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SHARED TIME ENROLLMENT FOR HOME-SCHOOLED AND NONPUBLIC SCHOOL STUDENTS; REIMBURSEMENT

House Bill 4692 (Substitute H-4)
Sponsor: Rep. Joanne Voorhees

House Bill 4839 (Substitute H-2)
Sponsor: Rep. Paul DeWeese

First Analysis (4-19-00)
Committee: Education

THE APPARENT PROBLEM:

Guidelines issued by the Department of Education say that a student who attends a nonpublic school and who has registered with the department may enroll in 'non-core courses' at the public school. Students in home school families also may enroll in non-core courses offered at the public school.

Generally speaking, 'non-core courses' are elective courses. A nonpublic school student who is enrolled part-time in non-core courses is counted when the district determines its full-time equated membership, or enrollment. The district claims the appropriate proportion of a full-time equivalent student by dividing the number of instructional hours provided to the part-time pupil by the minimum number of hours of instruction for that school year. Then the school district receives funds for the student on a pro-rated basis.

Although the department's guidelines allow all students to select non-core courses, they do not address enrollment for core courses. Core courses, or required courses, include mathematics, reading, English, social studies, science, courses about the federal and state constitutions, history, and civics. The core courses, unlike electives, are customarily offered by both public and nonpublic schools.

The department developed guidelines for non-core or elective courses, in the aftermath of a 1983 court case called *Snyder v Charlotte Public School District*, 421 Mich 517 (1984), when the Michigan Supreme Court ruled that if a school district offered nonessential elective courses to public school students, the courses also had to be offered to resident nonpublic school students on a shared time basis. The court did not include core courses in its decision, stating that the

intent of the legislature was for nonpublic and public schools to offer comparable basic education.

Some have recommended that the State School Aid Act and the Revised School Code be amended to say that a home-schooled student can enroll in any curricular offering at a public school, whether a core course or an elective course. They suggest, too, that nonpublic school students be able to do so with the approval of a local or intermediate school district board. Further, they recommend that in these circumstances the nonpublic school student or home-schooled student should be counted as a part-time pupil for the purposes of determining the district's full-time equated membership for state aid.

THE CONTENT OF THE BILLS:

House Bill 4692 (H-4) would amend the State School Aid Act (MCL 388.1606 and 388.1766b) to allow a parent or legal guardian to enroll a student in a school district or intermediate school district, in any of that district's curricular offerings. More specifically, for a minor enrolled in a nonpublic school, this would apply to enrollment in a nonessential elective course, and, with the approval of the board of the district, or the intermediate board of the intermediate district in which the minor enrolled, to a core academic course. However, for a minor who was being home-schooled, this would apply to any curricular offering, regardless of whether it was a core academic course, or a nonessential elective course.

Under the bill, a minor enrolled in a nonpublic school or being home-schooled who was also enrolled part-time in a district or public school academy would be

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counted as a part-time pupil, on the same basis as any other part-time pupil, when determining the district's full-time equated membership for state aid.

House Bill 4692 (H-4) specifies that a district or intermediate district could require the parent or legal guardian of a minor to enroll the minor in a curricular offering at least 30 days before the beginning of the school semester if both of the following applied: a) the minor had resided in the district or intermediate district for at least 60 days before the beginning of the school semester; and b) the district or intermediate district had established this requirement as a written policy adopted by its board.

Under the bill, transportation for a minor enrolled under this subsection would not be required, unless otherwise specified under the Revised School Code.

Finally, the bill specifies that if a school district, intermediate school district, or public school academy established any policies, requirements, or limitations for enrollment in a curricular offering, school officials would be required to apply them equally to both full-time students and minors enrolled or seeking to enroll under the shared time provisions.

House Bill 4839 (H-2) would amend the Revised School Code (MCL 380.5 and 380.1561) to specify that a parent or guardian of a minor who was enrolled in a nonpublic school, or who is being home-schooled, could also enroll the minor in a school district, intermediate school district, or public school academy in any curricular offering that was available to students at that grade level or age group.

Under the bill, the enrollment would have to meet the same requirements that apply to a full-time pupil's participation in the offering, subject to Section 166b of the State School Aid Act (MCL 388.1766b). [Section 166b pertains to conditions under which a school district is provided state school aid for part-time pupils who are minors being home-schooled or enrolled in nonpublic schools.] Further, if a school district, intermediate school district, or public school academy established any policies, requirements, or limitations for enrollment in a curricular offering, school officials would be required to apply them equally to both full-time students and minors enrolled or seeking to enroll under the shared time provisions.

Finally, the bill specifies that its provisions would not require transportation for a minor enrolled under the shared time provisions, unless otherwise required under the act.

House Bill 4839 also would amend the definition of "membership" found in the Revised School Code. Currently "membership" means the number of full-time equivalent pupils in a public school as determined by the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the state board of education. Under the bill, the rules would be promulgated by the superintendent of public instruction rather than the state board. Further, the definition of "membership" would specify that a nonpublic school student who is enrolled part-time in a school district or intermediate school district would be considered a part-time pupil and would be counted toward determining the school district's or intermediate school district's full-time equated membership on the same basis as any other part-time pupil.

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that nonpublic and home-schooled students enrolling in public schools would create increased costs to the state, the amount of which would depend on the number of students who enrolled and the number of courses for which they enrolled, neither of which can be accurately predicted. However, the House Fiscal Agency estimates a cost of \$2.1 million, noting that this estimate calculates the costs of one percent of all nonpublic and home-school students enrolling in a public school for one class. (One class is estimated to be 16.7 percent of a six-hour school day.)

The House Fiscal Agency calculated its estimate from the following information. Data from the Department of Education show 191,687 nonpublic school students and 2,140 home-schooled students in Michigan during the 1998-99 school year, although that number is believed to be low since the number of nonpublic school students and home-schooled students likely is under-reported. Since the pupil-weighted average fiscal year 2000-01 foundation allowance is \$6,500, if one percent of all nonpublic and home-school students were to enroll in one class in a public school, it would cost the state approximately \$2.1 million. [The amount is determined by assuming 1,938 students, which is one

percent of nonpublic and home-schooled students, multiplied by \$1,085, which is the cost of one class period.] Each additional one percent who enrolled would cost the state an additional \$2.1 million. (4-7-00)

ARGUMENTS:

For:

Already schools must open their elective (sometimes called 'nonessential') courses to nonpublic school or home-schooled students. This legislation would extend that enrollment option for nonpublic students and those home-schooled, to include core courses as well. These bills are sound educational policy because they allow those home-schooled to take courses at the public school that their teachers at home may not be prepared to teach, such as algebra and calculus, chemistry and physics, or advanced literature and writing classes. Further, the bills allow but do not require local or intermediate school boards to open enrollment in core courses to nonpublic school students.

Against:

Allowing nonpublic school students to select individual courses from a public school's core curriculum does not allow a public school to plan for the necessary number of teachers in a learning discipline. Neither does it allow the public school to schedule the required number of sections that would be needed to serve all students expected to enroll. Indeed, during committee deliberations, language was removed from House Bill 4692 which would have allowed a school district to designate the time of day that part-time students could attend class, or to limit enrollment to a specified fraction of the school day (however these limitations could not have been more restrictive than one-half of the school day). These changes will make the planning and operation of public schools more difficult for those whose job it is to manage them.

Against:

Although it is good public policy for public schools to open enrollment to core curricular courses for home-schooled students, it is entirely possible that opening enrollment to nonpublic school students for other than elective courses would violate the constitution. In a pluralistic democracy whose civil society relies on a common base of secular values taught to all citizens in a network of strong and effective public schools, citizens cannot be well served when public schools are weakened and the line between religious and nonreligious schools is blurred.

Response:

The Michigan Supreme Court ruled in *Snyder v Charlotte Public School District*, 421 Mich 517 (1984), that when instruction is conducted on public school premises, no violation of the Establishment Clause occurs. Public schools are open to all residents of a district who meet age requirements. The right to public education is not conditioned upon full-time attendance. Further, the court states that instruction at the public school clearly is not intended to benefit one or all religions. Rather, the purpose is secular: to provide educational opportunities at public schools for all resident school-age children whether they attend public or religious or secular nonpublic schools.

POSITIONS:

The Michigan Family Forum supports the bills. (4-18-00)

Citizens for Traditional Values supports the bills (4-18-00)

The Michigan School Board Leaders Association supports the bills. (4-18-00)

The Michigan Association of School Boards opposes the bills. (4-18-00)

The Michigan Education Association opposes the bills. (4-18-00)

The Michigan Federation of Teachers & School Related Personnel opposes the bills. (4-19-00)

The Michigan Association of School Administrators opposes the bills in their current form. (4-18-00)

The Michigan Association of Secondary School Principals has concerns about the constitutionality of the bills with regard to nonpublic school students. (4-18-00)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.