The Political Boundaries of School Choice and Privatization in Ohio

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Abstract

We analyze the votes taken in the Ohio State Legislature pertaining to the establishment of six school voucher programs: The Ohio Scholarship and Tutoring Program, The Autism Scholarship, The Jon Peterson Special Needs Scholarship, The Educational Choice Pilot Scholarship, The Educational Choice Scholarship, and the Income-based Scholarship Program. We attempt to estimate a legislative voting model on the passage of school voucher programs through the Ohio state legislature. As predicted, the legislator was more likely to vote in favor of a voucher proposal if the district had greater household income and he/she was a Republican. Democratic legislators, who generally represent more minority districts and poorer households, were much more likely than Republican legislators to vote against the voucher programs. In light of clear attempts to limit plaintiff access to the courts, public school advocates should consider a political approach to gaining a more favorable method for funding its public schools.

Keywords: school vouchers, legislature, school finance, scholarship programs

Introduction

Even though Ohio residents are annually asked to fund schools in partnership with state dollars, multiple state Supreme Court rulings in *DeRolph* and article VI § II of the Ohio Constitution (DeRolph, 1997) have confirmed the legislature's responsibility for securing a thorough and efficient system of common schools. There is ambiguity surrounding the "thorough and efficient" clause. When referencing the terms to the period in which the constitution was written; the definition is a perfect and efficient system of education offered throughout the state, of common schools. The term, common schools, implies equality. The constitution also states, no law shall be passed that prohibits the poor. A common school system would provide the same education to all children regardless of who pays the revenue. Ohio's public schools are funded with a combination of revenue from the state and local property tax. This leads to disparities in funding in affluent districts, where high property values lead to greater funding than in urban and rural districts with lesser property values. There also are issues with voter fatigue and a local community's value system associated with taxation. Reliance on local property tax requires levy passage. Ohio law also requires levies to have renewal votes

(Ohio Rev. Code §§ 5705.212). The voters are continually being asked to vote on levies; some are new levies and some are renewals. It is a delicate art to inform voters and prevent fatigue. This challenge then is exasperated when a community has a value of little taxation or on non-public education. There are many high wealth communities that will vote down consecutive levies on the ballot due to ideology.

However, since 1997 state lawmakers have ignored several state Supreme Court rulings reaffirming their charge, and it appears plaintiffs have exhausted all litigation options available to date. After the first *DeRolph* ruling some legislators proposed the removal of the "thorough and efficient" clause from the state Constitution to eliminate potential school finance litigation; the Chair of the Education, Public Institutions, & Miscellaneous and Local Government Committee of the Ohio Constitutional Modernization Commission proposed a similar change to state law (Rowland, 2014). The General Assembly would only be required to provide for the organization, assembly, and control of the public school system in the state supported by public funds. Without this standard, public accountability for school funding is reduced.

On the other hand, Ohio state lawmakers have endorsed school choice and privatization that re-shapes education into a commodity influenced by demand in a competitive framework. Given little or no substantive public school reform through litigation, the best way to influence funding policy in Ohio may be to change those holding public office, namely the state lawmakers, the Governor, and the Supreme Court judges they appoint.

All school choice and privatization efforts take funds away from local school districts. While the voters have had no opportunities to weigh in on the privatization campaign their money has gone to fund these entities. While school districts are strapped with the burden and expense of running a levy campaign the accumulated monies from the passage either go directly to these entities or they are supplanted into the budget due to state monies not being provided to the district. One could easily argue that voters have not been given the ability to decide how their taxes should be used regarding education and those voters that are passing levies have not given the true commitment of the levy on the ballot. Voters are deciding on the campaign ran by the local school district, they have not been told how much of their tax monies would then be syphoned away to chartered schools and vouchers.

Accordingly, this paper seeks to design a legislative voting model on the passage of school choice reforms since 1995, as a function of average household incomes and the assessed value per pupil of the regions they represent. We hypothesize that lawmakers representing poorer districts with lower household incomes are less likely to support school choice and privatization policies. The purpose of this paper is to identify the degree to which levels of poverty and household income influence votes taken by members of the Ohio House of Representative and Senate on several voucher programs.

Voting Political Ideology and School Vouchers

Some of the early examination of legislative voting as a function of political ideology has yielded mixed result. Forty years ago Kalt and Zupan (1984) revealed that political ideology largely influenced votes cast by United States Senators on legislation pertaining to strip mining the act of leveling forests from mountaintops, using explosives to flatten remaining brush, and then using earth moving equipment to remove layers of

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the earth covering the minerals sought.   Twenty-four years later, the administration of Republican President George W. Bush adopted a rule that authorized mountain top removal mining; conversely, a year later newly elected President Barack Obama eliminated the rule. In March of 2014, the Republican controlled House of Representatives passed the Preventing Government Waste and Protecting Coal Mining Jobs in America Act (H.R. 2824) to reinstate the Bush rule established in 2008.

Sam Peltzman examined congressional votes taken in the twentieth century and argued because legislators are motivated by a veracity for self-preservation, the district economic interests of their constituency will largely influence their voting patterns. Since 1947 Americans for Democratic Action (ADA) has examined voting patterns of the United States Congress. As a progressive organization, it measured the percentage of a legislator's votes consistent with the position taken by ADA on significant issues (Peltzman, 1984). Consistent with Peltzman's theory, in his examination of political support for voucher expansion, Kenny (2010) discovered that most voucher-friendly legislation was enacted in states where Republicans held both the House and Senate chambers of their respective state legislatures. More specifically, Republican lawmakers were in the majority when at least one legislative chamber adopted a voucher law; Republicans were also in control of state houses in nearly each instance where the entire legislature supported pro-voucher statutes (Kenny, 2010). Republican legislators were more likely to support school voucher legislation.

Researchers have also examined the effects of campaign contributions, race, and shifts in political power on voucher legislation. According to Gokcekus, Phillips, and Tower's (2004) examination of Congressional voting patterns, support for voucher legislation was not a function of campaign contributions but there was a connection between vouchers, voting, and party affiliation. However, they also reported that greater percentages of African American voters within a Congressman's district increased the probability of a lawmakers' support of school choice legislation (Gokcekus, Phillips, & Tower, 2004). Author and King found the largest shift in political power during the 2010 midterm election, resulting in Republican control of both state houses and the governorship, served as a catalyst for the largest voucher expansion efforts in the history of American public education (2013).

Ohio's School Choice Legislation

Adopted in 2011, the initial version of the Jon Peterson Special Needs Scholarship provided Ohio's 14,000 students with disabilities the option of attending an alternative public school or a registered private school. Vouchers can also be used for services at private therapists and other service providers. During the 2013-14 school year approximately 2,204 students who participated received vouchers with an average value of $8,543 (Ohio Rev. Code §§ 3301-101-01-13).

The Autism Scholarship Program, established in 2003, provides voucher for students, ages three to 21, diagnosed with an autism spectrum disorder and enrolled in the state's public schools. After students receive the educational services, parents or guardians apply to the state for reimbursement. In 2013-2014, the program served approximately 2,496 students with vouchers averaging $19,103 (Ohio Rev. Code §§ 3310.41-43.)

It is important to note that both the Peterson and Autism Scholarships require the district of residence to develop the IEP for the child addressing the requirements of a free and appropriate public education (FAPE); however once the individual accepts the scholarships the district is not obligated to meet FAPE while the child is receiving funds (Ohio Admin. Code §§ 3301-103-04 A(7) Ohio Admin. Code §§ 3301-103-04 A(8)). This has proven to be problematic for families when they feel there is an issue with the terms of the IEP not being met by the providers. There is some level of due process for grievances but the privatization of IDEA through a vouchered mechanism presents considerable problems for families and could be detrimental if families do not have the knowledge and ability to self-advocate.

The Cleveland Scholarship and Tutoring Program originally enabled students in grades K–8 to attend participating public or private schools of their guardian's choice. Under the law, preference is granted for families with incomes less than 200 percent of the federal poverty level ($47,100 for a family of four in 2013-14). Children from families with incomes above 200 percent of poverty are eligible to participate in the program if approved by the Ohio Superintendent of Public Instruction. Changes to the program in 2011, sponsored by Republican lawmakers, expanded voucher access to include high-school students. In 2013-14, the voucher amount was capped at $4250 and $5700, respectively, for grades k-8 and 9-12 (Ohio Revised Code, § 3313.974-3313.979).

The Ohio EdChoice Scholarship Program (OESP) provides vouchers for students enrolled in public schools "under Academic Watch" for two of the previous three years. Students are also eligible for the vouchers if they are either enrolled or eligible to be enrolled in public schools that (a) received performance index scores from the state in the lowest 10th percentile for two of the most recent three rankings and (b) were also not declared to be "excellent" or "effective" in the most recent state ranking. Expected in 2016-17 eligibility will be extended to students in grades K-3 enrolled in public schools receiving a grade of "D" or "F" in literacy on two of the three most recent state report cards (Ohio Revised Code, § 3310.01-3310.17).

Ohio's newest voucher program, the Income-based Scholarship Program serves first-time children enrolled in kindergarten from families with incomes (1) no more than 200 percent of the federal poverty level ($47,100 for a family of four in 2013-14) for a maximum voucher, (2) above 200 percent but no more than 300 percent of the federal poverty level ($70,650 for a family of four in 2013-14) for a voucher worth $3,187.50, or (3) above 300 percent but no more than 400 percent of the federal poverty level ($94,200 for a family of four in 2013-14) for a voucher worth $2,125. After the initial receipt of a voucher, students remain eligible in future years unless their family income exceeds 400 percent of the federal poverty level. Students from low-income families who do not qualify for the EdChoice Scholarship Program are also eligible for participation (Ohio Rev. Code § 33110.032). Residence school performance is not required for eligibility.

Methodology

Voting Model

In the context of estimating the voting model, the dependent variable is binary, symbolizing whether or not an Ohio lawmaker opposed or supported the voucher

legislation. A vote in favor of the voucher law; the dependent variable in each model equals 1 if the legislator voted for any other of the voucher bills. The dependent variable used in all models was binary. Hence, the probit estimation technique was applied. The Probit Model Equation is shown below (Elliott & Timmermann, 2013, p. 1029).

$$P = pr\ [y = 1\ [x] = F\ (X\beta)\ \{functional\ form\}$$

An increase in X increases/decreases the likelihood that y=1 (makes the outcome more/less likely, in other words, an increase in X makes the outcome of 1 more/less likely. We interpret the sign of the coefficient but not the magnitude as the magnitude cannot be interpreted using the coefficient because different models have different scale coefficients. It is common to report marginal effects after reporting the coefficients, the marginal effects reflect the change in the probability of y=1 given a 1 unit change in the independent variable x.

There were 132 Ohio legislators who voted on each school voucher bill. A limitation of the study was the changes in sample as legislators were voted in and out of office; therefore, the 99 Republicans in 2011 were not necessarily the same individuals who voted in 2003. These votes are generally examined as a function of the lawmaker's economic, ethnic, and political make-up of their constituency. This analysis utilized two dependent variables applied to six models, which represents votes cast by the 132 members of the Ohio legislature; 33 in the Senate and 99 in the House of Representatives. The first model explains the votes cast in 2011 on the passage of the Jon Peterson Scholarship. The dependent variable PASSPETE equals 1 if the legislator voted for the law; REJECTPETE equals 0 if the legislator voted against the law. The second model explains the votes cast in 2003 on the passage of the Autism Scholarship Program. The dependent variable PASSAUTISM equals 1 if the legislator voted for the law REJECTAUTISM equals 0 if the legislator voted against the law. The third model explains the votes cast in 2005 on the passage of the EdChoice Scholarship Program. The dependent variable PASSEDCHOICE equals 1 if the legislator voted for the law REJECTEDCHOICE equals 0 if the legislator voted against the law. The fourth model explains the votes cast in 2013 on the passage of the Income-based Scholarship Program. The dependent variable PASSEDINCOME equals 1 if the legislator voted for the law, REJECTEDINCOME equals 0 if the legislator voted against the law. The fifth model explains the votes cast in 1995 on the passage of the Cleveland Scholarship and Tutoring Program. The dependent variable PASSEDCLEVELAND equals 1 if the legislator voted for the law REJECTEDCLEVELAND equals 0 if the legislator voted against the law.

Framework for Findings

Between the first vote on the Cleveland Scholarship Tutoring Program in 1995 and the Income-based Scholarship in 2013, 63 out of 123, (5 Senate, 58 House) legislative seats changed political party. CHANGE DEMOCRAT equals 1 if the district was represented by a Republican across the respective voting years, equals -1 if the district was represented by a Democrat during the respective voting year, and equals 0 if there was no change in the party in the district.

Results from the Probit Models

Table 1 presents the estimated marginal effects from the probit model that examine the legislature's passage of each voucher proposal. There are strong predictions for each of the variables: Household Income of the District and Percent of District Living in Poverty. Both the mean of household income and poverty rate are included in Table 1.

Table 1
Factors influencing Ohio Lawmaker Vote for Voucher Proposals

Outcome variable = vote for Voucher Proposal

Variable	Marginal Effects Estimates (z stat)
Mean Income	.-000057
Poverty Region	.-000029

The mean income has the predicted negative coefficient and is highly significant in the five probits in which it is utilized. A one standard deviation fall in Household Income leads to a 0.23 to 0.57 rise in the probability of voting against a voucher proposal. The coefficients are significant at the 5 percent level (with a one tailed test) in the first probit and at the 8 percent level in the second probit. A one standard deviation rise in the percent of the population living in poverty was associated with a 0.12-0.29 increase in the probability of Ohio legislators voting for one of the voucher programs. The prediction that richer legislative districts favored voucher programs is supported by these results. In all five probits, Republican legislators were as expected, much more likely than Democratic legislators to support Ohio Voucher Programs. The probability of supporting the voucher bills was 0.89 to 0.97 higher for Republicans than for Democrats. Democratic lawmakers were more likely to oppose vouches laws than were Republican legislators.

Conclusion

Politics remains a central factor in Education Policy, especially in the aftermath of redistricting and a more polarized electorate in the past 25 years. We attempted to add to the dearth of literature by analyzing five votes taken on school voucher proposals by Ohio legislators from 1995 to 2013. The first vote in 1995 on the Cleveland Scholarship and Tutoring Program resulted in a party line vote for Republican lawmakers while 42 democrats crossed over and voted in favor of the voucher program; while the vote on the Autism Scholarship in 2003 yielded no cross-over votes. The roll-call vote for the Jon Peterson Scholarship in 2011 yielded one crossover vote whereby a Republican Senator representing district 29 voted against the program. Voting on the Educational Choice Scholarship Program in 2005 resulted in five cross-over votes whereby one Republican lawmaker voted against the program, and nine Democratic lawmakers voted in favor this

program. More recently in 2013, three Democratic lawmakers and one Republican voted against the party-line concerning the Income-based Scholarship Program.

The first vote in 1995 could also be considered a different type of vote since the scale of the program was much smaller than the others as it was within a city and not the entire state. It was a pilot. The concept was essentially at an experimental state. Two decades later we have more data to exam the effects of the voucher programs and the unintended consequences. Furthermore, it is unrealistic to assume that all legislators have a firm grasp on education funding and the benefits and consequences of reform efforts. This is where idealism and reality can have compounding problems. For example, vouchers do offer choice but is it a fiscally conservative model? Is this the most efficient use of taxpayer monies?

A troubling limitation of this study and on a general policy making level was that the majority of voucher legislation was embedded within budget bills. It is challenging as researchers and taxpayers to determine where legislators stand on the voucher reform efforts as there is little legislation directly identifying school vouchers without being entangled with other policy decisions. The only stand-alone voucher legislation was the Cleveland Scholarship and Tutoring Program, which resulted in the largest number of crossover votes. The rest of the voucher legislation was embedded within budget bills making political support by party lines difficult to determine. Because legislators voted on a package and not stand-alone voucher legislation, results must be interpreted with caution and used as initial exploration into this phenomenon. Further research is needed. The authors also believe legislation without entanglement would also be best practice for a more transparent governmental process.

Scholars have attempted to explain how education driven and shaped by political interest results in public schools incapable of demonstrating improved and sustained learning for the children they serve. In addition, they embraced the emancipation of public schools from political influence by establishing a choice system placing power in the hands of parents who would incentivize schools to improve student outcomes (Chubb & Moe, 1997). Suburban communities have a history of fighting back against education reforms that threaten their existence and quality of life. Efforts to integrate public schools were stymied by Presidential politics in 1972 and *Milliken v. Bradley* (1974) because it would impact suburban learning communities. This same phenomena disturbed school finance reform in *San Antonio v. Rodriguez* (1973) as it threatened Texas suburb's interest similarly; all in the name of local control symbolizing and reserving the ability of suburban schools to retain enrollment in their schools for their neighborhood children. Geographic constraints [urban/suburban] impact other reforms like school choice, charter schools, and voucher programs as legislation for these reforms, more times than not, limits enrollment to children residing in the communities where the charter schools are located (Ohio Revised Code § 3314.02 (C)(1). The results of this analysis implies that, at least in Ohio, the suburbs remain immune and shielded from the application of significant public school reforms and large urban areas remain laboratories for experimentation and private sector business opportunities.

References

Chubb, J. E. & Moe, T. (1997). *Politics, markets, and America's schools*. Washington, DC: Brookings Institution Press.

DeRolph v. State, 78 Ohio St.3d 193, 677 N.E.2d 733 (1997).

Elliott, G., & Timmermann, A. (2013). *Handbook of economic forecasting. Volume 2. Part 2*. Amsterdam, The Netherlands: Elsevier.

Gokcekus, O., Phillips, J. J., & Tower, E. (2004). Social choice: Money, race, and congressional voting on vouchers. *Public Choice* 119 (1-2), 241-254.

Kalt, J. P., & Zupan, M. (1984). Capture and ideology in the economic theory of politics. *American Economic Review*, 74 (3), 279-300.

Kenny, L. W. (2010). The appeal of vouchers for failing large city school districts: Voting in congress on two very different voucher proposals. *Journal of School Choice*. 4, 5-22.

Milliken v. Bradley, 418 U.S. 717 (1974).

Ohio Admin. Code §§ 3301-103-04 A(7)

Ohio Admin. Code §§ 3301-103-04 A(8)

Ohio Rev. Code §§ 3301-101-01-13.

Ohio Rev. Code §§ 3310.41-43.

Ohio Revised Code, § 3313.974-3313.979.

Ohio Revised Code, § 3310.01-3310.17.

Ohio Rev. Code § 33110.032

Ohio Revised Code § 3314.02 (C)(1)

Ohio Rev. Code §§ 5705.212

Peltzman. S. (1984). Constituent interest and congressional voting. *Journal of Law and Economics*. 27, 181-210.

Preventing Government Waste and Protecting Coal Mining Jobs in America, H.R. 2824, 113th Cong. (2014).

Rowland, D. (2014). Committee Pushes to Remove Educational Standard from the Constitution." *Columbus Dispatch*, April 12, 2014. Retrieved from http://www.dispatch.com/content/stories/local/2014/04/10/committee-wants-to-remove-ohio-constitution-phrase.html

San Antonio v. Rodriguez, 411 U.S. 1 (1973).

Sutton, L. C. & King, R.A. (2013). Financial crisis not wasted: Shift in state power and voucher expansion. *Journal of Education Finance*. 38 (4), 283-303.