

# Legislative Analysis



## **PENALTY FOR EMPLOYMENT OF NONCERTIFICATED STAFF**

Phone: (517) 373-8080  
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**Senate Bill 118 (H-1) as reported from House committee**  
**Sponsor: Sen. Ed McBroom**  
**House Committee: Education**  
**Senate Committee: Appropriations**  
**Complete to 4-29-21**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 15 of 2021)*

### **SUMMARY:**

Senate Bill 118 would amend the State School Aid Act to modify the penalty for employing a person who does not comply with state certification and credentialing requirements for teaching, counseling, or serving as a substitute teacher.

Currently under the act, a district (including a public school academy) or intermediate school district (ISD) that employs a person in violation of certification and credentialing requirements has the full amount that is paid to that person deducted from its school aid payment. ISDs are required to notify the Michigan Department of Education (MDE) of the names of those employed in violation, the district of employment, and the salary paid.

The bill would instead lower the penalty to 50% of the amount paid to the person for the period of employment and provide a 10-day grace period after notification of the violation (with notification coming from MDE). The revised penalty would take effect July 1, 2021, and no deduction would be assessed for employment in violation of this rule between July 1, 2020, and June 30, 2021.

Beginning July 1, 2021, if the district or ISD continued to employ the person after the grace period, the penalty would be 50% of the amount paid to the person for the period of employment and the grace period and 100% of the amount paid to the person for any subsequent time. (If the credential application process through MDE was completed for a noncertificated person, any employment after completion would not be a violation.)

Certain events, such as a natural disaster or health emergency, could reduce the deduction incurred if the superintendent of public instruction found that the event hindered the ability to obtain a substitute credential.

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

MCL 388.1763

## **FISCAL IMPACT:**

Senate Bill 118 would increase costs to the School Aid Fund and could increase costs for MDE, and it would decrease costs for assessed penalties on applicable local school districts, ISDs, and public school academies (PSAs) for violations of certification and other credentialing requirements.

MDE has deducted between \$229,059 to \$1.2 million per school year from 2015-16 to 2019-20 from districts, ISDs, and PSAs that were found to be in violation of section 163.<sup>1</sup> These assessed penalties have varied year-to-year and depend solely on violations of section 163.

The bill would reduce the total assessed penalties for local school districts, ISDs, and PSAs by an indeterminate amount. As noted in the above summary, the bill would reduce the initially assessed penalty by 50%, would allow duplicative penalties charged under section 15 to be credited toward the section 163 penalty upon request, and would allow the superintendent of public instruction to reduce the assessed penalty based on cause.

The bill would reduce School Aid Fund revenue by an amount equal to the reduction in total assessed penalties noted above for local school districts, ISDs, and PSAs.

For the 2020-21 school year, the bill would waive all assessed penalties under section 163. This would result in a cost to the School Aid Fund of at least \$25,401, as the deductions collected to date would be returned.

MDE could incur administrative costs to ensure that penalties and reductions/credits assessed to districts, ISDs, and PSAs are consistent with those required by the bill. Additional costs would likely be minimal and absorbed using existing staff time.

## **POSITIONS:**

The following entities indicated support for the bill (3-23-21):

Michigan Association of Superintendents and Administrators  
Michigan Association of Secondary School Principals

Legislative Analyst: Jenny McInerney  
Fiscal Analysts: Samuel Christensen  
Jacqueline Mullen  
Emily Hatch

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

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<sup>1</sup> Section 163 assessed penalties by school year: 2015-16, \$229,059; 2016-17, \$624,568; 2017-18, \$614,290; 2018-19 \$481,929; 2019-20, \$1,203,698; 2020-21 (to date), \$25,401.