

## **BILL ANALYSIS**

C.S.H.B. 3459  
By: Pitts  
Appropriations  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Due to the current budget shortfall, state agencies and institutions of higher education were asked to prioritize spending based on core functions and essential services. The committee looked to these priorities in preparation of the budget; however, certain statutory changes are also needed to conform with appropriations levels in the 2004-05 General Appropriations Act. Committee Substitute House Bill 3459 authorizes these statutory changes for the education agencies listed under Article III of the 2004-05 General Appropriations Act.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Higher Education in SECTION 16 (Section 42.2532, Education Code) of this substitute.

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Education in SECTION 16 (Section 42.2532, Education Code) of this substitute.

### **ANALYSIS**

Committee Substitute House Bill 3459 allows the compliance monitoring of school districts by the Texas Education Agency but limits agency monitoring to what is necessary to ensure compliance with federal law, financial accountability, data integrity for purposes of the Public Education Information Management System, and federal and state laws and regulations relating to special education. This substitute also makes the board of trustees of a school district or the governing body of an open-enrollment charter school responsible for that district or charter school's compliance with requirements of state educational programs. This substitute also provides for the continued evaluation of bilingual education programs based on data collection and state assessments.

Committee Substitute House Bill 3459 makes the maintenance of core services by regional education service centers for purchase by school districts and campuses permissive rather than mandatory.

Committee Substitute House Bill 3459 amends the Education Code by deleting references to a technology allotment with regards to the amount of the available school fund set aside for the state textbook fund. This substitute also creates a technology allotment of \$30 per student in average daily attendance or a different amount provided by appropriation that may be used only to purchase electronic textbooks or technological equipment or to pay for personnel training related to the use of technological equipment. The allotment may be paid from the Telecommunications Infrastructure Fund, the Available School Fund, or any other fund that may be used for that purpose and is identified in the Appropriations Act as the source of funding for the allotment.

Committee Substitute House Bill 3459 allows the Commissioner of Education to reduce the additional percentage of attendance for which a school district may requisition textbooks and authorizes the Commissioner to increase the percentage for districts or schools experiencing high growth.

Committee Substitute House Bill 3459 changes the release of the assessment instrument question and answer keys from every year to every other year. This substitute also requires that the cost of preparing, administering, or grading the assessment instruments be paid from foundation school fund allotments.

Committee Substitute House Bill 3459 allows the legislature to change the equalized wealth level for purposes of Chapter 41 of the Education Code by appropriation.

Committee Substitute House Bill 3459 allows the basic allotment per student in the foundation school program to be made either greater or lesser by appropriation.

Committee Substitute House Bill 3459 removes the minimum amounts required to be withheld from the compensatory education allotment for certain programs. This substitute also changes the amount that may be withheld to fund extended-year programs from the amount sufficient to fund to an amount not to exceed five percent of the total amount appropriated for the compensatory education allotment. This substitute also authorizes the legislature to reduce the total amount of funding for the compensatory education allotment in the General Appropriations Act and provides the commissioner with a method for distributing the reduction amongst school districts.

Committee Substitute House Bill 3459 reduces the career and technology weight used to calculate the weighted average daily attendance (WADA) in the foundation school program from 1.37 to 1.35.

Committee Substitute House Bill 3459 requires the Commissioner of Education to reduce payments to school districts under the foundation school program to amounts earned by the district based on actual property values.

Committee Substitute House Bill 3459 allows the Commissioner of Education to reduce a district's tier one allotments for the cost of a course that (1) a student is repeating because the student failed to meet the minimum course attendance requirements (with certain listed exceptions), (2) a student is repeating after having previously received credit, or (3) is a developmental course or program in English or math at a public institution of higher education that a student who graduated from high school in the preceding two years is required to take. This substitute also provides that (1) and (2) do not apply to a student enrolled in a special education program to the extent that this section conflicts with the student's individualized education program. This substitute also provides that the cost to an institution of higher education under (2) does not include the amount of tuition and fees the student pays for the course. This substitute also sets forth guidelines for notice to be given to the Commissioner of Higher Education and the Commissioner of Education regarding costs of developmental courses and programs to institutions. This substitute also requires school districts that receive a tier one allotment to remit to the comptroller for deposit in the foundation school fund an amount equal to the amount that would be deducted and sets forth guidelines regarding actions to be taken by the Commissioner of Education in cases of non-compliance. This substitute also directs the Commissioner of Higher Education in consultation with the Commissioner of Education to adopt rules necessary for determining the costs of developmental courses and programs to institutions of higher education.

Committee Substitute House Bill 3459 delays payment from the foundation school fund to category 2 and category 3 school districts from August 2005 to between September 5, 2005 and September 10, 2005. This subsection expires September 15, 2005.

Committee Substitute House Bill 3459 allows the guaranteed yield amount of state and local funds that is used in the calculation of state support to be made either greater or lesser by appropriation for any year.

Committee Substitute House Bill 3459 requires interest and dividends accruing from investments of the permanent school fund to be deposited to the credit of the available school fund on an accrual basis of accounting and provides that funds recognized under this provision are considered part of the available

school fund and may be appropriated as provided by Section 5, Article VII, Texas Constitution.

Committee Substitute House Bill 3459 amends certain sections of the Education Code to allow bonds issued during the 2002-2003 school year to receive state assistance under the existing debt allotment.

Committee Substitute House Bill 3459 prohibits the comptroller from depositing into the Permanent Higher Education Fund the first \$50 million that comes to the state if (1) the state's revenues are expected to decline from biennium to biennium, or (2) the legislature determines in the General Appropriations Act that the deposit should not be made because of the state's fiscal condition, excepting the amount needed to cover the required deposit to the Texas Excellence Fund.

Committee Substitute House Bill 3459 subjects the Texas Veterinary Medical Diagnostic Laboratory to the Texas Sunset Act, and provides that the agency expires September 1, 2007, unless continued in existence. This substitute also authorizes the Texas Veterinary Medical Diagnostic Laboratory to charge and collect fees for goods and services.

Committee Substitute House Bill 3459 removes certain restrictions on the funding formula for Communities in Schools.

Committee Substitute House Bill 3459 increases the active employee contribution from .25% to .5% in 2004 and from .5% to .75% in 2005.

Committee Substitute House Bill 3459 authorizes school districts to contribute to the Texas public school employees group insurance fund an amount specified by the General Appropriations Act for each active employee.

Committee Substitute House Bill 3459 amends the Uniform Insurance Benefits Act for Employees of the University of Texas System and Texas A&M University System to apply a 90-day waiting period to the automatic coverage and system contribution provisions.

Committee Substitute House Bill 3459 amends the Texas School Employees Uniform Group Health Coverage Act to provide for a 90-day waiting period before an employee becomes eligible for coverage under the program.

Committee Substitute House Bill 3459 decreases the pass-through reduction for certified personnel to \$550 and implements a pass-through reduction of at least \$300 for full-time support personnel and at least \$200 for part-time support personnel. This substitute also provides for payment of these funds as monthly installments that are payable during the first week of the month following the month in which the active employees were employed.

Committee Substitute House Bill 3459 requires a 90-day waiting period before an employee of a school district, other educational district, participating charter school, or regional education service center becomes eligible under active employee health coverage or compensation supplementation.

Committee Substitute House Bill 3459 requires the Telecommunications Infrastructure Fund Board to use money in the public schools account to fund the technology allotment to the extent directed in the Appropriations Act.

Committee Substitute House Bill 3459 repeals Sections 8.051(a) and 8.121 of the Education Code and Section 1575.204 of the Insurance Code, as effective June 1, 2003.

Committee Substitute House Bill 3459 directs the comptroller to transfer \$42 million from the Texas employees group coverage trust fund to the retired school employees group insurance fund.

Committee Substitute House Bill 3459 applies the change in law made to Section 2, Article 3.50-8,

Insurance Code, to a monthly installment to be paid on or after September 1, 2003.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

Committee Substitute House Bill 3459 modifies the original by removing language that authorizes the legislature to reduce or eliminate statutory amounts going to Article III state agencies if necessary to balance the budget.

Committee Substitute House Bill 3459 modifies the original by altering the Code Sections amended by the provisions relating to compliance monitoring and expanding the purpose of compliance monitoring. This substitute also modifies the original by adding language that (1) allows the compliance monitoring of school districts by the Texas Education Agency but limits agency monitoring to what is necessary to ensure compliance with federal law, financial accountability, data integrity for purposes of the Public Education Information Management System, and federal and state laws and regulations relating to special education; (2) makes the board of trustees of a school district or the governing body of an open-enrollment charter school responsible for that district or charter school's compliance with requirements of state educational programs; and (3) provides for the continued evaluation of bilingual education programs based on data collection and state assessments.

Committee Substitute House Bill 3459 modifies the original by adding language that allows the Commissioner of Education to reduce the additional percentage of attendance for which a school district may requisition textbooks and authorizes the Commissioner to increase the percentage for districts or schools experiencing high growth.

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also provides that (1) and (2) do not apply to a student enrolled in a special education program to the extent that this section conflicts with the student's individualized education program. This substitute also provides that the cost to an institution of higher education under (2) does not include the amount of tuition and fees the student pays for the course. This substitute also sets forth guidelines for notice to be given to the Commissioner of Higher Education and the Commissioner of Education regarding costs of developmental courses and programs to institutions. This substitute also requires school districts that receive a tier one allotment to remit to the comptroller for deposit in the foundation school fund an amount equal to the amount that would be deducted and sets forth guidelines regarding actions to be taken by the Commissioner of Education in cases of non-compliance. This substitute also directs the Commissioner of Higher Education in consultation with the Commissioner of Education to adopt rules necessary for determining the costs of developmental courses and programs to institutions of higher education.

Committee Substitute House Bill 3459 modifies the original by adding language that delays payment from the foundation school fund to category 2 and category 3 school districts from August 2005 to between September 5, 2005 and September 10, 2005 and provides that this provision expires September 15, 2005.

Committee Substitute House Bill 3459 modifies the original by removing language that included unrealized interest and dividends arising from securities or funds belonging to the permanent school fund in the amounts required to be credited to the available school fund.

Committee Substitute House Bill 3459 modifies the original by adding language that requires interest and dividends accruing from investments of the permanent school fund to be deposited to the credit of the available school fund by an accrual basis of accounting and provides that funds recognized under this provision are considered part of the available school fund and may be appropriated as provided by Section 5, Article VII, Texas Constitution.

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Committee Substitute House Bill 3459 modifies the original by removing the provision that would make the development and implementation of an equitable funding formula for the Communities in Schools program by the Department of Protective and Regulatory Services permissive rather than mandatory.

Committee Substitute House Bill 3459 modifies the original by adding language that increases the active employee contribution from .25% to .5% in 2004 and from .5% to .75% in 2005.

Committee Substitute House Bill 3459 modifies the original by adding language that authorizes school districts to contribute to the Texas public school employees group insurance fund an amount specified

by the General Appropriations Act for each active employee.

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Committee Substitute House Bill 3459 modifies the original by adding language that repeals Section 1575.204 of the Insurance Code, as effective June 1, 2003.

Committee Substitute House Bill 3459 modifies the original by adding language that directs the comptroller to transfer \$42 million from the Texas employees group coverage trust fund to the retired school employees group insurance fund.

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