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Sen. Sokola & Rep. Oberle; Reps.
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Miro, Roy, Spence, Ulbrich,
Valihura, Van Sant, Welch, Sens.
Bonini, Sharp, Still

HOUSE OF REPRESENTATIVES

140th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO.

FOR

HOUSE BILL NO. 300

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO NEIGHBORHOOD SCHOOLS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 14 of the Delaware Code by adding thereto a new section to read:

"§202A. The Neighborhood School Act.

(a) Definitions.

(1) 'District' or 'districts' means Brandywine School District, Colonial School District, Christina School District, and/or Red Clay Consolidated School District, either jointly or severally, as context indicates.

(2) 'Committee' means the Neighborhood School Committee.

(3) 'Plan' means a Neighborhood School Plan.

(b) The school boards of Brandywine School District, Colonial School District, Christina School District, and Red Clay Consolidated School District shall each develop and implement a Neighborhood School Plan for their districts, subject to the approval of the Neighborhood School Committee, that assigns every student within a district to the grade-appropriate school closest to the student's residence, without regard to any consideration other than geographic distance; provided that, upon good cause shown that the assignment of a student creates a substantial hardship to a school or school district, student, or a student's family, a school board may assign the student to

another school. No student shall be assigned to any school on the basis of race, and school assignments shall be made without regard to the racial composition of the schools.

(c) Schools in any of the districts may consist of no more than three configurations. They must be as follows:

(1) a lower-level school, or elementary school, consisting of either grades K-5 or grades K-6;

(2) a middle-level school, or junior high school, consisting of either grade 6 or 7 to grade 8 or 9; or

(3) an upper-level school, or high school, consisting of either grades 9-12 or grades 10-12.

If a district has only 2 school configurations, the schools may contain any combination of grade levels.

(d) The school board of each district shall submit its Plan to the Committee by November 15, 2000. Upon approval by the Committee, and subject to an annual appropriation, a district shall receive a one-time payment of \$1.25 million from the General Fund for transition costs incurred by the district in complying with the requirements of this section.

If the school board of a district does not submit its plan to the Committee by November 15, 2000, the district forgoes the one-time payment for transition costs.

(e) A district that, as a result of its Plan, reduces its student transportation expenses from its student transportation expenses for FY 2000 shall receive payment for the difference between those expenses, as calculated each year, for 10 years. The district shall use the payments for general education expenses.

(f) The Neighborhood School Committee consists of 9 members: 3 appointed by the Speaker of the House of Representatives; 3 appointed by the President Pro Tempore of the Senate; 1 appointed by the Minority Leader of the House of Representatives; 1 appointed by the Minority Leader of the Senate; and 1 appointed by the Governor.

(1) A Committee member serves at the pleasure of the person who appoints the member to the Committee.

(2) No more than 5 members of the Committee may belong to the same political party.

(3) A Committee member shall serve without compensation, but may be reimbursed for actual travel and other necessary expenses incurred by attending meetings and transacting the business of the Committee, subject to funding.

(4) The Chairperson of the Committee is the member agreed to by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(g) The Committee shall review and approve or disapprove the Neighborhood School Plan submitted by each district. If a district's Plan is disapproved, the Committee shall reveal the Plan's deficiencies to the district. In its review process, the Committee may retain legal counsel to ensure the constitutionality and general legal soundness of a Plan.

If the school board of a district does not submit its Plan to the Committee by November 15, 2000, or does not submit a revised Plan if its initial Plan is disapproved by the Committee, the Committee shall develop and implement a plan for the district in accord with the Plan requirements of this section.

(h) Each district shall implement its Neighborhood School Plan within 18 months of appropriation by the General Assembly of one-time transition costs pursuant to subsection (d) of this section.

(i) A citizen with standing may bring a private cause of action in a court of competent jurisdiction to enforce the requirements of this section.

(j) The Department of Education and a school district shall, upon request, provide support staff to assist the Committee and/or the board of the school district in developing, implementing, and/or reviewing a Plan.

(k) Nothing in this section is intended to deny or interfere with a student attending a special education program, an alternative school or a charter school, or electing to attend a school through the enrollment choice program."

Section 2. Amend §202(c), Title 14 of the Delaware Code by adding the following sentence at the end of subsection (c):

"No person attending a public school of this State shall be assigned to a school on the basis of race, and school assignments shall be made without regard to the racial composition of the schools."

Section 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SYNOPSIS

This bill requires the Brandywine, Colonial, Christina, and Red Clay Consolidated School Districts to develop and implement Neighborhood School Plans (Plans) that allows every student to attend the grade-appropriate school geographically closest to the student's home.

The bill also designates 3 configurations for schools in those districts. However, if a district has only 2 grade levels, its schools may contain any combination of grade levels; e.g., K-8 and 9-12, K-7 and 8-12, or K-6 and 7-12. It establishes a Neighborhood School Committee to approve submitted Plans; and offers a monetary incentive to a district that presents its Plan on time, as well as a monetary payment to a district that reduces its transportation costs as a result of its Plan. Incentives and payments are subject to an annual appropriation.

The bill's adherence to the United States Supreme Court decision in *Miller v. Johnson*, 115 S.Ct. 2475, 2486 (1995) (citing, *inter alia*, *Brown v. Board of Educ. of Topeka*, 347 U.S. 483 (1954)), and in *Coalition to Save Our Children v. State Bd. of Educ. of Delaware*, 901 F. Supp. 784 (D. Del. 1995), and the Third Circuit's opinion affirming that case at 90 F.3d 752 (3rd Cir. 1996), makes explicit that students shall be assigned to schools without regard to race.

The Plans must be implemented within 18 months of appropriation by the General Assembly of one-time transition costs. If a school board doesn't submit a Plan, the Committee must develop and implement one for the district. A citizen with standing may bring a private cause of action in a court of competent jurisdiction to enforce the requirements of this Act.

The Department of Education and each district must, upon request, provide support staff to assist the Committee and/or school boards with their Plans.

No costs will be incurred prior to the appropriation of funds by the General Assembly.