

## **BILL ANALYSIS**

C.S.S.B. 962  
By: Shapiro  
Public Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current law, school districts build both instructional and non- instructional facilities funded with state support with limited restrictions on the type of facilities they choose to build. Since the state subsidizes all design types, some districts will not look at cost-efficient ways to limit construction. Ultimately, a school district will not be entitled to state assistance for any portion of the cost of constructing a new instructional facility that exceeds the cost allowance determined using the student capacity of the facility, the cost factor for the facility, and the appropriate regional cost index.

C.S.S.B. 962 requires the Texas Education Agency (agency) to establish square footage per student allowances for the planning and construction of new instructional facilities. In establishing a square footage allowance, the agency is required to determine the spaces or rooms to be included in an instructional facility and the allowable square footage per student of each space or room.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Education Agency in SECTION 1 and Commissioner of Education in SECTION 1 and SECTION 2 of this bill.

### **ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 46, Education Code, by adding Sections 46.0021-46.0023, as follows:

Sec. 46.0021. SQUARE FOOTAGE ALLOWANCES FOR NEW INSTRUCTIONAL FACILITIES. (a) The agency by rule shall establish square footage per student allowances for the planning and construction of new instructional facilities. Requires the agency to make certain determinations in establishing a square footage allowance.

(b) Sets forth the factors the agency is required to consider in determining the allowable square footage per student of a new instructional facility.

(c) The commissioner of education by rule shall establish a cost factor for the construction of new instructional facilities using the allowable square footage per student determined under this section.

(d) Requires the agency to consult with certain persons in developing square footage allowances and cost factors for new institutional facilities.

(e) The bill provides that this section does not apply to the renovation or improvement of an existing instructional facility.

(f) The agency by rule shall develop the square footage per student allowances and cost factors not later than September 1, 2006. Provides that this subsection expires September 1, 2006.

Sec. 46.0022. REGIONAL COST INDEX. (a) The agency by rules shall develop a regional cost index for new instructional facilities that accounts for differences in construction costs, materials, building systems, and environmental and climatic conditions in various regions of the state.

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- (b) Requires the agency to update the regional cost index each calendar quarter.
- (c) The regional cost index may not include site acquisition and development costs.
- (d) The commissioner by rule shall assign each school district in this state to a region for purposes of this section. Provides that the commissioner's determination under this subsection is final and may not be appealed.

Sec. 46.0023. COST LIMIT ON AID FOR NEW INSTRUCTIONAL FACILITY. (a) Provides that a school district is not entitled to state assistance under this subchapter for any portion of the cost of constructing a new instructional facility that exceeds the cost allowance determined using the student capacity of the facility, the cost factor for the facility, and the appropriate regional cost index.

- (b) Authorizes a school district to use local funds to pay the portion of the cost of constructing a new instructional facility that exceeds the amount a district is authorized to receive by the state.
- (c) Authorizes the commissioner to exempt a school district from the application of Subsection (a) if the district demonstrates, to the commissioner's satisfaction, that certain circumstances justify spending a greater amount on a new instructional facility than the amount for which the district may receive state assistance under Subsection (a). Provides that the commissioner's determination under this subsection is final and may not be appealed

SECTION 2. Amends Section 46.008, of the Education Code.

Sec. 46.008 STANDARDS AND BEST PRACTICES (a) The commissioner by rule shall establish standards for adequacy of school facilities. Provides that the standards may not include requirements related to space or square footage for a facility or any part of a facility. Provides that all new facilities constructed after September 1, 1998 must meet or exceed the standards to be eligible to be financed with state or local tax funds.

- (b) The commissioner by rule shall establish a program of best practices for the construction, replacement, renovation, or improvement of school facilities. The program must include factors such as solicitation of information from school districts on best practices, recognized school districts that have achieved cost effectiveness, energy efficiency, functionality and replicability as well as other considerations.
- (c) This section may not be construed in a manner that impairs or eliminates a guarantee of an eligible bond under Subchapter C, Chapter 45.

SECTION 3. (a) Section 46.0023, Education Code, as added by this Act, applies only to the payment of state assistance under Subchapter A, Chapter 46, Education Code, for which an is submitted to the commissioner of education on or after January 1 ,2007.

- (b) Provides that Section 46.008 (a), Education Code, as amended by this Act, applies to a school facility for which construction begins on or after September 1, 2005, and such a facility is not required to meet any requirements related to space established by the commissioner of education under that section as it existed before amendment by this Act.
- (c) Except as otherwise provided by this section, Subchapter A, Chapter 46, Education Code, as amended by this Act, applies only to the payment of state assistance under Subchapter A, Chapter 46, Education Code, for which a school district applies on or after September 1, 2005. Payment of state assistance under Subchapter A, Chapter 46, Education Code, for which a school district applies before September 1, 2005, is governed by the law in effect on the date the district applies for the state assistance, and the former law is continued in effect for that purpose.

### **EFFECTIVE DATE**

This Act takes effect September 1, 2005.

## **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.S.B 962 adds rulemaking authority to the Texas Education Agency in Section 46.0021, Section 46.0022 and to the Commissioner of Education in Section 46.0021, Section 46.0022, and 46.008. The substitute adds language for standards and best practices for school facilities. The substitute creates language as to applicability and existence of specified items.