
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

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Subject: School attendance: pupil transfer options: school districts of choice

SUMMARY

This bill deletes the sunset and repeal dates for “school district of choice,” program, repeals the cumulative 10% cap for students transferring out of specified school districts of residence, reassigns certain reporting requirements to the Superintendent of Public Instruction (SPI), and expands various oversight responsibilities to county superintendents, among other things.

BACKGROUND

Existing law:

- 1) Requires students to attend the public full-time day school or continuation school or classes in which the residency of either the parent or legal guardian is located. (Education Code § 48200)
- 2) Authorizes the governing board of a school board to declare themselves a school district of choice willing to accept a specified number of inter-district transfers. As a condition of participating in the program, either the district of residence or district of choice may prevent a transfer if the transfer would exacerbate racial segregation. (EC § 48300, et seq.)
- 3) Requires a school district of choice to select students through a random and unbiased process that prohibits enrollment based upon academic or athletic talent. It is incumbent upon the school district of choice to ensure that the auditor who conducts its annual financial audit also reviews compliance with the specified selection requirements. (EC § 48301)
- 4) Authorizes a school district of residence with an average daily attendance (ADA) of less than 50,000 to cap outbound transfers each year to 3% of its ADA for that year and to cap the maximum number at 10% of its ADA for the duration of the program. A school district of residence is also authorized to limit transfers if it has a negative or qualified status on the most recent budget certification or if a determination is made by the county superintendent determines that the school district will not meet standards for fiscal stability due to the impact of additional transfers, as specified. (EC § 48307)

- 5) Requires each school district of choice to keep records of:
 - a) The number of requests granted, denied, or withdrawn as well as the reasons for the denials;
 - b) The number of pupils transferred out of the district, as specified; and
 - c) The number of pupils transferred into the district, as specified. (EC § 48301)
- 6) Further requires, school districts of choice to annually report this information to neighboring school districts, their county office of education, the Superintendent of Public Instruction (SPI) and Department of Finance (DOF), as specified. The DOF is required to make the information available to the Legislative Analyst. The Legislative Analyst is required to conduct a comprehensive evaluation of the district of choice program, as specified, and submit the evaluation, along with recommendations, to the appropriate legislative education policy committees, and the Governor, by January 31, 2016. This section is scheduled to sunset July 1, 2017. (EC § 48300, et seq.)

ANALYSIS

This bill deletes the sunset and repeal dates for “school district of choice,” program; repeals the cumulative 10% cap for students transferring out of specified school districts of residence; reassigns certain reporting requirements to the SPI; and expands various oversight responsibilities to county superintendents. Specifically, it:

- 1) Deletes the July 1, 2017 repeal of the district of choice program thereby extending the operation of the program indefinitely.
- 2) Requires, instead of authorizes, the governing board of the school district of choice to:
 - a) Notify parents in writing regarding the status of the application, no later than February 15 of the school year preceding the request for transfer, instead of 90 days after the receipt of an application.
 - b) If an application is rejected, include the specific reason for the rejection of an application, as provided.
 - c) Notify the district of residence if an application is accepted or provisionally accepted no later than March 1 of the school year proceeding the school year for which the student is requesting transfer.
 - d) Ensure, by resolution, that students accepted for transfer are selected through a random, unbiased process that prohibits an evaluation of whether or not a student should be enrolled based upon academic or athletic performance.

- e) By resolution, determine and adopt the number of transfers it is willing to accept.
- 3) Modifies provisions related to the audit by striking the requirement for districts of choice to request a compliance review of specified components of the district of choice program and clarifies that this compliance review be incorporated into the district's annual audit already required by current law.
- 4) Requires, instead of authorizes, *all* school districts to make information regarding their schools, programs, policies, and procedures available to any interested person upon request and adds the requirement for school districts to make public announcements during the enrollment period with that information.
- 5) Requires a school district of choice to post application information on its Internet Web site and include at a minimum all of the following:
 - a) Any applicable form and timeline for transfer.
 - b) An explanation of the selection process.
- 6) Authorizes *only* a school district of residence, instead of authorizing both districts of residence and districts of choice, to prohibit or limit transfers when the governing board determines that the transfer would negatively impact:
 - a) A court-ordered or voluntary desegregation plan.
 - b) The racial and ethnic balance of the school district of residence.
- 7) Deletes the authorization for districts with an average daily attendance (ADA) of less than 50,000 to cap the maximum number of students transferring out at 10% based on ADA for the duration of the program.
- 8) Modifies the authorization provided to school districts of residence for implementing existing transfer caps by establishing new procedures that:
 - a) Require districts of choice to notify districts of residence once a certain percentage of transfers are accepted into that district of choice, as specified.
 - b) Require action by the governing board, as specified.
- 9) Modifies the requirement, for which a student may continue to attend a school district of choice, regardless of transfer restrictions, to clarify that the student may continue to attend if he or she is attending or has received a notice of acceptance before action is taken by a governing board to restrict further transfers.
- 10) Authorizes county superintendents to:
 - a) Accept complaints from school districts and appeals from parents of students who are denied transfer.

- b) Make determinations on those complaints and appeals based only on whether certain provisions of existing law related to the District of Choice program were applied accurately.
- 11) Requires the Superintendent of Public Instruction (SPI) to do all of the following:
- a) Maintain and update a list of the school districts of choice in the state, as specified.
 - b) Collect certain information from each school district of choice and ensure information is provided in a consistent format, as described.
 - c) Post all of the following information on the California Department of Education's (CDE) Internet Web site:
 - i) A list of school districts of choice.
 - ii) A plan for collecting information, as specified.
 - iii) A single list of all school choice programs, including but not limited to, school district of choice.
 - d) Report by July 1, 2017, a plan for collecting data, to the education policy committees of the Legislature, the Department of Finance (DOF), and the Legislative Analyst's Office (LAO).
 - e) Annually make specified information regarding districts of choice transfers available to the Governor and appropriate fiscal and policy committees of the Legislature, instead of the LAO.
- 12) Authorizes the SPI to collect specified information reported by the district of choice through the California Longitudinal Pupil Achievement Data System or another manner that minimizes the administrative burden.
- 13) Deletes the requirement for the LAO to conduct a comprehensive evaluation of the district of choice program.
- 14) Removes the requirement for the DOF to report specified information to the LAO.
- 15) Recast certain provisions and makes numerous non-substantive changes.
- 16) Establishes if the Commission on State Mandates determines that this act contains costs mandated by the state, the state will reimburse applicable entities.

STAFF COMMENTS

- 1) ***Need for the bill.*** Established in 1993, the District of Choice program is scheduled to sunset on July 1, 2017. There are approximately 10,000 students served by 47 districts of choice. According to the author, allowing the program to

sunset would leave transfer students unprotected and their ability to remain in their district of choice could be jeopardized. The author asserts, many school districts enroll a significant number of students from outside of their district boundaries through the District of Choice program. As a result, ending the program could cause a decline in enrollment for several small school districts. This bill makes the District of Choice program permanent and seeks to incorporate recommendations made by Legislative Analyst Office (LAO) in its evaluation of the program.

- 2) **Program evaluation.** Existing law requires the LAO to submit a comprehensive report and make recommendations regarding the extension of the District of Choice program, by January 31, 2016. The report, "Evaluation of the School District of Choice Program," was released on January 27, 2016, and highlighted several points: transfer students have varied by demographic backgrounds (i.e. race/ethnic and income); the program provides transfer students with additional educational options; almost all students transfer to districts with higher test scores and; districts of residence often respond by improving instructional offerings.

However, the report also highlights: program oversight has been limited by a lack of data and flaws in the audit procedure and; participation in the program is relatively low (5% of all school districts and 0.2% of students statewide).

- 3) **LAO recommendations.** This report made several recommendations all of which are related to provisions of this bill. Those recommendations include:
- a) *Reauthorize program for a minimum of five years.* The District of Choice program has a long legislative history as it has been reauthorized five times since 1993. In 2015, SB 527 (Huff Chapter 421, Statutes of 2015) extended the life of the District of Choice program for one year. This extension was needed as delays in the data collection process stalled the District of Choice program evaluation, along with recommendations for its extension, required by SB 680 (Romero and Huff, Chapter 198, Statute of 2009).

In addition to the records mentioned in the background of this analysis, existing law required the evaluation to incorporate the following information; the number and characteristics of pupils who use the school district of choice option, the enrollment of school districts of residence and school districts of choice and the fiscal health of school districts of residence and school districts of choice, as specified. The 2009 statute required the evaluation to be completed and submitted by November 1, 2014. However, although a one-year extension was provided, minimal information was collected from the letter disseminated from the California Department of Education (CDE) to all school districts that requesting districts of choice to self-identify and provide data required by existing law.

This bill makes the district of choice program permanent. The ability to provide additional educational options for students and improve district programs are two reasons for the recommendation of reauthorization.

However, the report also provides that a five-year extension would allow for the collection of better data and the assessment of the effects of the other recommendations. For this reason, **staff recommends** the bill be amended to extend the program sunset and repeal dates by five years.

Staff further recommends the bill be amended to reinstate provisions related to the comprehensive evaluation of the district of choice program pursuant to section 48316 of the education code and extend completion and submission date by five years.

- b) *Assign the California Department of Education (CDE) specific administrative responsibilities*, including to maintain a list of districts of choice, ensuring all districts submit annual reports and other efforts that would help the legislature monitor the program and assist families learn about the program. This bill clarifies that information collected by districts of choice must be reported only to the Superintendent of Public Instruction (SPI) annually. In turn the SPI is responsible for ensuring information is reported to them and make certain information available to the legislature, Governor and on its website. Existing law requires districts to report to the Department of Finance (DOF) and SPI which created confusion among districts and state agencies.

This bill also requires the SPI to create a plan for the collection of data and make that plan available to the DOF, the appropriate fiscal and policy committees of the legislature and the Legislative Analyst's Office. For consistency purposes and to streamline the reporting process **staff recommends** the bill be amended to require both the plan pursuant to subsection 48313(d)(2) and specified information pursuant to subsection 48313(e) be reported to the same entities (i.e. appropriate fiscal and policy committees of the Legislature, Governor and the Legislative Analyst's Office).

- c) *Implement a new oversight mechanism* that replaces the existing audit requirement with a new system of oversight administration by county offices of education. This bill modifies the audit by allowing the specified compliance review to be a regular component of the district's annual audit process. This bill adds language to authorize parents and districts to submit complaints to the specified county superintendent. After a complaint is received the superintendent may make a determination based only on provisions in existing law related to the district of choice program. This bill is silent with regard to any repercussion should a violation occur.
- d) *Improve local communication* by requiring districts of choice to provide nearby districts of residence with timely notification of the students accepted through the program. This bill establishes new notification procedures for school districts regarding its schools' programs and policies and requires certain information to be available upon request and on its website.

- e) *Repeal the 10% cumulative cap.* Repeal the 10% cumulative cap. As described in the background of this analysis, current law authorizes a school district of residence with an ADA of less than 50,000 to cap the maximum number of outbound transfers at 3 % of ADA per year and/or 10% of its ADA for the duration of the program. This “cumulative” cap results from a 2011 appellate court ruling that the cap is equal to 10 percent of a district’s average ADA over the life of the program, i.e every student who has participated in the program counts toward the cap, even if that student has graduated or left the program. The LAO report notes that absent the repeal of this cap, the program becomes unavailable to certain districts and that districts of residence could still prohibit transfers that have a negative impact on desegregation efforts or if it is in severe fiscal distress. Staff notes that a school district of residence would need to approach dire financial conditions in order to impose such a cap. For this reason **staff recommends** that the bill be amended to, reinstate the 10% cap, but authorize a district of choice to enroll additional students within the cap as current program participants leave or graduate.

4) ***Related and prior legislation.***

SB 597 (Huff, Chapter 421, Statutes of 2015) extended, for one year, the sunset and repeal dates of statute that allows the governing board of a school district to permit the enrollment of pupils who reside in another district by declaring to be a District of Choice (DOC).

SB 680 (Romero and Huff, Chapter 198, Statute of 2009) extended the inoperative and repeal dates for which school districts are permitted to enroll pupils who reside in another school district by declaring to be a “school district of choice,” and repealed the prohibition on new districts electing to become a DOC.

AB 1407 (Huff, 2009) would have extended the sunset and repeal dates for the DOC programs for 5 years and required a census report on DOC by California Department of Education by November 2010. The bill was held on the Assembly Appropriations Committee suspense file.

AB 270 (Huff, 2007) would have extended the authority for DOC inter-district transfers from July 1, 2007 to July 1, 2009, prohibited additional districts from becoming DOCs, and required school districts (electing to accept transfers) to maintain records on the number of requests it receives and annually report the number of requests it receives to the Superintendent of Public Instruction. The language of this bill was incorporated into SB 80 (Budget Bill, 2007).

AB 97 (Nation, Chapter 21, Statutes of 2004) extended the sunset date for one year for the DOC authorization and required the Superintendent of Public Instruction to continue the calculation for the Special Disabilities Adjustment using the current incidence multiplier to allow special education local plan areas to continue to receive funds provided through 2003-04 until a new multiplier is calculated.

AB 19 (Quackenbush, Chapter 160, Statutes of 1993) established school DOC and allowed the governing board of any school district to declare the district to be a DOC willing to accept a specified number of inter-district transfers.

SUPPORT

Alexander Valley Union School District
Big Creek School District
California Catholic Conference
California State PTA
College School District
Ed Voice
Elk Hills School District
Encinitas Union School District
Glendora Unified School District
Gorman Joint School District
Inyo County Superintendent of Schools
Kenwood School District
Monte Rio Union School District
Oak Park Unified School District
Pine Ridge Elementary School District
Riverside Unified School District
Riverside Unified School District
Round Valley Joint Elementary School District
Round Valley Parent Teacher Organization
Round Valley School Step Foundation
San Rafael City Schools
Semitropic Elementary School District
Small School Districts' Association
St. Helena Unified School District
Vista del Mar Union School District

OPPOSITION

Rowland Unified School District

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