

BILL ANALYSIS

C.S.H.B. 362
By: Guillen
Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Adult basic education has traditionally emphasized literacy and GED certificate attainment for participants. While these programs have proved beneficial, there is concern that the programs should focus more on workforce readiness. Currently, the Texas Education Agency develops and administers the comprehensive statewide adult education program, but interested parties note that, with a shift in focus, the programs may be better suited to the related expertise of the Texas Workforce Commission (TWC). C.S.H.B. 362 seeks to transfer this responsibility to TWC.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Workforce Commission in SECTIONS 1.01 and 3.01 and to the Texas Education Agency in SECTION 2.04 of this bill.

ANALYSIS

C.S.H.B. 362 amends the Labor Code and Education Code to transfer, not later than January 1, 2014, the administration of adult education and literacy programs from the Texas Education Agency (TEA) to the Texas Workforce Commission (TWC). The bill requires TEA and TWC, not later than the 60th day before the date of the transfer, to enter into a memorandum of understanding that includes a timetable and specific steps and methods for the transfer and measures to ensure against any unnecessary disruption to adult education and literacy services provided at the local level.

C.S.H.B. 362 sets out provisions relating to TWC's duties in administering the adult education and literacy programs and requires TWC, not later than December 1 of each even-numbered year, to report to the legislature regarding the educational and employment outcomes of students who participate in TWC's adult education and literacy programs. The bill authorizes TWC to adopt rules for the administration of the bill's provisions relating to the programs.

C.S.H.B. 362 requires adult education programs to be provided by public school districts, public junior colleges, regional education service centers, nonprofit agencies, and community-based organizations approved in accordance with state statutes and rules adopted by TWC. The bill sets out provisions relating to the design of adult education programs with respect to available resources and to the related standardized assessment mechanism required under the bill's provisions for those programs. The bill requires TWC to establish an adult education and literacy advisory committee, provides for the committee's composition and functions, and exempts the committee from state laws applicable to state agency advisory committees.

C.S.H.B. 362 sets out provisions relating to state funding to implement statewide adult basic education, adult bilingual education, high school equivalency, and high school credit programs. The bill requires TWC by rule to develop and establish a performance-based process for annually awarding funds to entities that deliver adult education and literacy services under the bill's provisions. The bill requires the process to be designed to reward those entities

demonstrating exemplary performance in the delivery of services and describes specified criteria and procedures TWC is required to prescribe in developing the process. The bill requires TWC to use a competitive procurement process to award a contract to a service provider of an adult education program.

C.S.H.B. 362 includes adult education and literacy services among the activities for which TWC is authorized to establish a need-based formula for the allocation of funds and includes achieving integrated education and training among the purposes of those activities. The bill specifies that the funds for those activities are available under the federal Workforce Investment Act of 1998, in addition to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The bill exempts the adult education and literacy programs from statutory provisions relating to block grants for local workforce development areas.

C.S.H.B. 362 clarifies TEA's continuing administrative role with respect to community education programs and services, as distinguished from adult education programs, and authorizes TEA to adopt rules for the administration of such programs.

C.S.H.B. 362 repeals statutory provisions relating to the Interagency Literacy Council, requiring the State Board of Education (SBOE) adopt rules for approving adult education programs, and authorizing the SBOE to establish an adult education advisory committee.

C.S.H.B. 362 repeals Chapter 312, Labor Code, and the following provisions of the Education Code:

- Section 7.102(c)(16)
- Sections 29.251(1), (2), and (3)
- Section 29.253
- Section 29.2531
- Section 29.2535
- Section 29.254

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 362 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
ARTICLE 1. CHANGES TO LABOR CODE	Same as introduced version.
SECTION 1.01. Subtitle B, Title 4, Labor Code, is amended by adding Chapter 315 to read as follows:	SECTION 1.01. Subtitle B, Title 4, Labor Code, is amended by adding Chapter 315 to read as follows:
<u>CHAPTER 315. ADULT EDUCATION AND LITERACY PROGRAMS</u>	<u>CHAPTER 315. ADULT EDUCATION AND LITERACY PROGRAMS</u>

Sec. 315.001. DEFINITIONS. In this chapter:

(1) "Adult" means any individual who is over the age of compulsory school attendance prescribed by Section 25.085, Education Code.

(2) "Adult education" means services and instruction provided below the college level for adults by public local education agencies, public nonprofit agencies, or community-based organizations.

(3) "Community-based organization" has the meaning assigned by 20 U.S.C. Section 7801.

Sec. 315.002. COMMISSION DUTIES. (a) The commission shall:

(1) provide adequate staffing to develop, administer, and support a comprehensive statewide adult education program and coordinate related federal and state programs for the education and training of adults;

(2) develop the mechanism and guidelines for the coordination of comprehensive adult education and related skill training services for adults with other entities, including public agencies and private organizations, in planning, developing, and implementing related programs;

(3) administer all state and federal funds for adult education and related skill training services in this state, other than funds that another entity is specifically authorized to administer under other law;

(4) prescribe and administer standards and accrediting policies for adult education;

(5) prescribe and administer rules for teacher certification for adult education;

(6) accept and administer grants, gifts, services, and funds from available sources for use in adult education;

(7) adopt or develop and administer a standardized assessment mechanism for assessing all adult education program participants who need literacy instruction, adult basic education, or secondary education leading to an adult high school diploma or the equivalent; and

(8) monitor and evaluate educational and employment outcomes of students who participate in the commission's adult education and literacy programs.

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(2) "Adult education" means services and instruction provided below the college level for adults by public school districts, public junior colleges, regional education service centers, nonprofit agencies, or community-based organizations.

(3) "Community-based organization" has the meaning assigned by 20 U.S.C. Section 7801.

Sec. 315.002. COMMISSION DUTIES. (a) The commission shall:

(1) provide adequate staffing, including by hiring a director, to develop, administer, and support a comprehensive statewide adult education program and coordinate related federal and state programs for the education and training of adults;

(2) develop the mechanism and guidelines for the coordination of comprehensive adult education and related skill training services for adults with other entities, including public agencies and private organizations, in planning, developing, and implementing related programs;

(3) administer all state and federal funds for adult education and related skill training services in this state, other than funds that another entity is specifically authorized to administer under other law;

(4) prescribe and administer standards and accrediting policies for adult education;

(5) prescribe and administer rules for teacher certification for adult education;

(6) accept and administer grants, gifts, services, and funds from available sources for use in adult education;

(7) adopt or develop and administer a standardized assessment mechanism for assessing all adult education program participants who need literacy instruction, adult basic education, or secondary education leading to an adult high school diploma or the equivalent; and

(8) monitor and evaluate educational and employment outcomes of students who participate in the commission's adult education and literacy programs.

(b) The assessment mechanism prescribed by Subsection (a)(7) must include an initial basic skills screening instrument and must provide comprehensive information concerning baseline student skills before and student progress after participation in an adult education program.

(c) Not later than December 1 of each even-numbered year, the commission shall report to the legislature regarding the educational and employment outcomes of students who participate in the commission's adult education and literacy programs.

(d) The commission may adopt rules for the administration of this chapter.

Sec. 315.003. PROVISION OF ADULT EDUCATION PROGRAMS. Adult education programs must be provided by public school districts, public junior colleges, public universities, public nonprofit agencies, and community-based organizations approved in accordance with state statutes and rules adopted by the commission. The programs must be designed to meet the education and training needs of adults to the extent possible using available public and private resources. Bilingual education may be used to instruct students who do not function satisfactorily in English whenever it is appropriate for those students' optimum development.

Sec. 315.004. ADULT EDUCATION ASSESSMENT. The commission shall, in consultation with the Texas Higher Education Coordinating Board and the Texas Education Agency, review the standardized assessment mechanism required under Section 315.002(a)(7) and recommend any changes necessary to align the assessment with the assessments designated under Section 51.3062 to allow for the proper placement of a student in an adult basic education course or to provide the student with the proper developmental or English as a second language coursework, as appropriate.

Sec. 315.005. ADULT EDUCATION AND LITERACY ADVISORY COMMITTEE. (a) In this section, "advisory committee" means the adult education and literacy advisory committee created under this

(b) The assessment mechanism prescribed by Subsection (a)(7) must include an initial basic skills screening instrument and must provide comprehensive information concerning baseline student skills before and student progress after participation in an adult education program.

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Sec. 315.005. ADULT EDUCATION AND LITERACY ADVISORY COMMITTEE. (a) In this section, "advisory committee" means the adult education and literacy advisory committee created under this

section.

(b) The commission shall establish an adult education and literacy advisory committee composed of not more than nine members appointed by the commission. Members of the advisory committee must have expertise in the field of adult education and literacy and may include adult educators, providers, advocates, and current or former adult education and literacy program students.

(c) The advisory committee shall:

- (1) meet at least quarterly;
- (2) report to the commission at least annually; and
- (3) advise the commission on:
 - (A) the development of policies and program priorities that support the development of an educated and skilled workforce in this state;
 - (B) the development of statewide curriculum guidelines and standards for adult education and literacy services that ensure a balance of education and workplace skill development; and

(C) any other issue the commission considers appropriate.

(d) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.

Sec. 315.006. STATE FUNDING. (a) Funds shall be appropriated to implement statewide adult basic education, adult bilingual education, high school equivalency, and high school credit

section.

(b) The commission shall establish an adult education and literacy advisory committee composed of not more than nine members appointed by the commission. Members of the advisory committee must have expertise in the field of adult education and literacy and may include adult educators, providers, advocates, current or former adult education and literacy program students, and leaders in the nonprofit community engaged in literacy promotion efforts. The advisory committee's membership must include at least one representative of the business community and at least one representative of a local workforce development board.

(c) The advisory committee shall:

- (1) meet at least quarterly;
- (2) report to the commission at least annually; and
- (3) advise the commission on:
 - (A) the development of:
 - (i) policies and program priorities that support the development of an educated and skilled workforce in this state;
 - (ii) statewide curriculum guidelines and standards for adult education and literacy services that ensure a balance of education and workplace skill development;

(iii) a statewide strategy for improving student transitions to postsecondary education and career and technical education training; and

(iv) a centralized system for collecting and tracking comprehensive data on adult basic education and literacy program performance outcomes;

(B) the exploration of potential partnerships with entities in the nonprofit community engaged in literacy promotion efforts, entities in the business community, and other appropriate entities to improve statewide literacy programs; and

(C) any other issue the commission considers appropriate.

(d) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.

Sec. 315.006. STATE FUNDING. (a) Funds shall be appropriated to implement statewide adult basic education, adult bilingual education, high school equivalency, and high school credit

programs to eliminate illiteracy in this state and to implement and support a statewide program to meet the total range of adult needs for adult education and related skill training. The commission shall ensure that public local education agencies, public nonprofit agencies, and community-based organizations have direct and equitable access to those funds.

(b) In addition to any amount appropriated under Subsection (a), the legislature may appropriate an additional amount to the commission for the purpose of skill training in direct support of industrial expansion and new business development in locations, industries, and occupations designated by the commission, if the training supports the basic purposes of this chapter. To support the basic purposes of this chapter, the legislature may also appropriate an additional amount to the commission for skill training that is conducted to support the expansion of civilian employment opportunities on United States military reservations.

No equivalent provision.

Sec. 315.007. SERVICE PROVIDER CONTRACTS: COMPETITIVE PROCUREMENT REQUIREMENT.

programs to eliminate illiteracy in this state and to implement and support a statewide program to meet the total range of adult needs for adult education and related skill training. The commission shall ensure that public school districts, public junior colleges, regional education service centers, nonprofit agencies, and community-based organizations have direct and equitable access to those funds.

(b) In addition to any amount appropriated under Subsection (a), the legislature may appropriate an additional amount to the commission for the purpose of skill training in direct support of industrial expansion and new business development in locations, industries, and occupations designated by the commission, if the training supports the basic purposes of this chapter. To support the basic purposes of this chapter, the legislature may also appropriate an additional amount to the commission for skill training that is conducted to support the expansion of civilian employment opportunities on United States military reservations.

Sec. 315.007. PERFORMANCE INCENTIVE FUNDING. (a) The commission by rule shall develop and establish a performance-based process for annually awarding funds to entities that deliver adult education and literacy services under this chapter. The process must be designed to reward those entities demonstrating exemplary performance in the delivery of services.

(b) In developing the process for awarding funds under this section, the commission shall prescribe:

(1) criteria, including fiscal and programmatic performance criteria, to be used to evaluate the performance by the entities described by Subsection (a); and

(2) procedures for taking corrective action, including contract termination or the discontinuation of an award of funds, against an entity for the entity's failure to satisfy the performance criteria prescribed under Subdivision (1).

Sec. 315.008. SERVICE PROVIDER CONTRACTS: COMPETITIVE PROCUREMENT REQUIREMENT.

No equivalent provision.

SECTION 1.02. Section 302.004, Labor Code, is amended to read as follows:

Sec. 302.004. FUNDS FOR JOB TRAINING, EMPLOYMENT SERVICES, ADULT EDUCATION AND LITERACY ACTIVITIES, AND CHILD CARE. In providing job training, ~~and~~ employment services, adult education and literacy services, and child care to eligible persons, the commission, notwithstanding the provisions in this chapter or other law, may establish a need-based formula to allocate funds available under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) and the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.) for job training, ~~and~~ employment services, adult education and literacy activities, and child care to local workforce development areas so as to:
(1) ensure compliance with federal participation rates and requirements and full utilization of the funding; and
(2) achieve integrated education and training.

SECTION 1.02. Section 302.062(g), Labor Code, is amended.

SECTION 1.03. Substantially the same as introduced version.

ARTICLE 2. TEXAS EDUCATION AGENCY RESPONSIBILITY FOR COMMUNITY EDUCATION PROGRAMS; CONFORMING CHANGES TO EDUCATION CODE

Same as introduced version.

SECTION 2.01. Section 7.021(b)(8), Education Code, is amended.

SECTION 2.01. Same as introduced version.

SECTION 2.02. The heading to Subchapter H, Chapter 29, Education Code, is amended.

SECTION 2.02. Same as introduced version.

SECTION 2.03. Section 29.251(4), Education Code, is amended.

SECTION 2.03. Same as introduced version.

SECTION 2.04. Section 29.252, Education Code, is amended.

SECTION 2.04. Same as introduced version.

SECTION 2.05. Section 29.255, Education Code, is amended.

SECTION 2.05. Same as introduced version.

SECTION 2.06. The following provisions of the Education Code are repealed:

- (1) Section 7.102(c)(16);
- (2) Sections 29.251(1),(2), and (3);
- (3) Section 29.253;
- (4) Section 29.2531;
- (5) Section 29.2535; and
- (6) Section 29.254.

SECTION 2.06. (a) The following provisions of the Education Code are repealed:

- (1) Section 7.102(c)(16);
- (2) Sections 29.251(1), (2), and (3);
- (3) Section 29.253;
- (4) Section 29.2531;
- (5) Section 29.2535; and
- (6) Section 29.254.

(b) Chapter 312, Labor Code, is repealed.

ARTICLE 3. TRANSITION PROVISIONS; EFFECTIVE DATE

Same as introduced version.

SECTION 3.01. (a) On January 1, 2014:

- (1) the administration of adult education and literacy programs shall be transferred from the Texas Education Agency to the Texas Workforce Commission;
- (2) all rules, policies, procedures, and decisions of the Texas Education Agency relating to the administration of adult education and literacy programs are continued in effect as rules, policies, procedures, and decisions of the Texas Workforce Commission until superseded by a rule or other appropriate action by the Texas Workforce Commission; and
- (3) a reference in law or administrative rule to the Texas Education Agency relating to the administration of adult education and literacy programs means the Texas Workforce Commission.

(b) Not later than October 1, 2013, the Texas Education Agency and the Texas Workforce Commission shall enter into a memorandum of understanding relating to the transfer of the administration of adult education and literacy programs from the Texas Education Agency to the Texas Workforce Commission as provided by this Act.

SECTION 3.01. (a) Not later than January 1, 2014:

- (1) the administration of adult education and literacy programs shall be transferred from the Texas Education Agency to the Texas Workforce Commission;
- (2) all rules, policies, procedures, and decisions of the Texas Education Agency relating to the administration of adult education and literacy programs are continued in effect as rules, policies, procedures, and decisions of the Texas Workforce Commission until superseded by a rule or other appropriate action by the Texas Workforce Commission; and
- (3) a reference in law or administrative rule to the Texas Education Agency relating to the administration of adult education and literacy programs means the Texas Workforce Commission.

(b) Not later than the 60th day before the date of the transfer of the administration of adult education and literacy programs from the Texas Education Agency to the Texas Workforce Commission under Subsection (a) of this section, the Texas Education Agency and the Texas Workforce Commission shall enter into a memorandum of understanding relating to

The memorandum must include:

- (1) a timetable and specific steps and methods for the transfer on January 1, 2014, of all powers, duties, obligations, rights, contracts, leases, records, real or personal property, and unspent and unobligated appropriations and other funds relating to the administration of adult education and literacy programs from the Texas Education Agency to the Texas Workforce Commission; and
- (2) measures to ensure against any unnecessary disruption to adult education and literacy services provided at the local level.

SECTION 3.02. This Act takes effect September 1, 2013.

that transfer.

The memorandum must include:

- (1) a timetable and specific steps and methods for the transfer of all powers, duties, obligations, rights, contracts, leases, records, real or personal property, and unspent and unobligated appropriations and other funds relating to the administration of adult education and literacy programs from the Texas Education Agency to the Texas Workforce Commission on the date of the transfer; and
- (2) measures to ensure against any unnecessary disruption to adult education and literacy services provided at the local level.

SECTION 3.02. Same as introduced version.