

**SUBJECT:** Creating incentive for school districts to accept students using PEG grants

**COMMITTEE:** Public Education — committee substitute recommended

**VOTE:** 6 ayes — Grusendorf, Branch, Dawson, Eissler, Griggs, Madden

1 nay — Hochberg

1 present not voting — Dutton

1 absent — Oliveira

**WITNESSES:** (*On original version:*)

For — John O’Sullivan, Texas Federation of Teachers

Against — None

**BACKGROUND:** The 74th Legislature in 1995 created the Public Education Grant (PEG) program in SB 1 by Ratliff. A student who attends a public school at which at least 50 percent of the students performed unsatisfactorily on an assessment test in two of the three preceding years, or at a school that was identified as low-performing at any time in the previous three years, is eligible to attend school in another district under a PEG transfer.

In 1997, the 75th Legislature enacted HB 318 by Cuellar, creating a funding incentive for school districts to accept PEG transfers. The PEG student is counted in average daily attendance (ADA) in the district where the student transfers to attend school (“the attending district”). The attending district also receives a 10 percent boost in its state aid payment as a financial incentive. If a district’s wealth per student falls between the guaranteed yield and the equalized wealth level and its costs for educating a PEG transfer student exceed the state aid benefit, supplemental state funding fills the gap.

The school district in which a student resides (“the residing district”) must provide a PEG student with free transportation to and from the residing district school, from where the attending district may agree to transport the child to school in the attending district.

Districts need not accept PEG transfers and, as for other interdistrict transfers, may charge parents tuition on top of state aid for accepting the transferred student. Federal Civil Action 5281 limits the ability of districts to accept transfer students to the extent that transfers would change the racial balance of a school's population, based on ADA, by more than 1 percent.

In 1931, the Texas Supreme Court unanimously ruled that the Legislature could not compel an urban school district to accept rural students without tuition compensation, on the basis that the state could not require a school district to spend local tax dollars to educate students who did not live in the district (*Love v. City of Dallas*, 40 S.W.2d 20, 27).

**DIGEST:**

CSHB 693 would require a residing district to pay an attending district the difference between 125 percent of the amount of state aid that the attending district would receive if a PEG transfer student lived in the attending district, and the amount of state aid that the attending district received as a result of the student's attendance in the attending district.

The bill also would repeal the provision in the PEG statute that requires a residing district to continue to provide free transportation for a PEG student to and from the residing district school.

The bill would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

CSHB 693 would create an extra financial incentive for school districts to accept PEG transfer students. The PEG law originally was intended as an escape valve for students trapped in failing schools, yet very few parents have taken advantage of the choices available to them under this program. In the 2001-02 school year, more than 141,000 students were eligible for PEG transfers, but fewer than 200 actually obtained them. Even when parents want to apply for PEG transfers for their children, many report that their local school district will not share information about the program or give them transfer applications. Also, neighboring school districts often turn down transfer requests, because nothing in current law compels them to accept additional students. Of the more than 1,000 Texas school districts, only 46 now have children enrolled under PEG transfers.

Because school districts can charge parents up to \$3,000 annual tuition for interdistrict transfers, some schools prefer to fill open classroom slots with parentally-paid tuition transfers, rather than with state-paid PEG transfers. The 10 percent incentive in current law provides a school district with about \$500 extra funding for a PEG student. The 25 percent incentive under CSHB 693 would gain the attending district about a \$1,200 incentive. While it still would not give an attending school district as much money as private tuition would, the bill would provide enough of a financial incentive so that students on PEG transfers conceivably could “compete” with students on interdistrict tuition transfers.

CSHB 693 would require a failing school to pay a penalty for poor performance. Since the state already pays a 10 percent boost on an attending district’s weighted allotment, residing school districts would have to pay the additional 15 percent extra (or about \$700 per student) that it would take to raise attending districts to their 25 percent incentive. This money would have to come from local funds, not from state funds. This would create a definite incentive for the losing district to improve services to students and parents in its district. The bill also would repeal the transportation requirement, which would ease a small financial burden on the residing district and would give students a clean break with the district.

**OPPONENTS  
SAY:**

By imposing a local financial penalty on failing schools and requiring a transfer of local tax dollars from one school district to another, CSHB 693 could pit school districts against one another. The Texas Supreme Court decision in *Love v. City of Dallas* prohibited a taxing entity’s funds from being spent within another taxing entity without voter approval. While the residing district would be paying another district to educate a child from the residing district, the bill would create a significant “upcharge.” This could create a serious dispute in some communities where the fiscal impact could be significant and negative.

Boosting the economic incentives to take PEG transfers could increase the number of transfer students, thus increasing state costs. Because the state pays a 10 percent boost in funding for every PEG transfer, if the program led to more transfers, the state would have to pay an additional \$500 for each new PEG student created by the bill.

**OTHER  
OPPONENTS  
SAY:**

The real problems with the PEG program lie with practical barriers, not financial ones. Parental inconvenience, space limitations at crowded schools, and federal law are the most significant barriers to participation in PEG. When children are transported long distances from home to school, parental involvement drops, students may be unable to stay late for tutoring, and they may be less able to participate in extracurricular or athletic activities. Many schools that would be in demand for PEG transfers are in fast-growth suburban districts that already are overcrowded. Also, federal civil rights law limits transfers that could affect a school's racial balance.

The state must find better ways to punish low-performing school districts without harming the children left behind. The state would not help students and taxpayers in low-performing school districts by endorsing a performance system that took money away from schools that could least afford to lose it.

**NOTES:**

As filed, HB 693 would have allowed a school district to reject a PEG transfer only if the district did not have any available openings.

HB 692 by Van Arsdale, relating to a student's right to transfer to a different school under the federal No Child Left Behind Act of 2001, has been referred to the House Public Education Committee.