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BILL



ANALYSIS

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Senate Bill 574 (as enacted)
Sponsor: Senator Dave Hildenbrand
Senate Committee: Education
House Committee: Education Reform

PUBLIC ACT 23 of 2018

Date Completed: 9-27-18

RATIONALE

Under the Revised School Code, a regional enhancement property tax may be levied by an intermediate school district at a rate of up to three mills to enhance other State and local funding for local school district operations if approved by a majority of the intermediate school electors voting on the question. The revenue is distributed by the intermediate school district (ISD) to constituent districts within the ISD. Because only traditional public schools were considered constituent districts, public school academies (charter schools) were precluded from receiving the enhancement revenue. There were concerns that this put public school academies at a disadvantage and created an inequality among the students within the ISD. Some believed that allowing public school academies to receive money from regional enhancement property taxes will mitigate this disparity.

CONTENT

The bill amended the Revised School Code to allow the payment of regional enhancement property tax revenue to an ISD public school academy (PSA).

Levy of Regional Enhancement Property Tax & Resolution

Specifically, the bill provides that a regional enhancement property tax may be levied to enhance other State and local funding for ISD, school district, or PSA operations if approved by a majority of the intermediate school electors voting on the question. Formerly, an ISD could levy this tax to enhance State and local funding for local school districts.

Formerly, if a resolution requesting that the question of a regional enhancement property tax be submitted to the voters was adopted within a 180-day period and transmitted to the intermediate school board by one or more boards of its constituent districts representing a majority of the combined membership of the constituent districts and if those resolutions all contained an identical specified number of mills to be levied and an identical specified number of years for which the tax would be levied, the question of levying a regional enhancement property tax by the intermediate school district had to be placed on the ballot by the ISD at the next regular school election held in each of the constituent districts (except as provided for submitting the question at a special election).

Under the bill, if the resolution is adopted within the 180-day period and transmitted to the intermediate school board by one or more boards *or boards of directors* of its constituent districts representing a majority of the combined membership of the constituent districts and if those resolutions all contained an identical specified number of mills to be levied and an identical specified number of years for which the tax will be levied, the question of levying a regional enhancement property tax by the intermediate school district must be placed on the ballot by the ISD at the next regular school election held in each of the constituent districts *that are school districts*.

Allocation or Payment to PSA

Within 10 days after receiving revenue from the regional enhancement property tax, the ISD must calculate and pay to each of its constituent districts an amount of the revenue calculated as prescribed by the Code. If a constituent district has entered into an agreement with a school district or public entity to perform the constituent district's functions and responsibilities for operating a public school then, for the purpose of the revenue calculation, the pupils in membership in that public school are considered to be in membership in the constituent district and a proportionate share of the revenue payable to it must be transferred to the school district or public entity performing its functions and responsibilities.

Under the bill, if a PSA is receiving revenue from a regional enhancement property tax under an agreement described above, it must receive the revenue until the term of the initially levied regional enhancement property tax expires, as specified in the ballot question, as long as the receipt of the revenue remains consistent with the agreement. After the term of the initially levied tax expires or the PSA is no longer entitled to receive revenue from the tax under the agreement, the PSA may not receive revenue from any regional enhancement property tax that is subsequently levied or renewed unless it meets the requirements to receive revenue from a regional enhancement property tax as a constituent district.

Public School Academy as Single Constituent District

For these purposes, a PSA is considered to be a single constituent district of an ISD if the PSA operates at least one site that is located in that ISD and the PSA counts in membership pupils enrolled at the site or sites located in that ISD on the pupil membership count day used to calculate the combined membership of the ISD's constituent districts. A PSA that is a school of excellence operating as a cyber school is considered to be a constituent district of an ISD only if the administrative office of the cyber school is located within the ISD, 100% of the pupils enrolled in the school reside within the ISD, and the cyber school counts in membership pupils enrolled in the cyber school on the pupil membership count day. However, a PSA is not be eligible to be considered a constituent district if the PSA's two most recent annual financial audits required by the Code indicate successive unresolved material findings. In addition, in order to be considered a constituent district, the PSA must provide the Department documentation establishing that the PSA has a special education program that is in compliance with State and Federal law.

Use of Revenue from Regional Enhancement Property Tax

Under the bill, except for a school of excellence operating as a cyber school, a PSA that receives revenue from a regional enhancement property tax as a constituent district must use the money only for expenditures that directly benefit a school operated by the PSA that is located within the ISD in which the tax was approved.

ISD or PSA as Constituent District

For a regional enhancement property tax that is initially authorized and levied before the bill's effective date, both of the following apply:

- Subject to the provisions pertaining to a PSA's receipt of revenue under an agreement to perform a constituent district's functions, a PSA is not eligible to be considered a constituent district and to receive revenue from the regional enhancement property tax until the tax is renewed.
- An ISD is not eligible to be considered a constituent district and to receive revenue for pupils counted in membership by the ISD from the regional enhancement property tax until the tax is renewed.

For a regional enhancement property tax that is initially authorized and levied or renewed after the bill's effective date, an ISD is considered to be a single constituent district of the ISD if it

enrolls pupils who are counted in membership by the ISD and not counted in membership by another ISD, school district, or PSA.

The bill took effect on May 15, 2018.

MCL 380.705

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

One key to attracting families and businesses to Michigan is building strong school systems. Strengthening Michigan's schools will bolster the State's future workforce and help develop a strong talent pipeline within the State. Charter schools are a growing part of the educational system in Michigan and contribute to the strength of its communities by providing students with many unique educational opportunities that traditional public schools cannot reproduce.

In Kent Intermediate School District, for example, more than 14,000 students attend public school academies. A recent millage placed before the voters in that ISD will generate approximately \$20.0 million over the next 10 years for schools there. If the bill had already been enacted, it could have allowed all students in Kent ISD, rather than just those who attend traditional public schools, to benefit from that money. More than 73,000 students across the State attend public school academies in six different ISDs that currently impose enhancement millages on taxpayers. Including charter schools in millage revenue would only be fair to the students who attend them. Because many millage information sheets declare that money from millages will be distributed on a per-student basis without explicitly stating that charter schools are excluded, many taxpayers who vote for millages already believe that the money they generate is going to charter school students.

Some students in Michigan participate in special education services and programs administered by ISDs. The bill allows ISDs to receive money from enhancement millages, so that these students can benefit from them as well.

Opposing Argument

Traditional public schools are already disadvantaged by many costs, accountability standards, and performance standards that public school academies do not face. Regional enhancement property taxes allow districts to put more money into the classroom, offsetting money required for retirement contribution payments, student transportation costs, and special education costs. Allowing public school academies to benefit from millages while not requiring them to provide the same services to students and taxpayers would exacerbate this inequality and take funding away from the valuable services that other schools provide.

In addition, resolution to levy a regional enhancement property tax must be approved at a public board meeting before it can be placed on the ballot. This approval ensures that the resolution will receive public input by the local districts and parents in the community. Intermediate school districts hold constituent schools accountable to ensure that money from a millage is used as it was intended. In order to receive money from a millage, public school academies should be required to hold similar public meetings and should be held accountable in a similar way. The bill, however, includes no such requirements.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill will have no fiscal impact on State government. However, it will affect the distribution of

enhancement millage revenue to school districts upon renewal of an existing millage, or with approval of a new millage (compared to what the school districts would have received without enactment of this legislation). Before the bill's enactment, public school academies (PSAs) and intermediate school districts (ISDs) did not share in the revenue raised by an enhancement millage levied by an ISD; only the local school districts that were constituents of the ISD shared in the revenue. Under the bill, PSAs meeting certain conditions, and the ISDs themselves, also will be able to share in the enhancement revenue raised.

For PSAs to be eligible to receive a share of enhancement millage revenue, at least one site must be located in the ISD levying the millage and the PSA must count in membership pupils who are enrolled at the site or sites located in the ISD. A PSA operating as a cyber school will be eligible to receive a share of enhancement millage revenue if the administrative office of the cyber school is located within the ISD; if 100% of pupils enrolled in the cyber school reside within the ISD; and, if the cyber school counts pupils in membership on the count day. Finally, to be eligible for sharing in enhancement revenue raised, a PSA (including a PSA that is a cyber school) must provide the Department of Education with documentation establishing that the PSA has a special education program that is in compliance with State and Federal law.

Under the bill, any PSA whose two most recent annual financial audits indicated successive unresolved material findings will be ineligible to receive a share of enhancement millage revenue. Also, a PSA (other than a PSA operating as a cyber school) is required to use its share of enhancement millage revenue only for expenditures that directly benefit a site operated by the PSA that is located within the ISD levying the enhancement millage.

The bill further allows ISDs to be eligible to receive a share of enhancement millage revenue. An ISD must enroll pupils counted in membership in order to be eligible to receive funding.

For existing enhancement millages, a PSA or the ISD will not be eligible to receive a share of revenue raised until renewal of the millage. For new enhancement millages, a PSA or the ISD, along with the ISD's constituent school districts, will be eligible to receive revenue when the millage is authorized. (The bill does recognize that there may be some existing arrangements in which a PSA is receiving revenue from an enhancement millage; those arrangements may continue until the millage expires.)

There are six ISDs currently levying enhancement millage: Kalamazoo (1.5 mills), Kent (0.9 million) Midland (1.5 mills), Monroe (0.9866 mill), Muskegon (1 mill), and Wayne (2 mills). Using data from the August 2017 State aid payment file, along with the February 2017 pupil count file, the information in [Table 1](#) provides estimates of existing per-pupil enhancement millage payments. The existing per-pupil enhancement millage payments will continue for constituent districts until renewal of the millage. At that time, pupil counts from eligible PSAs and ISDs will be included in the calculations, and resulting per-pupil enhancement millage revenue payments will be made to constituent districts, PSAs, and ISDs.

Table 1

| Estimates of Current Per-Pupil Enhancement Millage Revenue Payments and Estimates of Possible* Per-Pupil Payments under S.B. 574 | | |
|---|-------------------------------|---------------------------------|
| Intermediate School District | Est. Current Per-Pupil | Est. Possible* Per-Pupil |
| Kalamazoo | \$325 | \$319 |
| Kent | \$212 | \$183 |
| Midland | \$426 | \$409 |
| Monroe | \$275 | \$274 |
| Muskegon | \$163 | \$150 |
| Wayne | \$376 | \$287 |

Analysis uses data from 2017 to calculate per-pupil amounts, and reflects a potential determination that existing enhancement millage revenue could be distributed to eligible PSAs. If a determination were made that PSAs would not be considered constituent districts until a renewal of an existing enhancement millage, or until approval of a new millage, then there would be no change in per-pupil payments to local constituent districts until that time.

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.