

BILL ANALYSIS

C.S.S.B. 265
By: Lucio
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the State Board for Educator Certification (SBEC) oversees the preparation and regulation of public school educators. SBEC ensures the quality of educators when they enter the profession, enforces professional standards of conduct, promotes professional development, and assists in creating strategies to recruit and retain educators.

C.S.S.B. 265 contains the recommendations of the Sunset Commission to continue SBEC as a separate agency. This bill decreases the number of members on the SBEC member from 15 to 9 and stipulates that they be appointed by the governor. The bill transfers certain authority to the Texas Education Agency or the commissioner of education.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 7 (Section 21.041), SECTION 8 (Section 21.045), SECTION 10 (Section 21.048), SECTION 14 (Section 21.049), SECTION 15 (Section 21.050), SECTION 16 (Section 21.051), and SECTION 20 (Section 21.056, Education Code) of this bill. It is the committee's opinion that rulemaking authority is expressly granted to the State Board for Educator Certification in SECTION 7 (Section 21.041) and SECTION 18 (Section 21.054, Education Code), of this bill. It is the committee's opinion that rulemaking authority is expressly granted to the Texas Education Agency in SECTION 25 (Section 21.553, Education Code) of this bill.

ANALYSIS

C.S.S.B. 265 amends the Education Code, by providing that a district may employ as a superintendent a person who does not hold a certificate if the board of trustees determines that the person has significant experience as a chief executive, holds an advanced degree, and complies with all the requirements adopted by the commissioner of education (commissioner) for first-time superintendents.

The bill decreases the number of members of the State Board for Educator Certification (board) from 15 to 9. The bill deletes certain provisions relating to the appointment of board members and provides that all members are appointed by the governor. The bill sets forth the composition of the board.

The bill defines "Texas trade association." The bill prohibits a person from serving as a member of the board or as general counsel if that person is required to register as a lobbyist because of activities for compensation on behalf of a profession related to the operation of the board. The bill prohibits a person from serving as a member of board or a board employee employed in a position that is exempt from the overtime provisions of the federal Fair Labor Standards Act if that person meets certain criteria.

The bill prohibits a qualified board appointee from voting, deliberating, or being counted as a member in attendance at a meeting of the board until completing the appropriate training program. The bill requires the training program provide the person with certain information. The bill provides that a board appointee

is entitled to reimbursement, as provided by the General Appropriations Act, for travel expenses incurred in attending the training program, regardless of whether the attendance occurs before or after the person qualifies for office.

The bill sets forth criteria for grounds for removal from the board. The bill provides that a board member appointed under Section 21.033(a)(1) (State Board for Educator Certification) who retires during the member's term is entitled to finish the term. The bill provides that the validity of a board action is not affected by the fact that the action was taken when a ground for removal of a board member existed. The bill requires a board member to inform the presiding officer, who in turn is required to inform the governor and the attorney general, if the member knows that a potential ground for removal exists. The bill requires the member to notify the next highest officer of the board, who in turn is required to inform the governor and the attorney general, if the potential ground for removal involves the presiding officer.

The bill redesignates the board's sunset date from 2003 to 2015.

The bill deletes provisions that require the board to supervise the executive director's performance, and for each class of educator certificate, appoint an advisory committee composed of members of that class to recommend standards for that class to the board.

The bill requires the commissioner to adopt rules relating to: the regulation of educators, the classes of educator certificates, the period for which each class of educator certificate is valid, the requirements for the issuance and renewal of an educator certificate, the issuance of an educator certificate to a person who holds a similar certificate issued by another state or foreign country, and special or restricted certification of educators, including certification of instructors of American Sign Language. The bill requires the board to adopt rules that provide for: disciplinary proceedings, including the suspension or revocation of an educator certificate, the adoption, amendment, and enforcement of an educator's code of ethics, continuing education requirements, and the certification of persons performing appraisals under Subchapter H. The bill requires the commissioner to adopt a fee for the issuance and maintenance of an educator certificate that is adequate to cover the cost of administration.

The bill requires the commissioner to propose rules establishing standards to govern the approval and continuing accountability of all educator preparation programs and establishing performance standards for the Accountability System for Educator Preparation for accrediting educator preparation programs. The bill requires the commissioner to appoint an oversight team of educators to make recommendations and provide assistance to educator preparation programs that do not meet accreditation standards.

The bill authorizes the Texas Education Agency (agency) to develop the process for the establishment of centers for professional development through institutions of higher education for the purpose of integrating technology and innovative teaching practices in the preservice and staff development training of public school teachers and administrators. The bill requires the commissioner to make grants to the center for its programs from funds derived from gifts, grants, and legislative appropriations for that purpose and award the grants on a competitive basis according to requirements established by the commissioner rules.

The bill requires the commissioner to adopt rules prescribing comprehensive examinations for each class of certificate issued by the commissioner. The bill replaces the "board" with the "agency" in provisions relating to the examination of an educator with a hearing impairment (Section 21.048).

The bill replaces the "board" with the "agency" in provisions relating to Master Reading Teacher Certification (Section 21.0481), Master Mathematics Teacher Certification (Section 21.0482), and Master Technology Teacher Certification (Section 21.0482).

The bill requires the commissioner to adopt rules providing for educator certification programs as an alternative to traditional educator preparation programs. The bill authorizes the commissioner to adopt rules requiring additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education. The bill requires the commissioner to adopt rules providing

flexible options for persons for any field experience or internship required for certification.

The bill replaces “board” with “agency” in Section 21.052 relating to certification of educators from outside the state.

The bill requires the commissioner to provide for a certified educator to qualify for additional certification to teach at a grade level or in a subject area not covered by the educator's certificate upon satisfactory completion of an examination or other assessment of the educator's qualification.

The bill modifies the definition of an "inappropriately certified or uncertified teacher."

The bill deletes the State Board for Educator Certification from Sections 21.503, 21.504, 21.510, 21.551, 21.553, 21.604, 21.609, 22.082, 22.083, 22.085, 22.086, 29.061, 33.002, and 61.0514, Education Code. The bill replaces the State Board for Educator Certification with the agency in Sections 21.510, 21.553, 21.609, 22.082, 22.083, 22.085, 22.086, 29.061, and 61.0514, Education Code.

The bill amends Section 261.406(b) of the Family Code by deleting “the agency responsible for teacher certification.” The bill amends the Government Code by replacing the “board” with the “agency” in Section 411.090 and deleting the State Board for Educator Certification from Section 411.097(d). The bill adds the Texas Education Agency and the commissioner of education to certain provisions relating to the cancellation of a teacher certificate (Section 821.103, Government Code).

The bill amends the Human Resources Code by deleting “the agency responsible for teacher certification” from Section 48.102(a).

The bill amends the Occupations Code by replacing the State Board for Educator Certification with the Texas Education Agency in Section 504.002(b).

The bill amends Article 4413(29c), Section 15A, Vernon’s Texas Civil Statutes by replacing the State Board for Educator Certification with the Texas Education Agency.

The bill repeals Sections 21.031, 21.039, 21.042, 21.044, 21.046, and 21.552, Education Code.

The bill abolishes the positions on the board filled by a citizen member, with a term expiring February 1, 2005, on September 1, 2003. The bill abolishes one of the two positions on the board filled by a citizen, with a term expiring February 1, 2007, on September 1, 2003. These two members shall draw lots to determine which position is abolished. The bill makes application of Sections 21.0331 (Ineligibility to Serve on the Board; Ineligibility for Certain Positions) and 21.0332 (Training Program for Members of Board), Education Code, as added by this Act, prospective to September 1, 2003. The bill authorizes the board to transfer records, personnel, or property to the agency. The transfer of authority from the board to the agency does not effect actions taken by or in connection with the board.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 265 modifies the original by decreasing the State Board for Educator Certification from 14 to 9 members, all appointed by the governor. C.S.S.B. 265 modifies the original by altering the composition of the board.

C.S.S.B. 265 modifies the original by deleting provisions relating to equal opportunity employment; state

employee incentive information; collection of fingerprints; development of rules; public testimony; negotiated rulemaking and alternative dispute resolution; technology policy; acceptance of gifts, grants, and donations; examination results provisional certificate; complaints; waiver of certification requirement; expiration of certificates; certificate renewal and; revocation, modification, or suspension of certificate.

C.S.S.B. 265 modifies the original by amending provisions relating to: general powers and duties of board; accountability system for educator preparation programs; master reading teacher certification; master mathematics teacher certification; master technology teacher certification; alternative certification; options for field experience and internships; additional certification; eligibility; purposes; discharge of employees convicted of offenses; liability for reporting offenses; certified counselor; and integrated coursework.

C.S.S.B. 265 modifies the original by amending the Family Code, Human Resources Code, and Occupations Code. C.S.S.B. 265 modifies the original by repealing additional sections of the Education Code.

C.S.S.B. 265 modifies the original by altering the rulemaking authority granted to the State Board for Educator Certification, the commissioner of education, and the Texas Education Agency. C.S.S.B. 265 modifies the original by deleting the State Board for Educator Certification from certain provisions and replacing the board with the commissioner of education or the Texas Education Agency.