



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #551

Milwaukee Parental Choice Program -- Program Expansion (DPI -- Choice, Charter, and Open Enrollment)

[LFB 2011-13 Budget Summary: Page 357, #2]

CURRENT LAW

Under the Milwaukee parental choice program, state funds are used to pay for the cost of children from low-income families to attend, at no charge, private schools located in the City of Milwaukee. Pupils in grades K-12 with family incomes less than 175% of the federal poverty level (\$39,630 for a family of four in the 2010-11 school year) who reside in the City are initially eligible to participate in the program. Continuing pupils and siblings of current choice pupils are eligible to participate if family incomes are less than 220% of the federal poverty level (\$49,818 for a family of four in the 2010-11 school year). The limit on the number of pupils who can participate in the program is statutorily set at 22,500 full-time equivalent pupils. Additional statutory provisions govern what the State Superintendent must do when he or she determines that the limit has been reached and when the number of choice pupils has fallen below the limit, and the priority order in which pupils must be accepted when schools have been notified that they may begin accepting additional pupils.

The Department of Public Instruction (DPI) pays the parent or guardian of a choice pupil enrolled in a choice school from a sum sufficient appropriation from the general fund established for this purpose. The cost of the payments from the choice program appropriation is partially offset by a reduction in the general school aids otherwise paid to the Milwaukee Public Schools (MPS) by a net amount equal to 38.4% the total cost of the choice program. (The net amount is based on an initial reduction to MPS aid equal to 45% of the cost of the choice program, which is offset by a payment to the City of Milwaukee in an amount equal to 6.6% of the cost of the choice program.) Under revenue limits, MPS may levy property taxes to make up for the amount of aid lost due to this reduction, less the amount of high poverty aid paid to MPS. After consideration of high poverty aid, in 2010-11 the general fund will pay for 69% of the choice program and MPS for 31%.

GOVERNOR

Provide \$6,442,000 in 2011-12 and \$12,884,000 in 2012-13 over base year funding of \$132,061,000 in the appropriation for payments for the choice program and make the following changes to program eligibility.

a. *Family Income Limit.* Beginning in the 2011-12 school year, specify that there would be no income limit for participation in the choice program for a pupil who did not attend a school participating in the choice program in the 2010-11 school year. For such a pupil, prohibit a choice school from charging or receiving any payment other than the state choice payment if the pupil's total family income does not exceed 325% of the federal poverty level (approximately \$73,600 for a family of four in the 2010-11 school year). Allow a choice school to charge a pupil tuition and fees in an amount determined by the school (in addition to the state choice payment) if the pupil's total family income exceeds 325% of the federal poverty level.

Require a choice school, in its letter of acceptance, to indicate the amount of the state choice payment the parent of the pupil will receive.

b. *Pupil Participation Limit.* Delete the limit on the number of pupils that may participate in the choice program and the associated statutory provisions.

c. *School Eligibility.* Allow schools in Milwaukee County to participate in the choice program, beginning in the 2012-13 school year. Modify the statutory references to the certificate of occupancy that schools must submit to the Department to require that the certificate be from the municipality in which the school is located.

d. *Combined Fiscal Effect.* As a result of these three items, the administration estimates that an additional 1,000 pupils in 2011-12 and 2,000 pupils in 2012-13 above the current law reestimate would participate in the choice program. It is estimated that, under current law, choice program participation would be 20,600 in 2011-12 and 20,900 in 2012-13. With the changes to the family income limit and school eligibility under the bill, participation is estimated to be 21,600 in 2011-12 and 22,900 in 2012-13.

The estimated increase in the cost of payments from the choice program appropriation would be partially offset by the MPS general school aid reduction. Under this proposal, the MPS choice reduction would increase by \$2,473,700 in 2011-12 and \$4,947,500 in 2012-13 over the base choice reduction amount. The net general fund fiscal effect of this proposal would be increased expenditures of \$3,968,300 in 2011-12 and \$7,936,500 in 2012-13.

DISCUSSION POINTS

Family Income Limit

1. When the choice program was first enacted, pupils had to be in families with incomes of less than 175% of the federal poverty level to be eligible to participate in the program. The provisions allowing continuing pupils and siblings of current pupils to attend if their family

income was less than 220% of the federal poverty level were enacted in 2005 Act 125.

2. Under the bill, all school-age children who reside in the City would be eligible for the choice program. Choice schools would not be able to charge or receive any additional payment for a pupil from a family with an income less than or equal to 325% of the federal poverty level. Choice schools would be authorized to charge tuition and fees to pupils from families with incomes greater than 325% of the federal poverty level.

3. Supporters of the family income eligibility provision of the bill have argued that allowing all children in the City to have the opportunity to participate in the choice program is appropriate because it would provide the same education opportunities to all students in the City.

4. Some have also argued that this would encourage families to remain in or move to the City, because it would provide them with access to publicly-funded private education that would not be available to them in other parts of the Milwaukee metropolitan area. Under the bill, pupils from families with incomes over 325% of the federal poverty level would be eligible for the choice program, but the private schools could still charge tuition.

5. Also, it has been argued that the current poverty thresholds exclude some working-class and middle-class families from participation in the choice program. While these families have greater financial resources than those currently eligible for the choice program, those resources may not be sufficient to pay private school tuition. It could thus be viewed as appropriate to allow pupils in families with incomes at or below 325% of the federal poverty level to participate in the program without being charged tuition by the private schools they choose to attend.

6. Those opposed to this provision have noted that the original intent of the choice program was to provide additional educational opportunities for pupils from low-income families in the City who otherwise would not have the financial resources to either pay tuition to attend a private school or to be able to afford to move their residence to be able to attend a school in another district. To the extent that the bill provisions would allow students from higher-income families in the City to use public dollars to attend private schools, it is arguably inconsistent with the original intent of the program.

7. One option to expand eligibility for the choice program while acknowledging the original intent of the program would be to allow pupils in families with incomes at or below 325% of the federal poverty level to participate in the program. This would allow more children to participate in the program while still applying some level of means testing for eligibility.

8. The appropriateness of allowing all pupils in the City to be eligible for the choice program can be considered in relation to the various educational options currently available to pupils. At the time the choice program began, public educational opportunities in Wisconsin and the City were more limited than they currently are. Since the creation of the choice program, laws have been passed to: (a) allow public schools to create charter schools; (b) allow certain entities other than public school districts (UW-Milwaukee, UW-Parkside, and the City of Milwaukee) to operate charter schools; and (c) allow pupils to attend both “brick and mortar” schools and virtual charter schools in nonresident school districts through the open enrollment program.

9. The expansion of the choice program can also be considered within the overall framework of the program, such as the funding structure of the program, the accountability measures in place, results on standardized testing, and other outcome measures. The funding for the choice program is discussed further in Paper #550, while results of standardized testing in the program are discussed further in Paper #552.

10. Under the bill as drafted, the current law income limits for participation in the choice program would not apply to a pupil who did not attend a school participating in the choice program in the 2010-11 school year. The current law income limits would apply to a pupil who did attend a school participating in the choice program in 2010-11. Based on the enrollment data submitted by choice schools for third Friday of September, 2010, nearly 27,100 pupils were attending schools participating in the choice program. Of that total, nearly 20,900 were attending through the choice program.

11. In a March 31, 2011, letter to the Co-Chairs of Joint Finance, the Secretary of the Department of Administration indicated that the income limit provisions in the bill would need to be amended to reflect the Governor's intent. In the errata letter, DOA indicated the bill should be modified to specify that the income limits do not apply to any pupil who participated in the choice program in the 2010-11 school year. DOA staff indicate the intent of this item was to allow the estimated 20,900 choice pupils in 2010-11 to continue in the program into the future regardless of changes to their family income.

12. The Committee could also choose to specify that, for whatever poverty threshold is chosen for either participation in the program or for whether tuition can be charged, a pupil's family income in relation to the federal poverty line would only be determined at the time of initial application. This would allow for greater educational continuity for children who participate in the program. It would also simplify the administration of the program for DPI, choice schools, and families participating in the program, in that income eligibility would not have to be redetermined on an annual basis.

13. If this option would be applied to eligibility, however, a child in a household could remain in the choice program regardless of the family's income, no how far above the poverty threshold that may be. To the extent that families with incomes above a given eligibility threshold would participate in the program, it could weaken the intent of the program to provide access to private education for low-income families.

14. If this option were used to determine whether tuition could be charged for a pupil, it could prove detrimental to pupils in families who are initially above a tuition threshold but then fall below it. Choice schools would still have the option to charge these families tuition, even though their financial circumstances would have changed.

15. The DOA errata letter also indicated that the bill should be modified to specify that the current law income limits do not apply to a pupil who: (a) did not attend a school in the 2010-11 school year that is participating in the program in the 2011-12 school year; or (b) did not attend a school in the prior year that first participates in the program in any subsequent year. DOA staff indicate that the intent of this item was to phase in the eligibility changes under the bill.

16. These two provisions would allow new pupils who were not previously participating in the choice program to enter currently-existing schools that may choose to enter the program under the bill without incurring the cost for existing pupils. For example, if an existing school in Milwaukee County chose to begin accepting pupils in the choice program in 2012-13 under the bill, the state would potentially pay for additional pupils from the City that were already attending the school. This could increase the fiscal effect of the eligibility changes under the bill, but it is unclear how significant that increase could be.

17. On May 10, the Assembly passed Assembly Bill 94, which would modify payment processes and audit requirements for the choice program, by a vote 60 to 31. Assembly Amendment 3 to AB 94 was approved on an 81-12 vote. Under AA 3, a pupil would be initially eligible to participate in the choice program if their family income was less than 175% of the federal poverty level. The pupil could continue to attend a choice school if their family income increases over that threshold. Siblings of choice pupils would not be subject to the family income limit for purposes of admission to a choice school.

18. Consistent with the actions of the Assembly, the Committee could choose to delete the Governor's recommendation and incorporate the provisions of AA 3 into the budget.

19. Given that the family income limit would be dealt with in AB 94 as passed by the Assembly, the Committee could also choose to delete this provision from the budget bill. Any changes to limit could then be considered as part of this separate legislation.

Pupil Participation Limit and School Eligibility

20. The Committee has previously acted on the pupil participation limit and school eligibility provisions of the budget bill in separate legislation. On May 5, the Committee recommended passage of Assembly Bill 92 on a 12-4 vote. AB 92 would also delete the pupil participation limit for the choice program and allow schools in the County to participate in the program.

21. AB 92 would, however, allow schools in the County to participate beginning in the 2011-12 school year, while the budget bill would allow County schools to participate beginning in the 2012-13 school year. To accommodate the earlier eligibility, AB 92 would also specify that a County school that intends to participate in the 2011-12 school year would be required to notify DPI of its intent to participate and pay the auditor fee by August 1, 2011. The notice would be required to specify the number of choice pupils for which the school has space.

22. The Committee could choose to modify the budget bill to include the provisions previously adopted under AB 92 to allow County schools to participate beginning in the 2011-12 school year rather than the 2012-13 school year.

23. Alternatively, the Committee could also choose to delete the pupil participation limit and school eligibility provisions from the budget bill and allow those modifications to the choice program to be considered as part of this separate legislation.

ALTERNATIVES

A. Family Income Limit

1. Approve the Governor's recommendation to: (a) specify that there would be no income limit for participation in the choice program for a pupil who did not attend a school participating in the choice program in the 2010-11 school year; (b) for those pupils, prohibit a choice school from charging or receiving any payment other than the state choice payment if the pupil's total family income does not exceed 325% of the federal poverty level; (c) allow a choice school to charge a pupil tuition and fees in an amount determined by the school (in addition to the state choice payment) if the pupil's total family income exceeds 325% of the federal poverty level.

2. Modify the Governor's recommendations to do either or both of the following:

a. specify that the income limits do not apply to any pupil who participated in the choice program in the 2010-11 school year

b. specify that the current law income limits do not apply to a pupil who did not attend a school in the 2010-11 school year that is participating in the program in the 2011-12 school year or to a pupil who did not attend a school in the prior year that first participates in the program in any subsequent year.

3. Delete provision, and instead specify that a pupil would be eligible to participate in the choice program if their family income was less than 325% of the federal poverty level.

4. In addition to any of the above alternatives specifying the federal poverty level as a criteria, specify that a pupil's family income in relation to the federal poverty level would only be determined at the time of initial application.

5. Delete provision, and instead specify that: (a) a pupil would be initially eligible to participate in the choice program if their family income was less than 175% of the federal poverty level; (b) the pupil could continue to attend a choice school if their family income increases over that threshold; and (c) siblings of choice pupils would not be subject to the family income limit for purposes of admission to a choice school.

6. Delete provision.

B. Pupil Participation Limit

1. Approve the Governor's recommendation to delete the limit on the number of pupils that may participate in the choice program.

2. Delete provision.

C. School Eligibility

1. Approve the Governor’s recommendation to allow schools in Milwaukee County to participate in the choice program, beginning in the 2012-13 school year.
2. Modify the bill to allow County schools to participate beginning in the 2011-12 school year, require these schools to notify DPI of its intent to participate and to pay the auditor fee by August 1, 2011, and require the notice to specify the number of choice pupils for which the school has space.
3. Delete provision.

D. Combined Fiscal Effect

1. Approve the Governor’s recommendation to provide \$6,442,000 in 2011-12 and \$12,884,000 in 2012-13 in the choice program appropriation as a result of changes to pupil and school eligibility under the program. The MPS choice reduction would increase by \$2,473,700 in 2011-12 and \$4,947,500 in 2012-13. The net general fund fiscal effect would be increased expenditures of \$3,968,300 in 2011-12 and \$7,936,500 in 2012-13.
2. Delete provision.

ALT D2	Change to Bill Funding
GPR	- \$19,326,000
MPS Aid	
Reduction	<u>- 7,421,200</u>
Net GPR	- \$11,904,800

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