

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 19, 2005

TO: Honorable Kent Grusendorf, Chair, House Committee on Public Education

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB422 by Jackson, Mike (Relating to the continuation and functions of the Texas Education Agency and regional service centers; providing a penalty.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB422, Committee Report 2nd House, Substituted: a positive impact of \$6,136,222 through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	\$6,218,111
2007	(\$81,889)
2008	\$4,418,111
2009	\$18,111
2010	(\$4,381,889)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND 1</i>	Probable Savings/ (Cost) from <i>STATE TEXTBOOK FUND 3</i>	Probable Savings/ (Cost) from <i>FOUNDATION SCHOOL FUND 193</i>	Change in Number of State Employees from FY 2005
2006	(\$4,481,889)	\$7,800,000	\$2,900,000	8.0
2007	(\$781,889)	\$0	\$700,000	8.0
2008	(\$781,889)	\$9,000,000	(\$3,800,000)	8.0
2009	(\$781,889)	\$9,000,000	(\$8,200,000)	8.0
2010	(\$781,889)	\$9,000,000	(\$12,600,000)	8.0

Fiscal Analysis

The bill would continue the Texas Education Agency (TEA) until September 1, 2017, and repeal the sunset provision for Regional Education Service Centers (RESCs). The following sections would have cost or savings implications for the state:

Section 1.03 would require TEA and RESCs to solicit, collect and disseminate best practices information from districts and charters rated exemplary and recognized, including the effective use of online courses, and to develop incentives for school districts and charter schools to implement best practices.

Section 1.13 would authorize the Commissioner of Education to adopt rules concerning educator certification.

Section 1.15 would require that TEA make available information concerning the special education due process hearing process, and place the information on their website. TEA also would be required to collect and analyze at least biennially information on the performance of special education hearing officers.

Section 1.17 would establish a pilot scholarship program for eligible students in certain school districts located in the five largest counties of the state. Eligible districts must be in a county with at least 750,000 population, be the largest district in the county with more than 50 percent low income students, or have more than 90 percent low income students. Participation would be limited to 5 percent of an eligible district's prior year enrollment (excluding certain groups of students) through the 2007-08 school year.

Students residing in eligible districts must meet one of the following criteria to participate: (1) has dropped out of school; (2) be starting school for the first time; (3) is identified as at-risk of dropping out; (4) is a victim or sibling of a victim of assault by another student; (5) eligible for special education or bilingual services; (6) have a household income less than 200 percent of the threshold for free or reduced-price lunch.

Eligible students may receive a scholarship to attend a qualifying school. A qualifying school must hold a commissioner-recognized accreditation or have applied to be accredited, and must not foster unlawful behavior. A qualifying school accepting a scholarship must administer the appropriate Texas Assessment of Knowledge and Skills (TAKS) exams or an approved national, norm-referenced assessment.

An eligible student attending a qualifying school would receive a scholarship in an amount equal to the lesser of 90 percent of the previous year's statewide average annual cost per student or the qualifying school's average actual annual cost per student; students receiving special education or bilingual education receive additional funding.

After an application review process by a schools of choice resource center, TEA would issue scholarship certificates to the parent of an eligible student. The parent would then endorse it to the selected school, and the agency would be directed to pay the scholarship to the school on a monthly pro rata basis upon receipt of documentation of the child's attendance. The agency is directed to conduct a program evaluation from a funding source other than state funds.

Section 1.18 would require TEA to recommend that state funding for textbooks placed on the nonconforming list be limited based on the percentage of curriculum elements are missing from the book.

Section 1.19 (with the repealing provisions of section 1.36) would make the textbook credit pilot program a permanent and statewide program.

Section 1.20 would require the commissioner of education to develop and adopt a safety training program, and require of school districts training for certain staff and students.

Provisions in Article 2 would transfer the private driver training program from TEA to the Texas Department of Licensing and Regulation.

Methodology

Section 1.03: It is assumed that the bill would require the collection and dissemination of best practices across all academic subjects and administrative functions. For the purpose of this fiscal note, it is assumed that the agency would be obligated to evaluate in some way the information collected in order to establish the quality of the information and make it useful for districts. TEA has elsewhere estimated the cost of a best practices clearinghouse with online dissemination at \$3.5 million in one-time developmental costs and \$350,000 in maintenance costs each year thereafter. This would include

the contracted cost of the computer database and online presence, contracts with RESCs for online course and other best practice evaluations, and the development of appropriate incentives to encourage district implementation.

The bill specifically notes that evaluation of the practices is not required. If it is assumed that no evaluation takes place, TEA could absorb the cost of a basic web-based presentation of best practices information.

Section 1.13: The provision authorizing the Commissioner of Education to adopt rules concerning educator certification would make no other changes to the structure or authority of the State Board for Educator Certification, so it is assumed this provision would have no significant fiscal implications. The authority to adopt rules does not apparently authorize the collection of fees for certification, further supporting the interpretation that the commissioner's authority is not a replacement for existing SBEC authority.

Section 1.15: The collection and analysis of information on special education hearing officers is not expected to have a significant fiscal impact on TEA.

Section 1.17: Regarding the pilot scholarship program, based on the most recent data, there are five counties with at least 750,000 population: Bexar, Dallas, Harris, Tarrant and Travis. The largest districts in each county with more than 50 percent low income students are San Antonio, Dallas, Houston, Ft. Worth, and Austin. In addition, Edgewood in Bexar County and North Forest in Harris County each have more than 90 percent low income. These districts have a combined enrollment of 605,899 for 2004-05. Largely due to the income criterion, the number of students eligible for the scholarship program from these districts would be likely in excess of 70 percent of the total enrollment, however, the 5 percent cap on student participation would limit scholarships to approximately 30,000 for 2006 through 2008.

The bill is somewhat ambiguous as to what expenditures are to be included in determining the "statewide average annual cost per student." For the purposes of this fiscal note, it is assumed that the amount would be the state and local M&O revenue in the Foundation School Program per student in only the regular program. Ninety percent of that figure yields an estimated scholarship amount of \$4,434 per student enrolled. Special education and bilingual education students would realize amounts in excess of this amount. Given agency analysis of qualifying school tuition ranging from \$3,000 to more than \$10,000, it is assumed that the actual annual cost per student in qualifying schools in the counties affected by the bill does not differ significantly, on average, from the 90 percent assumption.

In determining the cost or savings to the state, two types of eligible students must be considered. First, there are students who would leave public school for a private school; these students would represent a savings to the state, given the bill's provision that the scholarship be 90 percent of the statewide average cost. Second, there are students in kindergarten or first grade who would have enrolled in private school anyway, but are eligible through the household income criterion and would participate in the scholarship program. These students represent a new and additional cost to the state.

The portion of the private school population that is in kindergarten is approximately 10,000. For purposes of this fiscal note, it is assumed that 5 percent of this cohort would be eligible and request a scholarship in 2006 and 2007, with the percentage increasing to 10 percent for 2008 and thereafter. This translates to 500 students in 2006, 1000 in 2007 (two years of 500), and increasing by 1000 each year for several subsequent years. The state cost that would not have been expected for the Foundation School Program for these students is approximately \$2.2 million in 2006, \$4.4 million in 2007, \$8.9 million in 2008, \$13.3 million in 2009 and \$17.7 million in 2010.

It should be noted that there exists the potential for larger state costs than estimated in this fiscal note. It is possible that an undetermined number of students -- across all grades -- who otherwise would be enrolled in private school anyway would enroll for one semester in public school to qualify for a scholarship for the rest of their school careers, and then return to private school. To the extent this behavior takes place, it would represent a significant cost to the state not included in this fiscal note's estimates.

As noted earlier, the 5 percent limitation would restrict participating students to a maximum of 30,000 through 2008. However, the availability and interest of private schools in accepting these students also would be a limiting factor. The total private school enrollment is estimated to be about 148,000 at accredited schools in the five counties in which the six largest districts are located. If these schools are operating at 85% of maximum capacity, there would be room for only about 26,000 new students. The acceptability of the scholarship amount to the school, and location of the school to the student's home are also likely to be factors limiting participation. For purposes of this fiscal note, it is assumed that approximately 15,000 students currently in public schools would choose and be accepted to enroll in a private school. For these students, the state would save the difference between their actual district per pupil funding level and 90 percent of the statewide average; because the actual funding in urban districts is generally somewhat less than the statewide average, the difference is estimated to be approximately \$340 per student. For 15,000 students, this yields a state savings of \$5.1 million annually.

The agency would face some administrative expenses due to the provisions of the bill. The agency anticipates the need for 3 additional full-time equivalent (FTE) positions, with \$162,021 in supporting administrative costs, to handle the processing of scholarship applications, which could exceed 20,000. The agency also would be responsible for making monthly payments to private schools and verifying their services; based on similar work done for charter schools, the agency estimates that it would need 5 FTEs for payment processing, with \$269,868 in supporting administrative costs, as well as a one-time amount of \$500,000 to develop an electronic payment processing system.

Section 1.18: The bill's provision directing TEA to recommend to the State Board of Education to limit state funding of nonconforming textbooks could result in some state savings to the textbook fund. However, given the uncertainty of (1) whether the State Board of Education would agree to the proposal, (2) publisher behavior in preparing their textbooks for adoption, and (3) district behavior regarding their book selections, the potential savings may be minimal.

Section 1.19: An analysis of the three most recent proclamations suggest that the average publisher price is 3 percent below the maximum cost. For the purposes of this fiscal note, it is assumed that (1) the lowest cost books would be 6 percent below the maximum cost, and (2) the expected expansion of the credit program would cause roughly half of districts (representing half the purchase) to select the lowest cost book. It is also assumed that the entire request for textbook funding in fiscal year 2006, \$523 million, will be funded. A six percent savings on half of the \$523 million would yield \$15.6 million, with \$7.8 million going to each the state and districts. There are no textbook purchases planned for 2007. For 2008 and beyond, it is anticipated that financial incentives will drive at least one publisher in each subject area to offer a book at 10 percent less than the maximum price, and that 90 percent of districts will choose the lowest cost book. Assuming a stable \$200 million annual textbook purchase, this would yield an annual state savings of \$9 million. If textbook appropriations are less than the amount assumed above, state savings also will be reduced commensurately.

Section 1.20: It is estimated that the agency would require approximately \$50,000 in 2006 only to contract for the development of a safety training course meeting the requirements of the bill.

Article 2: The transfer of the private driver training schools program from TEA to the Texas Department of Licensing and Regulation is not expected to have a significant fiscal impact on the state.

Technology

In response to the bill's requirement for best practices data collection and dissemination, it is expected that TEA would develop and maintain an internet-based clearinghouse for this information, at a one-time cost of \$3.5 million with annual maintenance costs of \$350,000 in subsequent years. If it is assumed that no evaluation of best practices information takes place, then this provision would have no significant technology impact.

The bill would require a modification to the agency's electronic payment system, at a one-time cost of \$500,000.

Local Government Impact

Statewide implementation of a textbook credit program would create the opportunity for districts to earn credits that made be spent on additional instructional materials, including electronic textbooks. These credits could amount to \$7.8 million statewide for 2006, and then \$9 million annually starting in 2008.

It is estimated that the requirement for every school coach, trainer, band director and physician involved in certain extra-curricular activites to complete a safety training course would be approximately \$554,000 annually for local school districts statewide.

To the extent that section 1.22 requires the agency to expend additional set-aside funds from the compensatory education allotment, districts would see this allotment decreased accordingly.

School districts would be expected to lose funding as a result of transfers to private schools as a result of the scholarship program. At an estimated 15,000 students transferring, it is estimated that the seven districts will lose about \$69.3 million per year in revenue. It is unclear whether school districts would be able to reduce costs by a comparable amount of money given the small numbers of students estimated to leave each district, although some savings are likely.

Source Agencies: 116 Sunset Advisory Commission, 452 Department of Licensing and Regulation, 701 Central Education Agency

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