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## BILL ANALYSIS



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Senate Bill 710 (as introduced 1-14-16)  
Sponsor: Senator Goeff Hansen  
Committee: Government Operations

Date Completed: 2-5-16

**CONTENT**

The bill would amend the Revised School Code to provide for the transfer of a "qualifying school district" (Detroit Public Schools) to a proposed "community district" on July 1, 2016, and provide that the qualifying school district would retain a limited separate identity and its territory would continue as a separate taxing unit for the purpose of repaying outstanding debt until the debt was retired. The bill would do the following:

- Provide for the board of the qualifying school district to be dissolved upon the election of the board of the community district.
- Require the school board of the community district to consist of nine school electors of the district.
- Require the initial board of the community district to be appointed by the Governor and the chief administrative officer (the mayor of Detroit), and require board members to be elected in the November regular election of even-numbered years.
- Provide that the community district could not levy a school operating tax during a tax year if another school district were authorized to levy a school operating tax within the geographic boundaries of the community district during the tax year.
- Provide that the terms and conditions of a collective bargaining agreement applicable to employees of the qualifying district on the transfer date would be the terms and conditions applicable to employees of the community district.
- Provide that the community district would be subject to the financial oversight of the financial review commission in place for the City of Detroit.
- Provide that the appointment of a superintendent for the community district would be subject to the approval of the financial review commission.
- Authorize the community district board to appoint an advisory board.
- Extend borrowing authority to the community district.

The bill would appropriate \$250,000 from the General Fund to the Department of Treasury for fiscal year 2015-16 for the purpose of providing financial support for the organization and administration of the community district during that fiscal year.

The bill also would do the following:

- Allow the board of a school district, rather than a school district that operates grades K-12, to be an authorizing body for a public school academy (PSA).
- Revise the conditions under which an authorizing body must be notified and take action when a site is among the 5% lowest-performing schools in the State.

- **Expand provisions under which a school district is not required to employ a superintendent.**
- **Require a constituent district to transfer regional enhancement property tax revenue to another school district or public entity that operated a public school for the constituent district.**
- **Allow a district to provide public education services through an agreement, contract, or other cooperative arrangement with another public entity, including another school district or an intermediate school district.**
- **Allow the governing body of a year-round school to designate a date after May 31 and before the first Monday in September as the end of the school year for that school.**

**In addition, the bill would allow a district, with the approval of the State Treasurer, to issue "school financing stability bonds" for the purpose of eliminating an operating deficit or refunding or refinancing outstanding State aid anticipation notes issued through the Michigan Finance Authority; to pledge as security for repayment State school aid payment, school operating tax revenue, or other revenue; and to enter into an agreement with the Department of Treasury or the Michigan Finance Authority for direct payment of school aid to the Authority or a designated trustee.**

The bill also would repeal Part 5A of the Code, which provides for the appointment of a school reform board to govern Detroit Public Schools, and other sections of the Code related to a vote on the question of reapportioning the district.

#### Transfer of Qualifying School District

The bill would define "qualifying school district" as a school district that was previously organized and operated as a first class school district governed by Part 6 of the Code that has a pupil membership of less than 100,000 enrolled on its most recent pupil membership count day, including a school district that was previously organized and operated as a first class school district before the bill's effective date. (Detroit Public Schools meets the criteria of the definition.)

Beginning on the bill's effective date, if a school district were or became a qualifying school district, the district would lose its organization and be dissolved as provided in the bill. In that event, except as otherwise provided, all records, funds, and property of the district would be transferred on the transfer date to a community district created with the same geographic boundaries as the qualifying school district. A school building or other real property owned by and located in the qualifying school district would become part of and owned by the community district.

("Transfer date" would mean the first July 1 after the date a school district becomes a qualifying school district. For a school district that became a qualifying school district on the bill's effective date, the transfer date would be July 1, 2016.)

If the qualifying school district had outstanding debt on the transfer date, it would retain a limited separate identity as a school district and its territory would continue as a separate taxing unit only for the limited purposes of repayment of the debt until it was retired and compliance with the Michigan Financial Review Commission Act.

Until the elected members of the community district were elected and took office, the board of the qualifying school district would continue for the limited purpose of performing the functions and satisfying the responsibilities of the board and officers of the qualifying district relating to the repayment of debt and the dissolution of the district. These functions and responsibilities would include at least all of the following:

- Certifying and levying taxes for satisfaction of the debt in the name of the qualifying school district.
- Conducting school district elections.
- Doing all other things relative to the repayment of the outstanding debt, including levying or renewing a school operating tax or refunding or refinancing debt at a lower rate.
- Doing all other things relative to the dissolution of the district.

All of the following would apply on the transfer date:

- The community district would acquire, succeed to, and assume the exclusive right, responsibility, and authority to own, occupy, operate, control, use, lease, and convey the facilities of the qualifying school district existing on the transfer date.
- The community district would acquire, succeed to, and assume all rights, title, and interests in and to the fixtures, equipment, materials, furnishings, and other personal property owned and used by the qualifying school district as of the transfer date.
- Except as otherwise provided, the community district would acquire, succeed to, and assume all of the rights of the qualifying school district relating to it under any ordinances, agreements, or other instruments and under law.
- The community district would have the right and authority to own, occupy, operate, control, use, lease, and convey the transferred facilities, subject to any liens on the real property and restrictions on its use.
- Except for debt or other obligations retained by the qualifying district, the community district would have the qualifying district's right, title, and interest in, and all of the qualifying district's responsibilities and authority arising under, leases, concessions, and other contracts for facilities.
- All records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, or general administration of the qualifying district would be transferred to the community district.

The community district also would acquire, succeed to, and assume all of the rights, duties, and obligations under a collective bargaining agreement applicable to the qualifying district on the transfer date. The terms and conditions of that agreement applicable to employees of the qualifying district on that date would be the terms and conditions applicable to the employees of the community district, and the community district would be the successor employer for employees of the qualifying district on the transfer date.

A transfer to a community district would not impair a contract with a party in privity with the qualifying school district.

Upon the transfer to a community district, the qualifying school district would be relieved from all operational jurisdiction over the district and facilities, and from all further costs and responsibilities arising from or associated with operating a public school or providing public education services, except as otherwise required under obligations retained by the qualifying district, including debt.

The qualifying school district would be required to do all of the following:

- Refrain from any action that would impair the community district's exercise of powers granted to it under the bill, or that would impair the efficient operation and management of the community district.
- Take all action reasonably necessary to cure any defects in title to property transferred to the community district.
- Upon creation of the community district and before the transfer date, conduct operations of the qualifying school district in the ordinary and usual course of business.

- Comply with the terms and conditions of any loan agreement between the qualifying school district and the Local Financial Emergency Assistance Loan Board, including any terms and conditions providing for the payment of transitional operating costs.
- Notify the State Treasurer upon the repayment of all outstanding operating obligations of the qualifying school district.
- Notify the State Treasurer upon the repayment of all outstanding debt of the qualifying school district.

As permitted under Federal law, on the transfer date, the Superintendent of Public Instruction would have to allocate to the community district all applicable grants under specified sections of the U.S. Code, and other Federal funds that otherwise would be made available for grants to or Federal funding for the public school, or make other adjustments in the allocation of Federal funds to implement the transfer of functions and responsibilities for the public school.

#### Dissolution of Qualifying School District & Board

When the members of the initial elected school board of the community district were elected and assumed their duties, the school board of the qualifying school district would be dissolved and the functions and responsibilities of the district would have to be exercised by the community district on behalf of the qualifying school district until it was fully dissolved.

If the State Treasurer were notified that all outstanding operating obligations of the qualifying school district had been repaid, the Treasurer would have to verify whether all of its outstanding obligations had been repaid. The Treasurer also could determine that the outstanding operating obligations had been satisfied without notice. If he or she determined that all outstanding operating obligations had been repaid, the State Treasurer would have to certify the repayment in a written notice to the community district.

If the State Treasurer were notified that all outstanding debt of the qualifying school district had been repaid, he or she would have to verify that repayment. If the Treasurer determined that all of the outstanding debt of the qualifying district had been repaid, he or she would have to certify the repayment to the community district.

Upon certification by the State Treasurer that all outstanding debt had been repaid, the qualifying school district would be fully dissolved and any remaining assets would be transferred to the community district.

The bill would define "operating obligations" as debt of a school district incurred for purposes of financing the operation of a school district or public schools operated by a school district, including financial stability bonds and an emergency loan under the Emergency Municipal Loan Act, and transitional operating costs. Operating obligation would not include debt incurred for the purpose of constructing, renovating, maintaining, or otherwise improving school facilities.

"Transitional operating cost" would mean a cost of operating public schools incurred by the community district as a result of the transfer of functions and responsibilities from the qualifying school district to the community district, as agreed to in writing, including academic and instructional support, professional transition costs, payments to vendors, cash flow needs, insurance, academic program expenditures, deferred maintenance, space consolidation, and facilities rationalization.

"Debt" would mean that term as defined in the Revised Municipal Finance Act and all of the following:

- Obligations of the qualifying school district under an energy installment purchase contract.
- Obligations of the qualifying school district under a capital lease.

- Any unpaid amounts payable by the qualifying school district to the Michigan Public School Employees' Retirement Board.
- The repayment of any loan or obligations under any loan agreement between the qualifying school district and the Local Financial Emergency Assistance Loan Board, including any terms and conditions providing for the payment of transitional operating costs not to exceed 3% of the taxable value of the district.
- The repayment of school financing stability bonds.
- Any other monetary obligations of the qualifying school district.

(The Revised Municipal Finance Act defines "debt" as all borrowed money, loans, and other indebtedness, including principal and interest, evidenced by bonds, obligations, refunding obligations, notes, contracts, securities, refunding securities, municipal securities, or certificates of indebtedness that are lawfully issued or assumed, in whole or in part, by a municipality, or will be evidenced by a judgment or decree against the municipality.)

### Community District

Creation. Effective 30 days after a school district became a qualifying school district, a community district would be created for the same geographic area of that qualifying school district to provide public education services for residents of that geographic area and to otherwise exercise the powers of a community district for that geographic area beginning on the transfer date.

The community district would be governed by Part 5B of the Code, which the bill would enact, the provisions of Article 2 of the Code that were not inconsistent with Part 5B, and Articles 3 and 4. (Article 2 addresses such topics as school elections, the powers and duties of school boards, bonds and notes, school taxes, condemnation, professional development, and compulsory school attendance. Article 3 pertains to special education programs and services. Article 4 pertains to violations.)

The community district would be a political subdivision and public body corporate separate and distinct from the State and other school districts in the State.

A school district governed by Part 5B would be under the jurisdiction of the school board of the community district.

Except as otherwise provided in Part 5B, the community district would have to be organized and conducted in the same manner as a general powers school district. Except as otherwise provided by law, a community district would have all of the powers of a general powers school district and all additional powers granted by law to the community district or its school board.

The bill would include a community district in the Code's definition of "public school".

Financial Review Commission. If a financial review commission were in place for the community district, the appointment of a superintendent for the district would be subject to the commission's approval. Before the superintendent's appointment was final, the school board would have to submit the proposed appointment to the commission for its approval. If the commission did not approve the appointment within 45 days after it was submitted, the appointment would be denied.

In addition, if a financial review commission were in place for the community district, the district could not alter the terms and conditions of an employment contract with the superintendent of the district, alter the benefits provided to the superintendent, or terminate the superintendent's employment unless the commission approved that action.

School Board. The school board for the community district would have to consist of nine school electors of the district. The initial board would have to include four members appointed by the chief administrative officer and five members appointed by the Governor. Members would have to be appointed within 30 days after the district was created. If the chief administrative officer failed to appoint a member within that 30-day period, the Governor would have to appoint that member. All appointed members would have to be residents of the district. (The definition of "chief administrative officer" would include the mayor of a city if it had the largest population of any city, village, or township located within the geographic area of the community district, i.e., the mayor of Detroit.)

The chief administrative officer would have to designate an appointed member of the board to serve as its initial chairperson. If the chief administrative officer failed to do so within 30 days after the district was created, the Governor would have to make the designation. After the initial chairperson was designated, the board members would have to designate its chairperson.

A member of the school board for the qualifying school district could not also serve as a member of the school board of the community district. A member of the board of the community school district could not also serve as a member of the board of the qualifying district.

A member of the community district school board appointed to an initial term would have to continue to serve until a replacement member was elected and took office. Members elected to the board would have to be elected at the November regular election in even-numbered years, with nominations occurring at the August primary election of those years.

Of the school board members initially elected, three would have to be elected for a term of six years, three for a term of four years, and three for a term of two years. After the initial elected terms, members of the board would have to be elected to six-year terms. The terms of elected board members would begin on January 1.

If the geographic boundaries of the community district included a single city and members of its governing body were elected from nine or fewer electoral districts, a member of the community district board would have to be elected from each of the electoral districts. If the city had fewer than nine electoral districts for members of its governing body, a member of the school board residing in each electoral district would have to be elected from each electoral district and the remaining members would have to be elected on a districtwide basis.

Superintendent; Annual Evaluation. Within 90 days after the community district was created, its school board would have to appoint a superintendent for the district (subject to approval of a financial review commission, if applicable). The superintendent would have to be selected based upon his or her demonstrated ability, record of competence, experience in increasing academic achievement, experience with education reform and redesign, and expertise in the turnaround of academically underperforming urban schools.

On an annual basis, the school board would have to evaluate the performance of the superintendent.

Also on an annual basis, the board would have to evaluate and issue a report on the performance of the community district, based on the following factors:

- The proportion of pupils enrolled in the district who achieved scores at least equivalent to proficient on State assessments.
- The proportion of pupils enrolled in the district who achieved at least a school year's worth of academic growth in a school year.

-- The proportion of graduates from or pupils enrolled in the district who were enrolled in some form of postsecondary education.

Levy of School Operating Tax. If another school district were authorized to levy a school operating tax within the geographic boundaries of the community district during a tax year, the community district could not levy a school operating tax during that tax year.

Lowest-Achieving Schools. If a public school operated by the community district were on the list of the public schools in the State that the Department of Education had determined to be among the lowest-achieving 5% of all public schools in the State, the State School Reform/Redesign Officer (SRRO) would have to ensure that the school was not closed as a result of an intervention model for at least two years after the transfer date.

Financial Oversight. If the geographic area of the community district included a qualified city as defined under the Michigan Financial Review Commission Act, the district would be subject to financial oversight by the financial review commission for that city to the extent provided under that Act. (A "qualified city" is a city with a population of more than 600,000 that is subject to a plan for adjustment of its debts approved by the United States Bankruptcy Court, i.e., Detroit.)

Advisory Board. The board of the community district could appoint an advisory board to assess academics and operations and make recommendations on the use of facilities, enrollment, building capacity, transportation, student proficiency and growth, graduation rates and trends, special education, wrap-around services, and other matters requested by the district board. The advisory board could include representatives of authorizing bodies for public school academies operating within the district, community groups, and other interested parties with relevant experience.

If an advisory board were appointed, it would have to meet at least annually, regularly report on its activities to the school board, and prepare and submit to the board and superintendent an annual written report of its assessment and recommendations. The community district would have to give a copy of the report to the SRRO and to the standing committees of the Legislature with responsibility for education legislation.

Public Library. Part 5B would not repeal or affect a general law or local law governing the management and control of a public library established in the community district under Part 5B or a first class school district under Part 6. Any powers and duties of a qualifying school district relating to the management and control of a public library would be transferred to the community district on the transfer date.

Borrowing. Subject to certain restrictions, Section 1225 of the Code allows a school board or intermediate school board to borrow money and issue notes of the district in order to secure funds for school operations or to pay previous loans obtained for that purpose.

A school board or intermediate board may make more than one borrowing under Section 1225 during a school year. With the approval of the State Treasurer, a school board or intermediate board also may obtain a line of credit to secure funds for school operations or to pay previous loans for that purpose. Under the bill, these provisions also would apply to the school board of the community district.

Section 1351a allows a school district to borrow money and issue bonds of the district to defray the costs of purchasing, remodeling, or equipping school building and other facilities, furnishing school buildings, acquiring, developing, or improving sites for school buildings, and purchasing and equipping school buses. A school district may not borrow money and issue notes under Section 1351a for certain costs related to software and media. Under the bill, these provisions also would apply to the community district.

Hiring Teachers. The school board of the community district could employ or contract for, or both, qualified teachers and other qualified instructional personnel at a public school that formerly operated as an achievement school, as defined in the State School Aid Act, as necessary to carry out the purposes of the district. (An achievement school is a school operated by the Education Achievement Authority, which is a system that operates a number of lowest-achieving schools in Detroit.)

### General Powers School District

The Code requires each school district to be organized and conducted as a general powers school district regardless of previous classification. This does not apply to a school district of the first class. The bill would make another exception for a community district.

A general powers school district has all of the rights, powers, and duties expressly stated in the Code; may exercise a power implied or incident to a power expressly stated in the Code; and, except as otherwise provided by law, may exercise a power incidental or appropriate to the performance of a function related to operation of the school district in the interests of public elementary and secondary education in the district. The bill would refer to a function related to operation of a public school and the provision of public education services.

The powers of a general powers school district include educating pupils. The bill specifies that a school district could do either or both of the following:

- Educate pupils by directly operating one or more public schools on its own.
- Cause public education services to be provided for pupils of the district through an agreement, contract, or other cooperative arrangement with another public entity, including another school district or an intermediate school district (ISD).

A general powers school district also may hire, contract for, schedule, supervise, or terminate employees, independent contractors, and others. Under the bill, these would include another school district or an ISD.

In addition, a general powers school district may enter into agreements or cooperative arrangements with other entities, or join organizations as part of performing the functions of the district. Under the bill, a general powers school district could enter into agreements, contracts, or other cooperative arrangements with other entities, including another school district or ISD, or join organizations.

### Public School Academies

The Code allows certain entities to act as an authorizing body to issue a contract to organize and operate one or more public school academies. These entities include the board of a school district that operates grades K to 12. Also, the definition of "authorizing body" includes the board of a school district that operates grades K to 12. In both of these provisions, the bill would refer, instead, to the board of a school district. (The bill would make the same changes with respect to the authorizing body of a school of excellence.)

The Code requires an application for a contract to organize and operate a PSA to contain specified information and documents, including a copy of the educational goals of the PSA, the curricula to be offered, and the methods of pupil assessment to be used. To the extent applicable, the progress of pupils must be assessed using at least a Michigan Education Assessment Program (MEAP) test. The bill, instead, would require pupil progress to be assessed using both the mathematics and reading portions of the Michigan Student Test of Educational Progress (M-STEP). (The bill would make the same change with respect to an urban high school academy and a school of excellence.)

Currently, if a PSA site that has been operating for at least four years is determined to be among the lowest-achieving 5% of all public schools in the State, is in year two of restructuring sanctions under the No Child Left Behind Act, and is not currently undergoing reconstitution, the State School Reform/Redesign Officer must notify the PSA's authorizing body (which then must amend or revoke the PSA's contract). Under the bill, this would be required if a PSA site that had been operating for at least four years were determined to be among the lowest-achieving 5% of all public schools in the State for three of the preceding five school years, and were not undergoing reconstitution. (The bill would make the same change with respect to an urban high school academy and a school of excellence.)

### Superintendent

Currently, in a constituent district not employing a superintendent, the ISD superintendent must recommend all teachers to the school board; suspend a teacher for cause until the school board of the constituent district employing the teacher consider the suspension; supervise and direct the work of the teachers; and classify and control the promotion of pupils.

Under the bill, these requirements would not apply to a constituent district if both of the following applied:

- The constituent district was not required to employ a superintendent as an employee of the district as provided in Section 1229.
- All of the public schools within the constituent district had been transferred to one or more other school districts or public entities.

Section 1229 provides that a school district, instead of directly employing a superintendent of schools, may contract with its ISD for the intermediate superintendent to serve as the superintendent of schools or to provide another person to do so. Under the bill, a school district also could contract with another person, including the superintendent of another school district, to serve as superintendent of schools for the district. If a school district did not operate a public school directly on its own, it would not be required to employ a superintendent.

### Regional Enhancement Property Tax

The Code allows an ISD to levy a regional enhancement property tax of up to three mills if approved by the intermediate school electors. After receiving revenue from the tax, the ISD is required to calculate and pay each of its constituent districts an amount based on each district's proportionate pupil membership of the ISD.

Under the bill, if a constituent district had entered into an agreement with another school district or public entity to perform the functions and responsibilities of the constituent district for operating a public school, the pupils in membership in that public school would have to be counted in membership in the constituent district, and the constituent district would have to transfer the revenue payable to it to the school district or public entity performing the functions and responsibilities of the constituent district for operating the public school.

Revenue from a regional enhancement property tax could not be allocated or paid to a constituent district that did not operate a public school directly but retained a limited separate identity for certain purposes (including the repayment of outstanding debt by a qualifying school district).

### Operation of School; Transfer of Functions

The Code requires each intermediate superintendent annually to compile a list of constituent districts that did not operate a school within the district during the preceding two or more

years. The superintendent must notify each district on the list to comply with certain requirements, which include either 1) attaching itself totally or partly to one or more operating school districts, or 2) reopening and operating its own school. Under the bill, a district would have to take one of those actions or transfer the functions and responsibilities of the constituent district relating to operating public schools to one or more other public entities authorized to operate public schools, including another school district or an ISD.

A constituent district would have to be considered to have operated a school within the district if it did either or both of the following:

- Directly operated one or more schools on its own.
- Caused public education services to be provided within the school district to residents of the district through an agreement, contract, or other cooperative arrangement with another public entity, including another school district or an ISD.

### Kindergarten Enrollment

Under Section 1147 of the Code, beginning with the 2015-2016 school year, a child who resides in a school district may enroll in kindergarten if he or she is at least five years old on September 1 of the school year of enrollment. Under the bill, the child could enroll in kindergarten in a public school operated by the school district, or, for a community district or a school district that did not directly operate schools on its own, in another public school located within the geographic boundaries of the school district.

If a child residing in a district (or a nonresident child who is eligible to be counted in a district's membership under provisions of the State School Aid Act) is not five years old on that enrollment eligibility date but will be five by December 1 of a school year, his or her parent or legal guardian may enroll the child in kindergarten for that school year. Under the bill, the child could be enrolled in a public school operated by the school district, or, for a community district or a school district that did not directly operate schools on its own, in another public school located within the geographic boundaries of the school district.

The bill specifies that Section 1147 would not do either of the following: require a school district to operate a public school directly on its own; or require a school district or PSA that did not otherwise provide kindergarten to do so.

The bill also specifies that Section 1147 would not apply to a school district that did not operate a public school directly but retained a limited separate identity for certain purposes (including the payment of outstanding debt by a qualifying school district).

### Designation of School Year End

Under the bill, the governing body for a public school that operated a year-round program or operated as a year-round school could designate a date after May 31 and before the first Monday in September as the end of the school year for the public school. A date adopted by the governing body would be the end of the school year for that school for purposes of the Code and other laws of the State.

### School Financing Stability Bonds

The bill would amend Section 1356 to allow a school district that had an operating or projected operating deficit or that had outstanding State aid anticipation notes issued under Section 1225 through the Michigan Finance Authority (MFA), with the approval of the State Treasurer, to borrow and issue notes or bonds for the purpose of eliminating the deficit or refunding or refinancing the notes. The notes or bonds issued under Section 1356 would be known as "school financing stability bonds".

Before a school district issued these notes or bonds, the board of the district would have to provide by resolution for the submission to the Department of Treasury of the following certified and substantiated information:

- An operating deficit existed or would exist in the district or the district had outstanding State aid anticipation notes issued under Section 1225 through the MFA.
- If the district had a deficit, during or before the fiscal year in which the application was made, the district had made every available effort to offset the deficit.
- The district had a plan approved by the State Treasurer that outlined actions to be taken to balance future expenditures with anticipated revenue and to repay any bonds or notes issued under Section 1356.

The State Treasurer could recognize a deficit elimination plan or an enhanced deficit elimination plan authorized under the School Aid Act as satisfying the requirement for an approved plan.

Using normal school accounting practices, the Department of Treasury would have to determine the existence and amount of an operating or projected operating deficit, and the amount necessary to refund or refinance any school aid anticipation notes issued under Section 1225 through the MFA. The amount of a note or bond could not exceed the amount determined by the Department.

The school district could pledge as security for the repayment of principal and interest on the notes or bonds money from State school aid payments paid or payable to the district, revenue from taxes levied by the district for school operating purposes, and other tax revenue or money of the district legally available as security.

A school district could enter into an agreement with the Department of Treasury or the Michigan Finance Authority, or both, providing for the direct payment on behalf of the district to the MFA or a designated trustee of State school aid pledged for the repayment of principal and interest on notes and bonds issued under Section 1356 in the same manner as an agreement under Section 17a(4) of the School Aid Act. (That section applies to an arrangement made by a district for which an emergency manager is in place or that has an approved deficit elimination plan.)

Notes or bonds issued under Section 1356 would be valid and binding general obligation bonds of the school district. If a school district did not receive State school aid, the validity of a note or bond issued under Section 1356 would not be affected.

The proceeds of the sale of the notes or bonds, after the payment of the costs of issuance and interest, would have to be used solely for the purpose of paying necessary operating expenses of the school district.

The board of a school district that borrowed under Section 1356 would have to submit its budget for review and approval to the Department of Treasury. The Department would have to take necessary steps to assure that the district's expenditures did not exceed revenue on an annual basis and that the district maintained a balanced budget.

MCL 380.3 et al.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

State: If, as has been discussed publicly, the financing of the Detroit Public Schools (DPS) debt would be paid by allowing the "old" district (the "qualifying district") to retain its identity as a taxing authority, while the "new" district (the "community district") would not levy basic operating millage to finance its foundation allowance (requiring the State to pay 100% of the

community district's per-pupil funding), then the cost to the State of this proposal would be roughly \$71.0 million per year until the qualifying district's debt was repaid (estimated at 10 years). The existing debt is estimated by the Department of Treasury to total \$515.0 million. The bill would allow for transitional operating costs not to exceed 3% of the taxable value of the qualifying school district (in this case, 3% of DPS' taxable value is roughly \$202.0 million) to be included in school financing stability bonds, thereby adding the \$202.0 million to the \$515.0 million in existing debt, for a total of an estimated \$717.0 million, which would be the cost to the State if the proposed plan were enacted.

However, the debt financing proposal described above would be only partially covered by Senate Bill 710; in fact, amendments to the State School Aid Act (SAA) also would be required to first provide the "new" district with a foundation allowance and then provide that the State would pay 100% funding of that foundation allowance. Currently, the SAA requires local districts to levy operational mills in partial support of the cost of a district's foundation allowance. In the current year, DPS levies 18 operational mills, bringing in \$71.3 million yearly. This equates to \$1,687 per general education pupil, which is applied toward DPS' \$7,434 per-pupil foundation allowance, and the State makes up the difference of \$5,747 per general education pupil. (This is the same formula calculation for all districts: local districts are required to levy mills for basic operations, and the State pays the difference between what is received in local revenue and the district's foundation allowance, capped at the basic foundation allowance. Foundation allowances for charter schools are 100% State funded because charters do not levy mills.)

If Senate Bill 710 were enacted as is, and no amendments were made to the SAA, the "new" district, since it would not be allowed to levy operating mills as long as the "old" district levied those mills, and since there would be nothing providing for a foundation allowance, would not receive any State aid, or, once provided with a foundation allowance, would have a hole in its foundation allowance funding equal to the \$1,687 per pupil retained by the "old" district to pay off debt. However, if the SAA also were amended to fill that hole with State funding, that would trigger the fiscal impact on the State, estimated at \$71.0 million per year, which is equal to the diversion of the operating taxes to pay off debt. Again, this has been estimated by the Department of Treasury to total \$515.0 million in existing debt, plus the maximum \$202.0 million proposed under the bill for allowable transition costs.

There are other provisions of the bill that could or would have fiscal impacts on the State. First, and most straightforward, the bill would appropriate \$250,000 from the General Fund to the Department of Treasury, which would be a cost increase to the State. Second, as mentioned above, the bill would allow for transitional operating costs not to exceed 3% of the taxable value of the qualifying school district (or roughly \$202.0 million) to be included in school financing stability bonds, and ultimately considered part of the qualifying district's debt. Third, the bill would allow the community district to employ or contract for qualified teachers and other instructional personnel at a public school that formerly operated as an achievement school in the Education Achievement Authority (EAA), and if the qualifying district moved more schools into the EAA before the transition, or if multiple schools were combined with an existing EAA school, this could lead to additional payroll not covered by the retirement system, resulting in higher stranded retirement costs, which would be paid for by the School Aid Fund. Fourth, and along the same lines as the third point, the bill would allow school districts to "cause education to be provided" for pupils through an agreement with another public entity, and if those other public entities were not part of the retirement system, it is possible that higher stranded costs could occur, again paid by the School Aid Fund.

Local (DPS): As mentioned above, without amendments to the School Aid Act that would provide the community district with a foundation allowance and allow for that foundation allowance to be fully funded by the State, the bill would leave the "new" district with either reduced or no foundation allowance funding. However, the bill would provide up to an estimated \$202.0 million in "transitional operating cost" revenue to pay for the cost of

operating schools incurred by a community district as a result of the transfer of functions and responsibilities from a qualifying district. Another local fiscal impact would be the costs to provide an annual evaluation and report on academic performance (if not already done by DPS). The bill also would allow for the community district to borrow money and issue bonds for capital improvements.

Local (All Districts): It is anticipated that the bill would have fiscal impacts on all districts, not just DPS, as follows: the bill would allow districts with outstanding State aid anticipation notes to borrow and issue bonds for refunding and refinancing. These changes could allow deficit districts to refinance any existing debt, or issue debt to pay off a deficit and, depending on interest rates available at the time of the borrowings or refinancings, could lead to district savings.

One other change in the bill related to regional enhancement millage revenue also could have an impact on all affected districts. The bill would require a district that was a constituent of an intermediate district levying a regional enhancement millage, and that entered into an agreement with another district or public entity to operate a public school of the constituent district, to transfer all enhancement millage revenue due to the constituent district to the district or public entity operating a public school of the constituent district. As the bill is written, this transfer of millage revenue would be in its entirety, regardless of the number of schools actually operated by an entity other than the constituent district and regardless of the number of proportion of pupils educated by that other entity.

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