



Michigan Parents for Schools

Working for excellent public schools—for our children and our communities

MIPFS Legislative Briefing (updated June 15, 2012)

The “school choice” package: SB 618, SB 619, SB 620, and SB 624

This five-bill package was the second major legislative initiative on schools last year. The first, which significantly weakened tenure protections, removed seniority from employment decisions, and mandated a single state model of teacher evaluation based largely on tests, took effect in July. This second package is described by supporters as injecting choice and competition into education in Michigan and deals with charter schools and statewide schools of choice. Hearings began in the Senate Education Committee on 7 September 2011. Senate Bill 618 was signed into law on 20 December 2011 as PA 277. SB 619 was signed into law on 16 May 2012 as PA 129. SB 620 passed the Senate on 6 June and will be considered by the House Education committee, and SB 624 remains with the Senate Education committee.

Overview

Based on the current language of the bill texts, the proposed legislation would:

- remove the overall cap on charter schools in the state;
- create a new class of charter schools, “conversion schools,” which can be created at the instigation of the teachers or parents of a traditional public school under certain circumstances;
- remove most limits on the number of recently-introduced “cyber schools;”
- require school districts to accept non-resident students under “schools of choice” if they have the capacity;
- ~~allow traditional school districts to contract with independent organizations to provide classroom teachers rather than employ them directly;~~ this provision was removed by a friendly amendment on the Senate floor
- ensure that charters and similar schools authorized by public school districts would not be covered by any existing collective bargaining agreements;
- exempt buildings occupied by charter schools from ~~all property taxes~~ the state education property tax (this would only affect buildings owned by private management companies, since the schools themselves and non-profit management companies are already exempt).

Some of the bills are “tie-barred” together, which means that they must all pass the legislature for any to take effect. As bills have been reported from the Senate Education Committee, however, the committee majority has been severing the bills from the one requiring statewide schools of choice and selectively from each other.

Our take

Even as amended, the bills can only be described as an assault on local, community-governed public schools in this state. The sponsors of the legislation claim that these measures will drive increased achievement in our schools by introducing more competition and offering parents choices. At MIPFS, we are hard pressed not to see this as an effort to do school reform “on the cheap,” thoughtlessly applying the doctrine of competition rather than working to ensure that every school can provide its students with a quality education.

Competition: Under the current system, "competition" for students does not drive excellence; it simply steals resources from already-struggling schools. When districts lose students, it starts a downward spiral of program cuts and more enrollment declines—something we call the "death spiral." Michigan's per-pupil funding system does not take into account the fixed costs which school districts cannot rapidly change, meaning that the funding loss from losing a student is much greater than the financial savings the district will reap from having one less student. Moreover, students who move between districts carry with them the lesser of the two system's per-pupil funding, which saves the state money but inevitably puts pressure on the district trying to educate more children.

Charter schools: Charters, originally a venue for experimentation in education, are now being put forward as the "solution" for those families that have the time and resources to actively support their child's education. Selecting and seeking admission to a charter requires at a minimum significant parent interest and involvement. Moreover, most charter schools do not provide transportation to their students, effectively limiting access to those families with the means (and time) to bring their children to and from school. Tens of thousands of children who do not have that kind of support system will be left to fend for themselves in declining traditional districts as funds dry up. Moreover, considerable research indicated that, on the whole, charter schools do not outperform local public schools with similar demographics.

Finally, private, for-profit management companies predominantly run Michigan's existing charter schools; the number of charters managed by for-profit firms in Michigan dwarfs that of any other state. As private firms, these management companies are not accountable to the public and their books and internal operations are not open to inspection. If there are surplus funds—public funds—shouldn't they be used for educational programs? What justification can there be for using our children and public funds to generate a private profit? The bills exacerbate the situation by exempting all property occupied, and used exclusively, by charter schools from some property taxes. This would only affect buildings owned by the for-profit management companies, since property owned by a charter (always nonprofit) or a nonprofit management firm is already tax exempt under state law.

Taking the "public" out of schools: Local public schools are the backbone of our public education system and make good on our state constitution's promise of a free public education for all children. Alternative schools can appear and disappear at will, but the obligation to offer a quality education to every child in every community remains.

Choosing the kind of school our children will attend is not the same as choosing a brand of toothpaste. Public schools are a vehicle for the community to make sure its children receive a solid education. Parents exercise choice by working together to build a school system and by choosing elected representatives who reflect their values and priorities. The image of parents as "consumers" of education has in recent years eclipsed the idea that public schools are a joint project of the entire community; current efforts at "reform" minimize the critical role public schools play in developing educated citizens and productive members of a community.

Communities, instead of joining together in their common commitment to educate their children, will be segmented into multiple educational enclaves - eroding our communities, worsening inequality and encouraging re-segregation. Schools will be judged by the extremely narrow measure of those basic skills that can be evaluated by standardized tests, discounting all the other goals of a quality education. This kind of "reform" will erode the quality of public education, not improve it.

Details of the bills (as of 15 June):

SB 618, sponsored by Sen. Phil Pavlov (R-St. Clair): changes to charter school rules, and teacher hiring for all districts. Passed the Senate on 10/6, passed the House with amendments on 12/14, Senate concurred in House changes and sent the bill to the Governor 12/15. The Governor signed the bill on 12/20, making it Public Act 277. (The bill is no longer tie-barred to other bills in the package.)

❖ Charter schools:

- The bill eliminates caps on the number of charters that can be authorized by state universities, and removes restrictions on charters inside Detroit Public Schools. As amended, the bill retains geographical restrictions on charters authorized by community colleges, ISDs, and local school districts.
- The bill also removes the requirements that charters authorized by school districts must be part of the same collective bargaining agreements as other school employees.
- Exempts buildings used exclusively for a charter school from state education property tax (6 mills). This would only benefit for-profit management companies that own the building, since the charters themselves are non-profit and such property is already exempt from tax.
- Lowers the signature requirement for petitions that would force a local school board to put the question of issuing a charter on the local ballot. (This applies only to charters authorized by a local school district.)

❖ Teacher hiring:

- Provisions in the original bill that would have allowed traditional school districts to contract out for instructional staff (privatize teachers) were removed by a friendly amendment in the Committee of the Whole before the bill moved to the Senate floor.

Action on this bill:

- 9/28 (Senate): After several days of hearings on this and other bills in the package, the Senate Education committee voted to report out an amended version of the bill (S-1). The principal change made in the S-1 substitute was removing the tie-bar with SB 624 (schools of choice).
- 10/6 (Senate): The bill is amended by the Committee of the Whole to remove language about contracting out for teachers and to make other small changes. On the floor of the Senate, several amendments are offered and all are eventually defeated. Among them: Sen. Warren proposed an amendment to prohibit new management agreements with private, for-profit charter management companies (defeated 13-25); Sen. Hopgood offered an amendment that would require charters to post management contracts and property deeds on their web sites (adopted 20-18, reconsidered and defeated 19-19); Sen. Young proposed an amendment that would remove the property tax exemption provisions (defeated 18-20). The bill passed 20-18 and was sent to the House.
- The House Education committee took testimony on the bill in October and November, the proceedings being delayed by the recall of committee chair Rep. Paul Scott (R-Grand Blanc), the appointment of committee member Tom McMillin (R-Rochester) as the new chair, and committee membership changes that seemed to be aimed at removing members uneasy about the bill.
- 11/30 (House): The committee majority adopted modest changes to the bill, retaining the geographical limits on charters authorized by community colleges, limiting the property tax exemption to the 6 mill State Education Tax, and requiring schools to post financial information on their web site. Nearly all of the 15 amendments proposed by the committee minority were defeated, though not always along straight partisan lines. Among them was one with the language MIPFS supports to require all new charter schools to be managed by non-profit entities, offered by Rep. Rutledge.
- 12/14 (House): After several session days, during which furious maneuvering was taking place within the House majority aimed at lining up sufficient votes to secure passage, the bill was brought up for a vote on the House floor. During sometimes emotional and acrimonious debate, a series of amendments offered by the minority (echoing those offered in committee) were defeated. Friendly amendments, the result of the bargaining with reluctant majority members, were introduced: the cap on university-authorized charters would be phased-out over three years; all schools would have to post their "annual yearly progress" report on their web sites; previous performance criteria would have to be included (but not necessarily acted upon) in the review of a charter application, and existing charters would only be allowed to open new locations if they were in compliance with their

contract and making measurable progress toward their educational goals. Finally, an amendment would require that the House Speaker and majority leader of the Senate convene a working group to develop performance criteria for both charter and local public schools; the working group is required to report its recommendations by March 30, 2012. The bill passed 58-49, though immediate effect was not granted (meaning the bill would not take effect until the end of March), and returned to the Senate.

- 12/15 (Senate): The Senate accepted the changed made by the House (thus avoiding a conference committee) by a vote of 22-16 and sent the bill to the Governor.

SB 619, sponsored by Sen. Patrick Colbeck (R-Canton Twp): changes to "cyber school" rules

Passed the Senate on 10/27/11, passed the House with amendments 4/26/12, Senate concurred with House changes and sent to the Governor 5/2. Governor signed bill on 5/16, making this Public Act 129 of 2012.

- The bill removes limits on the number of "cyber" schools that can be authorized, and eliminates the original requirement that operators of these schools have experience educating "urban and at-risk student populations." The bill also removes limits on total enrollment and the requirement that a student must previously have attended a public school. As amended, the bill retains some limits on the number and total enrollment of cyber schools (15 schools with a total enrollment of around 31,000 students).

Action on this bill:

- 10/5 (Senate): After several days of hearings on this and other bills in the package, the Senate Education committee voted to report out an amended version of the bill (S-1). The principal change made in the S-1 substitute was removing the tie-bar with SB 624 (schools of choice).
- 10/27 (Senate): On the floor of the Senate, minority members offered a number of amendments to the bill, mostly aimed at shining light on the finances and actual costs of these online charters (since online schools typically cost less per pupil than physical schools, and giving them the same state aid amount would end up potentially padding the operator's profit margin). Sen. Hoon-Yung Hopgood of Taylor proposed an amendment to require that "cyber" charters be given a foundation allowance half that of other schools (defeated 12-26 on partisan lines). Sen. Rebekah Warren of Ann Arbor offered an amendment that would require cyber charters to maintain a student-teacher ratio no higher than the state average for public school districts (also defeated 12-26). The bill was approved on a vote of 20-18, with six Republicans joining all twelve Democrats in opposition.
- 2/8 (House): After several days of hearings, with long lists of proponents and opponents, the House Education committee voted to report an amended version of the bill to the House floor. The amended (or "substitute") bill calls for a "limit" of 30 online charters after 2013, each of which could enroll a number of students equal to half the state's largest district (currently Detroit, yielding a per-cyber school limit of around 33,000). It also specifies that cyber schools would have to comply with online learning standards developed by a national organization. Amendments to bar for-profit operators, require information on true operating costs, delay the bill until after a 2-year progress report on cyber schools was completed by MDE, and restore the requirement that students have been enrolled previously in a public school, were all defeated in the committee. The substitute version of the bill was reported out favorably on a largely party-line vote (with one Republican joining Democrats in opposition and another passing.)
- After considerable time was spent lining up votes, the bill was brought up for a floor vote in the House on short notice. The revised version (H-3 substitute) as amended on the floor made some changes aimed at lining up sufficient votes:
 - The total number of cyber charters was limited to 5 until the end of 2013, 10 through the end of 2014, and 15 thereafter.
 - Enrollment in each cyber charter was limited to 2,500 in its first year of operation, 5,000 in its second year, and 10,000 thereafter.
 - Both the above provisions are subject to the limitation that if cyber school total enrollment in 2012-13 exceeds 1% of total public school enrollment in the previous year (1.55 million students, of which 1% is 15,500), then no new schools may be started in 2013-14 and existing schools may not increase enrollment for that year.
 - Starting in 2013-14, growth will be frozen in any year that follows a year where total cyber school enrollment exceeds 31,000. This leads to the possibility of "bouncing" enrollment, where spikes in enrollment are followed by slow declines as the cap comes into force, until such time as the total us under the cap again, when the pattern could repeat. Thus average enrollment could exceed the 31,000 student cap over time by an unknown amount. (This is more plausible for cyber schools that do not have to adjust physical facilities to accommodate changing numbers of students.)
 - The combined impact of these provisions is shown in the table below.

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- Local and intermediate districts and charters that already operate online learning programs (including, presumably, the two existing cyber charters) must report on the costs of their programs to the Michigan Dept. of Education by October 1st of this year. (This provision was clearly aimed to appeal to those concerned that cyber charters would receive the same per-pupil allowance as other physical schools.) This information could presumably be used to regulate the per-pupil funding given to cyber schools in future.
- 4/26 The bill passed the House by the narrowest of margins, 56-54. Reportedly, considerable leverage was used to line up Republican votes sufficient to pass the bill. The bill was not granted immediate effect.
- 5/2 (Senate) The Senate accepted the House changes by a vote of 23-14, thus avoiding a conference committee, and sent the bill to the Governor, who signed it without modification.

Cyber enrollment limits	2012-13	2013-14	2014-15	Long term
2 existing cyber charters	20,000	20,000	20,000	20,000
Possible new cyber charters	7,500 (3 x 2,500)	27,500 (3 x 5,000)+(5 x 2500)	67,500 (3 x 10,000)+(5 x 5,000)+(5 x 2,500)	130,000
Theoretical total	27,500	47,500	87,500	150,000
Effective total with cap	Not yet in effect.	Up to 27,500 (frozen at FY13 levels if over 15,500)	Up to 31,000 (cap at 2% of FY12 state enrollment)	Around 31,000 (total can exceed this in any one year, but growth would be frozen in subsequent years until enrollment is below this number)

SB 620, sponsored by Sen. Dave Robertson (R-Grand Blanc): conversion schools (commonly called "parent trigger" legislation)

Reported from Senate Education committee 10/12.

- Creates a new class of charter schools that are created from traditional public schools being "converted" into a charter. In the amended (S-8 substitute) version of the bill, only the lowest-achieving 5% of all schools in the state would be eligible to become conversion schools (there was no restriction in the bill as introduced). The conversion would represent a version of the "restart" model for intervention in a "failing" public school.
- ~~A majority of the teachers or parents at a school may ask for such status~~ In the S-8 version, a successful petition to create a conversion school must be supported by either 60% of the teachers plus 51% of the parents, or alternately, 60% of the parents. If the school board denies the petition, the petitioners can seek another authorizing body.
- Conversion schools authorized by districts can receive local tax revenues the same as other schools in the district.
- Conversion schools using existing public school facilities must be able to lease the building for \$1 per year.
- Existing collective bargaining agreements would not cover employees of conversion schools. If a conversion school were chartered by an entity other than a school district, the employees of that conversion school would not be part of the state teacher pension system.
- The contract for a conversion school must include a requirement for measurable progress towards the goals of 80% eventual graduation from high school and 80% average attendance. Contract renewal would depend on evidence of "increases in pupil academic achievement for all groups of pupils as measured by assessments and other objective criteria."

Action on this bill:

- 10/12 (Senate): After several days of hearings on this and other bills in the package, the Senate Education committee voted to report out an amended version of the bill (S-4). The S-4 substitute limited conversion schools to the lowest achieving 5% of

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schools in the state, raised the percentage of parents and teachers that must sign the petition, and removed the tie-bar with SB 624 (schools of choice).

- 6/6/12 (Senate) With little advance notice, an amended version of the bill (now S-8) was passed out of the Committee of the Whole and brought up for a floor vote. The bill passed narrowly in two separate votes by a 20-18 margin. Concerns were expressed about handing over public property to a charter school, and about how the lowest-achieving 5% of schools were defined (one Republican Senator proposed an amendment, later defeated, that would have included an exemption for schools with very high numbers of non-native English speakers). It was then sent to the House, which did not begin hearings before their summer break.

SB 624, sponsored by Sen. Pavlov: mandatory statewide schools of choice

- Requires districts to accept non-resident students under schools of choice, if the district determines that it has available capacity. Removes restrictions on schools of choice that used to restrict it to within an ISD. Does not change the rule that per-pupil allowance is the lower of original or chosen district.

Action on this bill:

- (Senate) SB 624 garnered a lot of opposition from groups that did not take positions on the other bills in the package, especially from suburban Detroit districts. So far, each of the bills from the package reported out of committee have had their tie-bar to SB 624 removed. The bill has not been on the agenda for recent Education committee meetings, and was not taken up again when the Senate adjourned for the end of the year. It seems likely that the Senate leadership believes the mandatory schools of choice proposal is in trouble and does not want it to drag down the rest of the package.