

STORAGE NAME: h261.ei

DATE: April 8, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION INNOVATION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 261

RELATING TO: Pilot Scholarship Program/Dade County

SPONSOR(S): Representative Valdes

STATUTE(S) AFFECTED: None

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION INNOVATION
- (2) EDUCATION APPROPRIATIONS
- (3)
- (4)
- (5)

I. SUMMARY:

HB 261 establishes a 3 year pilot scholarship program in Dade County targeting inner city schools. The program is instituted by the Department of Education and requires Dade County to sponsor scholarships to one percent of the student population which meet the following eligibility criteria.

- Grades 4 through 9
- Qualify for a dropout prevention program
- Attend an inner city school in Dade County

One percent of the student population for grades 4 through 9 is 1,585. The scholarships can be used at any public or eligible private school of the parents' or guardians' choice. Participation is voluntary and parental involvement is required. The scholarship is for one academic year with a guarantee that, if the student is promoted to the next grade that year, he or she is guaranteed continuation in the program for the following year.

A lottery system which takes into consideration the racial and ethnic diversity of the school district will be used to select the students. The scholarships are awarded directly to students through their parents or guardians and not to specific schools. The amount received will be the lesser of the amount allocated for the student for dropout prevention or the nonpublic school tuition and fees, including transportation costs.

Transportation costs for the program in Dade County could pose financial and logistical issues. Since funding is from the dropout prevention portion of the FEFP and this is more than a basic allocation, possibly some of the difference can be used to offset the transportation costs.

The fiscal impact is indeterminate at this time.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Constitutional Issues

Article IX, Section 1 of the Florida Constitution provides that "adequate provision shall be made by law for a uniform system of free public schools and for...other public education programs that the needs of the people may require." Section 6 of Article IX stipulates that "income derived from the state school fund shall, and the principal of the fund may, be appropriated, but only to the support and maintenance of free public schools."

The Florida Supreme Court stated in *School Board of Escambia County v. State*, 353 S.2d 834, 837 (Fla. 1977), that "by definition...a uniform system results when the constituent parts, although unequal in number, operate to a common plan or serve a common purpose."

The Florida Supreme Court further explained its notion of a "uniform system of free public schools" in *St. John's County v. Northeast Florida Builder's Association, Inc.*, 583 S.2d 635 (Fla. 1991):

We see nothing in this section of the Constitution that mandates uniform sources of school funding among the several counties...The Florida Constitution only requires that a system be provided that gives every student an equal chance to achieve basic educational goals prescribed by the legislature.

The Court in *Florida Department of Education v. Glasser*, 622 So.2d 944 (Fla. 1993), has continued to suggest "that the uniformity clause will not be construed as tightly restrictive but merely as establishing a larger framework in which a broad degree of variation is possible."

The Court has consistently stated that decisions concerning the uniformity of the state's school system should be left to the legislature. In *Coalition for Adequacy and Fairness in School Funding, Inc. v. Chiles*, 680 So.2d 400 (Fla. 1996), the Florida Supreme Court once again refused to examine the adequacy of legislative findings by explaining:

[W]e must consider this issue in the context that appropriations are textually and constitutionally committed to the legislature. Any judicial involvement would involve usurping the legislature's power to appropriate funds for education. The judiciary must defer to the wisdom of those who have carefully evaluated and studied the social, economic, and political ramifications of this complex issue - the legislature.

In conclusion, the Court held that:

[T]he legislature has been vested with enormous discretion by the Florida Constitution to determine what provision to make for an adequate and uniform system of free public schools. Id at 408.

The second constitutional issue deals with the separation of church and state. Article 1, Section 3 of the Florida Constitution provides:

No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

Statutory Guidelines

The state plan for public education set by the Legislature in s. 228.01, F.S. is to “ensure the establishment of a state system of schools, courses, classes, institutions, and services adequate to meet the educational needs of all citizens of the state.” To meet this plan, a state system of public education is maintained and supported, pursuant to s. 228.02, F.S., which includes school systems, schools, institutions, agencies, services, and types of instruction as provided and authorized by the state board of education.

Although the public education system is generally viewed by the public to include public schools, the legislature has authorized other options as part of the public school system. In 1996, charter schools were authorized in s. 228.056, F.S. In the same act, s. 228.057, F.S., each school district is directed to develop a plan for a public education delivery system that allows parents to have input into school assignments for students, generally known as a school choice plan. Additionally, regular school attendance may be achieved through a home education program, pursuant to ss. 228.041(34) and 232.02(4), F.S.

Districts also have the option of contracting with a non-public school or community facility for the provision of special education and related services to eligible exceptional students (s. 230.23(4)(m)2., F.S.). Superintendents are authorized to recommend to the school board contracts for services (s. 230.33(12)(l), F.S.). In 1991, the contractual services provision was used to contract with a private firm to operate South Pointe elementary school, a Chapter One school in South Miami Beach. Although the contract was not renewed, the precedent for contracting with a nonpublic school was established.

Dropout Prevention

The dropout prevention program is a weighted program funded through the Florida Education Finance Program (FEFP), pursuant to s. 230.2316, F.S. Districts desiring to receive funding for the dropout prevention program must have one or more alternative programs for unmotivated, habitually truant, or unsuccessful students to remain in school. Dropout prevention programs include educational alternatives and second chance schools.

School Attendance

Section 232.01, F.S., requires regular school attendance for children between the ages of 6 and 16. However, neither the state nor school district is authorized to oversee or exercise control over the curricula or academic programs of nonpublic schools.

Nonpublic School Requirements

Pursuant to s. 229.808, F.S., each nonpublic school is to annually execute and file a database survey form with the Department of Education, which must organize, maintain, and annually update a database of nonpublic educational institutions. Only the owner or

director of a nonpublic school is required to be fingerprinted, although some nonpublic institutions do require a background/fingerprint check of their teachers.

Most nonpublic schools sign contracts with students and families in February of the year prior to the year of attendance. Often these contracts address discipline and expulsion policies for disruptive students. In some private schools, a student may be expelled for one disciplinary or disruptive instance.

Other Research

The idea of school choice can be traced back to Milton Friedman, who suggested that the current system of public school funding through local property taxes was inappropriate because public schools in districts with high levels of property wealth are funded more adequately than those in districts with low levels of property wealth. Since where children live dictates where they attend school, parents in poor districts have less choice regarding the amount of funding they would like to put into their children's schooling. Lack of competition between schools also stifles possibilities for innovation. Although Friedman's theory originated in the mid 1950s, school choice started receiving serious attention from state governors and legislators in the late 1980s. Private sector scholarship programs are offered in approximately 12 states.

Opponents of vouchers have the following concerns:

- Public schools measure student performance through standardized tests; the same testing mechanisms, such as Sunshine Standards, cannot be required at nonpublic schools, which makes comparison of performance difficult.
- Students from poor families will not be able to afford the difference between the real cost of a nonpublic school and the amount of the voucher. Annual tuition of Catholic schools in Florida ranges from \$1,500 to \$5,046.
- No evidence indicates that achievement differences exist between public and nonpublic school students when income and socioeconomic status are considered
- Private schools are not held to the same financial accountability as public schools
- If transportation is not provided to a nonpublic school, the same availability may not exist for all students

Some of the reasons proponents give for their support of vouchers are:

- Opportunity for poorly performing students to have an alternative
- Uses money that would be spent on students anyway
- Diversion of students to private institutions is a way to cope with exploding public school enrollments

Dade County Information

The following characteristics statistics for Dade County school district were taken from the Department of Education publication, *Profiles of Florida School Districts 1995-1996*. The total student population of Dade County is 333,836.

Grades	Student Population (1995-1996)	Dropouts (1994-1995)
4	26,469	0
5	26,824	0
6	26,617	8
7	26,958	31
8	24,819	170
9	26,861	1,538
Total	158,548	1,747

For the 1994-1995 school year:

- Referrals to dropout prevention for disciplinary reasons 34,794
- Non-promotions 13,328
- Dropouts K-12 total 6,637

According to information from the Florida Catholic Conference, the average tuition of Catholic Schools in Miami for 1996-1997 was \$3,271 for an elementary school and \$4,176 for a secondary school.

B. EFFECT OF PROPOSED CHANGES:

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one academic year with a guarantee that, if the student is promoted to the next grade that year, he or she is guaranteed continuation in the program for the following year..

A lottery system which takes into consideration the racial and ethnic diversity of the school district will be used to select the students. Eligible students will be notified by April 1 to participate in the following school year. The scholarships are awarded directly to students through their parents or guardians and not to specific schools. The amount received will be the lesser of the amount allocated for the student for dropout prevention or the nonpublic school tuition and fees, including transportation costs.

Transportation costs for the program in Dade County could be substantial due to individual students potentially attending schools throughout the county. Some eligible students may not have available transportation, especially for longer home to school distances. Dropout prevention students do receive a higher portion of funds from the FEFP than basic students; possibly the transportation costs would be offset by this amount.

To be eligible, a nonpublic school must comply with the compulsory attendance laws, must register with the Department of Education, must meet all health, safety, and sanitation requirements, must be non-discriminatory, and ensure that disciplinary and expulsion policies are nondiscriminatory for educational choice students. The bill does not differentiate between religious and non-sectarian institutions.

Since the policies will be applicable to all of the nonpublic students, they will not be discriminatory. However, they may be different and less tolerant than public school policies. Public schools may offer more than one opportunity for a student to change his or her behavior with expulsion being a last option. A private school may not tolerate more than one disruption before expulsion.

In addition to these requirements, the nonpublic school must also require criminal background checks on all teachers and administrators. Annual progress reports on the scholarship students are required from the private schools to be sent to the Department of Education. Annual and cumulative evaluations are to be conducted by a contracted entity and sent to the Legislature by December 1 of each year.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

HB 261 creates a new program to be instituted by the Department of Education. Additionally, the department will facilitate the annual evaluation by an independent entity.

Other tasks to be performed by Dade County are: provide the scholarships, administer the lottery, notify the students, monitor the program for compliance with attendance, health, safety, and sanitation requirements, and nondiscriminatory admission, disciplinary, and expulsion policies, and conduct criminal background checks of teachers and administrators. The biggest task involve the logistical and financial arrangements for transportation.

The nonpublic school must file an annual report with the Department of Education.

- (3) any entitlement to a government service or benefit?

The program is an entitlement to eligible students. Furthermore, students who successfully complete an academic year and progress to the next grade will be guaranteed continuation in the program. Eligible students can benefit from this program.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Responsibility of supervising and educating eligible dropout prevention students in Dade County school district is passed to the nonpublic schools if they choose to admit the students.

- (2) what is the cost of such responsibility at the new level/agency?

None.

- (3) how is the new agency accountable to the people governed?

The nonpublic schools must send reports to the Department of Education and an independent entity will conduct an effectiveness evaluation of the program to submit to the Legislature.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

Although the bill does not increase taxes, the scholarships may not cover the full cost of tuition, fees and transportation; therefore, the parents may have to pay the difference between the actual costs and the amount of the scholarship. However, the program is voluntary.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No. The current law provides citizens with an educational opportunity. HB 261 broadens the range of educational opportunity for certain eligible students in Dade County.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Parents of eligible students will have input to where their child attends school.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Parents or guardians evaluate the eligible child's needs.

- (2) Who makes the decisions?

Parents or guardians make the decision to use or not use the scholarship.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

No.

- (5) Are families penalized for not participating in a program?

No.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

Not applicable.

- (1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. SECTION-BY-SECTION RESEARCH:

Section 1 Requires Dade County to institute a pilot scholarship program to 1 percent of their student population.

Provides that students in grades 4 through 9 who qualify for the dropout prevention program described in s. 230.2316, F.S., and who attend a Dade County inner-city school are eligible to receive the scholarships.

Requires that a lottery be used to make selection from eligible students and that the lottery must ensure that the district racial and ethnic diversity is maintained in the process.

Requires that students who complete the first academic year successfully be guaranteed that they will continue in the program.

Requires that eligible students be notified by April 1 to participate in the following school year.

Requires that eligible nonpublic school comply with statutory guidelines in ss. 232.01; 229.808; ch. 381, F.S., plus requiring criminal background checks of all teachers and administrators and ensuring that discipline and expulsion policies apply to educational choice students without discrimination.

Requires that student is allocated the lesser of two amounts: amount that would be allocated for dropout prevention or amount of regularly charged tuition and fees, including transportation, at the private school. Provides that scholarships are through parents or guardians rather than to schools where students are enrolled. Provides that scholarships are not taxable income.

Requires private schools to file annual progress and performance report to Department of Education.

Requires annual and cumulative evaluations of effectiveness conducted by an independent entity and made available to the legislature by December 1 each year.

Section 2 Provides for an effective date of July 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate at this time.

2. Recurring Effects:

According to information from the Department of Education, the program could be a cost savings to Dade County school district.

3. Long Run Effects Other Than Normal Growth:

Indeterminate at this time.

4. Total Revenues and Expenditures:

Indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate at this time.

2. Recurring Effects:

Indeterminate at this time.

3. Long Run Effects Other Than Normal Growth:

Indeterminate at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate at this time.

2. Direct Private Sector Benefits:

Indeterminate at this time.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate at this time.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

According to information obtained from the Department of Education, Dade County is opposed to the concept of this bill. They do not support public funds being used for private schools. They support the charter school law because there is direct responsibility and accountability by the district for the children. They would like to give charter schools adequate time to evolve before other initiatives are undertaken.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

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