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Senate Bill 118 (as introduced 2-10-21)
Sponsor: Senator Ed McBroom
Committee: Appropriations

Date Completed: 2-24-21

CONTENT

The bill would amend Section 163 of the State School Aid Act to do the following:

- Reduce penalties assessed to districts (including public school academies) and to intermediate school districts (ISDs) when employing individuals in violation of certification and other credentialing requirements.**
- Allow the Michigan Department of Education (MDE) to reduce penalties below 50% if the Superintendent of Public Instruction (SPI) found that the district or ISD was hindered in its ability to obtain a substitute credential due to unusual and extenuating circumstances.**

Section 163 of the Act prohibits a district or ISD from employing a person who is not appropriately placed under a valid certificate, substitute permit, authorization, or approval to teach in an elementary or secondary school; from employing a person who does not satisfy requirements to provide school counselor services; or from employing a person who is not working under applicable rules or a valid substitute permit as an administrator.

A district or ISD that violates Section 163 is penalized an amount equal to the amount paid to the individual for whom the violation in certification occurs, for the period of employment that is in violation. Also, current law requires an ISD superintendent to notify the MDE of the name of the person employed in violation of Section 163, the district employing the person, and the amount of salary the individual was paid during the period of employment that violated the section.

Under the bill, the MDE would have to notify a district or ISD that it was in violation of Section 163 and provide a 10-day window for appropriate credentialing. A district or ISD would be penalized 50% of the amount paid to the individual before the MDE's notification of the violation and during the 10-day window, until the appropriate credentials were completed. If the 10-day window expired without completion of the appropriate credentials, the district or ISD also would be penalized 100% of the amount paid to the individual after the 10-day window, until the credentials were obtained. The bill would allow the MDE to impose a lower penalty if the SPI found that the district or ISD was hindered in its ability to obtain a substitute credential due to unusual and extenuating circumstances not within the control of school authorities.

Finally, the bill would allow the MDE to eliminate the 'double' penalty that exists in current law, whereby penalties are assessed under Section 163 and under Section 15. (Under Section 15, the MDE is required to impose a pupil membership deduction if the teacher was uncertified on the pupil count day. Typically, the pupil membership penalty is greater than the salary

deduction.) The bill would allow the MDE, upon request by a district or ISD, to count the salary deduction toward the pupil membership deduction.

MCL 388.1763

FISCAL IMPACT

In fiscal year 2019-20, a total of just under \$1.0 million in penalties was assessed to districts and ISDs found to be in violation of Section 163. If that \$1.0 million in penalties represents an average yearly amount of State aid deducted for these violations, then the fiscal impact of the bill would be to reduce penalties, likely by at least 50% and potentially more if the MDE imposed penalties at a rate lower than 50%. Therefore, the estimated fiscal impact of the legislation would be to reduce School Aid Fund revenue (generated by deducting State aid payments due to penalties) by \$500,000, and correspondingly, payments to local districts and ISDs would increase by that same amount. However, the actual fiscal impact year-to-year would depend on how many violations occurred, how long those violations took to be resolved, the salaries of personnel employed in violation of Section 163, and how often and by what magnitude the MDE assessed penalties at lower rates. Also, the ultimate fiscal impact would depend on how much of the Section 163 penalty overlapped with a Section 15 penalty, and how often the salary deduction would be used to offset a portion of the membership deduction.

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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.