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H.B. No. 130

Substitute the following for H.B. No. 130:

By: Patrick

C.S.H.B. No. 130

A BILL TO BE ENTITLED

1 AN ACT
2 relating to an enhanced quality full-day prekindergarten program
3 provided by public school districts in conjunction with community
4 providers.

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

6 SECTION 1. Section 12.104(b), Education Code, is amended to
7 read as follows:

8 (b) An open-enrollment charter school is subject to:

9 (1) a provision of this title establishing a criminal
10 offense; and

11 (2) a prohibition, restriction, or requirement, as
12 applicable, imposed by this title or a rule adopted under this
13 title, relating to:

14 (A) the Public Education Information Management
15 System (PEIMS) to the extent necessary to monitor compliance with
16 this subchapter as determined by the commissioner;

17 (B) criminal history records under Subchapter C,
18 Chapter 22;

19 (C) reading instruments and accelerated reading
20 instruction programs under Section 28.006;

21 (D) satisfactory performance on assessment
22 instruments and to accelerated instruction under Section 28.0211;

23 (E) high school graduation under Section 28.025;

24 (F) special education programs under Subchapter

1 A, Chapter 29;

2 (G) bilingual education under Subchapter B,
3 Chapter 29;

4 (H) prekindergarten programs under Subchapter E
5 or E-1, Chapter 29;

6 (I) extracurricular activities under Section
7 33.081;

8 (J) discipline management practices or behavior
9 management techniques under Section 37.0021;

10 (K) health and safety under Chapter 38;

11 (L) public school accountability under
12 Subchapters B, C, D, and G, Chapter 39;

13 (M) the requirement under Section 21.006 to
14 report an educator's misconduct; and

15 (N) intensive programs of instruction under
16 Section 28.0213.

17 SECTION 2. Chapter 29, Education Code, is amended by adding
18 Subchapter E-1 to read as follows:

19 SUBCHAPTER E-1. ENHANCED QUALITY FULL-DAY PREKINDERGARTEN PROGRAM

20 Sec. 29.164. DEFINITION. In this subchapter, "enhanced
21 program" or "program" means an enhanced quality full-day
22 prekindergarten program provided free of tuition or fees in
23 accordance with this subchapter.

24 Sec. 29.165. ENHANCED QUALITY FULL-DAY PREKINDERGARTEN
25 PROGRAM GRANTS. (a) From funds appropriated for that purpose, the
26 commissioner by rule shall establish a grant program under which
27 grants are awarded to school districts to implement an enhanced

1 quality full-day prekindergarten program for children eligible for
2 classes under Section 29.153.

3 (b) A school district may apply to the commissioner to
4 participate in the grant program. In awarding grants under this
5 subchapter for each school year, the commissioner shall give
6 priority in the order listed to the following school districts:

7 (1) school districts that receive grant funding from
8 the commissioner for early childhood education in a lesser amount
9 than the amount provided for that purpose during the preceding
10 school year;

11 (2) school districts that are not eligible to receive
12 any other existing early childhood grants awarded by the
13 commissioner; and

14 (3) school districts with a high percentage of
15 students who are educationally disadvantaged, as determined by the
16 commissioner.

17 (c) A school district may not enroll more than 22 students
18 in a program class and must maintain an average ratio in the program
19 of not less than one certified teacher or teacher's aide for each 11
20 students. Each program class must have at least one certified
21 teacher.

22 (d) A certified teacher in the program must have a minimum
23 of nine semester credit hours of college education courses
24 emphasizing early childhood education.

25 1) In the event that a certified teacher as described
26 in (d) is unavailable, the community provider shall require a
27 certified teacher within 3 years of receiving grant funding from

1 the district under this subsection. During that time, the teacher
2 must have at minimum a Child Development Associate (CDA)
3 certification with at least 3 years experience in early childhood
4 education.

5 (e) A school district must select and implement a curriculum
6 for the program that includes the prekindergarten guidelines
7 established by the agency.

8 (f) A program is subject to any other requirements imposed
9 by law that apply to a prekindergarten program not provided in
10 accordance with this subchapter, except that to the extent a
11 conflict exists between this subchapter and any other provision of
12 law, this subchapter prevails.

13 Sec. 29.166. CONTRACTS WITH COMMUNITY PROVIDERS REQUIRED.

14 (a) A school district that provides an enhanced program shall use
15 at least 20 percent of grant funds provided under this subchapter to
16 contract with one or more eligible community providers to provide
17 the program.

18 (b) The commissioner may waive the requirement under
19 Subsection (a) on an annual basis if a school district provides
20 documentation acceptable to the commissioner that:

21 (1) the area served by the district does not have a
22 sufficient number of eligible community providers;

23 (2) after a good faith effort, the school district did
24 not receive any applications or other indications of interest in
25 contracting with the district from eligible community providers; or

26 (3) after a good faith effort and for good cause, the
27 district and one or more eligible community providers interested in

1 contracting with the district were unable to reach an agreement.

2 (c) Not later than the 30th day after the date the
3 commissioner receives a request for a waiver under Subsection (b),
4 the commissioner shall send a written notice to the school district
5 and the affected community provider, if applicable, granting or
6 denying the request. A school district or community provider
7 affected by a decision of the commissioner under this subsection
8 may appeal the decision as provided by Section 7.057.

9 Sec. 29.167. ELIGIBLE COMMUNITY PROVIDERS. (a) To be
10 eligible to contract with a school district to provide an enhanced
11 program, a community provider must be center-based and licensed by
12 and in good standing with the Department of Family and Protective
13 Services. For purposes of this subsection, a community provider is
14 in good standing with the Department of Family and Protective
15 Services if the department has not taken an action against the
16 provider's license under Section 42.071, 42.072, or 42.078, Human
17 Resources Code, during the 12-month period preceding the date of a
18 contract with a school district.

19 (b) Except as provided by Subsection (c), an eligible
20 community provider must also meet one of the following criteria:

21 (1) the community provider must be certified through
22 the school readiness certification system established under
23 Section 29.161;

24 (2) the community provider must be a Texas Early
25 Education Model participant;

26 (3) the community provider must be a Texas Rising Star
27 Provider with a three-star certification or higher; or

1 (4) the community provider must be accredited by a
2 research-based, nationally recognized, and universally accessible
3 accreditation system approved by the agency that requires a
4 developmentally appropriate curriculum that includes math,
5 science, social studies, literacy, and social and emotional
6 components.

7 (c) Notwithstanding failure to satisfy the requirements of
8 Subsection (b) and subject to Subsection (d), a community provider
9 otherwise eligible to contract with a school district under
10 Subsection (a) may contract with a district if:

11 (1) the community provider meets quality criteria
12 adopted by the district that are:

13 (A) based on the best available peer-reviewed
14 research; and

15 (B) made available to the public in a timely
16 manner; and

17 (2) the commissioner approves the arrangement.

18 (d) A community provider contracting with a school district
19 as provided by Subsection (c) must meet the requirements for
20 eligibility provided by Subsection (b) not later than the first
21 anniversary of the date the contract was executed.

22 Sec. 29.168. WRITTEN CONTRACT REQUIRED. A school district
23 and a community provider contracting under this subchapter shall
24 enter a written contract governing the services to be provided by
25 the community provider. The contract may provide for, but is not
26 limited to, the following types of partnerships:

27 (1) the school district leases school facilities to or

1 from the community provider;

2 (2) the school district employs a certified teacher
3 for the prekindergarten class and the community provider supplies
4 the school facilities and all other personnel and supplies; or

5 (3) the community provider supplies the school
6 facilities, certified teachers, personnel, and supplies.

7 Sec. 29.169. FUNDING TO COMMUNITY PROVIDER. (a) Except as
8 provided by Subsection (b), the amount of reimbursement provided by
9 a school district to a community provider is negotiable between the
10 district and the community provider based on the services provided.

11 (b) For each school district prekindergarten student in
12 attendance in an enhanced program class provided by a community
13 provider in which the community provider supplies the school
14 facilities, certified teachers, personnel, and supplies, a school
15 district shall reimburse the community provider in an amount not
16 less than the sum of:

17 (1) the amount of the district's adjusted basic
18 allotment, as determined under Section 42.102 or 42.103, as
19 applicable, multiplied by 1.0; and

20 (2) the amount of any additional funding received by
21 the district for the student under Subchapter C, Chapter 42.

22 (c) Funding provided under this section does not affect a
23 community provider's eligibility to receive any other local, state,
24 or federal funds to provide before-school, after-school, and summer
25 child care.

26 Sec. 29.170. DISCRIMINATION BY COMMUNITY PROVIDER
27 PROHIBITED. A community provider may not deny enhanced program

1 services to a student on the basis of the student's race, religion,
2 sex, ethnicity, national origin, or disability.

3 Sec. 29.171. ANNUAL ENHANCED PROGRAM REPORT. A school
4 district operating an enhanced program shall provide an annual
5 report to the agency not later than August 1 of each year. The
6 report must include:

7 (1) the percentage of the grant funds provided under
8 this subchapter used by the district to contract with community
9 providers; and

10 (2) data components that illustrate acquisition of
11 knowledge and skills consistent with the prekindergarten
12 guidelines established by the agency.

13 Sec. 29.172. DUTIES OF COMMISSIONER. The commissioner
14 shall:

15 (1) require regional education service centers to
16 assist:

17 (A) school districts in:
18 (i) informing parents of prekindergarten
19 options;

20 (ii) identifying eligible community
21 providers and maintaining an updated list of eligible community
22 providers; and

23 (iii) creating standardized forms and
24 processes for outreach to and contracts with community providers
25 for use when considering community partnerships;

26 (B) community providers in establishing
27 contracts with school districts under this subchapter; and

1 (C) community providers who are not eligible to
2 contract with a school district under this subchapter by providing
3 information regarding eligibility to contract with a school
4 district; and

5 (2) encourage regional education service centers and
6 school districts to use locally available child care resources and
7 referral services.

8 Sec. 29.173. STATE FUNDING; GRANT AMOUNT. (a) From funds
9 appropriated for the purposes of this subchapter the commissioner
10 shall award grants as provided by this subchapter.

11 (b) The commissioner, in accordance with this subsection,
12 shall determine the amount of each grant awarded under this
13 subchapter. A grant must provide an amount of funding for each
14 student in the program equal to 70 percent of the statewide average
15 funding provided per student to an open-enrollment charter school
16 under Section 12.106, including all adjustments used in computing
17 per-student funding under that section.

18 (c) Funding provided for each program student through a
19 grant under this subchapter is in addition to funding otherwise
20 provided for the student under Chapter 42.

21 Sec. 29.174. RULES. The commissioner may adopt rules
22 necessary to implement this subchapter.

23 Sec. 29.175. PROHIBITION ON USE OF FUNDS FOR VOUCHERS.
24 Funds provided for the operation of the enhanced program through a
25 grant awarded under this subchapter must be paid directly to a
26 public school district or open-enrollment charter school. It is
27 the intent of the legislature that this requirement is absolute and

1 that the terms of this requirement be broadly construed so as to
2 prevent the use of public funds for any program having the same
3 effect as a voucher program. This section does not prohibit the use
4 of state funding by a school district or open-enrollment charter
5 school under a contract entered into by the district or school
6 before January 1, 2009, under a law in effect at the time the
7 contract was approved, if state funds are paid directly to the
8 district or school.

9 Sec. 29.176. ENHANCED PROGRAM EVALUATION. (a) Using
10 information provided to the agency under Section 29.171 and using
11 funds available for that purpose, in an amount not to exceed
12 \$150,000 each fiscal year, the commissioner shall contract for an
13 evaluation of the effectiveness of the enhanced program in
14 promoting student achievement and school readiness.

15 (b) Not later than December 1, 2012, the commissioner shall
16 deliver an interim report to the legislature containing the
17 preliminary results of the evaluation.

18 (c) Not later than December 1, 2016, the commissioner shall
19 deliver to the legislature a final report regarding the program.

20 (d) This section expires December 1, 2016.

21 SECTION 3. This Act applies beginning with the 2009-2010
22 school year.

23 SECTION 4. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2009.