

## **BILL ANALYSIS**

S.B. 1788  
By: Shapiro  
Public Education  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, students who are interested in taking courses that are not offered due to the lack of interest by students as a whole are constrained to taking only the courses that are offered.

This bill establishes a state virtual school network (network) so students throughout the state can have access to course work which may not otherwise be provided or offered. The bill sets forth the operational, administrative, and funding requirements of the network.

### **RULEMAKING AUTHORITY**

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

### **ANALYSIS**

#### SECTION 1.

##### STATE VIRTUAL SCHOOL NETWORK

###### SUBCHAPTER A. GENERAL PROVISIONS

**DEFINITIONS.** Defines "administering authority," "board," "course," "electronic course," "electronic diagnostic assessment," "electronic professional development course," "provider school district or school," and "public or private institution of higher education."

**STUDENT ELIGIBILITY.** Sets forth the students who are eligible to enroll in a course provided through the state virtual school network (network).

**PROVISION OF COMPUTER EQUIPMENT OR INTERNET SERVICE.** Provides that this chapter does not require a school district, an open-enrollment charter school, a provider school district or school, or the state to provide a student with home computer equipment or Internet access for a course provided through the network; or prohibit a school district or open-enrollment charter school (district or school) from providing a student with home computer equipment or Internet access for a course provided through the state virtual school network.

**APPLICABILITY OF CHAPTER.** Provides that this chapter does not affect the provision of a course to a student while the student is located on the physical premises of a district or school, with some exceptions noted. Provides that this chapter does not affect the provision of distance learning courses offered under other law. Authorizes a school district or open-enrollment charter school to choose to participate in providing an electronic course or program or electronic diagnostic assessment under this chapter to a student who is located on the physical premises of a school district or open-enrollment charter school.

**TELECOMMUNICATIONS OR INFORMATION SERVICES NETWORK NOT CREATED.** Provides that this chapter does not create or authorize the creation of a telecommunications or information services network.

## ADMINISTRATIVE PROVISIONS

**GOVERNANCE OF NETWORK.** Requires the Commissioner of Education (commissioner) to administer the network, and ensure high-quality education for students in this state who are being educated through electronic courses provided through the network, and ensure equitable access by students to those courses. Authorizes the commissioner to adopt rules necessary to implement this chapter. Requires the commissioner, to the extent practicable, to solicit advice from school districts concerning administration of the network and adoption of rules.

**GENERAL POWERS AND DUTIES OF COMMISSIONER.** Requires the commissioner to prepare or provide for preparation of a biennial budget request for the network for presentation to the legislature. Provides that the commissioner has exclusive jurisdiction over the assets of the network. Requires the commissioner to administer and spend appropriations made for the benefit of the network. Requires the commissioner to employ a limited number of administrative employees in connection with the network; and contract with a regional education service center for the service center to operate the network.

**DESIGNATION OF ADMINISTERING AUTHORITY.** Requires the commissioner to designate a Texas Education Agency (agency) employee or a group of agency employees to act as the administering authority for the network (administering authority).

**REPORTS.** Requires the commissioner to prepare a report for each fiscal year documenting activities of the network in accordance with this chapter. Requires the commissioner, not later than January 31 of each year, to file the report for the preceding fiscal year with certain state government officials.

Requires that the report include the results of assessment instruments administered to the students enrolled in electronic courses under this chapter and requires the commissioner to make information relating to the performance of students enrolled in electronic courses or programs under this chapter available to school districts, open-enrollment charter schools, and the public as permitted under federal law.

Requires the commissioner to investigate alternative models for funding the operation of the network and for student attendance in electronic courses provided through the network. Requires the commissioner, not later than December 1, 2008, to submit a report to each member of the legislature that recommends alternative funding models for the network to achieve certain purposes and a system of indicators that would allow for comparison of the quality of different provider school districts' and schools' electronic courses for the same course, including comparison of certain performance measures, and other indicators as determined by the commissioner.

**LIMITATIONS ON ADMINISTERING AUTHORITY POWERS.** Prohibits the administering authority from providing educational services directly to a student.

### **CONTRACTS WITH VIRTUAL SCHOOL SERVICE PROVIDERS.**

Requires that each contract between a school district, and open-enrollment charter school, or a public or private institution of higher education and administering authority provide that the administering authority is authorized to cancel the contract without penalty if legislative authorization for the district, school, or institution to offer an electronic course through the network is revoked, and requires each contract to be submitted to the commissioner. Provides that a contract submitted under this section is public information.

## PROVISION OF ELECTRONIC COURSES

**ELIGIBILITY TO ACT AS PROVIDER SCHOOL DISTRICT OR SCHOOL.** Provides that a school district is eligible to act as a provider school district under this chapter only if the district has a state accountability system rating of academically acceptable or

higher. Provides that an open-enrollment charter school is eligible to act as a provider district under this chapter only if the school has a state accountability system rating of recognized or higher. Authorizes an open-enrollment charter school to serve as a provider school only to a student within the school district in which the school is located or within its service area, whichever is smaller, or to another student in the state through an agreement with the administering authority as defined in this bill.

**LISTING OF ELECTRONIC COURSES.** Requires the administering authority to publish the criteria required for electronic courses that may be offered through the network; to evaluate, using this criteria, electronic courses submitted by a provider school district or school to be offered through the network; create a list of electronic courses approved by the administering authority; and to provide public access to the list of approved electronic courses offered through the network and a detailed description of the courses that complies with requirements outline in the bill.

Requires the administering authority, for the purpose of ensuring a full range of electronic courses, including advanced placement courses are offered to students in this state, to create a list of those subjects and courses for which SBOE had identified essential knowledge and skills or for which SBOE has designated content requirements. Requires the administering authority to enter into agreements with school districts open-enrollment charter schools, and public or private institutions of higher education for the purpose of offering the courses through the network. Authorizes the administering authority to develop or authorize the development of additional electronic courses that are needed to complete high school graduation requirements and are not otherwise available through the network.

**CRITERIA FOR ELECTRONIC COURSES.** Requires SBOE by rule to establish an objective standard criteria for an electronic course to ensure alignment with the essential knowledge and skills requirements identified or content requirements developed under statute by the SBOE and the criteria may not permit the administering authority to prohibits provider school districts or schools from applying for approval or an electronic course for a course for which essential knowledge and skills have been identified.

Requires that the criteria be consistent with the course eligibility requirements of this bill and prohibits it from including any requirements that are developmentally inappropriate for students. Allows the commissioner by rule to establish additional quality-related criteria for electronic courses and provide for a period of public comment regarding the criteria. Requires that the criteria be in place at least six months before the administering authority uses the criteria in evaluating an electronic course offered by the network.

**COURSE ELIGIBILITY IN GENERAL.** Requires a course offered through the network to be in a specific subject that is part of the state's required curriculum, be aligned with the essential knowledge and skills identified by the SBOE, and be the equivalent in instructional rigor and scope to a course that is provided in a traditional classroom setting during a semester of 90 instructional days, and a school day that meets the minimum length of a school day required under current law.

**APPROVAL OF ELECTRONIC COURSES.** Requires the administering authority to establish a schedule for an annual submission and approval process for electronic courses, to evaluate electronic courses to be offered through the network, and, not later than August 1 of each year, to approve electronic courses that meet the criteria established under this bill, and provide the minimum instructional rigor and scope required.

Requires the administering authority to establish the cost of providing an electronic course approved by the administering authority and prohibits the cost from exceeding \$400 per student per course or \$4,800 per full-time student.

Requires a school district, open-enrollment charter school, or public or private institution of higher education that submits an electronic course to the administering authority for approval to pay a fee in an amount established by the commissioner as sufficient to

recover the reasonable costs to the administering authority in evaluating and approving electronic courses.

Requires the administering authority to waive the fee if a school district, open-enrollment charter school, or public or private institution of higher education applies for approval of an electronic course that was developed independently by the district, school, or institution. The bill sets forth the aspects of a course or program that need to be developed substantially by a district, school, or institution employee in order for the course or program to be considered as developed independently by a district, school or institution.

**APPEAL TO COMMISSIONER.** Authorizes a provider school district or school to appeal to the commissioner the administering authority's refusal to approve an electronic course. Authorizes the commissioner, if the commissioner determines that the administering authority's evaluation did not follow the criteria or was otherwise irregular, to overrule the administering authority and place the course on a list of approved courses. Provides that the commissioner's decision under this section is final and an appeal of the decision is prohibited.

**OPTIONS FOR PROVIDERS AND STUDENTS.** Authorizes a provider school district or school to offer electronic courses to students who reside in this state and to students who reside outside this state and who meet certain eligibility requirements. Authorizes a student who is enrolled in a school district or open-enrollment charter school in this state as a full-time student to take one or more electronic courses through the network.

Authorizes a student who resides in this state but who is not enrolled in a school district or open-enrollment charter school in this state as a full-time student, subject to fees, to enroll in electronic courses through the network. Prohibits a student to whom this subsection applies from enrolling in more than two electronic courses offered through the network, in any semester. Provides that a student to whom this subsection applies is not considered to be a public school student. Requires a student to whom this subsection applies to obtain access to a course provided through the network through the school district or open-enrollment charter school attendance zone in which the students resides. Provides that a student to whom this section applies is not entitled to enroll in a course offered by a school district or open-enrollment charter school other than an electronic course provided through the network; and is not entitled to any right, privilege, activities, or services available to a student enrolled in a public school, other than the right to receive the appropriate unit of credit for completing an electronic course.

Prohibits a school district or open-enrollment charter school from requiring a student to enroll in an electronic course.

**INFORMED CHOICE REPORTS.** Requires the administering authority, not later than a date determined by the commissioner, to create and maintain on the network's Internet website an "informed choice" report as provided by commissioner rule.

Requires each report under this section to describe each electronic course offered through the network and to include certain pertinent information.

**COMPULSORY ATTENDANCE.** Requires the commissioner by rule to adopt procedures for reporting and verifying the attendance of a student enrolled in an electronic course provided through the network. Authorizes the rules to modify the application of existing state laws regarding compulsory attendance and excused absences for a student enrolled in an electronic course.

**APPLICABILITY OF ACCOUNTABILITY REQUIREMENTS.** Provides that the state's accountability system applies to an electronic course offered through the network in the same manner that that chapter applies to any other courses offered by a school district or open-enrollment charter school. Requires each student enrolled under this chapter in an electronic course offered through the network to take any assessment instrument under current state law that is administered to students who are provided

instruction in the course material in the traditional classroom setting. Requires the administration of the assessment instrument to the student enrolled in the electronic course to be supervised by a proctor.

Requires a school district or open-enrollment charter school to report to the commissioner through the Public Education Information Management System (PEIMS) the results of assessment instruments administered to students enrolled in an electronic course offered through the network separately from the results of assessment instruments administered to other students.

**TEACHER QUALIFICATIONS.** Requires that each teacher of an electronic course offered by a school district or open-enrollment charter school through the network to be certified by the state to teach that course and grade level and successfully complete the appropriate professional development course provided under this bill before teaching an electronic course offer through the network.

**EDUCATOR PROFESSIONAL DEVELOPMENT.** Requires the network to provide or authorize providers of electronic professional development courses or programs to provide professional development for teachers who are teaching electronic courses through the network. Authorizes the network to provide or authorize providers of electronic professional development courses to provide professional development for certain other teachers.

**CRITERIA FOR ELECTRONIC PROFESSIONAL DEVELOPMENT COURSES.** Requires the commissioner by rule to establish objective standard criteria for quality of an electronic professional development course provided through the network.

**REGIONAL EDUCATION SERVICE CENTERS.** Requires the commissioner by rule to allow regional education service centers to participate in the network in the same manner as provider school district and schools.

**ADDITIONAL RESOURCES.** Authorizes the commissioner by rule to establish procedures for providing additional resources, such as an online library, to students and educators served through the network. Authorizes the administering authority to provide additional resources only if the commissioner receives an appropriation, gift, or grant sufficient to pay the costs of providing those resources.

## FUNDING

**COSTS TO BE BORNE BY STATE.** Requires the state, except for certain grants and federal funds, to pay the cost of operating the network. Prohibits the operating costs of the network from being charged to a school district or open-enrollment charter school.

Authorizes the costs of providing electronic professional development courses to be paid by state funds appropriated by the legislature or federal funds may be used for that purpose.

Provides that state funds received by a school district or open-enrollment charter school under this chapter are in addition to any amounts to which the district or school is entitled to receive or retain under current state funding laws and are not subject to reduction under any provision of those laws.

Prohibits state funds provided in connection with the network from being used in a manner that violates state constitutional restrictions related to sectarian purposes.

**GRANTS AND FEDERAL FUNDS.** Authorizes the commissioner to accept a grant for purposes of this chapter from a public or private person and requires commissioner to use those funds in accordance with the commissioner's duties regarding the network. Authorizes the commissioner to accept federal funds for purposes of this chapter and

requires the commissioner to use those funds in compliance with applicable federal law, regulations, and guidelines.

**ALLOCATION OF FUNDS FOR STUDENTS ENROLLED IN SCHOOL DISTRICTS AND OPEN-ENROLLMENT CHARTER SCHOOLS.** Entitles a school district or open-enrollment charter school in which a student is enrolled to receive state and local funding for a student enrolled in an electronic course offered through the network in an amount equal to the cost of providing the electronic course, as established by commissioner rule, plus 20 percent.

Authorizes, as determined by the commissioner for each approved course, a school district or open-enrollment charter school to receive payment for a student enrolled in an electronic course base on certain criteria. Requires a provider school district or school, the school district or open-enrollment charter school in which a student is enrolled, and the administering authority to enter into an agreement related to the payment of the costs of a student's enrollment in an electronic course. Prohibits the payment to a provider school district or school under this subsection from exceeding the cost of providing the electronic course, as established by commissioner rule.

Requires the agreement to permit the school district or open-enrollment charter school in which the student is enrolled as a full-time student to retain, for the district's or school's administrative costs, an amount not to exceed 20 percent of the amount of funds the district or school receives in connection with the student (i.e., 20 percent of: an amount equal to the cost of providing the electronic course, as established by commissioner rule, plus 20 percent) and to identify the services each district or school is required to provide to the student.

Requires the administering authority, with the approval of the commissioner, to adopt a standard agreement that governs payment of funds and other matters relating to a student's enrollment in an electronic course offered through the network. Requires each school district or open-enrollment charter school participating in the network to use the standard agreement unless the district or school requests from the commissioner permission to modify the standard agreement and the commissioner authorizes the modification.

**FUNDING FOR ACCELERATED STUDENTS.** Authorizes a school district or open-enrollment charter school to 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 level in other school districts or open-enrollment charter schools. Requires the commissioner by rule to set a limit on the total amount of funding for which an accelerated student is eligible. Provides that the legislature in the General Appropriations Act may limit the amount of funding and the number of courses eligible for funding under this section.

**FEES.** Authorizes a school district or open-enrollment charter school to charge a fee for enrollment in an electronic course provided through the network to a student who resides in this state and meets certain other requirements.

Requires a school district or open-enrollment charter school to charge a fee for enrollment in an electronic course provided through the network to a student who resides in this state and is not enrolled in a school district or open-enrollment charter school as a full-time student.

Prohibits the amount of a fee charged a student from exceeding the lesser of the cost of providing the course or \$400, for each electronic course in which the student enrolls through the network.

Prohibits the network, except as specifically noted in the bill, from charging a fee to students for electronic courses provided through the network.

**SECTION 2.**

**RIGHTS CONCERNING STATE VIRTUAL SCHOOL NETWORK.** Requires the school district or open-enrollment charter school, at the time and in the manner that a school district or open-enrollment charter school informs students and parents about courses that are offered in the district's or school's traditional classroom setting, to notify parents and students of the option to enroll in an electronic course offered through the network.

Prohibits a school district or open-enrollment charter school in which a student is enrolled as a full-time student from unreasonably denying the request of a parent of a student to enroll the student in an electronic course offered through the network. Sets forth the circumstances under which a school district or open-enrollment charter school is not considered to have unreasonably denied a request to enroll a student in an electronic course. Requires a school district or open-enrollment charter school that provides an electronic course through the network to make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

Authorizes a parent to appeal to the commissioner a school district's or an open-enrollment charter school's decision to deny a request to enroll a student in an electronic course offered through the network. Provides that the commissioner's decision under this subsection is final and may not be appealed.

Requires the commissioner to ensure that the network begins operation in a manner that allows students to enroll in electronic courses offered through the network beginning with the 2008-2009 school year. Requires the network to provide electronic courses for the 2008-2009 school year for grades 9, 10, 11, and 12 only; for the 2009-2010 school year for grades six through 12 only; and for the 2010-2011 school year and subsequent school years, for all grades.

**EFFECTIVE DATE**

September 1, 2007.