

BILL ANALYSIS

C.S.H.B. 990
By: Chisum
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Civil Action 5281 is a federal court order passed in 1968 and amended in 1971. This court order was the result of a lawsuit brought against the State of Texas by the U.S. Department of Education. The court found the schools in Texas to be segregated in violation of the U.S. Constitution. In the court order, Judge Justice ordered the Agency to take actions to ensure that the state's schools were desegregated to the satisfaction of the court.

Section A of CA-5281 requires regulating student transfers. It states that the Agency will approve, review, and monitor all student transfers between school districts to determine whether the "cumulative effect of such transfers will change the majority or minority percentage of the school population, based on average daily attendance in such districts by more than one percent (1%), in either the home or the receiving district"

At the time, this was an appropriate and effective order which brought about the mandatory desegregation of many Texas public school districts. However, today the system is enforced differently from the intent of the original ruling. It has created unequal opportunities for students to the point of actually doing the opposite of what it was intended to do. Many children have been denied the opportunity to transfer to another school based solely on the color of their skin. The choice has been taken away from the parents and put into the hands of the Texas Education Agency (TEA). Anglos, African American, Native American, and Hispanic students have all been denied transfers based on the 33 year old desegregation order Civil Action 5281. Many poor rural schools that offer high quality educational programs and better overall discipline and safety are anxious to take these students. The parents desire to have a choice; yet this ruling will not allow what is in the best interest of the student.

The purpose of this bill is to relieve school districts with fewer than 4,000 to be relieved from the requirements of the transfer regulation of Section A of CA-5281. This does not encourage or engage in any discriminatory practices, nor does it impede desegregation. However, by providing this sensible relief to rural districts TEA helps insure quality schools stay financially sound and vibrant and offer all parents quality choices for their sons and daughters.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 990 defines "modified order." This bill requires the agency to the extent possible, to interpret and apply the requirements of student transfers of the modified order in the manner provided in this section. The agency may not deny a student transfer between school districts on the basis of the modified order unless the agency has made certain investigations and determinations. If the agency determines that a particular transfer would have the cumulative effect as described, the agency is required to determine if one of three classes of exceptions is applicable to the transfer. This bill gives conditions under which the agency is required to apply the percentage limitation. The agency shall strictly follow procedures outlined in imposing a sanction for violation. The agency may not take certain actions as designated. CSHB 990 specifies actions for the agency to take upon the effective date of this section.

EFFECTIVE DATE

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 990 creates a definition for modified order. The substitute removes language as to school districts with fewer than 4,000 students in ADA. The substitute adds that the agency may not deny a student transfer between school districts on the basis of the modified order unless the agency has made certain investigations and determinations. The substitute creates that if the agency determines that a particular transfer would have the cumulative effect as described, the agency shall determine if one of the three classes of exceptions is applicable. The substitute creates language as to when the agency is to apply the percentage limitation of the modified order. Additionally, language is created imposing a sanction for a violation of an agency decision pursuant to student transfers of the modified order. The substitute also creates what actions the agency should not pursue. The substitute creates language for what actions the agency is to take upon the effective date of this section.