

By: Averitt

S.B. No. 1446

Substitute the following for S.B. No. 1446:

By: Eissler

C.S.S.B. No. 1446

A BILL TO BE ENTITLED

AN ACT

relating to public school admission and enrollment.

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

SECTION 1. Section 5.001, Education Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a) "Home-schooled student" means a student who predominantly receives instruction in a general elementary or secondary education program that is provided by the parent, or a person standing in parental authority, in or through the child's home.

SECTION 2. Sections 25.001(b) and (d), Education Code, are amended to read as follows:

(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought if:

(1) the person and either parent of the person reside in the school district;

(2) the person does not reside in the school district but a parent of the person resides in the school district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person;

(3) the person and the person's guardian or other

1 person having lawful control of the person under a court order
2 reside within the school district;

3 (4) the person has established a separate residence
4 under Subsection (d);

5 (5) the person is homeless, as defined by 42 U.S.C.
6 Section 11302, or is a homeless child or youth, as defined by 42
7 U.S.C. Section 11434a, regardless of the residence of the person,
8 of either parent of the person, or of the person's guardian or other
9 person having lawful control of the person;

10 (6) the person is a foreign exchange student placed
11 with a host family that resides in the school district by a
12 nationally recognized foreign exchange program, unless the school
13 district has applied for and been granted a waiver by the
14 commissioner under Subsection (e);

15 (7) the person resides at a residential facility
16 located in the district; or

17 (8) the person resides in the school district and is 18
18 years of age or older or the person's disabilities of minority have
19 been removed.

20 (d) For a person under the age of 18 years to establish a
21 residence for the purpose of attending the public schools separate
22 and apart from the person's parent, guardian, or other person
23 having lawful control of the person under a court order, it must be
24 established that the person's presence in the school district is
25 not for the primary purpose of participation in extracurricular
26 activities. The board of trustees shall determine whether an
27 applicant for admission is a resident of the school district for

1 purposes of attending the public schools and may adopt reasonable
2 guidelines for making a determination as necessary to protect the
3 best interests of students. The board of trustees is not required
4 to admit a person under this subsection if the school district is
5 able to confirm that the person is eligible under this section to
6 enroll in another school district and the person:

7 (1) has engaged in conduct or misbehavior within the
8 preceding year that has resulted in:

9 (A) removal to a disciplinary alternative
10 education program; or

11 (B) expulsion;

12 (2) has engaged in delinquent conduct or conduct in
13 need of supervision and is on probation or other conditional
14 release for that conduct; ~~or~~

15 (3) has been convicted of a criminal offense and is on
16 community supervision ~~[probation]~~ or other conditional release; or

17 (4) has been subject to Subsection (h) on the basis of
18 information provided when the person previously enrolled in the
19 district and the person's parent, guardian, or other person having
20 lawful control of the person under a court order does not reside in
21 the district.

22 SECTION 3. Section 25.002(f), Education Code, is amended to
23 read as follows:

24 (f) ~~[Except as otherwise provided by this subsection, for a~~
25 ~~child to be enrolled in a public school, the child must be enrolled~~
26 ~~by the child's parent or by the child's guardian or other person~~
27 ~~with legal control of the child under a court order.]~~ A school

1 district shall record the name, address, and date of birth of the
2 person enrolling a child.

3 SECTION 4. Subchapter A, Chapter 25, Education Code, is
4 amended by adding Sections 25.006 and 25.007 to read as follows:

5 Sec. 25.006. PART-TIME ENROLLMENT OF HOME-SCHOOLED
6 STUDENT. (a) A home-schooled child entitled under Section 25.001
7 to attend public school in a school district may enroll in public
8 school in the district as a part-time student if the district and
9 the child's parent or guardian agree in writing to the child's
10 enrollment.

11 (b) A student enrolled under this section may participate in
12 an academic class on the same basis as a regularly enrolled student.

13 (c) A school district may not charge a student enrolled
14 under this section tuition but shall charge the student all
15 applicable fees charged a regularly enrolled student.

16 (d) An open-enrollment charter school or a college or
17 university charter school operating under Subchapter E, Chapter 12,
18 is not eligible to receive funding for a student enrolled under this
19 section.

20 Sec. 25.007. TUITION FOR STUDENTS HOLDING CERTAIN VISAS.

21 (a) If a student is required as a condition of obtaining or holding
22 a visa to reimburse the full, unsubsidized per capita cost of
23 providing the student's education for the period of the student's
24 attendance in a public school, a school district or open-enrollment
25 charter school may accept the reimbursement. A school district or
26 open-enrollment charter school may not deny admission to a student
27 for the failure to provide the reimbursement.

1 (b) The commissioner shall develop guidelines to be used by
2 school districts and open-enrollment charter schools in
3 determining the full, unsubsidized per capita cost of providing a
4 student's education. A school district or open-enrollment charter
5 school may not accept reimbursement in an amount greater than the
6 amount computed under the commissioner's guidelines unless the
7 commissioner approves the greater amount.

8 (c) The attendance of a student for whom a school district
9 or open-enrollment charter school accepts reimbursement under this
10 section is not counted for purposes of allocating state funds to the
11 district or school.

12 SECTION 5. Section 29.153(b), Education Code, is amended to
13 read as follows:

14 (b) A child is eligible for enrollment in a prekindergarten
15 class under this section if the child is at least three years of age
16 and is:

17 (1) unable to speak and comprehend the English
18 language;

19 (2) educationally disadvantaged; or

20 (3) homeless, as defined by 42 U.S.C. Section 11302,
21 or is a homeless child or youth, as defined by 42 U.S.C. Section
22 11434a, regardless of the residence of the child, of either parent
23 of the child, or of the child's guardian or other person having
24 lawful control of the child.

25 SECTION 6. Subchapter Z, Chapter 29, Education Code, is
26 amended by adding Sections 29.911 and 29.912 to read as follows:

27 Sec. 29.911. USE OF SCHOOL FACILITY FOR HOME-SCHOOLED

1 STUDENTS. (a) A school district may establish a laboratory or
2 other facility for home-schooled students that is not located on a
3 regular school campus.

4 (b) A school district may permit a home-schooled student
5 entitled under Section 25.001 to attend public school in the
6 district to use:

7 (1) a laboratory or other facility established under
8 Subsection (a); or

9 (2) a laboratory or other facility located on a
10 regular school campus.

11 (c) A school district may not charge a home-schooled student
12 tuition for use of a laboratory or other facility under this section
13 but shall charge the student a fee comparable to any fee charged a
14 regularly enrolled student for use of a similar facility.

15 (d) A school district may permit a regularly enrolled
16 student to use a laboratory or other facility established under
17 Subsection (a).

18 Sec. 29.912. ONLINE COURSE FOR HOME-SCHOOLED STUDENTS. (a)
19 A school district may offer an online course to home-schooled
20 students for academic credit.

21 (b) A school district may permit a home-schooled student
22 entitled under Section 25.001 to attend public school in the
23 district to participate in an online course offered under
24 Subsection (a).

25 (c) A school district may not charge a home-schooled student
26 tuition for participating in a course offered under Subsection (a)
27 but shall charge the student a fee comparable to any fee charged a

1 regularly enrolled student for participating in the course.

2 (d) A school district may permit a regularly enrolled
3 student to participate in an online course offered under Subsection
4 (a).

5 SECTION 7. Section 31.001, Education Code, is amended to
6 read as follows:

7 Sec. 31.001. FREE TEXTBOOKS. (a) Textbooks selected for
8 use in the public schools shall be furnished without cost to the
9 students attending those schools.

10 (b) For a course in which a home-schooled student is
11 enrolled as provided by Section 25.006, the student is entitled to
12 textbooks without cost as if the student were enrolled in the
13 district as a full-time student. This chapter applies to textbooks
14 furnished to home-schooled students under this subsection in the
15 same manner as it applies to textbooks furnished to students
16 attending public schools.

17 SECTION 8. Subchapter D, Chapter 33, Education Code, is
18 amended by adding Section 33.088 to read as follows:

19 Sec. 33.088. PARTICIPATION IN EXTRACURRICULAR ACTIVITIES
20 BY HOME-SCHOOLED STUDENTS. (a) A school district may permit a
21 home-schooled student entitled under Section 25.001 to attend
22 public school in the district to participate in a
23 district-sponsored extracurricular activity. If the district
24 charges regularly enrolled students a fee for participating in an
25 extracurricular activity, the district shall charge a
26 home-schooled student participating in that activity the same fee.

27 (b) Each home-schooled student entitled under Section

1 25.001 to attend public school is entitled to participate in an
2 extracurricular activity sponsored by the University
3 Interscholastic League on behalf of the school district the student
4 is entitled to attend under Section 25.001(b) if the board of
5 trustees of that district adopts a policy authorizing home-schooled
6 students to participate in league-sponsored activities.

7 (c) Subsection (b) does not exempt a home-schooled student
8 from satisfying, as provided by league rule, each eligibility
9 requirement for participating in a league-sponsored activity other
10 than class attendance requirements.

11 (d) In this subsection, "grade evaluation period" has the
12 meaning assigned by Section 33.081(c). For each grade evaluation
13 period of the school to which a home-schooled student is assigned
14 for participation in extracurricular activities, the student's
15 instructor must provide to the principal of the school, at the time
16 grades must be reported for students enrolled in the school, an
17 affidavit affirming that the student:

18 (1) is a full-time student; and

19 (2) has grades for that reporting period that satisfy
20 grade requirements under Section 33.081(c) for participation in
21 extracurricular activities.

22 SECTION 9. Subchapter B, Chapter 39, Education Code, is
23 amended by adding Section 39.035 to read as follows:

24 Sec. 39.035. ASSESSMENT OF HOME-SCHOOLED STUDENTS. (a)
25 This section applies only to a home-schooled student enrolled in a
26 school district for two or fewer courses or two or fewer hours of
27 instruction as determined by commissioner rule. A home-schooled

1 student enrolled in a school district for more than two courses or
2 more than two hours of instruction shall be assessed as provided by
3 Section 39.023.

4 (b) Except as provided by Subsection (c), a school district
5 may administer an assessment instrument required under Section
6 39.023 to a home-schooled student only in a subject in which the
7 student receives instruction from the district.

8 (c) The commissioner by rule shall provide for assessment of
9 home-schooled students under this section. The commissioner may
10 require administration of additional assessment instruments to
11 home-schooled students only to the extent required by federal law.

12 (d) Only the performance on an assessment instrument
13 required under Subsection (b) of a student assessed under this
14 section may be used for purposes of accountability ratings under
15 this chapter.

16 SECTION 10. Subchapter A, Chapter 42, Education Code, is
17 amended by adding Section 42.0051 to read as follows:

18 Sec. 42.0051. INCLUSION OF HOME-SCHOOLED STUDENTS IN
19 AVERAGE DAILY ATTENDANCE. (a) Subject to Subsection (c), the
20 average daily attendance of a school district includes each
21 home-schooled student:

22 (1) who is entitled under Section 25.001 to attend
23 public school in the district; and

24 (2) who:

25 (A) attends a district school as a part-time
26 student as provided by Section 25.006;

27 (B) participates in an online course offered by

1 the district under Section 29.912; or

2 (C) uses an off-campus laboratory or other
3 facility established by the district for home-schooled students as
4 provided by Section 29.911.

5 (b) For each day of the minimum school year under Section
6 25.081(a) that a home-schooled student receives services or
7 participates in a course as described by Subsection (a)(2), the
8 school district is entitled to include the student as a student in
9 the district's attendance for that day. The student's attendance
10 shall be included in proportion to the amount of time the student
11 receives services or participates in a course, as determined under
12 rules adopted by the commissioner.

13 (c) In any school year, not more than 1,000 full-time
14 equivalent home-schooled students in this state may be included in
15 average daily attendance under this section. To be eligible to
16 include a home-schooled student in average daily attendance, a
17 school district must apply to the commissioner within the time and
18 in the manner prescribed by commissioner rule. If, in any school
19 year, school districts apply to include more than 1,000 full-time
20 equivalent home-schooled students in average daily attendance, the
21 commissioner shall limit each district to a pro rata share,
22 determined by the district's enrollment of students other than
23 home-schooled students in comparison to the statewide enrollment of
24 students other than home-schooled students.

25 (d) The amount appropriated for inclusion of home-schooled
26 students in average daily attendance may not exceed \$5 million in a
27 school year. If the amount to which school districts are entitled

1 under Subsection (a) for a school year exceeds \$5 million, the
2 commissioner shall reduce each district's entitlement
3 proportionately.

4 SECTION 11. This Act applies beginning with the 2005-2006
5 school year.

6 SECTION 12. (a) Except as provided by Subsection (b) of
7 this section, this Act takes effect immediately if it receives a
8 vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2005.

12 (b) Section 10 of this Act takes effect September 1, 2005.