

BILL ANALYSIS

C.S.H.B. 1445
By: Madden
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

This bill establishes a state virtual school network to provide the opportunity for students to enroll in high-quality electronic courses and programs, taught by a certified public school teacher, in which a student is not required to be located on the physical premises of the school district or open-enrollment charter school (charter school).

The bill requires the State Board of Education (SBOE) to establish quality criteria and, using that criteria, evaluate and place electronic courses and programs offered by a provider school district or charter school on an approved list. The provider district or charter school could offer the courses and programs to its own students, to another district's or charter school's students through agreement with that district or charter school, to Texas students who are not enrolled in a school district or charter school (limited to two courses per semester, with a fee), and to students outside of Texas on a fee basis. To be a provider, a district must be rated academically acceptable or higher, and a charter school must be rated recognized or higher.

The bill addresses funding, attendance accounting rules, accountability requirements, disclosure of information about courses and programs and educator professional development.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Education in SECTION 1 and the State Board of Education in SECTION 1 of this bill.

ANALYSIS

SECTION 1. The bill adds Chapter 30A to the Education Code to create the state virtual school network.

Subchapter A of Chapter 30A defines terms, including "electronic course or program," in which a student and teacher are in different locations for most of the student's instructional period. It provides the mission as ensuring high-quality education for students in this state who are being educated through electronic courses or program. It also provides that the chapter does not affect the provision of a course or program to a student while the student is located on the school district's or charter school's physical premises unless the district or charter school chooses to participate in providing an electronic course or program under this chapter to a student located on the district's or charter school's physical premises. It provides that this chapter does not affect the provision of distance learning courses offered under other law.

Subchapter B of Chapter 30A provides for the network to be governed by the SBOE, which shall prepare or provide for preparation of the network's biennial budget request, prepare and file annual reports, have exclusive jurisdiction over the network's physical assets, administer and spend appropriations, and employ personnel or contract with the Texas Education Agency or a regional education service center to operate the network. The bill prohibits the network from developing its own curriculum, courses, or programs or providing educational services directly to a student. The bill requires the commissioner, to the extent permitted under federal law, to make available information relating to student performance. The bill requires each contract between a school district or charter school and a virtual school service provider to provide for cancellation without penalty if legislative authorization is revoked and to be submitted to the commissioner and be public information.

Subchapter C of Chapter 30A sets out how electronic courses and programs are provided under the network by school districts and charter schools.

STATE ROLE

- The SBOE must establish criteria for electronic courses and programs. The criteria must include the Texas Essential Knowledge and Skills (TEKS) and may not include, among other items, requirements that are developmentally inappropriate or requirements or prohibitions on particular kinds of technology.
- Using that criteria, the SBOE must evaluate the courses and programs offered by a school district or charter school, place them on an approved list, and provide public access to the list and a detailed description of the approved courses and programs.
- To ensure a full range of courses and programs, including Advanced Placement courses, the SBOE shall create a list of subjects and courses for which the SBOE has identified TEKS or designated content requirements, note each course for which an electronic course is not available, determine the level of interest of students and parents in courses for which an electronic course or program is not available and make that interest level publicly available, and, if the SBOE determines sufficient interest exists, solicit provider school districts to offer such a course.
- The criteria must be in place at least six months before the criteria is used for evaluation, and the SBOE must review and consider criteria established in this state for existing virtual or distance learning courses or programs. A course must provide for at least the same number of instructional hours as required for a course offered in a program that meets the state-required minimum number of days and length of school day.
- The SBOE shall establish the cost of providing an electronic course or program, which may not exceed \$400 per student per course or \$4,800 per full-time student.
- A school district or charter school that submits an electronic course or program for approval must pay a fee in an amount established by the Commissioner sufficient to recover reasonable costs of evaluation and approval. The SBOE may waive the fee under certain circumstances.
- Before an evaluation begins, a provider school district or charter school may appeal to the commissioner on the grounds that the criteria is not objective or does not otherwise comply with the chapter. The provider school district also may appeal to the commissioner the SBOE's refusal to approve an electronic course or program. The commissioner may overrule the SBOE and place the course or program on the approved list, and this decision is final and may not be appealed.

PROVIDER ROLE

- The bill allows the provider district or charter school to offer the electronic courses and programs to students in this state and outside this state.
- A school district is eligible to act as a provider district only if the district is rated academically acceptable or higher.
- An open-enrollment charter school is eligible to act as a provider school only if the school is rated recognized or higher. It may only serve as a provider school to any student within the district in which it is located or within its service area, whichever is smaller or to any other student in the state through an agreement with the enrolling school.

STUDENT OPTIONS

- A student who is enrolled in a school district or charter school in this state as a full-time student may take one or more electronic courses from the district or charter school in which the student is enrolled, if the district or charter school is a provider district or charter school; a provider district or charter school other than the one in which the student is enrolled, under an agreement; or any combination of provider districts and schools.
- A student who resides in this state but who is not enrolled in a school district or charter school in this state as a full-time student may enroll in up to two electronic courses per semester from one or more provider school districts or schools. The student is not considered to be a public school student.
- A district or charter school may not require a student to enroll in an electronic course or program.

Provider districts or charter schools must create and maintain on its website an “informed choice” report in a format determined by the Commissioner and containing a description of specific information. The Texas Education Agency must maintain on its website a link to each district or charter school report.

The SBOE by rule must adopt procedures for verifying attendance of a student enrolled in an electronic course or program, and the rules may modify statutes regarding compulsory school attendance, exemptions and excused absences, and any other law inconsistent with provision of electronic courses or programs.

The accountability chapter applies to an electronic course or program in the same manner the chapter applies to any other course or program offered by the district or charter school. Results of assessments administered to students enrolled in an electronic course or program must be reported separately from the results of assessments administered to other students.

Each teacher of an electronic course must be certified to teach that course and grade level. The state virtual school network may provide or authorize providers of electronic professional development courses or programs to provide professional development. The SBOE by rule shall establish criteria for quality of such a course. The SBOE by rule shall allow regional education service centers to participate in the state virtual school network and may establish procedures for additional resources if the SBOE receives an appropriation, gift, or grant.

Subchapter D provides that the state shall pay the network’s operating costs and that such costs may not be charged to a school district. Costs of providing electronic professional development courses may be paid by appropriated state funds or federal funds. State funds may not be used in a manner that violates the Texas Constitution’s prohibition on appropriations for sectarian purposes. The SBOE may accept grants and federal funds.

A district or charter school in which a student is enrolled is entitled to receive state and local funding for the student in an amount equal to the cost of providing the electronic course or program, plus 20 percent. A district or charter school may receive payment for the student based on hours of contact with the student or successful completion of a course. A provider district or charter school and the district or charter school in which the student is enrolled shall enter into an agreement related to the payment of the cost of the student’s enrollment. The agreement must permit the school district or charter school in which the student is enrolled as a full-time student to retain an amount as designated and identify the services to be provided to the student. The SBOE, with the Commissioner’s advice, is required to adopt a standard agreement to be used unless permission is requested to modify it and the SBOE modifies it.

For a student enrolled in an electronic course or program who is a resident of this state but is not a full-time student in a school district or charter school in this state, the Commissioner by rule shall allocate to the school district or charter school funds from the foundation school fund based on an amount established by the SBOE for that course or program, not exceeding \$350 for any course. No more than 6,000 electronic courses may be funded for the 2006-2007 school year, and no more than 15,000 electronic courses may be funded for the 2007-2008 school year.

A provider district or charter school may apply for additional funding for an accelerated student who is enrolled in more than the course load taken by a student in the equivalent grade in other districts or charter schools. The SBOE by rule shall limit the total amount of funding for which an accelerated student is eligible. The Legislature in the appropriations act may limit the amount of funding and number of hours or courses eligible for funding.

The network may not charge a fee to students, except that a provider district or charter school may charge a fee for enrollment in an electronic course or program provided by the district to a student who does not reside in this state; a student who resides in this state, is a full-time student enrolled in a course load greater than that normally taken by students in the equivalent grade level, and does not qualify for accelerated funding; or a student who resides in this state and is not enrolled in a school district or charter school as a full-time student. For the latter category of student, the fee is limited to \$50 per course.

SECTION 2. The bill amends Chapter 26, Education Code, to add Section 26.0031 to prohibit a school district or charter school in which a student is enrolled as a full-time student from unreasonably denying a parent or student request to enroll in an electronic course or program. A district or charter school is not considered to have unreasonably denied a request if it determines the course or program does not meet state standards or the standards of the district or charter school; a student attempts to enroll in a course load inconsistent with the student's high school graduation plan or could negatively affect student performance on a state assessment instrument; or the request is at a time not consistent with the school district or charter school's enrollment period. Parents may appeal to the Commissioner from a denial of a request, and the Commissioner's decision is final and may not be appealed.

SECTION 3. The SBOE shall ensure that the state virtual school network begins operations in a manner that allows students to enroll in electronic courses or programs offered through the network beginning with the 2006-2007 school year.

SECTION 4. Effective date: September 1, 2005.

EFFECTIVE DATE

Effective September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. C.S.H.B. 1445 adds definitions for "course," "electronic diagnostic assessment," "electronic professional development course," and "program"; amends definition of "electronic course or program"; and deletes definitions for "local provider school district" and "state provider school district" as the committee substitute does not make such a distinction. It extends providers to include a "provider school district or charter school" instead of just provider school district as in the bill as filed, and it makes explicit that open-enrollment charter schools may be providers of electronic courses or programs and may be the entities in which students are enrolled. It also adds the ability to provide an electronic diagnostic assessment to a student located on a district's or school's physical premises.

C.S.H.B. 1445 adds that the SBOE's annual report must include student performance and state assessment results of students enrolled in electronic courses or programs, to the extent permitted under the Family Educational Rights and Privacy Act of 1974.

C.S.H.B. 1445 adds a requirement that contracts between a district or charter school and a virtual school service provider must provide for cancellation without penalty if legislative authorization is revoked and must be submitted to the commissioner and be public information.

C.S.H.B. 1445 adds a requirement that a school district is eligible to act as a provider district only if the district is rated academically acceptable or higher, and it adds a requirement that an open-enrollment charter school is eligible to act as a provider school only if the school is rated recognized or higher and that it may only serve as a provider school to any student within the district in which it is located or within its service area, whichever is smaller or to any other student in the state through an agreement with the enrolling school.

C.S.H.B. 1445 repeals the distinctions and differences between, the separate approval lists and processes for, and a criteria prohibition related to, a "state provider school district" and "local provider school district," and repeals definition and use of the term "responsible entity." The substitute replaces this with "a provider school district or charter school" that may offer electronic courses and programs to students in and out of state, and it allows full-time students enrolled in a Texas school district or charter school to take one or more electronic courses from the district or charter school of enrollment (if the district or charter school is a provider), a provider district or charter school other than the district or charter school of enrollment, or a combination, with districts working out payment and service issues under an SBOE-adopted agreement that may be modified. In addition, it allows Texas students who are not enrolled in a Texas district or charter school full-time to enroll in no more than two courses per semester and provides that they are not public school students.

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C.S.H.B. 1445 adds that the criteria for electronic courses and programs could include content requirements established under Subchapter A, Chapter 28, Education Code. It adds requirements that the SBOE review and consider criteria for existing virtual or distance learning courses or programs, that a course provide a minimum number of instructional hours to be approved, and that the SBOE approve courses or programs not later than August 1 of each year. The substitute adds that the SBOE shall establish the cost of providing an electronic course or program, not to exceed \$400 per student per course or \$4,800 per full-time student. The substitute adds that a school district or charter school submitting an electronic course or program must pay a fee in an amount established by the commissioner as sufficient to recover reasonable costs of evaluation and approval, with SBOE waiver allowed in certain circumstances. The substitute requires the creation and maintenance of informed choice reporters for each provider school district or charter school offering an electronic course or program and sets forth the guidelines for those reports. The substitute adds applicability of accountability requirements, adds separate reporting of assessment results, and adds a requirement that teachers be certified to teach that course and grade. It replaces the authorization for teacher training, in the bill as filed, with authorization for the network to provide or authorize providers of electronic professional development courses or programs to provide professional development, along with a requirement that the SBOE by rule establish criteria for electronic professional development courses. The substitute adds specificity to the requirement in the bill as filed that the SBOE by rule allow regional education service centers to participate in the network, and it allows them to participate in the same manner as provider districts and schools.

C.S.H.B. 1445 adds that the costs of providing electronic professional development courses may be paid by appropriated state funds or federal funds and adds a prohibition on using state funds in violation of the Texas Constitution's prohibition on use of funds for sectarian purposes. The substitute removes the requirement that costs for state provider district students be paid from the foundation school fund and appropriated funds, and instead provides a limited allocation of funds for Texas resident students not enrolled in a Texas district or charter school full-time, along with a limited number of courses that may be offered those students in the 2006-2007 and 2007-2008 school years.

Under the bill as filed, a local provider district is entitled to receive federal, state, and local funds for a student in an amount equal to the funding the district is otherwise is entitled to receive for a student, and under the substitute, a district or charter school in which the student is enrolled is entitled to receive state and local funding for a student in an amount equal to the cost of providing the electronic course or program, as established by SBOE, plus 20 percent. Instead of computing Average Daily Attendance, as under the bill as filed, the substitute has the district or charter school receive payment based on the same contact hour or course completion methodology as in the bill as filed. In the section on funding for accelerated students, the substitute repeals the language in the bill as filed directing the SBOE to give appropriate flexibility for students seeking to graduate early or recover course credits. The committee substitute authorizes a provider district or charter school to charge a fee not to exceed \$50 for a Texas resident student who is not enrolled in a district or charter school as a full-time student.

C.S.H.B. 1445 adds a new section to Chapter 26, Education Code, to prohibit and govern unreasonable denials of requests for enrollment in an electronic course or program.