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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
55th Legislature, 1st Session, 2021

Bill Number	<u>HB43/aHAFC</u>	Sponsor	<u>Williams Stapleton</u>
Tracking Number	<u>.218758.1</u>	Committee Referrals	<u>HEC/HAFC</u>
Short Title	<u>Black Education Act</u>		
Analyst	<u>Juliani</u>	Original Date	<u>1/26/2021</u>
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BILL SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to HB43 (HB43/aHAFC) removes the appropriations from the original bill that would have funded the provisions of the bill through FY23.

Synopsis of Original Bill

House Bill 43 (HB43) enacts a new section of the Public School Code creating a Black Education Advisory Council and a Black education liaison position to advise the Public Education Department (PED) on policy and programs related to the education of African American students and serve as a resource for school districts and charter schools. Additional duties of the council and liaison include writing white papers on methods and practices to improve educational outcomes and experiences for African American students and preparing an annual Black education status report. The council and liaison will collaborate with the Higher Education Department (HED) and postsecondary institutes of education to help improve Black education and teacher preparation programs through recruitment and retention of African American educators. HB43 also requires school discipline policies to define and prohibit racialized aggression involving a student or staff member and to require every school district and charter school to have a hotline for reporting racially charged incidents or racialized aggression. HB43 enacts a new section of the School Personnel Act to require all school personnel to take an annual online anti-racism, racial awareness and sensitivity training that demonstrates how to create and foster an equitable and culturally responsive learning environment for minority students.

FISCAL IMPACT

HB43/aHAFC does not contain an appropriation. The bill includes per diem and mileage reimbursement for members of the advisory council as non-salaried public officers pursuant to the Per Diem and Mileage Act. The House Appropriations and Finance Committee (HAFC) substitute for House Bills 2 and 3 includes a \$200 thousand appropriation to PED from the public education reform fund for FY22 to fund implementation of HB43/aHAFC. Any unexpended balance of the

appropriations remaining at the end of FY22 would revert to the public education reform fund. The Senate Finance Committee substitute for Senate Bill 377 as amended by HAFC includes a \$150 thousand appropriation to PED from the general fund for FY22 to implement the provisions of the Black Education Act, contingent on the passage of HB43 or similar legislation. Any unexpended balance of the appropriations remaining at the end of FY22 would revert to the general fund.

PED's analysis indicated, while it is unclear what specific costs would be required to carry out the provisions of the bill, additional costs could involve the following: (1) Black Education Advisory Council expenditures, including per diem and mileage; (2) salary and benefits for at least one full-time staff liaison; (3) potentially salary and benefits for part-time staff who could assist the liaison with implementing the provisions of the Black Education Act; (4) funds for school districts and charter schools related to the required hotline; (5) funds to potentially develop a curriculum or professional development related to the statewide, mandatory anti-racism and racial sensitivity training; and (6) funds to potentially deliver, through PED personnel or a third-party consultant, the anti-racism and racial sensitivity training annually for all school personnel in the state.

Analysis from the Office of African American Affairs indicated the requirements of the liaison position and the Black Education Advisory Council are more advanced than one position may be able to achieve.

SUBSTANTIVE ISSUES

Consolidated *Martinez-Yazzie* Education Sufficiency Lawsuit. In the consolidated *Martinez-Yazzie* education sufficiency lawsuit, the 1st Judicial District Court ruled the state failed to provide quality programs targeted to meet the specific needs of at-risk students, especially low-income, minority students (Hispanic, Native American, African American, and Asian American), English learners, and students with disabilities. The court found at-risk students were not attaining proficiency at the rate of non-at-risk students and the programs that PED lauded were not changing this fact. Participation in programs at the local school level was limited and reports from the Legislative Finance Committee and LESC have frequently found PED failed to provide verifiable evidence its programs were working. The judge noted there was little doubt the education provided to at-risk students was resulting in dismal outcomes, whether measured by test scores, graduation rates, or the need for college-level remedial courses. While much of the focus of the lawsuit involved Hispanic, Native American, and English learning students, educational outcomes for African American students, comprising only 2 percent of total number of students statewide, historically have lagged behind those of students from other racial or ethnic groups in high school graduation rates and postsecondary enrollment and degree-attainment rates. The judge in the consolidated *Martinez-Yazzie* lawsuit ruled the state failed to provide at-risk students, especially those with low incomes, with the programs and services needed to prepare them to be ready for college and career, including extended learning, culturally and linguistically relevant education, bilingual multicultural education, and sufficient funding for teacher recruitment, retention, and training.

The Black Education Act. HB43/aHAFC addresses many of the aforementioned needed programs and services to prepare students to become ready for college and career. Among the responsibilities of the council and liaison created in the bill is the development and promotion of curricula that demonstrate cultural awareness and racial sensitivity. The move toward culturally relevant education or culturally responsive teaching has been seen as a way to better serve minority students by acknowledging and addressing inequities built into various aspects of education, such

as curriculum design, classroom discipline, and student-teacher relationships. Researchers cite these inequities as contributing factors in the long-standing achievement gap between racial or ethnic minority students and their white peers.

Black Education Advisory Council. The Black Education Advisory Council is to advise PED, school districts, and charter schools on matters related to improving public school education for African American students, enhancing parent involvement and community engagement, and increasing the number of African American high school graduates succeeding in postsecondary academic, professional, or vocational education. The council is to consist of members who are knowledgeable and interested in the education of African American students. Appointed by the secretary of Education, the council is to include no more than 23 people and consist of parents, other people with interest, and representatives from:

- Public schools,
- Postsecondary education and teacher preparation programs,
- The Office on African American Affairs, and
- Black cultural, community, and business organizations.

The council may elect a chair and other officers as it deems necessary. The council is to meet at least twice a year and will serve at the pleasure of the secretary of Education.

Black Education Liaison. HB43/aHAFC creates within PED a new position, the Black Education Liaison, to advise the Secretary of Education and the Black Education Advisory Council on policy regarding the education of African American students, to assist in improving educational outcomes, and to serve as a resource to enable school districts and charter schools to provide equitable and culturally relevant learning environments. These duties, while general in nature, closely mirror those which PED has typically assigned its other liaison positions in comparable roles, such as the Hispanic and Indian education liaisons.

Additional Advisory Council and Liaison Duties. The Black Education Advisory Council and Black Education Liaison will also work jointly on the following three additional duties:

- Prepare white papers on current research on methods and practices to improve educational outcomes and experiences for African American students by
 - identifying best practices for improving educational outcomes,
 - addressing the achievement gap systemically to improve high school graduation rates, college and career readiness and higher education completion rates,
 - combating discrimination and racism in the public schools, including creating culturally responsive learning environments,
 - recommending curricula and instructional materials inclusive of the history and culture of African American people,
 - providing mechanisms for various stakeholders to work together to improve educational opportunities for African American students;
- Develop or recommend anti-racism and cultural sensitivity training and professional development programs for all school personnel to take annually; and
- Collaborate with the Higher Education Department and post-secondary institutes of education to help improve Black education and teacher preparation programs through recruitment and retention of African American educators.

Black Education Status Report. HB43/aHAFC requires PED and the Higher Education Department to collaborate on creating and submitting an annual preschool through postsecondary statewide Black education status report. The report is to include disaggregated data from all school districts and charter schools to indicate data for African American students, including ethnicity by grade, attendance and truancy rates, student achievement by grade level, and graduation rates by ethnicity. The report is to include disaggregated data from all public postsecondary institutions to indicate African American student or faculty data related to enrollment, student retention and completion rates, degrees and certificates earned, tenure-track and adjunct faculty by ethnicity, and faculty or administration leadership positions by ethnicity.

Problematic or Vague Terminology. The language in HB43/aHAFC describing the terms of membership and meetings is fairly broad and could benefit from greater specificity. The bill contains no language regarding term lengths for members of the Black Education Advisory Council, only stating members include up to 23 individuals and serve at the pleasure of the secretary of education. The council is directed to meet “as necessary” but at least twice a year.

The bill’s descriptions of the duties of the Black Education Advisory Council and Black education liaison likewise use broad, hard-to-measure language, such as advising, assisting, and supporting. While the joint duties of the two are clearly defined with measurable work products, such as increasing the number of African American educators and providing anti-racism and racial sensitivity training for all school staff, the separate duties assigned to the council and liaison are more general and more difficult to assess. Because PED does not currently have any division specifically dedicated to African American education, as it does for Hispanic or Native American education, implementation of the council’s and liaison’s advisement may become more difficult to achieve without the infrastructure of a supporting division.

Racial Sensitivity and Anti-Racism Training. HB43/aHAFC requires school discipline policies to define and prohibit racialized aggression involving a student or staff member and to require every school district and charter school to have a hotline for reporting racially charged incidents or racialized aggression. HB43/aHAFC also requires all school personnel to take an annual online anti-racism, racial awareness, and sensitivity training that demonstrates how to create and foster an equitable and culturally responsive learning environment for minority students.

Racial sensitivity and anti-racism training are designed to reduce prejudice and discrimination while fostering a positive environment of equality. However, studies have found such training to have moderate effects on influencing attitude and little impact on behavior, suggesting one-off sensitivity and diversity trainings are unlikely to be effective at promoting racial equality. Rather, research supports a schoolwide approach that places at the center a commitment to creating and maintaining an equitable and culturally responsive learning environment with systems in place for continual personal reflection and accountability.

Analysis from the Office of African American Affairs noted the bill lacked attention to the increased suspension and punishment rate of Black students in schools and suggested the Black education status report include data specific to the suspension and punishment rates by race.

Problematic Terms or Definitions. HB43/aHAFC does not define “racialized aggression” but identifies it as an act to be prohibited in school discipline policies and to be reported through a hotline required at every school district and charter school. School districts and charter schools would benefit from more statutory clarity on the meaning of the term to help them remain in compliance with the specific requirements of the bill regarding this topic.

ADMINISTRATIVE IMPLICATIONS

HB43/aHAFC would change the organizational structure within PED with the addition of a Black education liaison to advise the secretary of Education and the entire department and would require increased collaboration and coordination among various divisions, such as those related to Hispanic and Native American education. However, because no separate division exists in PED for African American education, such collaboration and coordination may prove challenging for PED.

Analysis from PED indicated, while the Black education liaison would assist and be assisted by other staff from PED and HED to improve elementary, secondary, and postsecondary educational outcomes for Black students, the bill does not specify in what capacity the HED staff will assist in the process.

PED's analysis indicated HB43/aHAFC would also result in additional administrative duties for school districts and charter schools in meeting the requirement of a hotline. The department's analysis pointed out school districts and charter schools would need additional personnel to operate the hotline, as well as respond to reports of racially charged incidents or racialized aggression.

According to analysis from the Office of African American Affairs, HB43/aHAFC requires activities that should be completed by a team of individuals and should provide a staff increase of a minimum of four positions.

SOURCES OF INFORMATION

- LESC Files
- Public Education Department (PED)
- Office of African American Affairs

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