

By: Janek

S.B. No. 1506

A BILL TO BE ENTITLED

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AN ACT

relating to an urban school choice pilot program for certain public school students.

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

SECTION 1. The purpose of this Act is to create a pilot program to allow a limited number of income-qualified parents in certain school districts the right to use their tax dollars to send their child to the public or private school they feel best serves the interests, abilities, and needs of the child. The Act allows certain funds to remain with the public school district from which the child transfers, thereby increasing per-pupil spending levels in that public school district. The Act allows for increased competition for parents and students in the kindergarten through grade 12 public education system in the expectation that such competition will inspire greater innovation and lead to increased educational outcomes and to reductions in public school dropout rates.

SECTION 2. Chapter 29, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. URBAN SCHOOL CHOICE PILOT PROGRAM

Sec. 29.351. DEFINITIONS. In this subchapter:

(1) "Parent" includes a guardian, custodian, or other person with authority to act on behalf of the child.

(2) "Program" means the urban school choice pilot

1 program described by this subchapter.

2 (3) "Qualifying school" means a nongovernmental
3 educational establishment that exists for the general education of
4 elementary and secondary students. The term does not include a
5 school that provides education in a home setting or that limits
6 enrollment to relatives of the school's staff.

7 Sec. 29.352. PROGRAM. An eligible child under Section
8 29.354 may, at the option of the child's parent:

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

11 (2) attend a public school in a district other than the
12 district in which the student resides; or

13 (3) receive a scholarship as provided by Section
14 29.355 to pay the costs of attending a qualifying school.

15 Sec. 29.353. ELIGIBLE DISTRICT. (a) This subchapter
16 applies only to school districts that are located in a county with a
17 population of 750,000 or more as determined by the United States
18 Census Bureau.

19 (b) A school district subject to this subchapter shall
20 participate in the program if:

21 (1) the district is the largest district in the county
22 in which a majority of the students are economically disadvantaged
23 during the preceding school year; or

24 (2) at least 90 percent of the students in the district
25 were economically disadvantaged during the preceding school year.

26 (c) Notwithstanding any other provision of this subchapter,
27 a district that establishes eligibility under this section shall

1 continue participating in the program in order to achieve
2 continuity in education.

3 Sec. 29.354. ELIGIBLE CHILD. (a) A child is eligible to
4 participate in the program if the child resides in a household in an
5 eligible district in which the annual household income, according
6 to the most recently filed federal income tax return, did not exceed
7 200 percent of the qualifying income for a reduced-price lunch
8 under the national free or reduced-price lunch program established
9 under 42 U.S.C. Section 1751 et seq. and if the child:

10 (1) has dropped out of school;

11 (2) is starting school in the state for the first time;

12 (3) is a student at risk of dropping out of school, as
13 defined by Section 29.081;

14 (4) is the victim or is the sibling of a victim of
15 conduct described by Section 37.006(a)(2)(B) or 37.007(a)(2) that
16 is committed by a student who at the time the conduct occurred was
17 assigned to the same campus as the victim or the sibling of the
18 victim, regardless of whether the conduct occurred on campus;

19 (5) is in kindergarten through grade 12 and eligible
20 under Section 29.003 to participate in a school district's special
21 education program;

22 (6) is a student of limited English proficiency as
23 defined by Section 29.052; or

24 (7) attended a public school for the majority of a
25 preceding semester.

26 (b) A schools of choice resource center shall provide
27 written notice of the program to the parent of a student who is

1 eligible to participate in the program under Subsections (a)(3),
2 (4), (5), and (6).

3 (c) Notwithstanding any other provision of this subchapter,
4 a child who establishes eligibility under this section may continue
5 participating in the program until the earlier of the date the child
6 graduates from high school or the child's 21st birthday.

7 Sec. 29.355. FINANCING; SCHOLARSHIP. (a) Except as
8 provided by Subsection (b), a child who attends a qualifying school
9 under this subchapter is entitled to receive an annual scholarship
10 in an amount equal to the lesser of:

11 (1) 90 percent of the eligible district's total
12 operating expenditures per student for the preceding school year as
13 currently calculated and published by the Texas Education Agency's
14 Academic Excellence Indicator System; or

15 (2) the qualifying school's average actual annual cost
16 per student.

17 (b) If a child is eligible under Section 29.003(b) to
18 participate in a school district's special education program or
19 under Section 29.056 to participate in a school district's
20 bilingual education or special language program and receives
21 special education services or bilingual education or special
22 language services at the qualifying school, the amount of the
23 child's scholarship:

24 (1) includes an amount equal to the amount of funding
25 to which the school district in which the child resides would be
26 entitled under Section 42.151 or 42.153, as applicable, for the
27 child; and

1 (2) may exceed the maximum scholarship amount provided
2 by Subsection (a).

3 (c) On application by the parent of an eligible child, the
4 comptroller shall provide the child's application to a schools of
5 choice resource center selected by the comptroller under Section
6 29.363. The schools of choice resource center may assist parents,
7 schools, and the comptroller in determining whether a child is
8 eligible for participation in the program under Section 29.354 in
9 accordance with rules adopted under Subsection (h)(2). If it is
10 determined that the child is eligible for participation in the
11 program, the comptroller shall issue a scholarship certificate to
12 the parent. The parent shall endorse and present the certificate to
13 the qualifying school chosen by the parent.

14 (d) The qualifying school the child attends must endorse and
15 present the child's scholarship certificate to the comptroller to
16 receive payment. On receipt of the scholarship certificate, the
17 comptroller shall distribute:

18 (1) to the qualifying school the amount of the child's
19 scholarship under Subsection (a) and any additional funds to which
20 the child is entitled under Subsection (b); and

21 (2) to the eligible district 10 percent of the
22 district's total operating expenditures per student for the
23 preceding school year, as currently calculated and published by the
24 Texas Education Agency's Academic Excellence Indicator System, for
25 five years following the transfer or until the time the child, based
26 on the child's grade level on entering the qualifying school, would
27 have been expected to graduate from high school, if within five

1 years of the date of transfer, or until the child transfers back to
2 the school district, if the child transfers back to the school
3 district within five years.

4 (e) The comptroller shall direct the distribution of funds
5 to the qualifying school the child attends on a monthly pro rata
6 basis after educational services have been provided. The
7 comptroller shall require that the qualifying school submit
8 documentation of the child's attendance before directing funds to
9 the qualifying school on behalf of the child. The payment shall be
10 made not later than the 30th day after the date on which the
11 comptroller receives from the qualifying school a request for
12 payment.

13 (f) The child's scholarship is the entitlement of the child,
14 under the supervision of the child's parent, and not that of any
15 school.

16 (g) A qualifying school may not share a child's scholarship
17 with or refund or rebate a child's scholarship to the parent or the
18 child in any manner.

19 (h) The comptroller shall develop and adopt rules
20 regarding:

21 (1) the calculation and distribution of payments for
22 qualifying schools; and

23 (2) application and approval procedures for
24 qualifying school and student participation in the program.

25 (i) A child's scholarship may not be financed by money
26 appropriated from the available school fund.

27 Sec. 29.356. PARTICIPATION BY QUALIFYING SCHOOLS. To

1 participate in the program, a qualifying school must:

2 (1) be accredited by, or have an active application
3 for accreditation with, an accrediting association recognized by
4 the Texas Private School Accreditation Commission; and

5 (2) not advocate or foster unlawful behavior or teach
6 hatred of any person or on the basis of race, ethnicity, national
7 origin, or religion.

8 Sec. 29.357. ADMISSIONS. (a) A qualifying school chosen
9 by an eligible child's parent under this subchapter may not deny
10 admission by discriminating on the basis of the child's race,
11 national origin, or ethnicity and must comply with the requirements
12 of:

13 (1) 42 U.S.C. Section 2000d et seq. with respect to
14 nondiscrimination on the basis of race, color, or national origin;
15 and

16 (2) Section 504, Rehabilitation Act of 1973 (29 U.S.C.
17 Section 794), with respect to nondiscrimination on the basis of
18 disability.

19 (b) To achieve continuity in education, a school may give
20 admissions preference among scholarship applicants to:

21 (1) a previously enrolled student and to other
22 children residing in the same household as a previously enrolled
23 student;

24 (2) a student who is eligible for participation in the
25 program under Section 29.354 (a)(3) or (4);

26 (3) a student from a school considered low-performing
27 under Section 39.132; and

1 (4) a student from a school considered below
2 acceptable as defined by the No Child Left Behind Act of 2001 (Pub.
3 L. No. 107-110).

4 (c) Except as provided by Subsection (b), a qualifying
5 school that has more qualified scholarship applicants for
6 attendance under this subchapter than available positions must fill
7 the available scholarship positions by a random selection process.

8 (d) A qualifying school may submit a written request for
9 student records from the public school previously attended by an
10 eligible child. On receipt of a request submitted under this
11 subsection the public school shall in a timely manner deliver to the
12 qualifying school a copy of the school's complete student records
13 for that child, including attendance records, immunization
14 records, disciplinary records, past results of any assessment
15 instruments administered to the child, the child's individualized
16 educational program, and any other comprehensive assessments for
17 each school the child previously attended. A public school that is
18 required to release student records under this subsection shall
19 comply with any applicable provision of the Family Educational
20 Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

21 Sec. 29.358. ACCOUNTABILITY. (a) Each qualifying school
22 that enrolls a child under this subchapter shall annually
23 administer in the spring:

24 (1) the appropriate assessment instrument required
25 under Section 39.023; or

26 (2) a nationally norm-referenced assessment
27 instrument approved by the comptroller.

1 (b) The school shall provide:

2 (1) the child's results to the child's parent;

3 (2) the aggregated results of the assessment
4 instruments to the comptroller; and

5 (3) individual student results to researchers as
6 required under Section 29.364, with appropriate safeguards for
7 student privacy.

8 Sec. 29.359. QUALIFYING SCHOOL AUTONOMY. (a) A qualifying
9 school that accepts a scholarship under this subchapter is not an
10 agent or arm of the state or federal government.

11 (b) Except as provided by this subchapter, the comptroller,
12 the commissioner, the agency, the State Board of Education, or any
13 other state board or agency shall not regulate the admissions
14 policy or educational program of a qualifying school that accepts a
15 scholarship under this subchapter.

16 (c) The purpose of this subchapter is to allow maximum
17 freedom to the private sector to respond to and provide for the
18 educational needs of the children of this state without
19 governmental control or influence, and this subchapter shall be
20 liberally construed to achieve that purpose.

21 Sec. 29.360. LIMITATION ON NUMBER OF PARTICIPATING
22 CHILDREN. (a) The annual number of new student enrollments in the
23 program from each eligible district is limited to five percent of
24 the number of students in the district in the preceding year as set
25 by the comptroller.

26 (b) This section does not apply to a child who is eligible
27 for participation in the program under Section 29.354(a) who:

1 (1) has dropped out of school;

2 (2) is starting school for the first time; or

3 (3) is the victim or is the sibling of a victim of
4 conduct described by Section 37.006(a)(2)(B) or Section
5 37.007(a)(2) that is committed by a student who at the time the
6 conduct occurred was assigned to the same campus as the victim or
7 the sibling of the victim, regardless of whether the conduct
8 occurred on campus.

9 Sec. 29.361. RULES. (a) The comptroller shall develop and
10 adopt rules as necessary to implement, administer, and enforce the
11 program.

12 (b) A rule adopted under this section is binding on any
13 other state agency, board, or local governmental entity, including
14 a political subdivision, as necessary to implement, administer, and
15 enforce the program.

16 Sec. 29.362. PROGRAM COMPLIANCE. (a) The comptroller
17 shall respond to and investigate any complaint or dispute arising
18 under this subchapter.

19 (b) The comptroller shall enforce this subchapter and any
20 rule adopted under this subchapter and may withhold funds from any
21 district or qualifying school that violates this subchapter or a
22 rule adopted under this subchapter.

23 Sec. 29.363. SCHOOLS OF CHOICE RESOURCE CENTERS. (a) The
24 comptroller shall select one or more independent and privately
25 funded nonprofit organizations to establish and operate schools of
26 choice resource centers in each eligible district.

27 (b) A schools of choice resource center shall:

1 (1) assist parents in learning how to be better
2 education consumers;

3 (2) provide information on educational alternatives;

4 (3) assist parents, schools, and school districts in
5 implementing, responding to, and complying with the program; and

6 (4) on behalf of the comptroller, receive and process
7 applications for participation in the program as required by
8 Section 29.355(c) and in accordance with rules adopted under
9 Section 29.355(h)(2).

10 (c) This section expires September 30, 2013.

11 Sec. 29.364. EVALUATION OF PROGRAM. (a) Using funds other
12 than state funds, the comptroller shall contract with one or more
13 researchers experienced in evaluating school choice programs to
14 conduct a study of the program.

15 (b) The study described by Subsection (a) should assess,
16 among other possible factors:

17 (1) each participating student's individual
18 performance on annual assessment instruments before and after
19 entering the program;

20 (2) the level of a participating student's
21 satisfaction with the program and the student's school;

22 (3) the level of parent satisfaction with the program
23 and the child's school;

24 (4) the overall impact of the program on public school
25 students, on the districts, and on the schools from which the
26 participating students transferred; and

27 (5) the impact of the program on public and private

1 school capacity, availability, and quality of service.

2 (c) The study shall employ appropriate safeguards for
3 student privacy and shall incorporate appropriate analytical and
4 behavioral science methodologies to ensure public confidence in the
5 study.

6 (d) Schools and school districts to and from which students
7 transfer to participate in the program shall cooperate with the
8 research effort by providing student information, including
9 assessment instrument scores and any other student records
10 necessary, with appropriate safeguards for students privacy, to
11 meet the requirements of this subchapter.

12 (e) The comptroller shall provide the legislature with a
13 final copy of the study of the program.

14 (f) The comptroller may solicit and accept grants to pay the
15 costs of implementing this section.

16 (g) This section expires June 1, 2016.

17 SECTION 3. (a) The comptroller of public accounts shall
18 make the school choice pilot program as provided by Subchapter J,
19 Chapter 29, Education Code, as added by this Act, available for
20 participation beginning with the 2007-2008 academic school year.

21 (b) As soon as practicable, the comptroller of public
22 accounts shall adopt and implement rules necessary for the
23 administration and enforcement of the school choice pilot program.

24 SECTION 4. (a) The constitutionality and other validity
25 under the state or federal constitution of all or any part of this
26 Act may be determined in an action for declaratory judgment in a
27 district court in Travis County under Chapter 37, Civil Practice

1 and Remedies Code.

2 (b) An appeal of a declaratory judgment or order, however
3 characterized, of a district court, including an appeal of the
4 judgment of an appellate court, holding or otherwise determining
5 that all or any part of this Act is constitutional or
6 unconstitutional, or otherwise valid or invalid, under the state or
7 federal constitution is an accelerated appeal.

8 (c) If the judgment or order is interlocutory, an
9 interlocutory appeal may be taken from the judgment or order and is
10 an accelerated appeal.

11 (d) A district court in Travis County may grant or deny a
12 temporary or otherwise interlocutory injunction or a permanent
13 injunction on the grounds of the constitutionality or
14 unconstitutionality, or other validity or invalidity, under the
15 state or federal constitution of all or any part of this Act.

16 (e) There is a direct appeal to the Supreme Court of Texas
17 from an order, however characterized, of a trial court granting or
18 denying a temporary or otherwise interlocutory injunction or a
19 permanent injunction on the grounds of the constitutionality or
20 unconstitutionality, or other validity or invalidity, under the
21 state or federal constitution of all or any part of this Act.

22 (f) The direct appeal under Subsection (e) of this section
23 is an accelerated appeal.

24 (g) This section exercises the authority granted by Section
25 3-b, Article V, Texas Constitution.

26 (h) The filing of a direct appeal under this section will
27 automatically stay any temporary or otherwise interlocutory

1 injunction or permanent injunction granted in accordance with this
2 section pending final determination by the Supreme Court of Texas,
3 unless the supreme court makes specific findings that the applicant
4 seeking such injunctive relief has pleaded and proved that:

5 (1) the applicant has a probable right to the relief it
6 seeks on final hearing; and

7 (2) the applicant will suffer a probable injury that
8 is imminent and irreparable, and that the applicant has no other
9 adequate legal remedy.

10 (i) An appeal under this section, including an
11 interlocutory, accelerated, or direct appeal, is governed, as
12 applicable, by the Texas Rules of Appellate Procedure, including
13 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),
14 38.6(a) and (b), 40.1(b), and 49.4.

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