropriate school official was made available for such a meeting.

If a pupil demonstrated that he or she was proficient in all subject areas assessed on the grade 3 State assessment other than English language arts, as evidenced by his or her scores on the assessment, then the bill's requirements would not apply and he or she could be enrolled in grade 4. The school district or PSA would have to provide the pupil with intensive reading intervention, as described below, until he or she no longer had a reading deficiency.

For a pupil who was not promoted to grade 4, a child who was not enrolled in grade 4 because of the bill's requirements, a pupil or child who was enrolled in grade 4 because of demonstrated proficiency in all assessed subject areas except English language arts, or a pupil granted a good faith exemption, the school district or PSA would have to provide a reading intervention program that was intended to correct the pupil's specific reading deficiency, as identified by a valid and reliable assessment. The program would have to include effective instructional strategies necessary to assist the pupil in becoming a successful reader, and all of the following features, as appropriate for the needs of the individual pupil:

- Assignment to a pupil one or more of the following: a) a highly effective reading teacher as determined by the teacher evaluation system, b) the highest-evaluated grade 3 teacher in the school, or c) a reading specialist.
- Reading programs that were research-based and had proven results in accelerating pupil reading achievement within the same school year.
- Reading instruction and intervention for the majority of pupil contact time each day that incorporated opportunities to master the grade 4 State standards in other core academic areas, if applicable.
- Daily targeted small groups or one-to-one reading intervention that was based on pupil needs, determined by assessment data, and on identified reading deficiencies and that included explicit and systematic instruction with more detailed and varied explanations, more extensive opportunities for guided practice, and more opportunities for error correction and feedback.
- Administration of ongoing progress monitoring assessments to frequently monitor pupil progress.
- Supplemental research-based reading intervention delivered by a teacher or tutor with specialized reading training that was provided before school, after school, during regular school hours but outside of regular English language arts classroom time, or any combination of these.
- Provision to parents, legal guardians, or other pupil care providers of a "read at home" plan, including parent, guardian, or care provider training workshops and regular home reading.

#### Good Cause Exemption

If the superintendent of a pupil's school district or chief administrator of a pupil's PSA, or his or her designee, granted a good cause exemption from the retention requirements for a pupil, then the pupil could be promoted to grade 4 without meeting the bill's requirements for promotion. A good cause exemption could be granted only for one of the following:

- The pupil was a student with a Section 504 plan or an individualized education program (IEP) and his or her IEP team or Section 504 coordinator made the decision to exempt the pupil from the requirements based on the team's or coordinator's knowledge of the pupil.
- The pupil was a limited English proficient student who had less than three years of instruction in an English language learner program.
- The pupil had received intensive reading intervention for two or more years but still demonstrated a reading deficiency and was previously retained in kindergarten, grade 1, grade 2, or grade 3.
- The pupil had been enrolled continuously in his or her current school district or PSA for less than two years and there was evidence that the pupil had not been provided with an appropriate individual reading improvement plan by the school district or PSA in which pupil was previously enrolled.
- The pupil's principal and reading teacher agreed that other evaluations of the pupil's skill in reading demonstrated that the pupil was academically prepared to be enrolled in grade 4.

- The pupil's parent or legal guardian had requested a good cause exemption and the superintendent or chief administrator, or his or her designee, determined that the exemption was in the best interest of the pupil.

("Individualized education program" would mean that term as described in R 340.1721e of the Michigan Administrative Code, which requires an IEP to be developed according to specific Federal regulations and to contain specific statements, and describes the responsibilities of an IEP team. "Section 504 plan" would mean a plan under Section 504 of Title 5 of the Rehabilitation Act, which specifies that no otherwise qualified person with a disability may be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program receiving Federal financial assistance.)

If a pupil were promoted to grade 4 due to a good cause exemption, the pupil would remain eligible for reading intervention services designed to enable him or her to achieve proficiency in reading. The services for a pupil would have to be similar to those would be provided in grade 3.

The superintendent of a school district or chief administrator of a PSA, or his or her designee, could grant a good cause exemption only through the procedure described below.

At the request of the pupil's parent or guardian, or upon the teacher's own initiative, the pupil's grade 3 teacher would have to submit to the superintendent or other chief administrator of the school, or his or her designee, a recommendation for a good cause exemption along with documentation that indicated that an exemption applied to the pupil. The principal or chief administrator, or his or her designee, would have to review and discuss the recommendation with the pupil's grade 3 teacher and, if the pupil had an IEP, with the pupil's IEP team. After this discussion, the superintendent or chief administrator, or his or her designee, would have to make a written determination of whether to grant the exemption for the pupil. The decision by the superintendent or chief administrator, or his or her designee, would be final.

For a pupil for whom a request had been received from his or her parent or legal guardian, if the request were received within 30 days after the notification by CEPI, the superintendent or chief administrator as applicable, or his or her designee, would have to review the request and any supporting information and consider whether the good cause exemption was in the best interests of the pupil. After this consideration, he or she would have to make a written determination of whether to grant the good cause exemption. The determination would have to be made and communicated to the parent or legal guardian at least 30 days before the first day of school for the school year. The decision of the superintendent or chief administrator, or his or her designee, would be final.

In any case, the superintendent or chief administrator would have to notify the pupil's parent or legal guardian of the determination and decision. The school district or PSA would have to provide intensive reading intervention for a pupil granted a good cause exemption until he or she no longer had a reading deficiency.

### Staffing Plan

Beginning June 4, 2019, if a school district or PSA could not furnish the number of teachers needed to satisfy one or more of the bill's requirements for a school year, then by the June 30 before the beginning of that school year, the school district or PSA would have to develop and post on its website a staffing plan for providing services. The staffing plan would have to include at least all of the following:

- A description of the criteria that would be used to assign a pupil who had been identified as not proficient in English language arts to a teacher.

- The credentials or training held by teachers currently teaching at the school.
- How the school district or PSA would meet the bill's requirements.

Proposed MCL 380.1280f

Legislative Analyst: Jeff Mann

### **FISCAL IMPACT**

The bill would result in increased costs to the School Aid Fund, Department of Education, and local education authorities (LEAs), which are school districts and public school academies. The State would see additional costs if more students were held back in the third grade. This additional year of education would result in an additional year of per-pupil funding for each of those students, although the fiscal impact on the State would not occur until the first cohort of students retained in third grade reached the 12<sup>th</sup> grade. (This would occur in fiscal year (FY) 2029-30, because initially students would be counted in a different grade than they otherwise would have been without the retention.)

If a significant number of students were held back as a result of the bill, there could be significant added costs to the School Aid Fund to support the additional year of funding. In FY 2015-16, the fall count of first graders was 104,897 full time equivalent students, which can be used as an approximation for the size of the class entering third grade in the 2019-2020 school year. The average pupil-weighted foundation allowance for FY 2015-16 is \$7,545. Assuming all other things begin equal, for every 1% increase in pupil retention due to the bill, the School Aid Fund would experience an additional \$7.9 million for the additional year of educating those students. However, this is based on current-year foundation allowances and would change based on the foundation allowance in place for FY 2029-30, when the additional year of instruction would begin to increase School Aid Fund expenditures. The higher cost would continue for each school year beginning in FY 2029-30, because statewide enrollment would increase by the average number of students retained.

The Department of Education would experience administrative costs in order to carry out its responsibilities under the bill. These include approving reading assessment systems for LEAs, recommending or developing an early literacy coach model, and providing technical support to LEAs. At this time, there is no projection of whether the additional expenses to the Department would require additional appropriations. However, the Department did receive \$900,000 in FY 2015-16 to implement and oversee third grade reading initiatives, and the Governor's recommendation for FY 2016-17 is to provide another \$1.0 million in administrative funding.

Local education authorities also would experience additional costs for carrying out the systems of support to students who were not meeting the State reading standards. In addition, LEAs would be required to provide increased support to students who repeated third grade. The costs to LEAs to perform these requirements are indeterminate. It is also unknown whether these costs would be greater or less than the additional year of funding that LEAs would receive from retaining students. In FY 2015-16, \$17.5 million was provided to LEAs for additional instructional time; \$5.5 million was provided for diagnostic and screening tools and computer adaptive tests; and \$3.0 million was provided to intermediate school districts for early literacy coaches. The Governor's budget recommendation for FY 2016-17 continues funding for these programs.

Fiscal Analyst: Cory Savino

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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.