

By: Grusendorf

H.B. No. 2465

A BILL TO BE ENTITLED

AN ACT

relating to an education freedom pilot program for certain children in certain school districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 29; Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. EDUCATION FREEDOM PROGRAM

Sec. 29.351. DEFINITIONS. In this subchapter:

(1) "Eligible district" means a school district in which, during the 2001-2002 school year:

(A) a majority of the students were eligible for the federal free and reduced price lunch program; and

(B) the enrollment was greater than 40,000.

(2) "Parent" includes a guardian or custodian.

(3) "Private school" means a nongovernmental educational establishment that exists for the general education of elementary and secondary students. The term does not include a school that provides education in a home setting or by the parent or that limits enrollment to relatives of the school's staff.

(4) "Program" means the education freedom program described by this subchapter.

Sec. 29.352. PROGRAM. (a) An eligible child under Section 29.353 or 29.361, as applicable, may, at the option of the child's parent:

1 (1) attend any public school in the child's district of
2 residence under Subchapter G, Chapter 29;

3 (2) subject to the limitations of Section 29.203,
4 attend a public school in another district under Subchapter G,
5 Chapter 29; or

6 (3) use a scholarship as provided by Section 29.354 to
7 pay the costs of attending a private school.

8 (b) Section 42.157 does not apply to a child who attends a
9 public school in another district under Subsection (a)(2).

10 Sec. 29.353. ELIGIBLE CHILD. (a) A child is eligible to
11 participate in the program if the child:

12 (1) resides in an eligible district;

13 (2) attended a public school during the preceding
14 regular full semester; and

15 (3) resides in a household that had, in their most
16 recently filed federal income tax return, an annual household
17 income not exceeding 200% of the qualifying income for the Federal
18 Free or Reduced Price Lunch Program.

19 (b) A child who establishes eligibility under Subsection
20 (a) is entitled to continue participating until the earlier of the
21 date on which the child graduates from high school or the child's
22 21st birthday.

23 Sec. 29.354. FINANCING; SCHOLARSHIP. (a) An eligible
24 child who attends a private school under this subchapter is
25 considered in determining the average daily attendance under
26 Section 42.005 of the child's district of residence.

27 (b) A child's scholarship is an amount equal to the average

1 funding per child for maintenance and operations, during the
2 preceding school year in the district in which the child resides,
3 from all sources other than:

4 (1) the available school fund;

5 (2) federal funds; and

6 (3) funds for special education programs under
7 Subchapter A.

8 (c) The comptroller shall adopt rules regarding the
9 calculation and distribution of payments for both public and
10 private schools.

11 (d) Upon application by the parent of an eligible child the
12 comptroller shall issue a scholarship certificate to the parent.
13 The parent shall promptly endorse and present the certificate to
14 the private school chosen by the parent.

15 (e) The private school the child attends must endorse and
16 present the child's scholarship certificate to the comptroller to
17 receive payment. On presentation of the evidence of the
18 scholarship, the comptroller shall distribute:

19 (1) to the district in which the child resides:

20 (A) the available school fund share attributable
21 to the child, notwithstanding Section 43.001, and

22 (B) 10 percent of the amount of the scholarship;
23 and

24 (2) to the private school the lesser of:

25 (A) 90 percent of the amount of the scholarship;
26 or

27 (B) the school's average annual cost per student.

1 (f) The comptroller may deduct an amount of the scholarship
2 from the scholarship share of the district in which a child resides
3 for costs of administering the program.

4 (g) The comptroller shall direct the distribution of funds
5 to the private school the child attends on a monthly pro rata basis
6 after education services have been provided. The payment shall be
7 made not later than the 30th day after the last day of each month of
8 the school year.

9 (h) The child's scholarship is the entitlement of the child,
10 under the supervision of the child's parent, and not that of any
11 school. Solely as a means of administrative convenience, the
12 comptroller shall pay the private school the child attends on
13 presentation of the evidence of the scholarship by the school.

14 (i) A private school may not share, refund, or rebate a
15 child's scholarship with the parent or child in any manner.

16 Sec. 29.355. ACCREDITATION. To participate in the program,
17 a private school must be accredited by or have filed an application
18 for accreditation by an accrediting association recognized by the
19 commissioner to accredit nongovernmental schools in this state.

20 Sec. 29.356. ADMISSIONS. (a) A private school chosen by an
21 eligible child's parent under Section 29.352 may not discriminate
22 on the basis of the child's race, national origin, or ethnicity.

23 (b) A private school that has more qualified scholarship
24 applicants for attendance under this subchapter than available
25 positions must fill the available scholarship positions by a random
26 selection process. However, to achieve continuity in education, a
27 school may give preference among scholarship applicants to

1 previously enrolled students and to other children residing in the
2 same household as previously enrolled students.

3 (c) A private school that accepts a child using a
4 scholarship is entitled to a copy of the child's complete academic
5 transcript, including past results on assessment instruments
6 administered under Section 39.023, from each school the child
7 previously attended. A public school releasing an academic
8 transcript under this section shall comply with any applicable
9 provision of the Family Educational Rights and Privacy Act of 1974
10 (20 U.S.C. Section 1232g) and its subsequent amendments.

11 Sec. 29.357. ACCOUNTABILITY. Each private school that
12 accepts a scholarship under this subchapter shall annually
13 administer in the spring either the appropriate assessment
14 instrument required under Section 39.023 or a norm-referenced
15 assessment instrument approved under Section 39.026 and shall make
16 the aggregated results of the assessment instrument available to
17 the public. Individual student results shall be made available,
18 with appropriate safeguards for student privacy, to researchers as
19 required under Section 29.364.

20 Sec. 29.358. TRANSPORTATION. A school district shall offer
21 each child attending a private school under this subchapter
22 transportation free of charge to and from the public school the
23 child would otherwise attend to the extent provided under Section
24 42.155 for an eligible child. A private school that accepts a
25 scholarship under this subchapter may use any public school as a
26 transportation collection location for the private school's
27 students.

1 Sec. 29.359. ADDITIONAL TUITION PROHIBITED. A parent or a
2 child using a scholarship under this subchapter may not be required
3 to pay tuition in addition to the child's scholarship.

4 Sec. 29.360. PRIVATE SCHOOL AUTONOMY. (a) A private school
5 that accepts a scholarship under this subchapter is not an agent or
6 arm of the state or federal government.

7 (b) The agency, the State Board of Education, the
8 commissioner, the comptroller, or any other state agency may not in
9 any way regulate the educational program of a private school that
10 accepts a scholarship under this subchapter.

11 (c) The purpose of this subchapter is to allow maximum
12 freedom to the private sector to respond to the educational needs of
13 the children of this state without governmental control, and this
14 subchapter shall be liberally construed to achieve that purpose.

15 Sec. 29.361. ELIGIBLE CHILD AND ELIGIBLE DISTRICT BEGINNING
16 WITH 2005-2006 SCHOOL YEAR. (a) Notwithstanding Section 29.351,
17 beginning with the 2005-2006 school year, "eligible district"
18 includes any school district whose board of trustees adopts a
19 resolution to participate in the program.

20 (b) Notwithstanding Section 29.353, beginning with the
21 2005-2006 school year, a child who resides in an eligible district
22 as defined by Subsection (a) is eligible to participate in the
23 program if the child attended a public school during the preceding
24 full semester.

25 (c) A child who establishes eligibility under Subsection
26 (b) is entitled to continue participating until the earlier of the
27 date on which the child graduates from high school or the child's

1 21st birthday.

2 Sec. 29.362. RULES. The comptroller shall adopt rules
3 necessary for the administration of the program and these rules
4 shall be binding on any other state and local governmental entity as
5 necessary in order to administer the program.

6 Sec. 29.363. SCHOOLS OF CHOICE RESOURCE CENTERS. (a) The
7 comptroller shall select one or more independently funded nonprofit
8 organizations to coordinate, provide staff for, and administer
9 schools of choice resource centers in each eligible district to;

10 (1) assist parents in learning how to be better
11 education consumers;

12 (2) provide information on education alternatives in
13 the area; and

14 (3) assist parents, schools, and school districts in
15 implementing and responding to the program.

16 (b) This section expires December 31, 2008.

17 Sec. 29.364. EVALUATION OF PROGRAM. (a) The comptroller in
18 conjunction with the Charles A. Dana Center at the University of
19 Texas at Austin shall:

20 (1) evaluate the program to determine the extent of
21 participation by eligible children who reside in eligible
22 districts; and

23 (2) contract with one or more qualified researchers
24 who have previous experience evaluating school choice programs to
25 fund, with funds other than state funds, and conduct a study of the
26 program.

27 (b) The study described by Subsection (a)(2) must assess:

1 (1) each participating student's performance on annual
2 assessment instruments before and after entering the program;

3 (2) the level of a participating student's
4 satisfaction with the program;

5 (3) the level of parent satisfaction with the program;

6 (4) the overall impact of the program on public school
7 students and on the districts and schools from which the
8 participating students transferred; and

9 (5) the impact of the program on public and private
10 school capacity, availability, and quality of service.

11 (c) the researchers who conduct the study shall apply
12 appropriate analytical and behavioral science methodologies to
13 ensure public confidence in the study.

14 (d) this section expires June 1, 2010.

15 SECTION 2. Section 29.202(a), Education Code, is amended to
16 read as follows:

17 (a) A student is eligible to receive a public education
18 grant or to attend another public school in the district in which
19 the student resides under this subchapter if the student is
20 assigned to attend a public school campus:

21 (1) at which 50 percent or more of the students did not
22 perform satisfactorily on an assessment instrument administered
23 under Section 39.023(a) or (c) in any two of the preceding three
24 years; ~~or~~

25 (2) that was, at any time in the preceding three years,
26 identified as low-performing by the commissioner under Subchapter
27 D, Chapter 39; or

1 (3) that is in a district whose students may use an
2 education scholarship under Subchapter J, Chapter 29, and the
3 student is an eligible child under Section 29.353.

4 SECTION 3. (a) The comptroller shall implement the
5 education freedom program as provided by Subchapter J, Chapter 29,
6 Education Code, as added by this Act, beginning with the 2003-2004
7 school year.

8 (b) As soon as practicable the comptroller shall adopt rules
9 necessary for the administration of the program.

10 SECTION 4. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2003.