

## **BILL ANALYSIS**

Senate Research Center

H.B. 2103  
By: Villarreal; Branch (Seliger)  
Higher Education  
5/2/2013  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties assert that student data collected by the Texas Education Agency, the Texas Higher Education Coordinating Board, and the Texas Workforce Commission should be made more accessible to researchers so that it can be used to improve the state's education system. H.B. 2103 aims to provide for this increased accessibility, establish an education research center advisory board, and set limits on who can request research.

H.B. 2103 amends current law relating to education research centers and the sharing of educational data between state agencies, and redesignates certain fees as charges.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the commissioner of education and the Texas Higher Education Coordinating Board (THECB) is modified and transferred to the education research center advisory board in SECTION 3 (Section 1.005, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education and THECB is rescinded in SECTION 3 (Section 1.005, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 1.005, Education Code, to read as follows:

Sec. 1.005. EDUCATION RESEARCH CENTERS.

SECTION 2. Amends Section 1.005(a), Education Code, by adding Subdivision (1-a), to define "cooperating agencies."

SECTION 3. Amends Section 1.005, Education Code, by amending Subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) and adding Subsections (g-1), (j-1), (j-2), and (l), as follows:

(b) Requires the Texas Higher Education Coordinating Board (THECB) to establish not more than three centers for education research (center) to conduct studies or evaluations using the data described by this section, rather than authorizes the commissioner of education (commissioner) and THECB to establish not more than three centers for education research for conducting research described by Subsections (e) and (f).

(c) Requires a center to be established as part of a public junior college, public senior college or university, or public state college, as those terms are defined by Section 61.003 (Definitions), or a consortium of those institutions. Requires THECB to solicit requests for proposals from appropriate institutions to establish centers under this section and to select one or more institutions to establish each center based on criteria adopted by THECB. Deletes existing text authorizing a center to be established as part of the Texas Education Agency (TEA); THECB; or a public junior college, public senior college or university, or public state college as those terms are defined by Section 61.003. Makes nonsubstantive changes.

(d) Requires a center to be operated under an agreement between THECB and the governing board of each institution described by Subsection (c) operating or participating in the operation of the center. Requires that the agreement provide for the operation of the center, so long as the center meets contractual and legal requirements for operation, for a 10-year period. Deletes existing text authorizing a center to be operated under a memorandum of understanding between the commissioner, THECB, and the governing board of an educational institution described by Subsection (c)(3) (relating to authorizing a center to be established as part of certain colleges or universities). Deletes existing text requiring the memorandum of understanding to require the commissioner, or a person designated by the commissioner, and THECB, or a person designated by THECB, to provide direct, joint supervision of the center under this section.

(e) Requires a center to conduct education and workforce preparation studies or evaluations for the benefit of this state, including studies or evaluations relating to the impact of local, regional, state, and federal policies and programs, including an education program, intervention, or service at any level of education from preschool through postsecondary education; the performance of educator preparation programs; public school finance; and the best practices of school districts with regard to classroom instruction, bilingual education programs, special language programs, and business practices. Deletes existing text requiring a center to conduct research for the benefit of education in this state, including research relating to the impact of state and federal education programs, the performance of educator preparation programs, public school finance, and the best practices of school districts with regard to classroom instruction, bilingual education programs, special language programs, and business practices. Makes nonsubstantive changes.

(f) Authorizes any cooperating agency to request a center to conduct certain studies or evaluations considered of particular importance to the state, as determined by the cooperating agency, if the cooperating agency provides to the center sufficient funds to finance the study or evaluation. Deletes existing text providing that the commissioner and THECB under the memorandum of understanding described by Subsection (d), is authorized to require a center to conduct certain research projects considered of particular importance to the state, as determined by the commissioner and THECB; is required to notify the governor, the Legislative Budget Board, and the governing body of the educational institution in which the center is established that the research project is required not later than the 45th day before the date a research project required to be conducted under this subsection is scheduled to begin; and is required to provide sufficient funds to finance the project. Makes nonsubstantive changes.

(g) Requires a center to comply with rules adopted by the advisory board established under Section 1.006 to protect the confidentiality of information used or stored at the center in accordance with applicable state and federal law, including rules establishing procedures to ensure that confidential information is not duplicated or removed from a center in an unauthorized manner. Deletes existing text providing that a center, in conducting research under this section is authorized to use data on student performance, including data that is confidential under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), the center has collected from TEA, THECB, any public or private institution of higher education, and any school district, and is required to comply with rules adopted by the commissioner of education and THECB to protect the confidentiality of student information, including rules establishing procedures to ensure that confidential student information is not duplicated or removed from a center in an unauthorized manner. Makes nonsubstantive changes.

(g-1) Provides that a center, in conducting studies or evaluations under this section:

(1) is authorized to use student and educator data, including data that is confidential if permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), that the center has collected from a cooperating agency or any other agency, a public or private institution of higher education, a school district, a provider of services to a school district or public or private

institution of higher education, or an entity explicitly named in an approved research project of the center;

(2) is required to comply with state and federal law governing the confidentiality of student information and to provide for the review of all study and evaluation results to ensure compliance with those laws and any rules adopted or regulatory guidance issued under those laws;

(3) is authorized to provide researchers access to shared data only through secure methods and require each researcher to execute an agreement regarding compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) and rules adopted under that Act; and

(4) is required to conduct regular security audits and report the audit results to THECB and the advisory board established under Section 1.006.

(h) Authorizes the cooperating agencies and the educational institution or institutions operating a center to accept gifts and grants to be used for the purposes of this section. Authorizes the educational institution or institutions operating a center to impose reasonable charges, as appropriate, for the use of a center's research, resources, or facilities. Deletes existing text authorizing the commissioner and THECB to accept gifts and grants to be used in operating one or more centers; and by rule impose reasonable fees, as appropriate, for the use of a center's research, resources, or facilities. Makes nonsubstantive changes.

(j) Requires the cooperating agencies to execute agreements for the sharing of data for the purpose of facilitating the studies or evaluations at education research centers described by this section. Requires each cooperating agency, in accordance with the agreements, to make available all appropriate data, including to the extent possible data collected by the cooperating agency for the preceding 20 years. Requires a cooperating agency to periodically update the data as additional data is collected, but not less than once each year. Deletes existing text requiring the commissioner and THECB to adopt rules as necessary to implement this section.

(j-1) Requires THECB, in accordance with an agreement under Subsection (j), to maintain the data contributed by the cooperating agencies in a repository to be known as the P-20/Workforce Data Repository. Requires that the repository be operated by THECB. Requires THECB, as provided by the agreement, to include other data in the repository, including data from college admission tests and the National Student Clearinghouse. Requires THECB to conduct data matching using a protocol approved by the cooperating agencies.

(j-2) Authorizes THECB to enter into data agreements for data required for approved studies or evaluations with the state education agency of another state, giving priority to the agencies of those states that send the highest number of postsecondary education students to this state or that receive the highest number of postsecondary education students from this state. Requires that an agreement under this subsection be reviewed by the United States Department of Education and is required to require the agency of another state to comply with all data security measures required of a center. Authorizes THECB to also enter into data agreements with local agencies or organizations that provide education services to students in this state or that collect data that is relevant to current or former students of public schools in this state and is useful to the conduct of research that may benefit education in this state.

(k) Authorizes a cooperating agency, rather than the commissioner, in implementing this section, to use funds appropriated to the cooperating agency and available for the purpose of establishing the centers. Requires a center, after the center is established, to be funded by gifts and grants accepted under this section or charges imposed under Subchapter (h), rather than requires the center, after a center is established, to be funded by gifts and grants accepted under Subsection (h)(1) (relating to authorizing the commissioner and

THECB to accept gifts and grants to be used in operating one or more centers) and fees imposed under Subsection (h)(2) (relating to authorizing the commissioner and THECB to by rule impose reasonable fees, as appropriate, for the use of a center's research, resources, or facilities). Deletes existing text requiring that fees adopted under Subsection (h)(2) be set in an amount sufficient to provide for the continued operation of the center.

(l) Requires a cooperating agency, notwithstanding another provision of this section, to establish procedures that protect confidential information provided to a center by a cooperating agency.

SECTION 4. Amends Chapter 1, Education Code, by adding Section 1.006, as follows:

Sec. 1.006. EDUCATION RESEARCH CENTER ADVISORY BOARD. (a) Requires the commissioner of higher education to create, chair, and maintain an advisory board for the purpose of reviewing study or evaluation proposals and ensuring appropriate data use under Section 1.005, including compliance with applicable state and federal laws governing use of and access to the data.

(b) Provides that the advisory board is not a governmental body for purposes of Chapter 551 (Open Meetings) or 552 (Public Information), Government Code.

(c) Requires that the membership of the advisory board include:

- (1) a representative of THECB, designated by the commissioner of higher education;
- (2) a representative of TEA, designated by the commissioner;
- (3) a representative of the Texas Workforce Commission, designated by the commission;
- (4) the director of each center or the director's designee; and
- (5) a representative of preschool, elementary, or secondary education.

(d) Requires that each study or evaluation conducted at a center under Section 1.005 be approved in advance by majority vote of the advisory board. Authorizes a center to submit to the advisory board a proposal developed by any qualified researcher, including a researcher from another educational institution, a graduate student, a P-16 Council representative, or another researcher proposing research to benefit education in this state. Requires the advisory board, in determining whether to approve a proposed study or evaluation, to:

- (1) consider the potential of the proposed research to benefit education in this state;
- (2) require each center director or designee to review and approve the proposed research design and methods to be used in the proposed study or evaluation; and
- (3) consider the extent to which the data required to complete the proposed study or evaluation is not readily available from other data sources.

(e) Requires the advisory board to meet at least quarterly. Authorizes any meeting of the advisory board to be conducted by electronic means, including a meeting by telephone conference call, by video conference call, through the Internet, or by any combination of those means.

(f) Authorizes the advisory board to create committees and subcommittees that the advisory board determines are convenient or necessary.

SECTION 5. Effective date: upon passage or September 1, 2013.