

BILL ANALYSIS

C.S.H.B. 3868
By: Paxton
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current statute provides for public school transfers for children in low performing public schools through the Public Education Grant (PEG) program. Unfortunately, PEG transfers are underutilized, largely because public schools are not required to give justification for refusing admission to a child who requests a transfer. The bill provides that a school district shall accept the application for the student to attend the campus to which the student's parent gave the highest ranking and at which the student enrollment for the grade level in which the student will be enrolled does not exceed the maximum student enrollment capacity for that grade level.

RULEMAKING AUTHORITY

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

ANALYSIS

Note: Unless otherwise specified, statutory references in this BILL ANALYSIS are to the Education Code.

This bill amends the Education Code to provide that, notwithstanding any other provision of the Education Code, as provided by Chapter 29, Subchapter G., Public Education Grant Program, an eligible student may attend a public school in the district in which the student resides or may use a public education grant to attend any other district chosen by the student's parent. A parent may designate and rank in order of preference three campuses with available capacity in the school district chosen by the parent. "Parent" includes a guardian or other person having lawful control of a student.

The bill provides that, not later than August 1 of each year, each school district, based on the most recent information available, shall report to the commissioner the status of the district's student enrollment capacity for the following school year. The district must provide the student enrollment information by grade level for each campus in the district. Maximum student enrollment capacity is calculated as follows:

- for kindergarten through fourth grade, the number of teachers for each grade level multiplied by 22;
- for fifth through eighth grade, the number of teachers for each grade level multiplied by 25; and
- for ninth through 12th grade, the number of teachers for each grade level multiplied by 30.
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The bill provides that, in lieu of calculating maximum student enrollment capacity in the manner specified above, a school district may calculate maximum student enrollment capacity in compliance with a method determined by the district if the district submits to the Texas Education Agency (agency) an explanation of the method the district proposes to use, and the agency approves the use of that method.

The bill further provides that, in calculating maximum student enrollment capacity, a school district shall exclude each class composed predominantly of students receiving special education services under Subchapter A of Chapter 29. The bill provides that the Commissioner of Education (commissioner) by rule shall establish a method for calculating the maximum student

enrollment capacity for classes composed predominantly of students receiving special education services under Subchapter A.

The bill provides that a school district chosen by a student's parent may not reject the application for the student to attend school in that district unless the district's student enrollment for the grade level in which the student will be enrolled exceeds the maximum student enrollment capacity for that grade level as determined under the provisions of the bill. The district shall accept the application for the student to attend the campus to which the student's parent gave the highest ranking and at which the student enrollment for the grade level in which the student will be enrolled does not exceed the maximum student enrollment capacity for that grade level. If, at each campus designated by the student's parent, the student enrollment capacity for the grade level in which the student will be enrolled exceeds the maximum student enrollment capacity for that grade level but, at one or more other campuses in the district the student enrollment for the applicable grade level does not exceed the maximum student enrollment capacity for that grade level, the district shall accept the application for the student to attend one of those district campuses, as determined by the district.

The bill provides that a school district may not reject an applicant for attendance using criteria that discriminate on the basis of a student's race, ethnicity, academic achievement, athletic abilities, language proficiency, sex, or socioeconomic status. A school district that has more applicants for attendance than available positions must give priority to students at risk of dropping out of school as defined by Section 29.081 and must fill the available positions by lottery. However, to achieve continuity in education, a school district may give preference over at-risk students to enrolled students and to the siblings of enrolled students residing in the same household or other children residing in the same household as enrolled students for the convenience of parents of those children.

The bill provides that, not later than November 1 of each year the commissioner shall, based on the accountability ratings for the preceding school year, provide notice to each school district in which a campus described by Section 29.202 is located that identifies each campus in the district that meets the description in Section 29.202, and informs the district that the district must comply with the following provision: not later than September 1 of each year, a school district that does not appeal the district's accountability rating as provided by Section 39.301 shall notify the parent of each student in the district assigned to attend a campus described by Section 29.202 that the student is eligible for a public education grant. A district that appeals the district's accountability rating as provided by Section 39.301 shall, not later than December 1 of each year, notify the parent of each student. The notice must contain a clear, concise explanation of the public education grant program and of the manner in which the parent may obtain further information about the program. The bill further provides that, not later than the seventh day after the date a school district receives an application for a transfer or August 15, whichever date is later, the district shall notify the parent of the student who applied for the transfer: whether the application is accepted or rejected; and, if the application is accepted, the campus at which the student is accepted.

The bill provides that, not later than October 1 of each year, each school district shall provide a report to the district board of trustees and the agency that includes: the number of transfers into the district requested under Subchapter G of Chapter 29; and if applicable, the reason for rejecting each transfer.

The bill provides that Subchapter G, Chapter 29, Education Code, as amended by this Act, applies beginning with the 2007-2008 school year.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill had several significant drafting errors. In the interest of accurately describing the provisions of the original bill, its substantive provisions, including the drafting errors (but excluding the effective date section), are set forth below:

SECTION 1. Amend Chapter 22.203, Education Code, by adding Subsection D-1 and amending Subsection D as follows:

Sec. 29.203. FINANCING.

(d-1) No later than June 1 of each year, each district must report its student enrollment capacity for the next school year, by grade level for each campus, to the Commissioner of Education.

(d-2) A school district chosen by a student's parent under Section 29.201 is entitled to reject the application for the student to attend school in that district only if the declared capacity in Subsection D-1 has been reached. The district may not use criteria that discriminate on the basis of a student's race, ethnicity, academic achievement, athletic abilities, language proficiency, sex, or socioeconomic status. A school district that has more applicants for attendance under this subchapter than available positions must fill the available positions by lottery. However, to achieve continuity in education, a school district may give preference to enrolled students and to the siblings of enrolled students residing in the same household or other children residing in the same household as enrolled students for the convenience of parents, guardians, or custodians of those children.

The substitute bill correctly amends certain provisions of Subchapter G, Chapter 29, in the manner specified above in the ANALYSIS section. The original purports to amend the Education Code in an incorrect manner, making comparison of the two bills somewhat difficult. For purposes of comparing the original and the substitute, the provisions of the substitute, included above in the ANALYSIS section, are incorporated herein by reference.