

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

RECEIVED

SEP 21 1989

Mich. State Law Library

Senate Bill 51 (Substitute S-3 as passed by the Senate)
 Sponsor: Senator Dick Posthumus
 Committee: Education and Mental Health

Date Completed: 8-2-89

RATIONALE

Six years ago, the National Commission on Excellence in Education warned in its report, "A Nation at Risk", that a "rising tide of mediocrity" was inundating the nation's schools. In a recent report on the state of education in this country, U.S. Education Secretary Lauro Cavazos characterized the nation's schools as being in a state of stagnation, despite efforts to improve the quality of education. Looking to the business world as a model, some people believe that the education system needs to be infused with a spirit of competition, by allowing parents to choose which school their children will attend. Except in a few school districts, Michigan school districts require children to attend a particular school determined primarily by geographic location. If parents were able to choose the public school that their children would attend within a district, some people believe that the creative potential of the schools would be unleashed since schools would be forced to compete in order to attract students.

submitted to a school board before January 1, 1992.

- Provide for the establishment of a schools of choice planning committee for a district in which voters approved a ballot question on schools of choice, and require schools in the district to form planning committees.
- Require a district planning committee to develop and submit to the State Board of Education a schools of choice program, as outlined in the bill, that the school district would have to implement.
- Require the Department of Education to provide guidelines on transportation, provide technical assistance, and monitor choice programs.

S.B. 51 (8-2-89)

Election

Before January 1, 1993, the board of each school district that had two or more schools with the same grade level would be required to submit to the school electors of the school district the question of whether their district should implement a schools of choice program that gave each parent, legal guardian, or person in loco parentis of a child residing within the district the opportunity to select from all public schools with an appropriate grade level within the district the public school that the child would attend.

CONTENT

The bill would amend the School Code to:

- Permit electors in a school district to petition for an election on the question of allowing parents to choose the public schools within the district that their children would attend.
- Require that an election be held before January 1, 1993, in school districts where petitions were

The election could be held only in a school district in which a petition requesting the election was filed with the school board before January 1, 1992. The petition, which would have to be substantially in the form prescribed in the School Code for nominating petitions for school board candidates (MCL 380.1066), would have to be signed by at least 25% of the number of registered school electors of the district who voted in the immediately preceding election for school board members. The election would have to be held at the next school election after the petition was received, and the ballot would have to be in substantially the form described in the bill.

Planning Committee

If a majority of the school electors approved the question, the school board would be required to establish a district schools of choice planning committee composed of one-third parents, one-third teachers, and one-third principals and pupils. The committee would be required to develop and submit to the State Board of Education a schools of choice program that the school district would implement.

When a district schools of choice planning committee began developing a schools of choice program, each school within the school district also would be required to establish a schools of choice planning committee. This committee would have to be composed of teachers from the school plus parents, administrators, and other residents of the school district. A school planning committee could be a presently existing committee, if the committee met the bill's membership requirements. The school planning committee would be required to examine the strengths and educational goals of its school and consider ways in which the school could offer unique or exceptionally high quality educational programs to school-aged children residing in the school district. The school planning committee would have to report its findings to the school district's schools of choice planning committee, which would have to forward a copy of the report to the board.

A meeting and notification of a meeting of a planning committee would be subject to the Open Meetings Act, and committee documents would have to be made available to the public in compliance with the Freedom of Information

Act.

Schools of Choice Program

A schools of choice program would have to include, but not be limited to, all of the following:

- A plan to ensure that all parents, legal guardians, and persons in loco parentis of a school-aged child residing within the school district were provided with adequate information about the schools of choice program so that they could make informed decisions about which school their child would attend, and were given access to counseling about the schools of choice program.
- A plan to ensure that transportation to the school of choice would be provided to a child if the child were from a low income family, as determined by the Department of Education, or from a single-parent or two-career family that fell below an income level determined by the Department and could not provide transportation for the child due to a job-related schedule.
- A plan to ensure that each child had an equal opportunity for enrollment in the school that his or her parent, legal guardian, or person in loco parentis chose.
- A plan to ensure that successful school programs, as measured by an increase in pupil enrollment, would be provided with adequate resources to continue and expand.
- A plan to ensure that the teachers and principals of a school building had the authority to make decisions regarding school programs for their building as long as the school programs were consistent with the school district's curriculum policy.
- An explanation of how pupil assignment and transfer policies would maintain school district standards of racial and ethnic integration.
- A provision that if the school board had joined an athletic association, the pupils and schools of the district would remain subject to the rules of the association.

By June 30 of each year of the program, a

school district implementing a schools of choice program would have to report to the Department, as prescribed by the Department, the results of the program's implementation.

Department Requirements

The Department would be required to do all of the following:

- Provide guidelines for school districts to use in determining how pupils from families needing transportation assistance would be transported.
- Provide technical assistance and administrative support, as needed, to school districts implementing a schools of choice program.
- Disseminate information to school districts, the public, and the Legislature on the characteristics and success of the schools of choice programs.
- Monitor all schools of choice programs to determine if they were in compliance with the bill's requirements for a schools of choice program.

MCL 380.1283 et al.

BACKGROUND

According to the Department of Education, the following types of alternative programs are being offered by school districts in the State:

- **Detroit Public Schools.** While there is no open enrollment at any grade level, Detroit does have some magnet schools, which provide students with a distinctive curriculum at each site. The system's magnet schools are: Cass Tech (technology and science high school), Renaissance High (gifted and talented), Burton International (global and foreign language school), Bates Academy (gifted and arts), and Couzens Elementary (foreign language and international studies). Detroit also offers the "school-within-a-school" concept, whereby a set number of students are able to concentrate in certain subject areas on a specific course of study. (For example, students interested in studying commerce may take a block of required and elective courses related to that subject.)

Students, or their parents, must apply to attend these schools and must meet specific requirements of each institution.

- **Farmington Schools.** The district offers one magnet school, Highmeadow Common Campus. The school, which opened in 1988, includes kindergarten to fifth grade and has a heavy emphasis on academics. A lottery system is used to select students since more students apply to attend the school than spaces are available. The district reportedly has no plan to expand the magnet school.
- **Flint Public Schools.** The district offers magnet schools at the elementary, middle, and secondary levels. Initially, 18 schools are participating in a limited open enrollment, including: Southwestern Academy, which has certain academic prerequisites; Northwestern, which offers a school-within-a-school program for mathematics and science; and, Central, which offers a school-within-a-school program for humanities and fine arts.
- **Utica Schools.** The district allows any student or any student's family to choose the school of his or her choice as long as the parents provide the needed transportation and the student-teacher ratio in the faculty contract is not violated.
- **Saginaw Public Schools.** The district permits parents to select the schools of their choice, and about 25% select a school other than the one that was assigned. The selection process is limited to ensure that schools do not become segregated by race or ethnicity. In addition, the district established one magnet elementary school called "Program for Creative Academics", and offers two half-time magnet schools for the arts, science, and technology.
- **Benton Harbor.** While the district does not have open enrollment, it does have three elementary schools and one junior high school for the academically talented. The district provides transportation to all students regardless of where they are enrolled, with about 25% of the students being enrolled in buildings other than by their geographic proximity.

Another option available in the State is

enrollment in a secondary vocational education program with the student or parent selecting the program that best meets the student's needs and job goals. Such programs include:

- **Comprehensive High School Program.** Enrollment follows the normal program selection process in place in the district. The primary limitation to open enrollment is the lack of time for electives in the 11th and 12th grades of the local districts. Residents of the school district participate for free, but the local district can accept tuition students from other school districts. The number of vocational education courses is limited by the financial resources of the local district. Such programs are offered in the Flint, Warren Consolidated, and Lansing school districts.
- **Shared Time Programs.** Similar to the comprehensive high school vocational programs, these programs involve a number of school districts that have pooled revenues and existing vocational programs in order to have a larger student population base and to offer a greater number of occupational programs. Any student who is a resident in any of the consortium high school districts may participate in this program without paying tuition. Such programs are offered in the Ionia, Western Washtenaw, and Kalamazoo school districts.
- **Area Vocational Center Programs.** These programs are legally constituted through a vote of the people in a particular region, such as in an intermediate school district. The vocational program is available to any students who are residents of the region. Participation is limited to the class time available to students during the 11th and 12th grades, with program selection based on a student's interests. Such programs are offered through the Ingham, Branch, and Traverse Bay intermediate school districts.

Another option offered by local school boards allows choice within a district to accommodate child care before and after school. Such options are offered by the Adrian, Lansing, and

Grand Rapids school districts.

FISCAL IMPACT

The bill would cost the Department of Education approximately \$50,000 per year to establish guidelines, provide technical assistance, disseminate information, and monitor schools of choice programs. Costs to school districts would consist of transportation costs not covered by School Aid, election costs, and enrollment-driven variable costs.

The level of increased transportation funding required in a particular district would depend on whether the school choice concept was implemented in that district, and the number of students requiring transportation to their newly chosen schools. Under the bill, if transportation costs for local school districts were to increase, there would be no legal requirement that mandated increased School Aid transportation payments to school districts.

Election costs would vary with the size of a school district, and whether a school election otherwise would have been held.

Enrollment-driven costs could include increases or decreases in staffing levels and facilities to accommodate the changing enrollment distribution.

ARGUMENTS

Supporting Argument

Inherent in the concept of a schools of choice program is the belief that parents and students should be given the opportunity to select a school that they feel will best meet the students' needs. Giving parents the right to choose the school for their children could: serve as a catalyst for bringing more diversity to public schooling, unleash the creative potential of a school, create an air of competition between schools in an effort to attract students, stimulate increased levels of accountability on the part of education officials, serve as an affirmative tool to improve the administration of a school since parents could "take their business elsewhere" if the school did not continue to meet their expectations, and increase involvement of parents and pupils in their schools. Just as competition invigorates the business sector, choice and the inherent

competition could force education bureaucracies to give teachers and principals the opportunity to be innovative in the educational programs they offer.

Supporting Argument

The schools of choice concept has been tested and proven successful in such diverse places as the East Harlem Community School District, of New York, and the state of Minnesota. When East Harlem began its program 15 years ago, the district ranked in last place among New York City's 32 school districts, with only 15% of its students reading at or above grade level. Today, over 65% of the students in that district read at or above grade level, and the district now ranks in 16th place. In Minnesota, the concept of choice was presented in three programs during the past four years before the state last spring instituted a statewide parental choice plan in which parents, by 1990, will be able to choose which school, from any school district in the state, their child will attend with state funding accompanying that child to the public school. The programs in Minnesota that cleared the way for an open enrollment program included: a 1985 post-secondary options law under which 11th and 12th graders can take college classes that earn both high school and college credits; a 1987 graduation incentives program that allows 12- to 21-year-old students, who are at risk of not completing their education, to attend alternative learning programs; and, a voluntary open enrollment program in which students are free to attend the public schools of their choice in participating school systems. Research has shown that well-designed choice programs, such as those offered at East Harlem and in Minnesota, have resulted in increased student achievement, improved graduation rates, more involvement by parents, and higher morale among educators who are given the opportunity to create distinctive programs.

Supporting Argument

The concept of choice would eliminate the monopoly that public schools have held on their students, who usually have no other alternative within the public school system but to attend the school to which they are assigned. Since schools would have to compete for students under a schools of choice program, schools would be forced to find more and better ways to meet the needs of their students. By

making it possible for parents to select which schools their children would attend within a district, all schools that are part of that school district presumably would strive to improve the quality of education in order to vie for students. Failure to provide quality programs, facilities, and staff in all schools could result in parents selecting other schools for their children to attend. Thus, the educational system, as a whole, would improve for the majority of students who would remain at their original school assignment as well as for students who chose to move to another school.

Supporting Argument

Not all students can reach their full potential when they are required to attend schools that reflect a single instructional philosophy. While some students flourish in a strict traditional school, others may do well in a school that emphasizes the performing arts, for example, along with teaching basic skills. Offering a schools of choice program in Michigan could create an atmosphere that encouraged schools to become more effective by allowing a school to specialize to meet the needs of the students that elected to attend that school. Furthermore, research has shown that providing families with options as to the public school their children will attend has resulted in improvement in students' academic achievements and attitudes, as well as in more involvement and support of the parents.

Supporting Argument

The bill would require that a school district's schools of choice program provide that if a school board had joined an athletic association, the pupils and schools of the district would remain subject to the association's rules. Currently, 714 high schools with athletic programs are members of the Michigan High School Athletic Association (MHSAA), which governs interscholastic sports. While there is no statutory mandate that high schools join MHSAA, any school that wants to compete in athletic tournaments sanctioned by the association must abide by the association's rules, including rules on the eligibility of players. Under current rules, any student who transfers to another school by choice, unless the move was made by the parents and resulted in a change of residence, must wait one semester before he or she is eligible to compete in sports at the new school. A school district may

petition the association's executive committee for a waiver of the rules under certain circumstances, such as a youth's being removed from his or her family because of abuse, which would allow the student to be eligible immediately to participate in athletics at the new school. By requiring schools that offer a program of choice to adhere to eligibility rules of an athletic association, such as MHSAA, the bill would prevent schools from using the option of choice as a way to recruit exceptional athletes.

Response: Despite safeguards in the bill to deter recruitment of student athletes, some concerns have been raised that a student, under the guise of educational improvement, could transfer to another school as part of a program of choice, but in reality would be transferring just to play sports. MHSAA officials note that this has occurred under current regulations, and they caution that this situation could develop under a program of choice. There also are concerns that recruitment could take place in other competitive areas, such as music, and that there are no provisions in the bill to deter this kind of activity. Furthermore, a program of choice could shift the energies and attention of school administrators away from instructional matters to management problems, such as enforcement of restrictions on the intradistrict recruitment of talent.

Opposing Argument

The bill is not necessary since programs permitting parents to choose the school their child will attend can be established by school boards under current law. While the bill's proponents contend that the bill is a necessary tool for parents to use when local school boards are reluctant to implement a program of choice, no testimony was presented to the Education and Mental Health Committee that any local school board had rejected a request for parents to establish a program of choice. In fact, various programs of choice are in effect in several school districts across the State.

Response: While the School Code does not prevent school districts from offering parents and students a choice of approaches to schooling, the bill would address a number of concerns, such as transportation, that have not been addressed in some programs of choice that currently are operating. Furthermore, the bill would provide additional school and community input by using a committee composed of

parents, teachers, principals, and pupils. Thus, enactment of the bill would enhance the implementation of a schools of choice program and would ensure an equal opportunity for all parents and students to avail themselves of the program.

Opposing Argument

Proponents of choice argue that opening up the public school system to competition would result in the improvement of all public schools, including those that currently provide only a marginal educational program. Pointing to the business world, advocates of choice note that competition, inherent in the concept of choice, would force all schools to improve their programs or risk losing students. Research shows, however, that choice is more likely to increase rather than reduce the differences in quality among schools. Schools of choice programs tend to benefit the most active, organized, and financially secure parents and the most highly motivated and talented students, leaving out the students most at risk of dropping out or falling behind in school. While disparities in resources exist now among schools, a program of choice would siphon off resources from neighborhood schools only to funnel them to the "successful" schools, further aggravating and not eliminating these disparities. School should be a place where every child has a chance for an equal start. Thus, efforts should be directed at making every school an effective school, rather than risk establishing a stratified, elitist educational system.

Opposing Argument

School administrators, board members, teachers, parents, and the public have called for action to improve education and to address the major educational and social problems facing today's schools. In response, Michigan's citizens and educational community would be given schools of choice. Yet, it is not certain how a program of choice would address overall concerns about education as well as social problems prevalent in schools across the State, such as : the disparity in revenue sources among schools districts, the needs of underserved and at-risk students, the prevalence of drug use among students, and the rise in teenage pregnancies. A program of choice only would divert attention from these problems as well as initiatives to improve the

educational system as a whole.

Opposing Argument

A program of choice could be difficult to administer. School administrators could not conduct strategic planning since school census figures would be meaningless. Developing school budgets as well as planning for facilities and staffing could not be done with certainty because of the possibility of shifting enrollments. In fact, changes in attendance patterns could result in class size changes and crowd the capacity of a school building, thus adversely affecting the programs and services that originally made the school desirable.

Opposing Argument

The bill would have little effect on a number of school districts in the State that have only one building per grade category or that may have multiple buildings at one grade level, for example more than one elementary school, but only one building at other levels, such as only one high school. A report from the Department of Education of 515 school districts in the State lists 198 districts as having only one each of elementary, middle school/junior high school, and high school buildings. Of the remaining 317 school districts, only 39 have more than one building per grade level category. The remaining 278 districts have more than one building, but not for each category. For example, a district may have two elementary schools but only one middle school and one high school. Thus, slightly more than one-third (38.4%) of the school districts in the State would not be affected by the bill, while less than two-thirds (61.6%) could offer parents a limited program of choice. Only 39 districts, could offer a full range of choice at all grade levels.

Opposing Argument

The bill, as introduced, would have required that petitions requesting an election on school choice in a district be signed by 10% of the school electors who voted in the preceding school board election. That signature requirement was increased to 25% when the bill was reported from the Education and Mental Health Committee. Statewide referendum and initiative petitions, however, must be signed by only 5% and 8%, respectively, of the voters in the previous gubernatorial election. No more than 10% of

the voters in a school district should be required to sign petitions for an election on choice. Requiring a higher percentage would make it unnecessarily difficult to implement choice in a district.

Opposing Argument

Advocates of choice contend that parents should be able to choose which schools their children will attend. Yet, the bill proposes only a limited version of school choice, which is restricted to public schools. The only true form of choice would permit parents to receive a financial voucher from the State that parents then could apply to tuition costs at private or public schools.

Legislative Analyst: L. Arasim

Fiscal Analyst: A. Rich

A8990/S51A

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.