

BILL ANALYSIS

C.S.H.B. 2
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Public Education Reform, Select
Committee Report (Substituted)

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 CSHB 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 1B.01, SECTION 1B.115, SECTION 1D.01, SECTION 2A.02, SECTION 2A.14, SECTION 2A.15, SECTION 2A.18, SECTION 2B.01, SECTION 2B.03, SECTION 2B.09, SECTION 2B.11, SECTION 2B.15, SECTION 2C.01, SECTION 2C.11, SECTION 2C.12, SECTION 2D.01, SECTION 2D.06, SECTION 2D.11, SECTION 2D.12, SECTION 2D.14, SECTION 2D.15, SECTION 2D.25, SECTION 2D.28, SECTION 2D.29, SECTION 2D.30, SECTION 2D.31, SECTION 2D.33, SECTION 2E.36, SECTION 2E.37, SECTION 2E.391, SECTION 2E.44, SECTION 2F.01, SECTION 2F.06, SECTION 2F.07, SECTION 2F.09, SECTION 2F.10, SECTION 2F.11, SECTION 2G.01, SECTION 2H.01, SECTION 2K.01, SECTION 4.02, SECTION 7.04, SECTION 7.08; to the Texas Education Agency in SECTION 2D.37; to the Legislative Budget Board in SECTION 1B.01; to the Commissioner of Higher Education in SECTION 2B.01; to the State Board of Education in SECTION 2E.17, SECTION 2E.20, SECTION 2E.23, and SECTION 7.08; 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.24; from the State Board for Educator Certification to the Commissioner of Education in SECTION 2A.04, SECTION 2F.02, SECTION 2J.02, SECTION 7.03, SECTION 7.04, SECTION 7.09, SECTION 7.10, SECTION 7.11, SECTION 7.13, SECTION 7.14, SECTION 7.16, SECTION 7.17, SECTION 7.18, SECTION 7.19, SECTION 7.20, SECTION 7.27, SECTION 7.32, SECTION 7.36, SECTION 7.45; and from the State Board for Educator Certification to the Educator's Professional Practices Board in SECTION 7.41 and SECTION 7.45.

ANALYSIS

Education Funding:

CSHB 2 sets forth additional state aid or credit for districts that reduce property tax rates. The commissioner may adjust the tax rate in accounting for special circumstances. Additionally, adjustments are made for districts that fail to reduce property tax rates. Professional staff compensation is designated for the 2005 - 2006 school year. The bill sets forth 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 are limited in the ability to increase enrichment tax rates subject to voter approval. 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. Updated adjustments for small and mid-sized districts will be phased in, and an adjustment is provided for each school district that is located in a county with a population of less than 5,000 and that contains a majority of the territory in the county. Additionally, a sparsity adjustment has been provided.

The bill sets forth the financing for the Foundation School Program. School districts are entitled to additional state aid for tax credits. Professional staff salaries and additional state aid is provided for employees who are subject to the minimum salary schedule. The commissioner is authorized to set aside funds for crisis intervention funding. A school district is entitled to additional state aid in an amount determined by the commissioner using the formula provided. 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. The Texas Education Agency (TEA) and comptroller are required to submit designated information to the legislature. Deliberate falsification of school records is to be promptly and fully reported to specified entities. Each school district's share of the Foundation School Program is determined by a formula as designated by this legislation. TEA is to recover any over-allocation of funds a school district has received.

CSHB 2 provides for additional equalization and provides limitations on aid for certain districts. The definition for a capped district is provided. Provisions as to funding are set forth for the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf. The bill provides that a school district subject to equalization actions may elect to have its taxable value of property computed in a manner that recognizes its optional homestead exemption. The bill sets forth provisions as to how a school district's actions with respect to its optional homestead exemption will be considered in the calculation of the amount of attendance credits that the district may purchase. The bill also provides that the amount of state and local revenue school districts are required to use to purchase attendance credits is related to the amount of enrichment tax revenue available to school districts and the target percentile for district enrichment tax revenue. The bill includes other provisions related to equalization, equalization actions and establishes minimum tax rates of capped districts.

Additionally, the bill 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 sum of 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. A tax bill or a statement accompanying a tax bill for a school district is to state in a distinct row specified tax rates. The bill outlines provisions for school districts participating in reinvestment zones. The bill outlines adjustments for taxable values for designated school districts as specified by this legislation. The bill includes other provisions related to school district tax rates.

School Facilities:

In order to be financed with state or local tax funds any portable, modular building must be inspected to ensure compliance as designated by this bill. 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:

CSHB 2 provides that a school district employee may communicate directly with a member of the board of trustees, exceptions apply. TEA is to develop a school leadership pilot program for principals in order to improve leadership skills, student achievement and teacher retention. An educational diagnostician is to hold an appropriate certificate or permit in order to be employed by a school district. Additional criteria are included in the standards for accountability for educator preparation programs. 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 as provided. Exceptions are established in providing the minimum salary. Teachers may be compensated by school districts above the required amount based on the teacher's ability to improve student academic performance. The bill provides a designated salary supplement for certain retirement-eligible classroom teachers. 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. The bill outlines provisions by which eligible employees may designate a portion of their compensation as health care supplementation. The bill includes duties for speech-language assistants and for supervising speech-language pathologists.

State and Regional Governance:

CSHB 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 compliance and performance of school districts and charter schools. Additionally, an informal review is established to challenge certain agency decisions. The commissioner may issue a subpoena relevant to an audit or investigation and may file suit to enforce the subpoena. 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 establishes a 5-year cycle for reviewing the essential knowledge and skills and provides that it is the intent of the legislature to continue alignment with the required curriculum. 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.

CSHB 2 provides for removal of trustees for not attending board meetings and places limitations on the financial benefits a superintendent may receive. 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.

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. The bill includes requirements for expenditures on direct instructional activities as set forth.

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 exceptions are provided. The bill provides 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 bill provides for "Education. Go Get it Week."

The commissioner shall provide for the administration of assessment instruments accommodations are provided as necessary. Assessment instruments may include questions testing a broader range of knowledge and skills for the purpose of differentiating student achievement. 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. Additionally, the TEA is to adopt appropriate instruments to measure alternate academic achievement for students participating in special education programs. Assessment instrument release dates 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. The commissioner is to develop end-of-course assessment instruments, including Algebra I, and may require their administration. The State Board of Education is to determine the satisfactory performance level on end-of-course assessment instruments. If a student performs satisfactorily on the designated end-of-course assessment the commissioner by rule may exempt a student from other comparable assessments. A joint legislative oversight committee is established to monitor the development and establishment 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. The commissioner is to notify a superintendent of any objection to district's dropout data.

CSHB 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. A school district or public charter district that wishes to challenge certain accreditation, accountability, or performance decisions must petition for an informal review. Final decisions by the commissioner relating to these issues may not be appealed.

CSHB 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 and reviewed 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. The bill adds additional requirements for the annual financial management report. TEA is to submit a report to the Legislature relating to linking school district financial management performance and academic

performance. The bill creates a requirement for an accountant conducting annual school district audits except as provided.

Instructional Materials:

CSHB 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. A publisher may submit instructional materials to the State Board of Education (SBOE) for approval. The SBOE is to adopt rules to penalize publishers who knowingly fail to correct factual errors as designated by this legislation. The SBOE shall meet biannually to approve instructional materials and must approve or reject each submitted instructional material. The Department of Information Resources may execute a contract for the purchase or licensing of approved instructional materials and model contracts shall be developed. 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, SBOE 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 appointment of an advisory committee for technology and implementation 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 bill establishes technology grants as designated. The agency shall expand the technology immersion pilot program as set forth by this legislation. To the extent practicable and appropriate TEA shall provide for and require school districts to administer computer-adaptive assessment instruments. A public school may purchase instructional materials under a blanket purchase order.

Bilingual Education and Special Education Programs:

CSHB 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:

CSHB 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 consider adopting 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:

CSHB 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:

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

outlines expulsion provisions for a student with a disability who receives special education services.

Criminal History Records Information:

CSHB 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.

Health and Safety:

CSHB 2 requires the commissioner to develop and adopt a safety training program. Individuals as designated by this bill such as coaches and trainers must complete the safety training program. Students must complete and sign the medical and safety forms. A student's parent or guardian must also sign the forms. This bill includes other safety precautions and measures for full implementation of this section and requires school compliance and enforcement of the safety training program. The agency and UIL shall investigate the availability of funds for purchasing automated external defibrillators. The bill provides for contracts to be made for transportation with the juvenile board. The bill governs donations for safety or lap belts for school district's school buses. The bill outlines procedures for the student to self-administer anaphylaxis medicine.

Public Charter Districts:

CSHB 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:

CSHB 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 and this board is subject to the Texas Sunset Act. 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. The bill creates temporary certificates which may be issued for superintendents, principals or assistant principals.

The P-16 Council shall develop and adopt a school readiness certification system as set forth.

Conforming Amendments:

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

Repealers:

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

EFFECTIVE DATE

Except as otherwise provided by this Act, and subject to subsection (b) of this section, this Act takes effect on the 91st day after the last day of the legislative session.

(b) Notwithstanding any other provision of this Act, this Act takes effect only if H.B. No. 3, Acts of the 79th Legislature, 2nd Called Session, 2005, or similar legislation enacted by the 79th or a subsequent legislature that specifically references this section, becomes law. If H.B. No. 3, Acts of the 79th Legislature, 2nd Called Session, 2005, or similar legislation enacted by the 79th or a subsequent legislature that specifically references this section, does not become law, this Act has no effect.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute makes changes to additional state aid or credit for districts that reduce property tax rates. The substitute authorizes the commissioner to adjust the tax rate to account for special circumstances. The substitute includes language related to computing the amount of state and local revenue not to exceed designated amounts for entitlement to state aid and collection of local taxes. The substitute includes additional limitations of aid for certain districts. The substitute removes the provision authorizing a school district to publish notice for a budget and proposed tax rate meeting on its internet website. The substitute renumbers sections and subsections accordingly and provides for technical changes throughout.