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BILL ANALYSIS

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House Bill 4625 (Substitute S-1 as reported)
House Bill 4626 (Substitute S-1 as reported)
House Bill 4627 (Substitute S-1 as reported)
House Bill 4628 (Substitute S-1 as reported)
Sponsor: Representative Bill Rogers (H.B. 4625)
Representative Paul Scott (H.B. 4626)
Representative Margaret O'Brien (H.B. 4627)
Representative Ken Yonker (H.B. 4628)
House Committee: Education
Senate Committee: Education

CONTENT

House Bill 4625 (S-1) would amend the teachers' tenure law to do the following:

- Increase the probationary period from four full school years to five, except for a teacher who was rated as highly effective on three consecutive year-end evaluations.
- Require a probationary teacher to be notified at least 15 days, rather than 60, before the end of a school year that his or her services would be discontinued.
- Allow a probationary teacher to be dismissed at any time.
- Require a controlling board to determine the number and format of classroom observations for probationary teachers and teachers on continuing tenure.
- Require a tenure hearing to be concluded within 60 days, rather than 90, after a claim of appeal was filed, when charges were filed under the tenure law.

House Bill 4626 (S-1) would amend the teachers' tenure law to:

- Allow a teacher on continuing tenure to be dismissed or demoted for a reason that was not arbitrary and capricious, rather than for reasonable and just cause.
- Revise the definition of "demote".
- Limit the payment of a suspended teacher's salary to 90 days after a claim of appeal was filed.
- Require a teacher, as a condition of reinstatement, to verify his or her ability to perform essential job functions after being placed on unrequested leave for physical or mental disability.

House Bill 4627 (S-1) would amend the Revised School Code to require the board of a school district or intermediate school district (ISD) to adopt a policy for placement of teachers based on the mutual consent of the teacher and the school principal. Regarding this policy, the bill would:

- Require the policy to authorize the principal to select teachers who had demonstrated effectiveness and qualifications.
- Require the policy to provide for unpaid leave if a teacher could not be assigned within 30 days.

The bill also includes provisions that would apply to personnel decisions concerning teachers when a district conducted a reduction in force or a recall from a reduction, or in hiring after a reduction in force. Under these provisions:

- A school board could not adopt a policy providing that length of service was the primary or determining factor when eliminating a position.
- A board would have to ensure that a district based decisions on retaining effective teachers, measured by the evaluation system required under the Code.
- Individual performance would have to be the major factor in decision-making.
- Length of service could not be a factor unless all of the factors concerning two or more employees were equal.

In addition, the bill would do the following:

- Establish requirements for the teacher evaluation system, including an annual year-end evaluation and a mid-year progress report, beginning with the 2013-2014 school year.
- Specify classroom observation requirements.
- Establish requirements for the evaluation of school administrators.
- Require an administrator to be dismissed if he or she were rated as ineffective on three consecutive year-end evaluations.
- Require teachers' and administrators' year-end evaluations to be based at least 25% on student growth and assessment data in 2013-2014, 40% in 2014-2015, and 49% beginning in 2015-2016.
- Create the Governor's Council on Educator Effectiveness and require it to recommend a student growth assessment tool and State evaluation tools for teachers and administrators.
- Require notification to parents if pupils were assigned to teachers who were rated as ineffective on their last two year-end evaluations, beginning in 2015-2016.

House Bill 4628 (S-1) would amend the public employment relations Act to prohibit the following subjects from being included in collective bargaining between a public school employer and a representative of its employees:

- Policies governing teacher placement or personnel decisions.
- An employer's performance evaluation system.
- Decisions about a policy for discharging or disciplining employees subject to the tenure law, and the discharge or discipline of an individual employee.
- Classroom observation decisions.
- A performance-based method of compensation.
- Decisions about parental notification of ineffective teachers.

All of the bills are tie-barred to each other.

MCL 38.81-38.83a (H.B. 4625)
38.74 et al. (H.B. 4626)
380.1249 et al. (H.B. 4627)
423.215 (H.B. 4628)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

State: The fiscal impact on the State is indeterminate, and would depend upon whether this package of bills resulted in more or fewer hearings brought before the Teacher Tenure Commission. In addition, the State would see increased costs due to reformatting the Michigan Online Educator Certification System to incorporate certification changes that would occur because of changes in probationary status.

The State Department of Education would see increased staff and resource costs from the requirement to staff the proposed Governor's Council on Educator Effectiveness. In addition, the requirement for the Council to contract with experts on the design and implementation of educator evaluations would result in increased State costs. The Department has indicated these costs would total \$325,000 for one FTE and contract expenses for one year.

Local: The fiscal impact on school districts and intermediate districts under this package of bills is indeterminate.

The requirements to adopt and implement policies for annual teacher evaluations and additional probationary teacher evaluations, effectiveness ratings, and reducing or replenishing workforce based on effectiveness and not length of service, likely would result in some additional costs to ensure that local policies complied with the requirements in the bills. In addition, the requirements to ensure that, by 2013-2014, the evaluation systems for teachers and administrators included all of the specified items in the legislation, along with the requirement that school boards adopt and implement the State evaluation tools recommended by the proposed Governor's Council on Educator Effectiveness, or similar evaluation tools, likely would result in some additional compliance costs.

The overall shift in requiring districts and intermediate districts to fill (or reduce) positions based on effectiveness ratings and not seniority could result in some hiring and cost changes, if the effectiveness ratings were found to be significantly different than the seniority levels. However, if effectiveness ratings were found to be fairly similar to seniority levels (i.e., if senior teachers who are likely at the higher end of the pay scale are rated effective), then there would not be any significant fiscal impact from this requirement since senior teachers who are effective probably would retain jobs in a workforce reduction or fill positions when rehiring was done, as often found in current practice.

The bills also would provide for a longer period during which a demoted teacher's salary can be suspended, under certain conditions, which could provide for some potential savings if implemented at the local level. It is unknown how many teachers on continuing tenure would face discharge or demotion due to the change from "reasonable and just cause" to "a reason that is not arbitrary and capricious".

The shortened tenure appeal process, and allowing for probationary teachers to be dismissed at any time, could provide some procedural cost relief for districts and intermediate districts. Also, the requirement that a teacher be placed on unpaid leave until obtaining a mutually agreeable assignment could produce local savings if or when this situation was encountered.

Date Completed: 6-27-11

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.