

# WHEN BIGGER IS NOT ALWAYS BETTER: MAKING “CENTS” OF ILLINOIS SCHOOL DISTRICT REFORM PROPOSALS

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## I. INTRODUCTION

“Illinois currently has 868 school districts, and our fiscal reality demands consolidation. I am proposing the formation of a commission that will review the number of school districts in our state. Consolidation lowers administrative overhead, improves efficiency and will save taxpayers \$100 million.”<sup>1</sup> With those words, Governor Quinn reignited the decades-old debate regarding the wisdom of school district consolidation in Illinois.

Such proposals mandating school district consolidation have, historically, been quick to inflame the passions of residents of school districts across the state, for most residents are reluctant to give up the status quo in favor of some great unknown.<sup>2</sup> Despite the historical resistance, however, Illinois legislators are taking a new look at the merits of school district consolidation. In particular, the state's current fiscal crisis, coupled with the governor's touted figure of \$100 million in savings, has enticed many political leaders to explore different options for school

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1. Governor Patrick Quinn, Fiscal Year 2012 Budget Address to the Illinois General Assembly (Feb. 16, 2011), available at [http://www2.illinois.gov/budget/Documents/Budget%202012/FY12\\_Budget\\_Speech.pdf](http://www2.illinois.gov/budget/Documents/Budget%202012/FY12_Budget_Speech.pdf).
2. John O'Connor, *Ill. Gov Offers Oft-Defeated School Consolidation*, BLOOMBERG (Feb. 17, 2011), available at <http://www.bloomberg.com/news/2011-02-17/ill-gov-offers-oft-defeated-school-consolidation.html>.

district consolidation.<sup>3</sup> Other proponents of consolidation have even gone a step further by alleging that district consolidation would likely increase the academic performance of students.

With such potential benefits alleged, numerous different proposals that would move the state in the direction of school district consolidation have surfaced. Currently, varying schools of thought are represented in the plans put forward by Governor Quinn and various legislators, with these efforts taking forms ranging from mandatory top-down approaches to simple non-binding studies of the consolidation issue. Yet when all information and data are considered, each of these proposals is inferior to the current monetary enticements given to districts that voluntarily consolidate.

In the following sections, this paper will detail the historical background in which these proposals emerged, including an overview of the current state of Illinois law with respect to school district consolidation. Next, it will detail recent movements in the legislative sphere, particularly the proposals of the Governor, State Representative Robert Rita, State Senator Jeffrey Schoenberg, State Representative Linda Chapa LaVia, and State Senator Susan Garrett. The paper will then segue into an analysis of the merits of each proposal and the merits of the incentive-based voluntary system that is currently in place. On the basis of this analysis, the paper then advocates the current law over any reform proposal on the table while taking the position that the large number of school districts in Illinois is actually an asset that can effectively be used to generate better educational opportunities for the state's youth. Finally, the conclusion will provide a brief summary of the argument and findings.

## II. BACKGROUND

The current patchwork of school districts in Illinois largely took its form during the first half of the twentieth century.<sup>4</sup> As the nation became increasingly industrialized and people shifted from rural farms to urban centers with manufacturing jobs requiring skilled labor, the educational needs of the state underwent a similar seismic shift.<sup>5</sup> The new world began to require more than the most rudimentary forms of education, and high schools became commonplace.<sup>6</sup> Simultaneously, transit became less of a

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3. See, e.g., H.B. 1216, 97th Gen. Assemb. (Ill. 2011); H.B. 1886, 97th Gen. Assemb. (Ill. 2011); S.B. 1324, 97th Gen. Assemb. (Ill. 2011); S.B. 2134, 97th Gen. Assemb. (Ill. 2011).

4. William A. Fischel, Symposium, *Reassessing the State and Local Government Toolkit: Neither "Creatures of the State" nor "Accidents of Geography": The Creation of American Public School Districts in the Twentieth Century*, 77 U. CHI. L. REV. 177, 178 (2010).

5. *Id.* at 185.

6. *Id.*

burden as automobiles began to proliferate throughout the land.<sup>7</sup> The confluence of these changing circumstances helped to seal the fate of the one-roomed schoolhouses that once dotted the landscape of Illinois.

By 1960, the number of school districts in Illinois had declined to around 1,700<sup>8</sup> from over 10,000 a century before.<sup>9</sup> As the tiny schoolhouses were vanquished from the fields and meadowlands of this state, what arose in their stead were graded schools where children were grouped by age.<sup>10</sup> High school education was no longer the exception but instead became, at least to age seventeen, a compulsory rule.<sup>11</sup>

Yet because of both the diverse nature of the state and the haphazard way in which the school districts were formed, the new districts lacked uniformity in either physical boundaries or type. Despite the varying names applied to school districts which stem, in a large part, from the statutory terminology favored at the time of the district's formation, three basic types of school districts exist in Illinois: unit districts, which provide instruction for students in grades kindergarten through twelfth grade; elementary districts, which serve students in grades ranging from kindergarten to eighth grade; and high school districts, which educate children in grades nine through twelve.<sup>12</sup> Beyond those basic types, a few districts in the state, such as the City of Chicago Public Schools, operate directly under charters granted by the state and are usually governed by special provisions in the Illinois School Code.<sup>13</sup>

The current debate regarding school district consolidation has been a perennial issue in Illinois politics since at least 1985.<sup>14</sup> That year, the state enacted a law that required school districts to consist of at least 1,500 students in kindergarten through twelfth grade.<sup>15</sup> Widespread opposition from the public, though, resulted in the subsequent repeal of that law before it could ever take effect.<sup>16</sup>

Yet the push to reduce the number of districts did not end with the death of these proposals; instead, the state largely shifted its focus from mandatory consolidation plans to other tactics meant to induce voluntary district consolidation like providing temporary monetary incentives to

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7. *Id.* at 181.

8. *Id.* at 180.

9. *Id.* at 194.

10. *Id.* at 182-86.

11. 105 ILL. COMP. STAT. 5/26-1 (2010).

12. 105 ILL. COMP. STAT. 5/11E-10 (2010); 105 ILL. COMP. STAT. 5/12-10 (2010). *See also* BRIAN A. BRAUN, ILL. SCH. LAW SURVEY 2 (11th ed. 2010).

13. 105 ILL. COMP. STAT. 5/32-1.1 (2010); 105 ILL. COMP. STAT. 5/33-1 (2010); 105 ILL. COMP. STAT. 5/34-2 (2010). *See also* BRAUN, *supra* note 12, at 2..

14. *See* O'Connor, *supra* note 2.

15. *Id.*

16. *Id.*

school districts which consolidate.<sup>17</sup> Such efforts have resulted in a reduction in the number of Illinois school districts from 1,008 in the 1983-1984 school year to 868 today.<sup>18</sup> However, few districts have consolidated in the last decade, with the total number of Illinois school districts only decreasing by 26 since the 2001-2002 school year.<sup>19</sup>

### III. RECENT DEVELOPMENTS

#### A. Current System

Since the 1980s, the State of Illinois has relied upon monetary incentives, given by the state for a defined period of time, to provide a means of enticing school districts to consolidate.<sup>20</sup> The provisions of the Illinois School Code that allow for this increased state aid are lengthy and complex, with the formulas used to compute financial incentives varying based upon the type of district consolidation and the financial situations of both the previous districts and the newly formed district.<sup>21</sup> Yet the purposes are largely the same: to provide schools with money that will offset the costs of consolidation, merging of salary schedules, debt acquisition, and reductions in general state aid that could result.<sup>22</sup>

This system has been in place over the last two and a half decades as the total number of Illinois school districts fell by 140, or 13.9% of the 1983-1984 total.<sup>23</sup> Important to bear in mind, though, is that this system relies upon the willingness of citizens in the affected school districts to approve any consolidation proposal. These individuals bear the responsibility of weighing the benefits and detriments of their present school district organizations and deciding what is best for themselves and their children based upon all relevant circumstances. If the voters do not have the desire to reorganize or join with neighboring districts, any attempts at consolidation cannot proceed.

The current preference for incentivizing voluntary consolidation, though, still remains the safe bet for gaining legislative approval. Illinois Senate President John Cullerton recently expressed his desire to sweeten the pot for districts that choose to consolidate, suggesting that the state could

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17. See generally 105 ILL. COMP. STAT. 5/11E-135 (2010).

18. ILL. STATE BD. OF EDUC., SCHOOL DISTRICT REORGANIZATIONS 1983-1984 TO 2010-2011, available at [http://www.isbe.state.il.us/sfms/pdf/reorg\\_history.pdf](http://www.isbe.state.il.us/sfms/pdf/reorg_history.pdf) (last updated July 2011).

19. *Id.*

20. 105 ILL. COMP. STAT. 5/11E-135 (2010).

21. *Id.*

22. BRAUN, *supra* note 12, at 76.

23. SCHOOL DISTRICT REORGANIZATIONS, *supra* note 18.

provide extra money to pay off the debt obligations of consolidating school districts or even dole out funds for consolidating districts to build a new high school.<sup>24</sup> “If you try to force this on schools and communities, I'm afraid it will go nowhere in the legislature,” he stated, adding, “[i]deally, we want to be able to make certain school districts an offer they, in effect, can't refuse.”<sup>25</sup> Governor Quinn, however, was less impressed. He felt that the voluntary incentives still would not spur schools to consolidate on a scale large enough or fast enough to suit his desires.<sup>26</sup>

#### B. Governor Quinn's Plan

What do politicians do if they cannot get voters to voluntarily submit to their grandiose schemes? They force the citizens to comply by making the desired outcome mandatory. Recently, three reform proposals were put forward which would directly reduce the number of Illinois school districts by mandatory means. The first—and most seriously debated—is that of Governor Quinn himself which, although enveloped in a fog of uncertainty, has been slowly coming into focus since his budget address on February 16, 2011. Under the governor's plan, the number of Illinois school districts would be reduced from the current number of 868 to a maximum of 300 new districts.<sup>27</sup> The boundaries of the new school districts would be drawn by a commission appointed by the Governor based upon census data and without input from the citizens of the affected districts.<sup>28</sup> Each new district would contain a minimum population of 30,000-35,000 people.<sup>29</sup> Most, if not all, of the resulting school districts would be unit districts as well, meaning that they would govern the education of students within their territory from kindergarten to grade twelve.<sup>30</sup> Although currently used in many places across the state, dual-district structures that allow for separate governance and boundaries for elementary and high school districts would largely be relegated to the dustbin of history.

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24. Kurt Erickson, *Top Democrat: School Consolidation Shouldn't Be Forced*, BLOOMINGTON PANTAGRAPH (Feb. 28, 2011), available at [http://www.pantagraph.com/news/state-and-regional/illinois/article\\_13a82b66-4383-11e0-a03f-001cc4c03286.html](http://www.pantagraph.com/news/state-and-regional/illinois/article_13a82b66-4383-11e0-a03f-001cc4c03286.html).

25. *Id.*

26. *Id.*

27. *Proposals for the Mandatory Consolidation of School Districts*, ILL. ASS'N OF SCH. BDS., <http://www.iasb.com/govrel/consolidation2011.pdf> (last visited April 18, 2011).

28. *Id.*

29. *Id.*

30. Diane Rado & Tara Malone, *Forced School District Consolidations Possible Under Quinn Plan*, CHICAGO TRIBUNE (Feb. 17, 2011), available at [http://articles.chicagotribune.com/2011-02-17/news/ct-met-school-district-consolidation-20110217\\_1\\_district-mergers-school-districts-david-vaught](http://articles.chicagotribune.com/2011-02-17/news/ct-met-school-district-consolidation-20110217_1_district-mergers-school-districts-david-vaught).

### C. Representative Rita's Plan

Another proposal recently floated about the Illinois legislature was promulgated by Illinois Representative Robert Rita.<sup>31</sup> Under Rep. Rita's plan, school district boundaries would not be drawn by appointed bureaucrats, as Governor Quinn's plan would require. Instead, all existing school districts except the City of Chicago Public School District would be abolished on June 30, 2012.<sup>32</sup> In their places, new school districts would be created on July 1, 2012 with territorial limits that coincide with the borders of the counties in which they reside.<sup>33</sup> A new school board comprised of fifteen members would then be elected from that county to manage the new district.<sup>34</sup> Such a plan would mimic the system in Florida, where each of the state's 67 counties has its own school district. However, absent further amendments to the Illinois School Code, the new boards would, by explicit provision, still retain the option of dividing the county into multiple districts if the formation of such districts would be allowed under the current state law governing the formation of new school districts.<sup>35</sup>

### D. Senator Schoenberg's Plan

The proposal embodied within Senator Schoenberg's plan is much like that of Governor Quinn's proposition with a few minor changes. Most importantly, the bill would, like the governor's plan, charge the Illinois State Board of Education with making recommendations regarding school district consolidation and identifying specific school districts which should be consolidated.<sup>36</sup> The major change, however, is that this proposal would require that the Illinois State Board of Education hold hearings within the targeted school districts and seek public comment.<sup>37</sup>

Upon reaching its final recommendations, the Illinois State Board of Education would then submit its recommendations to the Illinois General Assembly, which would then either accept or reject the proposals to consolidate the listed districts.<sup>38</sup> If the General Assembly fails to act within 90 days after receiving the report, the school districts identified in the report would be required by law to consolidate.<sup>39</sup>

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31. ILL. ASS'N OF SCH. BDS., *supra* note 27.

32. H.B. 1886, 97th Gen. Assemb. (Ill. 2011).

33. *Id.*

34. *Id.*

35. *Id.*; 105 ILL. COMP. STAT. 5/11E (2010).

36. S.B. 1324, 97th Gen. Assemb. (Ill. 2011).

37. *Id.*

38. *Id.*

39. *Id.*

#### E. Representative Chapa LaVia's Plan

The reform proposal put forward—and which eventually passed—with the widest range of support is, not surprisingly, that which does the very least to change the current system. Representative Linda Chapa LaVia introduced a bill in the Illinois House of Representatives that required the appointment of a panel to study school district consolidation.<sup>40</sup> Members of this panel were appointed by the Illinois State Board of Education, both the majority and minority leaders of both chambers of the Illinois General Assembly, and representatives from a variety of education-related professional groups or constituencies.<sup>41</sup> This commission then was charged with reporting its findings regarding the need for consolidation and the optimum size of school districts back to the General Assembly and the Governor.<sup>42</sup> Upon receipt of these recommendations, the General Assembly would then be required to either accept or reject the report.<sup>43</sup> Note that even if the General Assembly accepts the report, it would not be required to act on any of the proposals contained within it.

#### F. Senator Garrett's Plan

The last proposal to emerge from the shadows that would pave the way for forced school consolidation is that of Illinois Senator Susan Garrett. On the surface, however, the proposal did not even look like one that is designed to serve as a vehicle for school consolidation. Instead, it disguised itself as a mechanism for accomplishing another one of Governor Quinn's major educational objectives, namely the elimination of the local Regional Offices of Education.<sup>44</sup> These entities, each headed by an elected Regional Superintendent of Schools, oversee compliance with many state educational laws, assist in teacher certification, and provide a variety of support services to local school districts across the state. In place of them would be a new system of Educational Service Regions which, in most respects, is identical to present Regional Offices of Education in every substantive way except that the Regional Superintendents or Executive Directors of the new entities would be appointed by the Illinois State Board of Education instead of elected by the people of the territories governed.<sup>45</sup>

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40. H.B. 1216, 97th Gen. Assemb. (Ill. 2011).

41. *Id.*

42. *Id.*

43. *Id.*

44. S.B. 2134, 97th Gen. Assemb. (Ill. 2011).

45. *Id.*

How does a proposal for the elimination of Regional Offices of Education turn into a school consolidation bill? Buried within the bill is a provision, labeled as Section 17-1.10, which would be added to the Illinois School Code.<sup>46</sup> This provision would allow the newly appointed Regional Superintendent or Executive Director of each new region to conduct studies on the fiscal efficiency of school districts in their respective jurisdictions.<sup>47</sup> The bill then provides the following:

(e) The State Board of Education shall establish sanctions for fiscally inefficient districts that fail to adopt or make adequate progress on implementing a plan to improve fiscal efficiency. Sanctions may include, but are not limited to, any one or more of the following:

(1) ineligibility or a lower priority for any discretionary grant program administered by the State Board of Education, unless the State Board of Education is prohibited by law from considering fiscal efficiency as part of the program;

(2) a requirement that the district's fiscal efficiency plan be modified in consultation with and with the approval of a designee of the State Board of Education;

(3) a requirement that the school district's annual budget for each fiscal year required by Section 17-1 of this Code be approved by a designee of the State Board of Education;

(4) a requirement that the school district undertake a school district reorganization study; or

(5) after more than 3 years of failure to improve fiscal efficiency, nonrecognition of the school district. If a school district is nonrecognized in its entirety, it shall automatically be dissolved on July 1 following that nonrecognition and its territory realigned with another school district or districts by the regional board of school trustees in accordance with the procedures set forth in Section 7-11 of this Code.<sup>48</sup>

Hence, the Governor would have the ability, via the newly appointed Regional Superintendents or Executive Directors of the new Regional Offices of Education or Educational Service Regions, to be able to target school districts across the state and force them into consolidation, either by

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46. *Id.*

47. *Id.*

48. *Id.*



starving them financially or by outright decree that they are “fiscally inefficient” and administratively dissolving them.<sup>49</sup> Such efforts would not require public input or consent from residents of the affected school districts. Nor would any mechanism exist for citizens to challenge the determinations of the Illinois State Board of Education.

#### IV. ANALYSIS

With so many proposals for changes to the Illinois School Code to either incentivize or require school district consolidation, what are the benefits of each of these plans? What are the downsides, if any, to the implementation of each proposal? What legal issues and challenges exist that should be addressed in any reform proposal?

##### A. Cost Savings

All of these plans promoting school district consolidation gain their legislative traction based upon the positive assertions of their sponsors, namely the often-touted financial benefits associated with district consolidation. The Governor's proposal, for instance, labors on the assumption that it will save taxpayers \$100 million annually by reducing the number of school superintendents across the state.<sup>50</sup> As his logic goes, approximately 500 school administrators—or a superintendent for each district eliminated—could be cut. He further estimates that each superintendent who would be downsized makes about \$200,000 per year. Alas,  $500 \times \$200,000 = \$100$  million, the figure that the Governor touts. The problems with the estimates used to arrive at this number are patently obvious, such as the fact that superintendents in smaller districts are unlikely to earn anywhere near \$200,000 annually.<sup>51</sup> Furthermore, the actual number of administrators eliminated is likely to be far less than that touted by the Governor, for many existing administrators will likely be rechristened as assistant superintendents, principals, and assistant principals.

The problem with this logic is even further compounded by the fact that, in any reform plan for which the details are known, the newly-formed districts would assume all of the assets and liabilities of the previously

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49. *Id.*

50. Quinn, *supra* note 1.

51. *Little Support for Governor Quinn's School Consolidation Plan*, WILL-AM 580 (March 31, 2011), available at <http://will.illinois.edu/news/spotstory/little-support-for-gov.-pat-quinn-school-consolidation-plan/>.

existing school districts.<sup>52</sup> In other words, any contractual obligations that exist prior to the dissolution of the previous school district would still be enforceable against the newly consolidated or reformed school districts. Hence, if an administrator has a multi-year contract with a school district that currently exists, he or she will still be employed by the new district under the terms provided for by his or her contractual agreement. Therefore, at least initially, any claims to immediate savings are unlikely to exist on any large scale.

Related to this contractual issue, though, is the similar notion of teachers' collective bargaining agreements. Because the new districts would be beholden to the union contracts of its predecessor districts, the new district would likely not be able to reduce the salaries of teachers to any extent. To the contrary, experience shows that no sooner will a newly consolidated school district come into existence than a representative of the Illinois Education Association or Illinois Federation of Teachers arrives at the schoolhouse door seeking to bring all of the district's contractual obligations into alignment with the previous contract with the best terms, benefits, and pay schedule. In fact, this reality is even explicitly contemplated and provided for within the temporary incentives doled out by the Illinois State Board of Education to newly consolidated school districts.<sup>53</sup> As evidenced by the need to provide for financial incentives to offset the increased salaries of teachers, such increases are likely to offset and actually reverse any monetary gains that may come about through the elimination of redundant positions and accompanying reductions in force.

In fact, these assertions are borne out in most school consolidations that currently take place across the state. According to research conducted by the Chicago Tribune, most school districts that consolidated within the last decade "are spending more than they did before the merger, and many are keeping pace with the state's rapidly increasing per-pupil expenditure."<sup>54</sup> Even more intriguingly, "transportation and administrative costs often rise when smaller districts come together," according to Kansas State University Professor David C. Thompson.<sup>55</sup> Similar outcomes were found in a study by University of Massachusetts education professor Dr.

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52. See, e.g., H.B. 1886, 97th Gen. Assemb. (Ill. 2011); S.B. 2134, 97th Gen. Assemb. (Ill. 2011).

53. BRAUN, *supra* note 12, at 76.

54. Stephanie Banchemo, *Illinois School Consolidation Billed as Cost-Cutter, but Data Say Otherwise*, CHICAGO TRIBUNE (March 25, 2011), available at [http://articles.chicagotribune.com/2010-03-25/news/ct-met-school-consolidations-20100325\\_1\\_small-districts-smaller-districts-school-districts](http://articles.chicagotribune.com/2010-03-25/news/ct-met-school-consolidations-20100325_1_small-districts-smaller-districts-school-districts).

55. *Id.*

Wenfan Yan.<sup>56</sup> These results were recently backed up with the results of a study conducted by the National Education Policy Center. That research found that expenditures were not reduced due to “increased costs for transporting students more miles, necessary building upgrades or new construction to accommodate larger enrollments, higher teacher salaries and even higher administrative costs because larger districts need and usually hire more mid-level administrators.”<sup>57</sup> Transportation expenses may, in fact, be an even more crucial piece of the expense puzzle today than in the past given the skyrocketing costs of energy. While this analysis shows that promises of cost savings are not justified based upon historical experience, the myth exists in the minds of the uninformed—and sadly this misinformation is forming the basis of the current debate on district consolidation.

In any event, the fact that the localities themselves carry the burdens or detriments of any duplicity of effort that may make consolidation financially appealing undercuts the arguments of consolidation supporters. Presently, the state does not actually provide most of the money that school districts spend. Instead, most money comes from property taxes paid by the property owners in each school district, with the state only providing what is, in essence, an amount that helps ensure that all school districts will at least have a certain amount of money to spend on each pupil regardless of how poor the district may be in terms of equalized assessed valuation per pupil.<sup>58</sup> If a district decides to spend an exorbitant sum on each pupil it educates because of some duplicity of effort or excessive administrative overhead, that financial burden falls on local taxpayers, not the State of Illinois and its treasury. Hence, the very people who apparently see the need for their local school and go out of their way to defend its existence are the only people who would have a legitimate interest in trying to reduce any costs that Governor Quinn and others have deemed to be so evil.

#### B. Academic Advantages

Although mentioned only in passing during the current debate about school district consolidation, proponents of larger districts have historically tended to fall back on the argument that larger school districts will translate into better academic results for students. Especially at the high school

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56. Lucy Lloyd, *General Assembly Considers School District Consolidation*, TRIBLOCAL—DOWNER'S GROVE (March 15, 2011), available at <http://triblocal.com/downers-grove/community/stories/2011/03/general-assembly-considers-school-district-consolidation/>.

57. Catherine Ann Velasco, *Will State Merge Districts?*, HERALD-NEWS (April 10, 2011), available at <http://heraldnews.suntimes.com/news/4749987-418/will-state-merge-districts.html>.

58. 105 ILL. COMP. STAT. 5/18-8.05 (2011); 105 ILL. COMP. STAT. 5/18-9 (2010); BRAUN, *supra* note 12, at 317.

level, backers of consolidation tout the ability of large high schools to offer additional courses as reason enough to justify mandatory school consolidation.

To argue that small school districts simply cannot match the course offerings common to larger schools is true—to an extent, that is. Certainly, a small, rural high school cannot economically justify the employment of an instructor for a course on Chinese if only one student is interested in taking the class. This argument, while it may have held much weight thirty years ago, completely fails to recognize the realities of today's ever-changing educational landscape. Nowadays, high schools need not be limited by the physical constraints of the traditional classroom environment in order to be able to offer a wide array of courses. Instead, Internet-based courses are readily available from providers such as the Illinois Virtual High School, a state-sponsored entity. Also, an option that has grown immensely in terms of availability and popularity is for high school students to take courses offered by colleges or universities while they are still in high school. Such classes, offered either locally near the student or via the Internet, give high school students the ability to not only take unusual or advanced coursework but also a jump-start on the accumulation of college credits. Hence, students are able to transition into a collegiate environment in a more subtle and nurturing way, and they oftentimes also end up saving substantial amounts of time and money by seizing these opportunities. In essence, the myriad of courses available through these alternative means negates much of the supposed academic advantage of large schools. As a result, the small schools of today are in a better position than they were thirty years ago to maintain their existence and avoid the fate that befell the one-room schools of yesteryear.

While much can be said for the benefits of having a broad selection of courses available to students, the trade-off that exists with the creation of larger school districts is that students will, by virtue of being the proverbial little fish in a larger pond, lose some of the individualized attention that they would otherwise receive within a small school. To some students, this personal touch can make all of the difference. “I’d be about a D-plus student without it,” then-Patoka High School junior Jay Kuhn stated when he was interviewed for an Associated Press story on small schools in 2001.<sup>59</sup> Additionally, small schools enjoy advantages that large districts only dream about, such as strong parent-school relations. For example, when the Associated Press interviewed then-superintendent of Patoka Community Unit School District 100, Norma Borgmann, a student

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59. Susan Skiles Luke, *Small-School Backers Not Buying Merger Ideas*, CENTRALIA SENTINEL, April 15, 2001, at A1.

approached her in the office wishing to leave school during lunch.<sup>60</sup> Without missing a beat, Borgmann was on the phone.<sup>61</sup> “Rose? Is that OK?”<sup>62</sup> Borgmann, of course, knew the child’s parents and was able to reach them without any trouble on her part.<sup>63</sup>

Most recently, even the State of Illinois has been forced to acknowledge that larger schools do not necessarily translate into improved academic performance. An Illinois State Board of Education report released in the fall of 2010 “found no clear correlation between district size and student performance. Small districts did better than large ones by some measures and did worse by others.”<sup>64</sup> Again, University of Massachusetts education professor Dr. Wenfan Yan reached similar results in his 2005 study.<sup>65</sup> Hence, mandatory consolidation cannot be rationally justified on the basis of academic performance.

### C. Public Support

At the heart of any mandatory consolidation push like Governor Quinn’s plan is a belief that those individuals in Springfield who would mandate school district consolidation know the ideal sizes and boundaries of school districts better than local voters, citizens, and parents do. Naturally, people who have likely never even set foot within a particular territory know best how to govern that territory, right?

Of course not. Yet this fallacy perpetuates itself in the debate today as Governor Quinn directly proposes a wholesale redrawing of school districts by unelected bureaucrats so that each district encompasses at least 30,000 people. Other plans that would allow for the mandatory school district reorganization and merging fall prey to the same flawed logic.

Is such a policy the result of some great push by grassroots citizens in Illinois who are unhappy with their current school districts? No. To the contrary, the mechanisms that would mandate school district consolidation are designed for the express purpose of thwarting the popular will of citizens within local school districts. This fact is obvious to most people, for rarely, if ever, would someone have to make mandatory what people were clamoring to do anyways. As a simple example, the government does not have to pass a law to require people to go buy iPhones to spur purchases

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60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.*

64. *Little Support for Governor Quinn’s School Consolidation Plan*, *supra* note 51.

65. Lloyd, *supra* note 56.

because people naturally will do what is in their best interests even in the absence of government intervention.

To the contrary, citizens are readily able to consolidate school districts under current state law, and over one hundred forty districts have been relegated to the dustbin of history in the last two and a half decades under these mechanisms.<sup>66</sup> In fact, of five consolidation proposals on the ballot in April 2011, three passed while two were rejected. Among proposals that passed were those for the consolidation of Odin Elementary School District 122 and Odin High School District 700 into a single unit district (as the two had, for roughly half of a century, been operated in a way that closely approximates a unit district), a measure which dissolved Lovington Community Unit School District 303 and annexed it into Arthur Community Unit School District 305, and a proposition to annex Neponset Community Consolidated School District 307 into Kewanee Community Unit School District 229.<sup>67</sup> The two ballot initiatives that did not pass were those for the consolidation of A-C Central Community Unit School District 262 with Virginia Community Unit School District 64 and another for the dissolution of East Alton-Wood River Community High School District 14, East Alton School District 13, and Wood River-Hartford Elementary School District 15 and the formation of a new community unit school district comprising the former school districts' territories.<sup>68</sup>

If methods exist for citizens to consolidate their school districts and financial incentives are in place to make such a route more attractive than it may be on a level playing field, then why do so many districts still exist? The simple answer is that people want them. They sense a need for the existence of these school districts, and hence are not ready to embrace the supposed brilliant ideas of some bureaucrats from Chicago.

Such ideas do not, however, represent an anomaly; to the contrary, the current push towards school district consolidation almost seems to mirror the argument and debate that took place in the first part of the twentieth century as one-room schoolhouses began to fall into disfavor in an age of age-graded schools and universal high school education.<sup>69</sup> Initially, many rural residents resisted the closures of their local schools.<sup>70</sup> In short, only a limited education was required for most rural residents who would, ultimately, only end up becoming farmers or homemakers.<sup>71</sup> Plus, the one-room schoolhouse provided much flexibility that age-graded schools

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66. SCHOOL DISTRICT REORGANIZATIONS, *supra* note 18.

67. ILL. STATE BD. OF EDUC., ILLINOIS SCHOOL REFERENDA RESULTS—2011 CONSOLIDATED ELECTION (2011), available at [http://www.isbe.state.il.us/research/pdfs/referenda\\_2011.pdf](http://www.isbe.state.il.us/research/pdfs/referenda_2011.pdf).

68. *Id.*

69. Fischel, *supra* note 4, at 182-85.

70. *Id.* at 193, 196.

71. *Id.* at 180.

lacked.<sup>72</sup> In most cases, students could take a hiatus from their studies to work on their family farm and just resume where they left off when they returned.<sup>73</sup> Also, not among the least important reasons for the preservation of the one-room schoolhouses was the fact that they were generally close to the homes of the students at a time when automobiles and all-weather roads were nonexistent and transportation was, at best, an arduous and time-consuming ordeal.<sup>74</sup>

Given that one-room schoolhouses are now nowhere to be found, one may ask what changed? Did the state eventually just step in and say that every district had to consolidate and form an age-graded school encompassing a wider territory? No, it did not. Instead, times changed, needs changed, and attitudes changed. As the American nation transitioned into an industrial power during the early part of the twentieth century, its population became increasingly urbanized and less agrarian.<sup>75</sup> High school educations became not just luxuries afforded to the few, but necessities for all students.<sup>76</sup> The system of one-room schoolhouses, unfortunately, did not produce easily articulable results and uniform educations that would enable incoming high school students to meld together with one another and seamlessly transition into these secondary educational systems.<sup>77</sup>

Meanwhile, automobiles began to proliferate across the countryside, and with them came the advent of all-weather roads.<sup>78</sup> This change gave rise to the now-iconic school bus as it did away with the necessity of walking to school. Because of this modern convenience, schools no longer had to be as closely located to the homes of students in order to allow students the time in the day and physical ability to reach their classes.

These two changes—one in the educational requirements for daily life and the other in the availability of reliable transportation to carry students greater distances—altered the economic balance that had previously supported the continued existence of one-room schools. People who wished to keep their kids competitive for the industrial jobs of the future knew that those children would need a high school education to compete effectively with the urban dwellers who possessed such an education.<sup>79</sup> As a precursor of attaining a high school education, though, students would need a firm foundation in the grammar schools, one that, although possible in a one-room school, was at least far less uniform and far harder to

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72. *Id.* at 182.

73. *Id.*

74. *Id.* at 187.

75. *Id.* at 180.

76. *Id.* at 188-90.

77. *Id.*

78. *Id.* at 181.

79. *Id.* at 188.

produce on a mass scale.<sup>80</sup> After all, teachers in such a setting could only devote a few minutes of instruction to each subject area for each grade level taught, for the ultimate constraint was one of time.<sup>81</sup> With more students in a central location, though, an entire class could be taught the same material simultaneously.

Time was also a limiting factor when children did not have automobile transportation. They could go as far as their little feet would allow in a given time. After the automobile—and school bus—became commonplace, though, what may have been a multiple-hour walk was transformed into a ride of just minutes.<sup>82</sup> One school facility, therefore, could feasibly serve a broad territory.

The ultimate result of these economic changes was a shift in public support. Voters became willing to forgo a one-room school within a mile or two of their residences in exchange for a higher quality education a greater distance away.<sup>83</sup> In essence, they made a rational consumer choice. That choice resulted not from the use of force, threats, and coercion on the part of political leaders, but instead emanated from a changed payoff matrix that was derived from changing life circumstances.

What is even more notable is that, when politicians did try to mandate consolidation of the one-room schools, the proposals died and went nowhere.<sup>84</sup> The choices and desires of the general public proved to be essential for the successful creation of the school districts that we have today both in Illinois and elsewhere.<sup>85</sup> Likewise, when legislators in the mid-1980s passed a sweeping school consolidation bill that would have substantially altered the current school district structure, the public backlash was so great that the law had to be repealed before it ever went into effect.<sup>86</sup> Illinois political leaders, in essence, forgot to take into account the will of the people they govern. They just assumed that citizens would see the supposed wisdom of their plan and accept it as though it were crafted by God's own hand and brought down from some sacred mountain by these politicians. The masses, though, did not stand in awe, and the legislative decree was relegated to the dustbin of history.<sup>87</sup>

The parallels to the current debate are striking. For two and a half decades, Illinois politicians have been touting the benefits of consolidation. Despite these efforts, resistance remains to the mandatory consolidation

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80. *Id.* at 188-90.

81. *Id.* at 184-85.

82. *Id.* at 181.

83. *Id.* at 187.

84. *Id.* at 190.

85. *Id.* at 199.

86. O'Connor, *supra* note 2.

87. *Id.*



proposals that are on the table today.<sup>88</sup> Without recognizing the needs of individual communities and the desires of the citizens who reside therein, any push for mandatory school district consolidation will likely fail just as the plan that was nearly implemented in 1985 did for one simple reason: the people in the affected districts do not want their local school district abolished. Perhaps this notion emanates from the American tradition that a government's moral legitimacy comes from the very consent of the governed, but what can be said for sure is that success of any consolidation attempt will hinge upon getting affected residents on board and not with shoving some one-size-fits-all proposal down the throats of people across the state.

Some of the more recent proposals have recognized the importance of public support to a greater degree than the Governor did when he originally floated his proposal. The bill put forward by Senator Schoenberg, for instance, would require that the Illinois State Board of Education conduct hearings within any school districts targeted for consolidation.<sup>89</sup> While such a mechanism does not ensure that the ideas or concerns of citizens will be adequately addressed, it does, at least, pay lip service to the notion that the thoughts and concerns of school district residents are important. Plus, the meetings may act as an alert mechanism to citizens who oppose the measure and enable them to contact their legislators in an attempt to block the consolidation since legislators would have the power to block any recommended consolidations.

Similarly, Representative Chapa LaVia's bill has a similar benefit, for it only calls for the creation of a commission to study school consolidation.<sup>90</sup> Hence, it is not, at this stage, a mandatory school district consolidation plan. Instead, any findings that the commission makes are just advisory in nature and may help guide future policies enacted by the General Assembly and Governor. Any later actions that result from these recommendations should, as this paper argues, be informed by the input of citizens in affected school districts and seek to gain their support.

On the other hand, a system that is decidedly in step with voter and citizen sentiments is the current one. Under current law, school district consolidations may only take place when approved by a majority of the voters in each of the affected districts.<sup>91</sup> Thus, if voters in any school district that would become a part of the new district fail to approve the

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88. See, e.g., *Few Back Quinn's Consolidation Push*, JACKSONVILLE JOURNAL-COURIER (April 4, 2011), available at <http://www.myjournalcourier.com/news/school-32478-local-consolidation.html>.

89. S.B. 1324, 97th Gen. Assemb. (Ill. 2011).

90. H.B. 1216, 97th Gen. Assemb. (Ill. 2011).

91. 105 ILL. COMP. STAT. 5/11E-25 (2010); BRAUN, *supra* note 12, at 75.

consolidation proposal by a majority vote, the proposition fails.<sup>92</sup> The exception would be in the very rare situation calling purely for the dissolution of a school district. In that case, a majority of the voters in the dissolving district or the board of education of that district may petition the regional board of school trustees to eliminate the district.<sup>93</sup> The regional board of school trustees, then, would have the ultimate power to do away with that district and annex its territory, in whole or in part to one or more neighboring districts.<sup>94</sup> In either event, though, the changes result not from the edicts of faraway legislators and bureaucrats but from the expressed will of local residents who know and understand their school districts better than anyone else could ever hope or dream of doing.

## V. PROPOSED RESOLUTION

So far, this paper has basically detailed the fact that larger school districts are unlikely to reduce costs or improve the quality of academic education in Illinois schools. Additionally, it demonstrated by way of an analysis of historical successes and failures that any proposals to change school districts ultimately need the support of the residents of the affected districts in order to have any chance of succeeding.

The first question one must ask is: what problem must be addressed? If a person wishes to argue that too many school districts exist and that the state needs to remedy that problem, a rational being would ask: why is the number of school districts a problem? If the issues stem from some sort of fiscal inefficiencies or even from academic concerns, those analyses and any actions to remedy those problems should originate with the very individuals on whom the burden of the inefficiencies or questionable academic standards would fall—the local residents of the school districts in question. They are in the best position to observe and weigh the advantages and disadvantages of the continued existence of their local districts, and they are the people who end up having to pay excessive monetary expenditures via their local property taxes.

In those instances where local residents do feel that their current school district should be consolidated or just outright dissolved, the law already provides an available mechanism for doing so. As evidenced by just this April's election cycle, three consolidation proposals passed in instances where residents saw a need for consolidation.<sup>95</sup> Plus, the state's current monetary incentives to entice school districts to consolidate provide

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92. BRAUN, *supra* note 12, at 75.

93. *Id.* at 77; 105 ILL. COMP. STAT. 5/7-2a (2010).

94. *Id.*

95. ILLINOIS SCHOOL REFERENDA RESULTS, *supra* note 67.

a financial carrot to entice otherwise-reluctant citizens to embrace consolidation. Likewise, this same provision of money for newly consolidated districts serves to make consolidation efficient in cases where it otherwise would not be due to increased busing costs and bringing all employees over to the most generous salary schedule that was available from among the old districts.

Although nearly perfect, one way in which the state could possibly improve current law involving school district consolidation would be to allow the newly formed district—possibly with the approval of the regional board of school trustees—to effectively void any contracts that exist with certified staff from the previously existing school districts. This approach would likely create a further monetary incentive for districts to consolidate without the need for the state to shell out even more money since the new district would be able to negotiate a completely new collective bargaining agreement with its certified staff and it would not be beholden to paying administrators who have contracts with the defunct districts.

The downside, of course, is that any move to not require the new districts to assume all of the assets and liabilities—such as teaching contracts—of the defunct school districts risks creating a new lobby that will oppose school consolidation measures—the teachers. Presently, their positions are usually safe in any school consolidation, and many even benefit as all of the new district's employees are brought under the collective bargaining agreement from the now-nonexistent school district which had the most generous terms for its employees.

On the other hand, if the state is purely concerned about the amount of money spent on administrators in school districts, it needs to evaluate its law—but not law that is associated with school consolidations. Instead, it should begin looking at the amount of paperwork required of school districts as well as the often-confusing reports and forms required of individual districts across the state. Too often, administrators are required to submit reports and forms that can exceed fifty pages and be confusing to even the most adept individuals. What the state needs to recognize is that forms and paperwork should be simple and understandable. Every minute an administrator spends filling out papers is a minute that he or she will not be able to spend tending to the actual needs of students. Additionally, the more paperwork that exists, the more money must be spent by school districts—and local taxpayers—to comply with the process since administrator time is the limited resource. In many situations, schools are operated inefficiently not because of their size but because of these burdensome mandates.

As an example, schools are required to submit technology plans to the State of Illinois in order to qualify for federal E-Rate funds. These technology plans can stretch to seventy or eighty pages, yet they tend to still

not give a comprehensive picture of the school's technology infrastructure. In fact, they give only marginal amounts of useful information, and even this little amount of information is rendered nearly incomprehensible by the form of the report itself. Even worse, many administrators and support staff personnel spend countless hours each year trying to prepare these reports, and many of those same people find themselves having to attend workshops to learn how to fill out the report in a way that satisfies the fine folks at the Illinois State Board of Education.

Unfortunately, the technology plans are not the exception; to the contrary, in a world with school improvement plans, seemingly endless mandates, and an ever-growing reliance on grant funds, large and confusing amounts of paperwork that requires the attention of administrators and support staff personnel have become the rule. Whereas positions such as grant writer and administrative assistant were unheard of just a few decades ago, they have become commonplace in many school districts today.

A great example of the true source of the problem relating to administrative overhead can be seen by returning to Patoka Community Unit School District 100, the same district profiled by the Associated Press in its piece on small schools published a decade ago. It is a small, rural school district in southern Illinois, having approximately 300 students from kindergarten to twelfth grade.<sup>96</sup> Its single building located along U.S. Highway 51 houses all three of the district's legally recognized schools—Patoka Elementary School, Patoka Junior High School, and Patoka Senior High School.<sup>97</sup> If one were to visit that district today, they would find the office staffed by a superintendent, a principal, a secretary, a treasurer, and a bookkeeper.<sup>98</sup> Such a level of staffing is what would be considered typical for a district its size and is by no means atypical.

Yet if the same person were to hop into a DeLorean and travel back just four decades, he or she would walk into the same school in the same location.<sup>99</sup> It would be serving identical numbers of students who differ from the present generation only in terms of hairstyles and dress.<sup>100</sup> What would be different, though, would be what that person would encounter when he or she walked into the office. The district was run by a single

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96. *Patoka CUSD 100: District Profile*, ILLINOIS INTERACTIVE REPORT CARD, [http://iirc.niu.edu/District.aspx?source=District\\_Profile&districtID=13058100026&level=D](http://iirc.niu.edu/District.aspx?source=District_Profile&districtID=13058100026&level=D) (last visited Apr. 5, 2012).

97. Interview with Deloris Edwards, Bookkeeper (Now-Retired), Patoka Community Unit School District 100, in Patoka, Ill. (Apr. 15, 2011).

98. *Id.*

99. Interview with Ann Veal, Secretary (Retired), Patoka Community Unit School District 100, in Patoka, Ill. (Apr. 15, 2011).

100. *Id.*

individual who served as both superintendent and principal.<sup>101</sup> In fact, that administrator even had time to teach fifth hour science right after lunch before he would go back downstairs and make the daily trip to the bank with the school's deposit.<sup>102</sup> (Talk about getting bang for your buck!) Neither did this position have to be supported with outlandish numbers of support staff personnel. Instead of the three individuals who fill the roles of secretary, bookkeeper, and treasurer today, the office was manned by just a single secretary.<sup>103</sup>

What is different today—and why the administrative structure has changed so drastically when all else has remained relatively stagnant—is the amount of mindless paperwork and other responsibilities imposed by the state upon school districts. Sadly, these mandates do little to improve the quality of education experienced by students. Instead, they simply divert resources away from both the pocketbooks of taxpayers and children in classrooms, with the only benefit going to the legions of bureaucrats in Springfield who use the ever-growing bureaucratic mandates as the foundations for their careers as public servants. If politicians in Springfield are truly concerned about administrative expenses in school districts, they should begin asking themselves what they can do to alleviate some of this burden on local districts and quit wasting their time attempting to force the consolidation of school districts across the state.

## VI. CONCLUSION

Governor Quinn reignited the perennial debate regarding school district consolidation in Illinois via two simple lines in his budget address. However, mandatory school district mergers, as touted by the Governor, would do nothing to alleviate the state's current budget crisis. Instead, history has shown that cost savings in newly consolidated school districts are typically nonexistent, and administrative expenses would be similarly unlikely to decrease. Plus, no additional justification for school district consolidation can be found on the basis of improved academic performance, for historical data simply does not show any advantage of larger school districts.

If the state is serious about tackling any perceived problem with the amount of money spent on administrative overhead in Illinois schools, it need not engage in a fruitless debate about district consolidation and should instead look at the paperwork and reports required of schools as either a part of the school's everyday business or in conjunction with grants that the

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101. *Id.*

102. *Id.*

103. *Id.*

school seeks to receive. As far as district consolidation goes, the local residents know best what will work for them, and they are the ultimate beneficiaries or losers in whatever scheme they choose. To argue that a Chicago politician who has never set foot in a school district that is targeted for consolidation somehow knows better than the residents of that district as far as what is good or bad is directly contrary to logic and reality.