

1-1 By: Patrick, et al. (Senate Sponsor - Zaffirini) H.B. No. 130
1-2 (In the Senate - Received from the House May 11, 2009;
1-3 May 11, 2009, read first time and referred to Committee on
1-4 Education; May 25, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 May 25, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 130 By: Davis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to an enhanced quality full-day prekindergarten program
1-11 provided by public school districts in conjunction with community
1-12 providers.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 12.104(b), Education Code, is amended to
1-15 read as follows:

1-16 (b) An open-enrollment charter school is subject to:

1-17 (1) a provision of this title establishing a criminal
1-18 offense; and

1-19 (2) a prohibition, restriction, or requirement, as
1-20 applicable, imposed by this title or a rule adopted under this
1-21 title, relating to:

1-22 (A) the Public Education Information Management
1-23 System (PEIMS) to the extent necessary to monitor compliance with
1-24 this subchapter as determined by the commissioner;

1-25 (B) criminal history records under Subchapter C,
1-26 Chapter 22;

1-27 (C) reading instruments and accelerated reading
1-28 instruction programs under Section 28.006;

1-29 (D) satisfactory performance on assessment
1-30 instruments and to accelerated instruction under Section 28.0211;

1-31 (E) high school graduation under Section 28.025;

1-32 (F) special education programs under Subchapter
1-33 A, Chapter 29;

1-34 (G) bilingual education under Subchapter B,
1-35 Chapter 29;

1-36 (H) prekindergarten programs under Subchapter E
1-37 or E-1, Chapter 29;

1-38 (I) extracurricular activities under Section
1-39 33.081;

1-40 (J) discipline management practices or behavior
1-41 management techniques under Section 37.0021;

1-42 (K) health and safety under Chapter 38;

1-43 (L) public school accountability under
1-44 Subchapters B, C, D, and G, Chapter 39;

1-45 (M) the requirement under Section 21.006 to
1-46 report an educator's misconduct; and

1-47 (N) intensive programs of instruction under
1-48 Section 28.0213.

1-49 SECTION 2. Section 28.002(1), Education Code, is amended to
1-50 read as follows:

1-51 (1) A school district shall require a student enrolled in
1-52 full-day prekindergarten, in kindergarten, or in a grade level
1-53 below grade six to participate in moderate or vigorous daily
1-54 physical activity for at least 30 minutes throughout the school
1-55 year as part of the district's physical education curriculum or
1-56 through structured activity during a school campus's daily recess.
1-57 To the extent practicable, a school district shall require a
1-58 student enrolled in prekindergarten on less than a full-day basis
1-59 to participate in the same type and amount of physical activity as a
1-60 student enrolled in full-day prekindergarten. A school district
1-61 shall require students enrolled in grade levels six, seven, and
1-62 eight to participate in moderate or vigorous daily physical
1-63 activity for at least 30 minutes for at least four semesters during

2-1 those grade levels as part of the district's physical education
 2-2 curriculum. If a school district determines, for any particular
 2-3 grade level below grade six, that requiring moderate or vigorous
 2-4 daily physical activity is impractical due to scheduling concerns
 2-5 or other factors, the district may as an alternative require a
 2-6 student in that grade level to participate in moderate or vigorous
 2-7 physical activity for at least 135 minutes during each school week.
 2-8 Additionally, a school district may as an alternative require a
 2-9 student enrolled in a grade level for which the district uses block
 2-10 scheduling to participate in moderate or vigorous physical activity
 2-11 for at least 225 minutes during each period of two school weeks. A
 2-12 school district must provide for an exemption for:

2-13 (1) any student who is unable to participate in the
 2-14 required physical activity because of illness or disability; and

2-15 (2) a middle school or junior high school student who
 2-16 participates in an extracurricular activity with a moderate or
 2-17 vigorous physical activity component that is considered a
 2-18 structured activity under rules adopted by the commissioner.

2-19 SECTION 3. Section 28.006, Education Code, is amended by
 2-20 adding Subsections (d-2) and (d-3) to read as follows:

2-21 (d-2) A school district that participates in the grant
 2-22 program under Subchapter E-1, Chapter 29, shall include
 2-23 student-level results of reading instruments administered at the
 2-24 kindergarten and first and second grade levels in the district's
 2-25 Public Education Information Management System (PEIMS) report.

2-26 (d-3) If a school district that participates in the grant
 2-27 program under Subchapter E-1, Chapter 29, administers a reading
 2-28 instrument that does not provide information in a form that can be
 2-29 reported to the agency on the Public Education Information
 2-30 Management System (PEIMS) report, the commissioner shall adopt an
 2-31 alternative reporting method that allows the district to submit
 2-32 student-level results of reading instruments administered by the
 2-33 district at the kindergarten and first and second grade levels.

2-34 SECTION 4. Chapter 29, Education Code, is amended by adding
 2-35 Subchapter E-1 to read as follows:

2-36 SUBCHAPTER E-1. ENHANCED QUALITY FULL-DAY PREKINDERGARTEN PROGRAM
 2-37 Sec. 29.164. DEFINITION. In this subchapter, "enhanced
 2-38 program" or "program" means an enhanced quality full-day
 2-39 prekindergarten program provided free of tuition or fees in
 2-40 accordance with this subchapter.

2-41 Sec. 29.165. ENHANCED QUALITY FULL-DAY PREKINDERGARTEN
 2-42 PROGRAM GRANTS. (a) From funds appropriated for that purpose, the
 2-43 commissioner by rule shall establish a grant program under which
 2-44 grants are awarded to school districts to implement an enhanced
 2-45 quality full-day prekindergarten program for children eligible for
 2-46 classes under Section 29.153.

2-47 (b) A school district may apply to the commissioner to
 2-48 participate in the grant program. In awarding grants under this
 2-49 subchapter for each school year, the commissioner shall give
 2-50 priority in the order listed to the following school districts:

2-51 (1) school districts that receive grant funding from
 2-52 the commissioner for early childhood education in an amount less
 2-53 than 60 percent of the amount awarded for that purpose during the
 2-54 2008-2009 school year and demonstrate above-average student
 2-55 performance for the preceding three school years on the assessment
 2-56 instruments administered under Section 39.023 to students in the
 2-57 third grade;

2-58 (2) school districts that receive grant funding from
 2-59 the commissioner for early childhood education in a lesser amount
 2-60 than the amount provided for that purpose during the 2008-2009
 2-61 school year and demonstrate above-average student performance for
 2-62 the preceding three school years on the assessment instruments
 2-63 administered under Section 39.023 to students in the third grade;
 2-64 and

2-65 (3) school districts that provide services to eligible
 2-66 prekindergarten students and demonstrate above-average student
 2-67 performance for the preceding three school years on the assessment
 2-68 instruments administered under Section 39.023 to students in the
 2-69 third grade.

3-1 (c) A school district may not enroll more than 22 students
 3-2 in a program class and must maintain an average ratio in the program
 3-3 of not less than one certified teacher or teacher's aide for each 11
 3-4 students. Each program class must have at least one certified
 3-5 teacher.

3-6 (d) A certified teacher in the program must have a minimum
 3-7 of nine semester credit hours of college education courses
 3-8 emphasizing early childhood education.

3-9 (e) A school district must select and implement a curriculum
 3-10 for the program that includes the prekindergarten guidelines
 3-11 established by the agency.

3-12 (f) A program is subject to any other requirements imposed
 3-13 by law that apply to a prekindergarten program not provided in
 3-14 accordance with this subchapter, except that to the extent a
 3-15 conflict exists between this subchapter and any other provision of
 3-16 law, this subchapter prevails.

3-17 Sec. 29.166. CONTRACTS WITH COMMUNITY PROVIDERS REQUIRED.

3-18 (a) A school district that provides an enhanced program shall use
 3-19 at least 20 percent of grant funds provided under this subchapter to
 3-20 contract with one or more eligible community providers to provide
 3-21 the program.

3-22 (b) The commissioner may waive the requirement under
 3-23 Subsection (a) on an annual basis if a school district provides
 3-24 documentation acceptable to the commissioner that:

3-25 (1) the area served by the district does not have a
 3-26 sufficient number of eligible community providers;

3-27 (2) after a good faith effort, the school district did
 3-28 not receive any applications or other indications of interest in
 3-29 contracting with the district from eligible community providers; or

3-30 (3) after a good faith effort and for good cause, the
 3-31 district and eligible community providers interested in
 3-32 contracting with the district were unable to reach an agreement.

3-33 (c) Not later than the 30th day after the date the
 3-34 commissioner receives a request for a waiver under Subsection (b),
 3-35 the commissioner shall send a written notice to the school district
 3-36 and the affected community provider, if applicable, granting or
 3-37 denying the request. A school district or community provider
 3-38 affected by a decision of the commissioner under this subsection
 3-39 may appeal the decision as provided by Section 7.057.

3-40 Sec. 29.167. ELIGIBLE COMMUNITY PROVIDERS. (a) To be
 3-41 eligible to contract with a school district to provide an enhanced
 3-42 program, a community provider must be center-based and licensed by
 3-43 and in good standing with the Department of Family and Protective
 3-44 Services. For purposes of this subsection, a community provider is
 3-45 in good standing with the Department of Family and Protective
 3-46 Services if the department has not taken an action against the
 3-47 provider's license under Section 42.071, 42.072, or 42.078, Human
 3-48 Resources Code, during the 12-month period preceding the date of a
 3-49 contract with a school district.

3-50 (b) Except as provided by Subsection (c), an eligible
 3-51 community provider must also meet one of the following criteria:

3-52 (1) the community provider must be certified through
 3-53 the school readiness certification system established under
 3-54 Section 29.161;

3-55 (2) the community provider must be a Texas Early
 3-56 Education Model participant;

3-57 (3) the community provider must be a Texas Rising Star
 3-58 Provider with a three-star certification or higher; or

3-59 (4) the community provider must be accredited by a
 3-60 research-based, nationally recognized, and universally accessible
 3-61 accreditation system approved by the agency that requires a
 3-62 developmentally appropriate curriculum that includes math,
 3-63 science, social studies, literacy, physical development, and
 3-64 social and emotional components.

3-65 (c) Notwithstanding failure to satisfy the requirements of
 3-66 Subsection (b) and subject to Subsection (d), a community provider
 3-67 otherwise eligible to contract with a school district under
 3-68 Subsection (a) may contract with a district if:

3-69 (1) the community provider meets quality criteria

4-1 adopted by the district that are:
 4-2 (A) based on the best available peer-reviewed
 4-3 research; and
 4-4 (B) made available to the public in a timely
 4-5 manner; and
 4-6 (2) the commissioner approves the arrangement.
 4-7 (d) A community provider contracting with a school district
 4-8 as provided by Subsection (c) must meet the requirements for
 4-9 eligibility provided by Subsection (b) not later than the first
 4-10 anniversary of the date the contract was executed.
 4-11 Sec. 29.168. WRITTEN CONTRACT REQUIRED. A school district
 4-12 and a community provider contracting under this subchapter shall
 4-13 enter a written contract governing the services to be provided by
 4-14 the community provider. The contract may provide for, but is not
 4-15 limited to, the following types of partnerships:
 4-16 (1) the school district leases school facilities to or
 4-17 from the community provider;
 4-18 (2) the school district employs a certified teacher
 4-19 for the prekindergarten class and the community provider supplies
 4-20 the school facilities and all other personnel and supplies; or
 4-21 (3) the community provider supplies the school
 4-22 facilities, certified teachers, personnel, and supplies.
 4-23 Sec. 29.169. FUNDING TO COMMUNITY PROVIDER. (a) Except as
 4-24 provided by Subsection (b), the amount of reimbursement provided by
 4-25 a school district to a community provider is negotiable between the
 4-26 district and the community provider based on the services provided.
 4-27 (b) For each school district prekindergarten student in
 4-28 attendance in an enhanced program class provided by a community
 4-29 provider in which the community provider supplies the school
 4-30 facilities, certified teachers, personnel, and supplies, a school
 4-31 district shall reimburse the community provider in an amount not
 4-32 less than the sum of:
 4-33 (1) the amount of the district's adjusted basic
 4-34 allotment, as determined under Section 42.102 or 42.103, as
 4-35 applicable, multiplied by 1.0; and
 4-36 (2) the amount of any additional funding received by
 4-37 the district for the student under Subchapter C, Chapter 42.
 4-38 (c) Funding provided under this section does not affect a
 4-39 community provider's eligibility to receive any other local, state,
 4-40 or federal funds to provide before-school, after-school, and summer
 4-41 child care.
 4-42 Sec. 29.170. DISCRIMINATION BY COMMUNITY PROVIDER
 4-43 PROHIBITED. A community provider may not deny enhanced program
 4-44 services to a student on the basis of the student's race, religion,
 4-45 sex, ethnicity, national origin, or disability.
 4-46 Sec. 29.171. ANNUAL ENHANCED PROGRAM REPORT. A school
 4-47 district operating an enhanced program shall provide an annual
 4-48 report to the agency not later than August 1 of each year. The
 4-49 report must include the percentage of the grant funds provided
 4-50 under this subchapter used by the district to contract with
 4-51 community providers.
 4-52 Sec. 29.172. COLLECTION AND REPORTING OF INFORMATION. The
 4-53 agency shall:
 4-54 (1) collect and maintain information that is reported
 4-55 by a school district to the agency under Section 28.006 and
 4-56 information from the assessment instruments administered under
 4-57 Section 39.023 to students in the third grade;
 4-58 (2) produce longitudinal student performance reports
 4-59 using student-level information collected for consecutive grade
 4-60 levels; and
 4-61 (3) make the reports available and accessible to
 4-62 parents and the general public.
 4-63 Sec. 29.173. ENHANCED PROGRAM EVALUATION. (a) Using
 4-64 information provided to the agency under Sections 29.171 and 29.172
 4-65 and using funds available for that purpose, the Legislative Budget
 4-66 Board shall conduct or contract for an evaluation of the
 4-67 effectiveness of the enhanced program regarding student
 4-68 performance outcomes.
 4-69 (b) Not later than December 1, 2012, the board shall deliver

5-1 an interim report to the legislature containing the preliminary
5-2 results of the evaluation.

5-3 (c) Not later than December 1, 2016, the board shall deliver
5-4 to the legislature a final report regarding the program.

5-5 (d) This section expires December 1, 2016.

5-6 Sec. 29.174. DUTIES OF COMMISSIONER. The commissioner
5-7 shall:

5-8 (1) require regional education service centers to
5-9 assist:

5-10 (A) school districts in:

5-11 (i) informing parents of prekindergarten
5-12 options;

5-13 (ii) identifying eligible community
5-14 providers and maintaining an updated list of eligible community
5-15 providers; and

5-16 (iii) creating standardized forms and
5-17 processes for outreach to and contracts with community providers
5-18 for use when considering community partnerships;

5-19 (B) community providers in establishing
5-20 contracts with school districts under this subchapter; and

5-21 (C) community providers who are not eligible to
5-22 contract with a school district under this subchapter by providing
5-23 information regarding eligibility to contract with a school
5-24 district; and

5-25 (2) encourage regional education service centers and
5-26 school districts to use locally available child care resources and
5-27 referral services.

5-28 Sec. 29.175. STATE FUNDING; GRANT AMOUNT. (a) From funds
5-29 appropriated for the purposes of this subchapter the commissioner
5-30 shall award grants as provided by this subchapter.

5-31 (b) The commissioner, in accordance with this subsection,
5-32 shall determine the amount of each grant awarded under this
5-33 subchapter. A grant must provide an amount of funding for each
5-34 student in the program equal to the greater of:

5-35 (1) the amount to which the district would be entitled
5-36 under the foundation school program for an additional student in
5-37 average daily attendance on a half-day basis; or

5-38 (2) the amount of funding equal to the statewide
5-39 average amount to which a district would be entitled under the
5-40 foundation school program for an additional student in average
5-41 daily attendance on a half-day basis.

5-42 (c) Funding provided for each program student through a
5-43 grant under this subchapter is in addition to funding otherwise
5-44 provided for the student under Chapter 42.

5-45 Sec. 29.176. RULES. The commissioner may adopt rules
5-46 necessary to implement this subchapter.

5-47 Sec. 29.177. STATE FUNDING; DIRECTIVE FOR GRANT PAYMENTS TO
5-48 SCHOOL DISTRICTS. Funds provided for the operation of the enhanced
5-49 program through a grant awarded under this subchapter must be paid
5-50 directly to a public school district or open-enrollment charter
5-51 school. Funds awarded under this subchapter may not be awarded
5-52 directly to a private or nonprofit child care provider or to a
5-53 private school.

5-54 SECTION 5. This Act applies beginning with the 2009-2010
5-55 school year.

5-56 SECTION 6. This Act takes effect immediately if it receives
5-57 a vote of two-thirds of all the members elected to each house, as
5-58 provided by Section 39, Article III, Texas Constitution. If this
5-59 Act does not receive the vote necessary for immediate effect, this
5-60 Act takes effect September 1, 2009.

5-61 * * * * *