

INCREASE CHARTER SCHOOL CAP

House Bill 4705 as introduced
Sponsor: Rep. Paul DeWeese

House Bill 4706 (Substitute H-2)
Sponsor: Rep. LaMar Lemmons III

House Bill 4707 as introduced
Sponsor: Rep. Joanne Voorhees

Committee: Education
First Analysis (5-26-99)

THE APPARENT PROBLEM:

Legislation authorizing the creation of public school academies, or charter schools, was one of the school reform measures that accompanied the overhaul of Michigan's school finance system in 1993-94. In Michigan, a public school academy is an independent public school organized as a nonprofit organization, funded on a per-pupil basis from the state school aid fund, and operated under a contract issued by an authorizing body. An academy is also subject to the "leadership and general supervision" of the State Board of Education and must comply with the same laws as traditional public schools. People interested in operating a charter school must apply to an authorizing body. Contracts can be issued by the boards of local and intermediate school districts, community colleges, and state public universities. Generally, the schools receive the per-pupil grant available to schools in the local district in which they operate, subject to a maximum amount (currently about \$5,962). They cannot charge tuition and are required to fill seats by lottery. While there is no overall limit on the number of contracts that can be issued, universities are limited to a total of 150, and no single university can issue more than one-half of the total issued by universities as a whole. Currently, there are about 140 charter schools operating in Michigan with about 33,000 students. State budget experts anticipate that there will be 49,000 charter school students in 1999-2000. (Most of the contracts have been issued by universities, and about a third of the total by one school, Central Michigan University. CMU reports it has recently chartered an additional 17 schools anticipated to begin operations in the near future.)

Supporters of the charter school concept say that there is great demand for additional charter schools, from

organizers and parents. Many would like to see the cap on university-chartered schools lifted so that public demand will not be frustrated. Legislation has been introduced that would increase the cap by 25 per year for three years so that charter school growth can continue. Also, as noted, charter schools are required to fill openings by lottery and cannot discriminate in admissions. Legislation has been proposed that would make an exception in order to allow for the establishment of schools aimed specifically at at-risk urban youth. Another bill would parallel the current special treatment given to siblings in school admissions by giving priority to the children of charter school employees.

THE CONTENT OF THE BILLS:

House Bill 4705 would amend the Revised School Code (MCL 380.502) to raise the cap on the number of public school academies (usually called charter schools). Under the bill, the combined total number of contracts for public school academies issued by all state public universities could not exceed 150 through 1999, 175 through the year 2000, 200 through 2001, or 225 thereafter. Under current law, the combined total issued by all state public universities cannot exceed 150.

Currently, a public school academy is prohibited from discriminating in its pupil admission policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a

handicapped person, or any other basis that would be illegal if used by a school district. House Bill 4706 would amend the Revised School Code (MCL 380.502 and 380.504) to provide that if the contract authorizing a public school academy stated that the academy was established specifically for enrolling students who resided in an urban school district and who were at risk of academic failure, and if the public school academy was located in an urban school district, then the public school academy could limit enrollment only to those students. Further, the bill would exempt these kinds of academies from the cap on the number of charter schools that can be issued by a public university and from the cap on the number of contracts that can be issued by any one state public university.

Such an academy would also have to be open for enrollment of a special education pupil who did not meet the typical requirements if the pupil's individualized educational planning committee recommended that the pupil be placed in the academy.

House Bill 4707 would amend the Revised School Code (MCL 380.504) to provide another exception to the non-discrimination requirement. It would allow enrollment priority to be given to a child of a person who is employed by or at the public school academy. The bill would define "child" to include an adopted child or a legal ward. (Note: the act currently allows a sibling of a pupil enrolled in an academy to be given enrollment priority.)

BACKGROUND INFORMATION:

Supporters of the charter school concept say that it allows for the creation of new public schools where innovation can flourish, where new teaching and learning strategies can be developed, where teachers can be empowered, or where a particular philosophy or approach (whether experimental or traditional) can be applied. Such schools, say proponents, can help students not otherwise well served in the public schools, and can provide different kinds of curriculums, management systems, or facilities than typically found in school districts. They are intended to be free of the bureaucracy associated with school districts. Charter schools or public school academies are also promoted as a means of injecting additional parental choice into public education. Where successful, they can provide the kind of competition that will encourage improvement in the traditional public schools.

Critics of charter schools doubt that they can have much overall positive effect on the public school system, are suspicious of the notion that "marketing"

schools will lead inevitably to informed parental choice, are concerned that "deregulation" will mean denying teachers their traditional protections and cutting teacher pay (while enriching school organizers), and they worry about the diversion of funds from the traditional public schools, which lose funding as they lose students, but whose costs remain fixed. They also are concerned about private (and religiously oriented) schools becoming publicly funded charter schools with much the same student body as before. They point to alleged financial irregularities and educational inadequacies (including the treatment of special education students) in some of the state's new charter schools, and argue that the schools should have stricter state oversight if they are to be recipients of state tax dollars.

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

There is said to be great demand for additional charter schools. Currently, growth is limited because the law restricts the number of charter schools that public universities can charter to 150. Universities have been the most active chartering entities (with 109 schools as of the 1998-99 school year). House Bill 4705 allows for modest increases in that cap of 25 schools per year over the next three years. Supporters say that the evidence of the success of the charter school approach is found in the public response to them. Existing schools have waiting lists and there are a large number of applications for new charters being submitted. It would be wrong to stifle these attempts at improving public education through the creation of this new kind of school. While some supporters of charter schools would prefer the cap be lifted, House Bill 4705 at least allows continued growth.

Against:

Some people believe that the cap should not be raised until the issue of the oversight of the current schools is addressed. The chartering agencies also have oversight responsibilities. Critics say that the chartering agencies have difficulty monitoring their

schools at the current levels. To add to them would just make matters worse. Further, charter schools drain money away from school districts making it more difficult to maintain and improve standards in the school systems that most children in the state attend. Further, House Bills 4705 and 4706 taken together potentially allow for a dramatic expansion in the current cap on schools. House Bill 4706 would allow for a new category of charter school (for students in urban school districts at risk of academic failure) completely outside the current cap on university chartering. What is needed before any further expansion of charter schools is an evaluation of their performance.

Against:

Two of these bills begin the process of moving away from the anti-discrimination provisions in the current charter school law. House Bill 4707 gives enrollment priority to "a person who is employed by or at the public school academy." What constitutes an employee is not made clear and there are concerns about abuses of this provision. Even worse, House Bill 4706 allows for the creation of special charter schools for students living in an "urban school district" who are "at risk of academic failure." These terms are not defined. It likely applies to many school districts and many students within those districts. This bill allows the segmentation of students contrary to the original law authorizing charter schools. Further, it may also impede current efforts to improve the public schools in urban areas (including the newly reorganized Detroit schools) by draining away resources into this new kind of charter school. Creating this kind of exception will lead to others. (Besides, this approach may not be necessary, since if a school is specifically designed to serve certain kinds of children or attack certain kinds of problems, it will likely find its target audience without active discrimination in admissions.)

Response:

House Bill 4707 provides educators with an opportunity to create new educational programs specifically geared at helping at-risk urban youth who are not succeeding in the traditional public schools. This has the potential of increasing educational opportunities for students most in need of special assistance provided by educators specifically motivated to work with such students. House Bill 4706 simply allows the children of school employees to get priority

in enrollment (since enrollment in charter schools is supposed to be by lottery). This is a pro-family

measure, similar to the existing provision allowing enrollment priority for siblings of current students.

POSITIONS:

The Michigan Association of Public School Academies testified in support of the expansion of charter schools. (5-25-99)

A representative of Central Michigan University testified in support of the expansion of charter schools. (5-20-99)

The Michigan Catholic Conference supports House Bill 4705. (5-25-99)

The Michigan Association of Non-Public Schools has indicated support for House Bill 4705. (5-20-99)

The Michigan Federation of Teachers and School Related Personnel is opposed to the bills. (5-25-99)

A representative of the American Civil Liberties Union testified in opposition to House Bill 4705. (5-20-99)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.