



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4166 (as enacted)
Sponsor: Representative Mary Whiteford
House Committee: Education Reform
Senate Committee: Education

PUBLIC ACT 159 of 2017

Date Completed: 11-29-17

RATIONALE

Public Act 198 of 1971 amended the School Code of 1955 to require every intermediate school district (ISD) in Michigan to form and maintain special education programs to meet the needs of students with disabilities. As ISDs reorganized programs and personnel under the requirements of the Act, some personnel were transferred from one administrative unit to another and others were laid off. Public Act 451 of 1976 required ISDs to re-employ personnel that had been laid off before hiring additional special education personnel. When the Revised School Code was enacted in 1976, it included provisions that required intermediate school districts, as well as constituent districts of ISDs, before hiring special education personnel, to give hiring preference to employees of the ISD or constituent district, or State agency in the district, who had been laid off because the ISD, constituent district, or a State agency was discontinuing a special education program or service. Legislation enacted in 2016 repealed the requirement that applied to constituent districts. This allows a constituent school district to make hiring decisions based on which potential employee is considered right for the job, rather than who previously worked for the ISD. Some suggested that the ISD hiring requirement should be repealed, as well, so ISDs also can make hiring decisions independently of who has worked in the district.

CONTENT

The bill repealed Sections 1742 and 1743 of the Revised School Code, which pertained to the employment of additional personnel to implement special education programs.

Section 1742 required an intermediate school board, when employing additional personnel to implement special education programs or services, to employ first an employee of a constituent district whose employment was discontinued because the constituent district was discontinuing the special education program or service for which the person was employed.

Section 1743 required an intermediate school board, when providing special education programs and services that were previously provided by a State agency within the ISD, before employing any additional personnel for purposes of implementing the special education program or service, to employ first a person of a State agency whose employment was discontinued because a State agency was discontinuing a special education program or service for which the person was employed.

The special education personnel employed under both provisions were generally entitled to all rights and benefits to which they would otherwise have been entitled had they been employed by the constituent district or intermediate school board originally, except that the controlling board had the option to subject them to another probationary period of one year.

The bill took effect on November 9, 2017.

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

The hiring preference was implemented to correct a problem specific to the creation of the special education program in Michigan but the problem is no longer an issue in the State. There is no current threat to the continued employment of special education personnel. The bill allows ISDs to make hiring decisions based on their special education needs and the unique skills and specialties required to meet them. Special education needs are often particular to a district. For example, the skills required to teach students with emotional impairments are not the same as the skills needed to teach students with other disabilities. Every child is different and special education administrators in ISDs need the ability to hire the best professionals with the skills to educate their particular students and accommodate their specific requirements. Statutory mandates that administrators prefer potential employees based on anything other than those skills only harm the education of students.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill will have little fiscal impact on the State and an indeterminate impact on intermediate school districts. With the repeal of Sections 1742 and 1743, an ISD no longer has to give preference to recently laid off special education employees from a discontinued special program or service at a constituent district or State agency in the ISD. This may result in lower employee costs by potentially allowing districts to hire employees with fewer years of service and lower salaries than personnel they otherwise might have to hire. Due to differences in ISDs and the closure of special education programs and services at a constituent district, it is impossible to accurately estimate the savings that ISDs will experience as a result of repealing Sections 1742 and 1743. Any overall savings at the ISD level will result in less reimbursement from the State, because the reimbursement amount is based on the costs to provide special education services. This is likely to be minimal.

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.