



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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Joint Committee on Finance

Paper #651

### **Milwaukee Parental Choice Program Auditor and Fees (DPI -- Choice and Charter)**

#### *Bill Agency*

[LFB 2007-09 Budget Summary: Page 471, #3]

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#### **CURRENT LAW**

Under the Milwaukee parental choice program, state funds are used to pay for the cost of children from low-income families in the City of Milwaukee to attend, at no charge, participating private schools in the City.

A school wishing to participate in the choice program must notify the State Superintendent of its intent to participate and the number of students for which the school has space by February 1 of the school year preceding its intended participation. By August 1 before the first school year a new school participates in the program, or by May 1 if the school begins participating in the program during summer school, each school participating in the program must submit to the Department of Public Instruction (DPI): (a) a copy of the school's current certificate of occupancy issued by the City; (b) evidence of financial viability; and (c) proof that the school's administrator has participated in a fiscal management training program approved by DPI. Annually, by September 1 following a school year in which a school participated in the choice program, the school must submit to DPI: (a) an independent financial audit of the school conducted by a certified public accountant (CPA); and (b) evidence of sound fiscal practices.

The State Superintendent may issue an order barring a school from participating in the program in the current school year if he or she determines that the school has done certain things. Among these are if the school: (a) failed to provide the notice of intent to participate by February 1; (b) misrepresented information relating to the certificate of occupancy, evidence of financial viability, or proof of attendance at the fiscal management training required of new schools, or

failure to provide that information by the date required; or (c) failed to provide the independent financial audit or evidence of sound fiscal practices.

## **GOVERNOR**

Provide \$67,100 PR in 2007-08 and \$87,800 PR in 2008-09 and 1.0 PR auditor position beginning in 2007-08 in a new appropriation funded from fees paid by schools participating in the choice program.

Require schools participating in the choice program to pay an annual fee to DPI. Require schools currently participating in the program to submit the fee to DPI with the annual financial information required under the program (by September 1 following a school year in which the school participated in the program). Require a school not currently participating in the program to submit the fee with its notice of intent to participate in the program (by February 1 of the school year before the school participates in the program). Specify that failure by a school to submit the fee by the date specified would be included as a condition under which the State Superintendent could issue an order prohibiting a school from participating in the program in the current school year.

Create a continuing appropriation for all monies received from the fees, to be used by DPI to evaluate the financial information submitted to the Department by schools participating in the choice program. Require DPI to promulgate emergency rules, without the finding of an emergency, by the first day of the third month after the effective date of the bill to establish the fee to be paid by schools participating in the choice program. Specify that these rules would remain in effect until the effective date of the permanent rule promulgated to establish the fee, but not in excess of the period for which emergency rules can remain in effect (150 days, with up to 120 days of extensions.) For the 2007-08 school year, require schools participating in the program to pay the required fee within 30 days of the effective date of the emergency rules.

## **DISCUSSION POINTS**

### **Additional Position Authority**

1. Much of the current law financial accountability structure for the choice program was enacted in 2003 Act 155. Prior to that act, choice schools were subject to uniform accounting standards established by DPI and were required to annually submit an independent financial audit of the school to DPI. Choice schools also had to comply with state health and safety laws, federal nondiscrimination law and other federal regulations for both public and private schools, and state law requiring that they meet one of four standards related to academic progress, attendance, or pupil participation. Subsequent to Act 155, additional requirements were placed on choice schools in 2005 Act 125 related to accreditation and testing.

2. With the increase in program responsibilities and the number of students and schools

participating in the program, DPI reallocated staff within the agency for administration of the choice program. Prior to the passage of Act 155, there were 2.0 positions in the Department administering the choice program: a school administration consultant and a financial specialist. In April of 2004, a position was reallocated within the Department (including a reduction in the financial specialist position) to provide a school finance auditor position related to the financial accountability requirements under Act 155. Through further internal reallocations, the Department provided additional school administration consultant and financial specialist staffing. The following table shows choice program staffing in DPI since 2000-01. Also shown in the table is the number of schools that participated in the program and the full-time equivalent choice pupil membership for each year.

### Choice Program Staffing and Participation

	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>
School Administration Consultant	1.0	1.0	1.0	1.0	1.0	1.5	1.5
School Finance Auditor	0.0	0.0	0.0	1.0	1.0	1.0	1.0
Financial Specialist	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>0.5</u>	<u>0.8</u>	<u>1.0</u>	<u>1.0</u>
Total	2.0	2.0	2.0	2.5	2.8	3.5	3.5
Choice Schools	100	102	102	106	117	125	124
Choice Students	9,238	10,497	11,304	12,882	14,071	14,604	17,000

3. Participation in the choice program is expected to continue to increase. Under the bill, it is estimated that 18,000 pupils in 2007-08 and 19,000 pupils in 2008-09 will attend schools in the choice program. With the cap on pupil enrollment in the program set at 22,500 pupils, the program could continue to grow in future biennia.

4. Since the Act 155 changes, DPI has reviewed the working papers of two schools due to fraud, reviewed the financial operations of two schools due to concerns over their financial viability, and terminated one school's participation in the program due to lack of sound fiscal practices and evidence of fiscal viability. Concerns have also been noted for some schools as they have gone through multiple audits and addressed audit exceptions that have been made.

5. The Department requested the additional position because of workload concerns in having one auditor position to review the audits and budget reports required under Act 155. The auditor position in the bill would provide additional staff to work with choice schools and CPA firms on financial issues and financial training, review payments to schools and resolve issues related to underpayments or overpayments in a timely manner, and track payment eligibility for all choice students. The auditor would also review the working papers of CPA firms providing audit services to choice schools and help standardize choice audit practices, as well as assist the administrators and business managers of new schools in the business aspects of running a school.

6. Providing additional auditing staff would also result in financial information being audited sooner, which could reduce the number of schools that close mid-year. This could occur if the Department can address financial problems before they become serious, which would in turn reduce disruption for students.

7. The Committee could also choose to provide no additional funding or staffing related to the choice program at this time. To increase staffing for choice program oversight, the Department would have the option to reallocate base funding and positions for that purpose. However, given the various across-the-board reductions to state operations appropriations in recent years, agencies' flexibility in their base budgets has diminished in recent biennia.

### **Source of Funding**

8. The bill would allow DPI to set the fee for choice schools by administrative rule. This would give the Department greater flexibility in modifying the fee in the future based on the number of schools participating or intending to participate in the program and the associated workload. The Legislature would maintain oversight of the fee amount during the rule-making process. If the Department were to seek additional position authority from the fee in the future, the request would need to be approved by the Governor and the Committee under s. 16.505 of the statutes.

9. One could argue that it would be preferable to set the fee amount in statute. This would give greater authority in setting the fee to the Legislature and the Governor through the legislative process. As part of the biennial budget process or through separate legislation, the fee could be modified as needed based on revenues to and expenditures from the appropriation and on future DPI workload needs. The Department would still have the ability to request modifications to the fee amount and any related position and expenditure authority in its biennial agency budget request.

10. Under the Governor's recommendation, choice schools would begin to pay some of the cost of administering the program. There is currently no comparable fee assessed on public schools or on schools in the Milwaukee and Racine charter school program for audit and financial work done by the Department.

11. In the DPI agency budget request, the State Superintendent requested that funding and position authority be provided from the general fund for an additional choice auditor. The Committee could choose to provide GPR for the auditor position and funding rather than from program revenue. This would provide the Department with additional staffing to address workload and continue to treat choice schools in the same manner as public schools and charter schools with respect to the source of funding for administration.

### **Requiring New Schools to Submit the Fee**

12. Under the bill, a school wishing to participate in the choice program would be required to submit the fee with its notice of intent to participate by the February 1 prior to

participation in the program. Continuing schools would not have to submit the fee until the September 1 after the year it participates, with the audit and required fiscal information.

13. For the 2006-07 school year, 39 new schools indicated their intent to participate in the choice program. It could be viewed as appropriate to require these schools to submit the fee with their intent to participate because these schools would likely need assistance with the financial accountability standards under the program and in setting up the financial structure for a new school.

14. Of the 39 new schools that indicated their intent to participate in 2006-07, only nine schools ultimately enrolled pupils during the year. Given that a significant number of schools that indicate their intent to participate ultimately do not do so, it could be argued that it is inappropriate to require these schools to pay the fee with their intent to participate given that the majority of them do not enter the program. Requiring payment of the fee at the initial stage of participation could also prove to be a barrier to participation by new choice schools.

15. The Committee could choose to delay the date by which new schools would be required to submit the fee. One option would be to require schools to submit the fee with the copy of the school's certificate of occupancy and evidence of financial viability (by August 1 of the first school year a new school participates in the program, or by May 1 if the school begins participating for summer school). This would make it more likely that the schools paying the fee would stay in the program and receive some level of service from the Department.

16. The Committee could also chose to exclude schools not currently participating in the program from the requirement of paying the fee in their initial year of participation. Under this alternative, schools would not be required to pay the fee until a full year of participation in the program had passed, thus allowing the school to be fully operational before contributing to the administration of the program.

17. Had the bill provision been in place for the 2006-07 school year, the Department would have received fees in September, 2006, from the 121 schools that participated in the program and were not removed in the 2005-06 school year and in February, 2007, from up to 39 of the schools indicating their intent to participate for the 2007-08 school year.

18. Assuming the nine schools that first participated in the program during the 2006-07 school year would have paid the fee under one of the alternatives that would require a fee from new schools at some point in the preceding year, the Committee could set the fee in statute at \$675. If the Committee choose to exclude new schools, a fee of approximately \$725 could be set.

## **ALTERNATIVES TO BILL**

1. Approve the Governor's recommendation to provide \$67,100 in 2007-08 and \$87,800 in 2008-09 and 1.0 auditor position beginning in 2007-08 in a new appropriation funded from an annual fee, established by DPI in rule, paid by schools participating in the choice program.

ALT 1	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	\$0	0.00	\$154,900	1.00

2. Modify the Governor's recommendation by deleting the language allowing DPI to set the fee in rule and:

- a. set the fee in statute at \$675; or
- b. require new schools to submit the fee with the copy of the certificate of occupancy and evidence of financial viability and set the fee in statute at \$675; or
- c. delete the requirement that new schools submit the fee with the notice of intent to participate and set the fee in statute at \$725.

ALT 2	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	\$0	0.00	\$154,900	1.00

3. Delete provision, and instead provide \$67,100 in 2007-08 and \$87,800 in 2008-09 and 1.0 auditor position beginning in 2007-08 from the general fund.

ALT 3	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	\$154,900	1.00	\$154,900	1.00
PR	<u>-154,900</u>	<u>-1.00</u>	<u>0</u>	<u>0.00</u>
Total	\$0	0.00	\$154,900	1.00

4. Delete provision.

ALT 4	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
PR	-\$154,900	-1.00	\$0	0.00

Prepared by: Russ Kava