

By: Paxton

H.B. No. 3867

A BILL TO BE ENTITLED

AN ACT

relating to a scholarship program for certain students in foster care.

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

SECTION 1. Chapter 29, Education Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. SCHOLARSHIP PROGRAM FOR STUDENTS IN FOSTER CARE

Sec. 29.401. DEFINITIONS. In this subchapter:

(1) "Guardian" includes a custodian, foster care parent, or other person with the authority to act on behalf of the child.

(2) "Participating school" means a nongovernmental school that provides education to elementary or secondary students and has notified the agency of its intent to participate in the program and comply with the program's requirements.

(3) "Program" means the scholarship program for students in foster care.

Sec. 29.402. PROGRAM. An eligible student under Section 29.403 may, at the option of the student's guardian:

(1) attend any public school in the district in which the student resides as provided by Subchapter G;

(2) subject to the limitations of Section 29.203, attend a public school in a district other than the district in which the student resides as provided by Subchapter G; or

1 (3) receive a scholarship as provided by Section
2 29.404 to pay the costs of attending a participating school.

3 Sec. 29.403. ELIGIBLE STUDENT. (a) A student is eligible
4 to participate in the program if:

5 (1) the student is in foster care or other residential
6 care under the conservatorship of the Department of Family and
7 Protective Services; or

8 (2) is the sibling of a child who qualifies under
9 Subdivision (1).

10 (b) A student who establishes eligibility under this
11 section may continue participating in the program until the earlier
12 of the date the student graduates from high school or the student's
13 21st birthday.

14 Sec. 29.404. SCHOLARSHIP AMOUNT. (a) An eligible student
15 qualifies for an annual scholarship in an amount equal to the lesser
16 of:

17 (1) the amount of funding that equals the
18 participating school's annual cost per student, including
19 operational and capital facility costs and any costs associated
20 with the eligible student's special needs; or

21 (2) the amount of funding for maintenance and
22 operations the school district in which the eligible student
23 resides would have received to serve and educate the student from
24 federal, state, and local sources had the student enrolled in that
25 district, including costs associated with the eligible student's
26 special needs.

27 (b) The guardian of the eligible student may enroll the

1 student in a participating school.

2 (c) The student's scholarship is the entitlement of the
3 student under the supervision of the student's guardian.

4 (d) A participating school may not share a student's
5 scholarship with or refund or rebate a student's scholarship to the
6 guardian or student in any manner.

7 (e) A student's scholarship may be used for educational
8 purposes, including tuition, special education services,
9 transportation costs, uniforms, books or other school fees,
10 tutoring, and extracurricular programs with an educational
11 purpose. A participating school or a third party under contract
12 with the participating school may provide services to the student.
13 The scholarship money is payable only to the participating school.

14 Sec. 29.405. ADMISSIONS. (a) A participating school that
15 has more scholarship applicants for attendance under this
16 subchapter than available positions must fill the available
17 scholarship positions by a random selection process. To achieve
18 continuity in education, a school may give preference among
19 scholarship applicants to a previously enrolled scholarship
20 student and to other students residing in the same household as a
21 previously enrolled student.

22 (b) A student who is denied admission to a participating
23 school because the school does not have an available position may
24 transfer the student's scholarship to a participating school that
25 has positions available.

26 Sec. 29.406. FUNDING. (a) An eligible student is included
27 in the average daily attendance of the district in which the student

1 resides for purposes of Chapters 41 and 42.

2 (b) The commissioner shall deduct an amount equal to the
3 amount of the eligible student's scholarship under Section
4 29.404(a) from the total state aid to which the school district in
5 which the student resides is entitled and shall transfer that
6 amount to the participating school in which the student is
7 enrolled. Any aid the district would have received for the student
8 in excess of the money needed for a scholarship is the entitlement
9 of the state.

10 (c) If a student resides in a school district that does not
11 receive state aid under Chapter 42, the district in which the
12 student resides shall purchase attendance credits under Section
13 41.093 in an amount equal to the amount of funding the district
14 would receive for the student under Chapter 42 if the district were
15 entitled to state aid under that chapter, and the commissioner
16 shall transfer that amount to the participating school in which the
17 student is enrolled.

18 Sec. 29.407. RULES. The commissioner shall adopt rules as
19 necessary to implement, administer, and enforce the program,
20 including rules regarding:

21 (1) the application and approval procedures for a
22 participating school, including time lines that will maximize
23 student and school participation;

24 (2) the calculation and distribution of scholarships
25 to eligible students;

26 (3) the application and approval procedures for
27 scholarships for eligible students; and

1 (4) the sharing of student records between
2 participating schools in compliance with the Family Educational
3 Rights and Privacy Act of 1974 (20 U.S.C. 1232g).

4 Sec. 29.408. RESPONSIBILITIES OF RESIDENT SCHOOL DISTRICT.

5 (a) The school district in which an eligible student resides shall
6 provide a participating school that has admitted the student with a
7 complete copy of the student's school records. A public school that
8 is required to release student records under this subsection shall
9 comply with any applicable provision of the Family Educational
10 Rights and Privacy Act of 1974 (20 U.S.C. 1232g).

11 (b) The school district in which an eligible student resides
12 shall provide transportation for the student to and from the
13 participating school in the same manner as the district is required
14 to provide transportation for other resident students to attend
15 nongovernmental schools. The district qualifies for state aid
16 under Section 42.155 for a student transported under this
17 subsection.

18 Sec. 29.409. RESPONSIBILITIES OF COMMISSIONER. (a) The
19 commissioner shall ensure that eligible students and their
20 guardians are informed annually of which schools will be
21 participating in the program. This information should also be
22 provided to the Department of Family and Protective Services and
23 other state agencies and nonprofit organizations that are involved
24 in issues relating to foster care to increase awareness among
25 potential beneficiaries of the program.

26 (b) The commissioner shall create a standard application
27 that students interested in the program can submit to participating

1 schools to establish eligibility and apply for admission. A
2 participating school may require additional information from an
3 applicant. The commissioner shall ensure that the application is
4 readily available to interested families through various sources,
5 including an Internet website.

6 (c) The commissioner may bar a school from participation in
7 the program if the commissioner determines that the participating
8 school has:

9 (1) intentionally and substantially misrepresented
10 information required by this subchapter;

11 (2) routinely failed to comply with at least three of
12 the accountability standards established under Section 29.410; or

13 (3) failed to refund to the state in a timely manner
14 any scholarship overpayments made to the school.

15 (d) If the commissioner revokes a participating school's
16 permission to participate in the program, the agency shall
17 immediately notify the guardian of an eligible student attending
18 the participating school of the revocation.

19 Sec. 29.410. ACCOUNTABILITY FOR PARTICIPATING SCHOOLS. To
20 participate in the program, a participating school must:

21 (1) comply with all health and safety laws applicable
22 to nongovernmental schools;

23 (2) hold a valid occupancy permit if required by the
24 municipality in which the school is located;

25 (3) not advocate or foster unlawful behavior or teach
26 hatred of any person or groups on the basis of race, ethnicity,
27 national origin, or religion; and

1 (4) comply with all state laws that apply to
2 nongovernmental schools regarding criminal background checks for
3 employees and exclude from employment any person not permitted by
4 state law to work in a nongovernmental school.

5 Sec. 29.411. FINANCIAL ACCOUNTABILITY. (a) A
6 participating school shall demonstrate financial accountability by
7 submitting financial information that:

8 (1) complies with uniform financial accounting
9 standards;

10 (2) is prepared by a certified public accountant; and

11 (3) is certified as free of material misstatements by
12 an auditor.

13 (b) The auditor's report shall be limited in scope to the
14 records that are necessary for the agency to make payments to the
15 school for scholarships.

16 (c) The commissioner may adopt rules requiring a
17 participating school that accepts a scholarship under this
18 subchapter to demonstrate financial solvency. If a participating
19 school will receive more than \$50,000 in state money during a school
20 year, the participating school must demonstrate financial
21 viability by showing that the school can pay any money owed by the
22 school to the state by filing with the agency before the start of
23 the school year:

24 (1) a surety bond payable to the state in an amount
25 equal to the aggregate amount of the scholarships expected to be
26 paid during the school year for eligible students admitted to the
27 participating school; or

1 (2) financial information that demonstrates the
2 school has the ability to pay an aggregate amount equal to the
3 amount of the scholarships expected to be paid during the school
4 year for eligible students admitted to the participating school.

5 Sec. 29.412. ACADEMIC ACCOUNTABILITY. A participating
6 school shall regularly report to the guardian of a student on the
7 student's academic progress.

8 Sec. 29.413. PARTICIPATING SCHOOL AUTONOMY. (a) A
9 participating school that accepts a scholarship under this
10 subchapter is not an agent or arm of the state or federal
11 government.

12 (b) Except as provided by this subchapter, the
13 commissioner, the agency, the State Board of Education, or any
14 other state agency may not regulate the educational program of a
15 participating school that accepts a scholarship under this
16 subchapter.

17 (c) The program does not expand the regulatory authority of
18 the state or any school district to impose any additional
19 regulation on a nongovernmental school except those reasonably
20 necessary to enforce the program as provided by this subchapter.

21 (d) A participating nongovernmental school shall be given
22 the maximum freedom to provide for the educational needs of
23 eligible students without governmental control.

24 Sec. 29.414. EVALUATION OF PROGRAM. (a) The commissioner
25 may contract with an impartial organization with experience
26 evaluating scholarship programs to conduct an evaluation of the
27 program. The evaluation must be conducted without the use of state

1 money.

2 (b) An evaluation under this section must compare
3 differences between qualifying schools and public schools and must
4 include consideration of:

5 (1) student satisfaction;

6 (2) guardian satisfaction;

7 (3) behavioral problems of students attending
8 participating schools with a scholarship as compared with students
9 attending public schools;

10 (4) class size; and

11 (5) the fiscal impact of the program on the state and
12 school districts.

13 (c) The evaluation must apply appropriate analytical and
14 behavioral sciences methodologies to ensure public confidence in
15 the evaluation.

16 (d) The commissioner shall submit to each member of the
17 legislature a copy of the evaluation conducted under this section.

18 (e) School districts and participating schools shall
19 cooperate with the organization conducting the evaluation and shall
20 provide student assessment instrument results and any other
21 information necessary to complete the evaluation in compliance with
22 any applicable provision of the Family Educational Rights and
23 Privacy Act of 1974 (20 U.S.C. 1232g).

24 (f) The agency may accept grants to assist in funding the
25 evaluation.

26 (g) The legislature may require periodic reports from the
27 organization. The organization must make the data and methodology

1 available for public review while complying with the requirements
2 of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
3 1232g).

4 SECTION 2. Section 29.202(a), Education Code, is amended to
5 read as follows:

6 (a) A student is eligible to receive a public education
7 grant or to attend another public school in the district in which
8 the student resides under this subchapter if:

9 (1) the student is assigned to attend a public school
10 campus:

11 (A) [~~(1)~~] at which 50 percent or more of the
12 students did not perform satisfactorily on an assessment instrument
13 administered under Section 39.023(a) or (c) in any two of the
14 preceding three years; or

15 (B) [~~(2)~~] that was, at any time in the preceding
16 three years, considered academically unacceptable under Section
17 39.132; or

18 (2) the student is eligible to participate in the
19 scholarship program under Subchapter K.

20 SECTION 3. (a) The Texas Education Agency shall make the
21 scholarship program for students in foster care as provided by
22 Subchapter K, Chapter 29, Education Code, as added by this Act,
23 available for participation beginning with the 2007-2008 school
24 year.

25 (b) As soon as practicable, the commissioner of education
26 shall adopt and implement rules necessary for the administration of
27 the program.

1 SECTION 4. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2007.