

REMOVE PREFERENCE IN SPECIAL EDUCATION HIRING

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House Bill 4166 as introduced
Sponsor: Rep. Mary Whiteford
Committee: Education Reform
Complete to 3-22-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4166 would repeal Sections 1742 and 1743 of the Revised School Code (Public Act 451 of 1976), which currently provides an employment preference for certain school personnel in special education programs and services. Under this bill, this employment preference (as described below) would be removed.

Law to be repealed

Currently, Section 1742 requires the board of an intermediate school district (ISD) which is hiring additional personnel in order to implement special education programs and services, to employ an employee of a *constituent district* whose special education program or service is being discontinued, before considering other applicants. It also provides that all rights and benefits owed to the special education personnel when they worked for the constituent school district transfer with them to the ISD.

Similarly, Section 1743 provides that an ISD which will be providing special education programs and services that were previously provided by a *state agency* in the ISD must, before hiring additional personnel, hire a person who worked for a state agency and who no longer does so because a state agency discontinued a special education program or service for which the person was employed.

These now-ISD personnel who were once employed by a constituent district or state agency are also currently entitled to all rights and benefits described in the Teachers' Tenure Act (MCL 38.71 to 38.191), which includes provisions on qualifications as a teacher; a probationary period as a teacher; discharge, demotion, or retirement; suspension; resignation or leave of absence; and the responsibilities of the state tenure commission; except that the controlling board of the ISD may subject the personnel to another probationary period of one year. This section does not apply when the affected person is covered under an agreement which provides substantially the same benefits.

BACKGROUND:

Public Act 429 of 2016 (House Bill 5796) repealed Section 1766 of the Revised School Code, which provided the inverse preference—in other words, while Sections 1742 and 1743 require an ISD to give an employment preference to personnel who had been employed in a discontinued special education program or service at a constituent district or state agency in the ISD, Section 1766 required a constituent district to give an

employment preference to personnel who had been employed in a discontinued special education program or service at the ISD in which it is located.

The hiring preference addressed by this bill was implemented in 1974 for the following reasons, as described in the analysis for the bill instituting the preference:

P.A. No. 198 of 1971 mandated the formation of special education programs by every intermediate school district in Michigan. This formation has, in some instances, necessitated the transfer of previously existing special education programs from one administrative unit to another with the result that some special education personnel are now unemployed.... Some persons believe that intermediate and constituent school districts should be required to re-employ laid off personnel before employing additional special education personnel.

In effect, this preference was implemented to ensure that special education personnel would be protected in spite of the large-scale reorganization of special education programs in Michigan about 40 years ago.

FISCAL IMPACT:

This bill would have no direct fiscal impact on the state, but it could have an indeterminate fiscal impact for intermediate school districts. In removing Sections 1742 and 1743, the intermediate school district would be able to make independent decisions regarding hiring, compensation, and benefits for special education personnel, which could allow them to reduce costs. The state is required to reimburse intermediate school districts for a share of all special education costs, so a reduction in local costs could result in state savings as well.

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