

Proposition 38: Outline of Provisions

Administration

- ✎ Proposition 38 would create a system whereby parents who choose to enroll their child in a private school for grades K-12 would be eligible for a voucher to pay the tuition and fees of the private school. The annual amount of the voucher will be the greater of either \$4000 or one-half of per pupil spending in the public schools. The amount of the voucher would not be subject to state income tax.
- ✎ All parents of K-12 students would be eligible for vouchers, including those with children who are currently enrolled in private schools. Eligibility for current private school students would be phased in over a four-year period.
- ✎ Checks would be made out to the parent but sent to the private school where the student is enrolled. The parent would endorse the quarterly check over to the school, referred to as a voucher-redeeming school in the initiative.
- ✎ Any portion of the voucher not used in a given year would be held for the parent in an account, managed by the State Treasurer. The account balance could be applied to future tuition and fees for the student until they either turn 21 or complete an undergraduate degree.
- ✎ Private schools that accept vouchers must prepare an annual financial statement, which must be made available to voucher parents. However, schools are not required to undergo an independent audit or submit financial statements to the state for review.

Finance

- ✎ The cost of the vouchers would be in addition to funding guaranteed to public schools pursuant to the Proposition 98 guarantee. This means that total spending for K-12 education in any given year would equal Proposition 98 K-12 funding for public schools plus the cost of the vouchers for students enrolled in private schools.
- ✎ The state would not be able to dictate the choice of private school to parents receiving vouchers. This is to prevent the state from promoting or disadvantaging any particular class of school or religion.

Regulations

- ✎ Voucher-redeeming schools may not discriminate on the basis of race, ethnicity, color, or national origin in their admissions and they are prohibited from advocating unlawful behavior. However, there are no prohibitions against discriminating on other bases including gender, physical disability, religious affiliation, sexual orientation, or academic performance.
- ✎ Voucher-redeeming schools are required to administer nationally normed, standardized tests that are mandated to be given to pupils enrolled in public schools. It is unclear whether voucher-redeeming schools must give the same tests that are given in California's public schools. There are no sanctions on voucher-redeeming schools or their students for substandard results. Currently in California, public schools that are consistently below the

- state standards risk sanctions that can include a state takeover of the school.
- ✎ Proposition 38 does not establish standards or guidelines for curriculum in grades K-8 and establishes minimal standards in private high schools. Voucher-redeeming high schools must certify that they have obtained notice that the coursework offered in at least one academic subject area (i.e., history or math) fulfills the admission requirements for the University of California, California State University, or any accredited private college or university. Alternatively, a voucher-redeeming high school can obtain accreditation or provisional accreditation from an agency recognized by the state.
- ✎ Proposition 38 protects private schools from what is described as “unnecessary, burdensome or onerous regulation.” While voucher-redeeming schools must comply with all regulations applying to private schools on January 1, 1999, any new regulations or ordinances, including those relating to health, safety, and land use, must be approved by either:
 - Three-fourths of both houses of the state Legislature, in the case of new state imposed regulations, or
 - Two-thirds of the local government body and a majority vote of qualified voters in the jurisdiction, in the case of new locally imposed regulations.
- ✎ In any legal proceedings challenging a state or local regulation, the state or local governmental unit must bear the burden of establishing that the regulation does not impose any undue burden on private schools. Specifically, the state or local governmental unit must prove that the regulations:
 - Are essential to ensure the health, safety, or education of pupils, or, as to any land use regulation, that the governmental body has a compelling interest in issuing or enacting the regulation.
 - Do not unduly burden or impede private schools or the parents of students attending private schools.
 - Do not harass, injure, or suppress private schools.
 - Do not infringe on a parent’s freedom to decide on the quality and content of their child’s education or whether the child attends a public or private school.

New Public School Funding Guarantee

- ✎ If, in any fiscal year, the amount of public school per pupil spending passed by the Legislature and signed by the Governor is at least the national average, then the National Average School Funding Guarantee (NASFG) automatically becomes operative. The NASFG must be used to calculate the amount of funds provided for the support of public schools in all subsequent fiscal years, permanently superceding Proposition 98 requirements.
- ✎ The NASFG is based on a measure that is very different from traditional estimates of per pupil spending, which typically measure schools’ operating costs. The NASFG is defined as all funds – state, local, federal, debt service, and any other funds – used to finance local and state educational programs for grades K-12.
- ✎ Proposition 38 would allow the Legislature to enact the NASFG with a majority vote of both houses.
- ✎ Once operative, the NASFG may only be suspended for one fiscal year at a time by a three-fourths vote of the members of both houses.
- ✎ Proposition 98 covers funding for K-12, community colleges, child care, and the state special schools for the blind and deaf. The guarantee established by Proposition 38 would apply

only to K-12 education. However, it expresses unbinding intent that community colleges receive full funding.

Issues for Consideration

Choice. Proposition 38 provides financial assistance to parents who wish to send their children to private schools. Proponents maintain that competition from private schools will also encourage improvement in the public school system as schools attempt to maintain enrollment. However, opponents contend that some parents' access to private schools may be limited due to the following:

- ✎ Proposition 38 does not require private schools to provide transportation for students, thus limiting access for families who lack the means to transport their child to school.
- ✎ Voucher-redeeming schools may establish testing or other academic performance criteria for admission that effectively discriminate against certain students. Voucher-redeeming schools may, for example, exclude students with learning disabilities or other special needs.
- ✎ To the extent that private school tuition exceeds the amount provided by the voucher, students whose families do not have the financial means to make up the difference will not be able to participate.
- ✎ Private schools may be less likely to locate in poor neighborhoods.
- ✎ Private schools may be unable to accommodate transfer students because of limited space and/or insufficient number of teachers.

Impact on Students Who Remain in Public Schools. Proposition 38 may significantly impact California's public schools and their ability to serve the students that remain within the public school system. To the extent voucher-redeeming schools exclude students in need of special education and other high cost services, the average per student cost, but not necessarily funding, for public education will increase.

Impact of Limited Standards. Proposition 38's lack of standards and accountability raises questions about whether a voucher system will serve to advance or undermine the state's efforts to improve the quality of education that it funds. The research on the efficacy of school voucher programs in improving academic performance is inconclusive. In the case of the Milwaukee Parental Choice Program, the longest running school voucher program, it has been difficult to evaluate the effects of the program because participating private schools either do not administer the same standardized tests as the public schools or do not test their students at all.¹

Evaluations of choice programs, including the Milwaukee Parental Choice Program, find either no difference between the scores of students in the public schools and those in the choice programs or slightly, but statistically significant, higher scores for participating pupils.²

¹ Wisconsin Legislative Audit Bureau, *Milwaukee Parental Choice Program* (February 2000).

² Peter W. Cookson, Jr. and Sonali M. Schroff, *Recent Experience with Urban School Choice Plans*, Clearinghouse on Urban Education Digest, No. 127, (October 1997); Jay P. Green, et al., *The Effectiveness of School Choice in Milwaukee: A Secondary Analysis of Data from the Program's Evaluation* (August 14, 1996). Choice plans researched include voucher programs, public school choice programs, and magnet and charter school programs.