

BILL ANALYSIS

H.B. 2
By: Grusendorf
Public Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Since its very first Constitution, Texas has made education of every child its primary goal. Today, Texas is facing a crisis in providing funding for the public education system. Property taxes are too high, schools do not have the flexibility to raise additional revenue to meet the rising costs of educating children, and our current system of finance is being challenged in the courts. It is necessary to overhaul the public education system by stabilizing and improving funding for public education in Texas.

Whenever the funding of our public schools is addressed it is important to keep our children's education at the forefront of the discussion. For this reason it is essential to address and encourage student achievement and progress. Introducing an incentive program and focusing on other education reforms are necessary pieces to solve the larger puzzle of school finance.

The purpose of HB 2 is to promote educational excellence and simplify the way by which the state funds its public schools.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Education in SECTION 1A.01, SECTION 1C.01, SECTION 2A.01, SECTION 2A.12, SECTION 2A.13, SECTION 2A.14, SECTION 2B.01, SECTION 2B.03, SECTION 2B.09, SECTION 2B.11, SECTION 2B.15, SECTION 2C.01, SECTION 2D.01, SECTION 2D.07, SECTION 2D.11, SECTION 2D.18, SECTION 2D.19, SECTION 2D.22, SECTION 2D.31, SECTION 2D.34, SECTION 2D.35, SECTION 2D.36, SECTION 2D.37, SECTION 2D.40, SECTION 2E.38, SECTION 2E.39, SECTION 2E.45, SECTION 2F.01, SECTION 2F.06, SECTION 2F.07, SECTION 2F.09, SECTION 2F.10, SECTION 2G.01, SECTION 2H.01, SECTION 4.02, SECTION 7.04, SECTION 7.08; to the Legislative Budget Board in SECTION 1A.01; to the Texas Education Agency in 2D.43; to the State Board of Education in SECTION 2E.18 and SECTION 2E.23; to the Commissioner of Higher Education in SECTION 2B.01; to the Educator's Professional Practices Board in SECTION 7.09; and rulemaking is transferred from the State Board of Education to the Commissioner of Education in SECTION 2D.30; from the State Board for Educator Certification to the Commissioner of Education in SECTION 2A.02, SECTION 2F.02, and SECTION 2J.02, SECTION 7.03, SECTION 7.09, SECTION 7.10, SECTION 7.11, SECTION 7.13, SECTION 7.14, SECTION 7.15, SECTION 7.16, SECTION 7.17, SECTION 7.18, SECTION 7.19, and SECTION 7.27; from the Texas Education Agency to the Commissioner of Education in SECTION 2D.21; and from the State Board for Educator Certification to the Educator's Professional Practices Board in SECTION 7.41 of this bill.

ANALYSIS

Education Funding:

HB 2 sets forth state policy for public education, the purpose of the Foundation School Program, when a student is entitled to the benefits of the Foundation School Program and provides for the administration of the program. This bill describes the method for calculating Average Daily Attendance (ADA) as the basis for funding, as well as the method for the calculation and reporting of equalized funding elements. The bill clarifies that any reference in law to the foundation school fund means the Texas Education Fund and requires the Legislative Budget Board (LBB) to submit reports to the commissioner of education (commissioner) and the legislature before each Regular Session regarding equalized funding elements and education spending in the state. The bill outlines a formula structure for funding a basic education program

that includes allotments for various student and district characteristics and guidelines for how these funds may be spent. Transportation and new instructional facilities allotments are also provided.

The bill establishes an Enrichment Program that allows school districts up to \$0.15 of equalized enrichment. Districts may not access more than \$0.05 for each biennium and must get voter approval for each tax increase. Computation of enrichment aid for a district on a military installation or at a state school is specifically designated by this bill. An updated cost of education index will be phased in and the Legislative Budget Board is required to biennially update the cost of education index.

The bill sets forth the financing for the Foundation School Program. School districts are entitled to additional state aid for tax credits. The bill requires school districts to provide an average \$1000 increase in addition to the minimum salary schedule for employees who are subject to the minimum salary schedule. A school district is entitled to additional state aid in an amount determined by the commissioner using the formula provided. The commissioner is authorized to set aside funds for crisis intervention funding. Adjustments are provided for the rapid decline in taxable value of property, optional homestead exemptions, for unpaid taxes of a major taxpayer, and for districts not offering all grade levels, and in the event of an appraisal appeal. The bill also sets guidelines for additional transitional aid for a school district, provides for the implementation of revenue maintenance provisions for districts under a countywide equalization system, and provides for temporary limitations on aid. The bill sets forth provisions as to the distribution of the Texas Education Fund. Each school district's share of the Foundation School Program is determined by a formula as designated by this legislation. The Texas Education Agency (TEA) is to recover any over-allocation of funds a school district has received.

HB 2 provides for additional equalization. The commissioner is required to set aside funds for the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf as set forth by this bill. A school district in which the district's local share exceeds the district's tier one allotment shall be consolidated by the commissioner under Subchapter H, Chapter 41 or the district may elect to purchase attendance credits. The bill defines "wealth per student" and sets forth guidelines as to when attendance credits may be purchased. Local share percentage is defined.

HB 2 provides that notices for proposed tax rates are to provide distinct information such as designated headings.

A district may not adopt a tax rate for the maintenance and operations of the district that exceeds the maximum rates unless the rate is approved by a two-thirds vote of the qualified voters in an election. Each time a district adopts a tax rate for the maintenance and operations of the district exceeding the rate levied in the preceding school year the school district must obtain voter authorization, limited exceptions apply. The bill sets forth statutory limitations as to the tax which may be imposed by a school district on the valuation of taxable property, with exceptions. The bill includes other provisions related to school district tax rates.

School Facilities:

The LBB in cooperation with TEA is to study existing instructional facilities in the state including the date of construction, information relating to the condition of the facility and other factors.

Social Security Contributions:

The bill sets forth the portion the state will pay of the costs incurred by districts that cover their employees under the social security program.

Education Employees:

HB 2 provides for a school leadership pilot program for principals to improve leadership skills, student achievement and teacher retention. Additional criteria is included in the standards for accountability for educator preparation programs. The bill creates temporary certificates which may be issued for superintendents, principals or assistant principals. A process for terminating teacher contracts for financial exigency is outlined. The factor in the minimum salary schedule is replaced with a dollar amount and school districts are required to increase salaries for a

classroom teacher, full-time nurse, full-time librarian, and full-time certified counselor by \$100 per month. Teachers may be compensated by school districts above the required amount based on the teacher's ability to improve student academic performance. The bill establishes guidelines for a mentor program. The bill creates an educator excellence incentive program to provide incentive payments to employees demonstrating superior success in student achievement growth. Professional liability insurance is to be made available to each classroom teacher, at no cost to the teacher, for incidents within the scope of duties of the teacher's position. The bill outlines duties for speech-language assistants and for supervising speech-language pathologists.

State and Regional Governance:

HB 2 allows the establishment of public education research centers. The bill continues the Texas Education Agency until 2017 and requires the Sunset Advisory Commission to review regional education service centers. Each school district is required to participate in Public Education Information Management System (PEIMS). Additionally, each school district, public charter district and higher education institution is to participate in an electronic student records system. The agency is authorized to receive gifts, grants, and donations to perform any educational function. A comprehensive monitoring system is to be developed to monitor the overall performance of school districts and charter schools. Additionally, an informal review is established to challenge certain agency decisions.

A performance based grant system is established by this bill. The commissioner shall adopt rules prescribing training for members of regional education service center boards of directors. Other duties, reporting, and evaluations for regional education service centers are modified. The bill promotes cooperative shared service arrangements. The bill includes provisions relating to special education due process hearings. For purposes of accountability, a student placed in a disciplinary alternative education program is reported as if the student were enrolled at the student's assigned campus.

School District Governance and Other Operations:

The agency is to develop a management information system for funds allocated to schools for the purpose of providing services to students at risk of dropping out. School board trustees will serve four year terms and school board elections will be held on the uniform election date in November in even numbered years; school districts shall use the regular county precinct and polling places.

HB 2 provides for removal of trustees for not attending board meetings, places limitations on the financial benefits a superintendent may receive, and allows a school district to provide certain types of required notices on its Internet website. The bill modifies provisions for the assignment and transfer of a student. The school year shall begin on the first Tuesday after Labor Day and must end no later than June 7, exceptions are included.

HB 2 defines radio frequency identification technology and restricts the manner in which the technology may be used. The bill allows for consolidated funding for programs and services for students who are at risk of dropping out of school and includes other provisions. The bill also modifies eligibility for student participation in an extracurricular activity or UIL competition.

Accountability:

The commissioner shall adopt procedures to make financial information provided by school districts available on the agency website. TEA shall establish an online clearinghouse of best practices of campuses and school districts. Exemplary districts and campuses will be subject only to the restrictions of open-enrollment charter schools as approved by the commissioner. The bill amends the education code in providing for bilingual pre-kindergarten education for students with limited English proficiency as available and in applicable schools.

School districts have the ability to provide for an optional flexible school day program for students in ninth through twelfth grade who have dropped out of school or who are at risk of dropping out of school. The adequate yearly progress standard is determined by the No Child Left Behind Act of 2001 and is used to measure indicators of education success to determine the progress of a campus towards academic achievement. The bill aligns state law with federal requirements.

The commissioner shall provide for the administration of assessment instruments. Assessment instruments may include questions testing a broader range of knowledge and skills for the purpose of differentiating student achievement. The agency is to adopt end-of-course assessment instruments for secondary-level courses in designated subjects. Students must perform satisfactorily on end-of-course assessment instruments in order to receive course credit. Additionally, the TEA is to adopt appropriate instruments to measure alternate academic achievement for students participating in special education programs. Performance levels established by the Texas Higher Education Coordinating Board represents the level of academic achievement indicating a student is prepared for college course work. To the extent practicable and appropriate the TEA shall provide for and require school districts to administer computer-adaptive assessment instruments. A transition plan is to be implemented for the use of end-of-course assessment instruments. The bill amends the education code in providing for college preparation assessments as designated by this legislation. The commissioner shall determine a method by which TEA may measure incremental growth by a student from one year to the next on an assessment instrument. The bill includes criminal penalties related to the administration of assessment instruments.

HB 2 modifies the academic excellence indicators. The commissioner shall determine the accreditation status of each school district. The bill includes provisions for an academic accountability system and measures postsecondary readiness. The bill governs special accreditation investigations. Additionally, the bill authorizes other investigations including on-site, desk or data based investigations.

HB 2 implements a state incentive award program for improving student performance on at-risk campuses. School districts not satisfying the accreditation criteria, academic performance standards or financial accountability as determined are to be sanctioned by the commissioner. Sanctions are set forth within the legislation. The bill modifies provisions relating to the submission of a comprehensive report to the legislature and other designated officials. The bill amends the financial accountability rating system and defines direct and indirect instructional costs. The bill creates a requirement for an accountant conducting annual school district audits except as provided.

Instructional Materials:

HB 2 requires TEA to review state and federally funded grant programs designed to improve academic performance to determine which funds may be used to enhance the use of technology in public schools. "Instructional materials" replaces the use of the word "textbook" and definitions are set forth. TEA is required to develop or acquire ongoing computer-adaptive interactive assessment tools and make them available to public schools at no cost. A publisher may submit instructional materials to the State Board of Education (board) for approval. The board shall meet biannually to approve instructional materials and must approve or reject each submitted instructional material. The board shall identify the essential knowledge and skills as designated within the approved instructional materials. The Department of Information Resources may execute a contract for the purchase or licensing of approved instructional materials. Publishers are to provide information to public schools describing the publisher's approved instructional materials. Special instructional materials may be provided for the blind and visually impaired. Additionally, the board shall approve instructional materials for bilingual education classes. Approved electronic instructional materials may be offered to school districts annually on a subscription basis. Publishers of approved instructional materials may update those materials as provided by contract. School districts are to annually certify to the TEA that instructional materials are aligned with the essential knowledge and skills. The bill governs the selection, purchase, distribution and handling of instructional materials. School districts may use local funds to purchase instructional materials. The bill also lays out the duties of publishers of instructional materials. The bill provides for the commissioner to appoint an advisory committee made up of business, education and public members to assist the agency. Each school district is entitled to a designated allotment for each student in ADA to be used for instructional materials and technology. The bill provides for school districts to use designated funds for targeted technology programs as described. The commissioner has the ability to make instructional materials available through public broadcasting stations for the purpose of instruction and professional development. The agency shall expand the technology immersion pilot program as set forth by this legislation.

Bilingual Education and Special Education Programs:

HB 2 creates various classes of certification for dual language educators and establishes a dual language education pilot project. The Higher Education Coordinating Board is required to notify educational aides as to the existence of the educational aide exemption. The bill describes circumstances by which students may enter into, exit from, or be placed in a bilingual or special language program and creates provisions for evaluation and re-enrollment of students transferred out of such programs. The commissioner shall create a measure of progress toward English proficiency.

High Academic Achievement Programs:

HB 2 provides for the creation of Texas governor's schools which may be administered by a public senior college or university as approved by the commissioner. The bill requires the commissioner to adopt indicators relating to high achievement to be considered when assigning a district an exemplary rating and makes conforming amendments to the annual report that must be published by the board of trustees.

Prekindergarten Programs:

HB 2 states that before a school district may implement a prekindergarten program the district is required to investigate the possibility of sharing program sites and coordinate the use of those sites as designated by the legislation. The commissioner may adopt rules relating to the operation of prekindergarten, early childhood care and education programs that receive state funds.

School Discipline:

HB 2 entitles parents to prompt notice of specified disciplinary action taken against their child. Noncustodial parents are entitled to notice as designated. The bill also makes changes to monitoring and reporting requirements related to disciplinary placement and expulsion.

Criminal History Records Information:

HB 2 requires the collection of fingerprints from designated individuals as specified by this legislation. State education authorities are authorized to obtain all state and national criminal history records as designated. The bill stipulates that the commissioner shall set fees associated with covering the costs of obtaining fingerprints and conduct criminal background reviews. The bill includes other provisions related to criminal history record information and fingerprints.

Safety or Lap Belts in School Buses:

HB 2 governs donations for safety or lap belts for school district's school buses.

Public Charter Districts:

HB 2 repeals the open-enrollment charter school subchapter of the Texas Education Code and dissolves open-enrollment charters. The bill provides for general provisions and applicability of certain laws to public charter districts. A reference in law to an open-enrollment charter school means a public charter district or public charter campus. The bill governs the charter issuance and administration for a public charter district including application, determination of acceptable performance and revocation. The bill also outlines the powers and duties of governing bodies of charter holders, public charter districts and management companies including the restrictions, training requirements and financial reporting requirements. The bill includes provisions for funding and financial operations of public charter districts. Additionally, the bill governs the operation of public charter districts including admission policies, transportation and expulsion of students. The bill governs public charter district employees and sets forth the powers and duties of the commissioner over specified entities. The bill creates a blue ribbon charter campus pilot program. The bill states that a college or university charter school and governing body of the school are subject to certain regulations and procedures that govern a public senior college or university.

Abolishment of State Board for Educator Certification; Transfer of Powers and Duties:

HB 2 abolishes the State Board for Educator Certification and transfers its powers and duties to the commissioner of education and TEA. The bill creates the Educator's Professional Practices Board to oversee actions related to the educator's code of ethics. The bill also establishes an advisory board to recommend standards for certification to the commissioner and makes

conforming changes to replace references to the State Board of Educator Certification with either the commissioner or agency.

Conforming Amendments:

HB 2 makes changes throughout the education, government, insurance, labor, and tax codes to conform to provisions in the bill.

Repealers:

HB 2 includes various repealers in the acts of the 79th legislature, education, government, insurance, and tax codes necessary to conform to provisions in the bill.

EFFECTIVE DATE

Except as otherwise provided by this Act, this Act applies beginning with the 2005-2006 school year.

Except as otherwise provided by this Act, this Act takes effect September 1, 2005, if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date: (1) this Act takes effect on the 91st day after the last day of the legislative session; and (2) a provision of this Act that states that the provision takes effect September 1, 2005, takes effect on the effective date as provided by subdivision (1) of this subsection.

This Act takes effect only if H.B. No. ____, Acts of the 79th Legislature, 1st Called Session, 2005, becomes law. If that bill does not become law, this Act has no effect.