

## **BILL ANALYSIS**

C.S.H.B. 2103  
By: Villarreal  
Higher Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties assert that student data collected by the Texas Education Agency should be made more accessible to researchers so that it can be used to improve the state's education system. C.S.H.B. 2103 aims to provide for this increased accessibility and also seeks to establish an education research center advisory board and set limits on who can request research, which would allow the Texas Higher Education Coordinating Board to sift through fewer requests and approve researchers in a more timely manner.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2103 amends the Education Code to require the Texas Education Agency (TEA), the Texas Higher Education Coordinating Board, and the Texas Workforce Commission (TWC), which constitute "cooperating agencies" as defined by the bill, to execute agreements for the sharing of data for the purpose of facilitating education and workforce preparation studies or evaluations at education research centers. The bill 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. The bill requires a cooperating agency to periodically update the data as additional data is collected, but not less than once each year. The bill requires the coordinating board, in accordance with an agreement, to maintain the data contributed by the cooperating agencies in a repository to be known as the P-20/Workforce Data Repository, operated by the coordinating board. The bill requires the coordinating board, as provided by the agreement, to include certain other data in the repository, including data from college admissions tests and the National Student Clearinghouse, and to conduct data matching using a protocol approved by the cooperating agencies.

C.S.H.B. 2103 removes the provision authorizing the commissioner of education and the coordinating board to establish not more than three centers for education research for conducting specified research and instead requires the coordinating board to establish not more than three centers for education research to conduct studies or evaluations using the data described by the bill. The bill requires each center to be established as part of a public junior college, public senior college or university, or public state college, or a consortium of those institutions and removes an authorization for a center for education research to be established as part of either TEA or the coordinating board. The bill requires the coordinating board to solicit requests for proposals from appropriate institutions to establish centers and to select one or more institutions to establish each center based on criteria adopted by the coordinating board. The bill revises certain provisions relating to the operation of an education research center by requiring a center to be operated under an agreement between the coordinating board and the governing board of each institution operating or participating in the operation of the center and requiring the agreement to provide for the operation of the center for a 10-year period, so long as the center

meets contractual and legal requirements for operation. The bill removes provisions relating to the operation of a center under a memorandum of understanding between the commissioner of education, the coordinating board, and the governing board of an educational institution.

C.S.H.B. 2103 revises certain provisions relating to education research centers to reflect the expanded purpose of conducting education and workforce preparation studies or evaluations for the benefit of the state, which includes studies or evaluations relating to the impact of local and regional programs as well as of state and federal programs and the impact of policies at those levels of government as well as programs. The bill authorizes any of the cooperating agencies 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 agency provides sufficient funds to finance the study or evaluation to the center, and removes a provision authorizing the commissioner of education and the coordinating board to require a center to conduct certain research projects. The bill expands and revises requirements and authorizations applicable to a center in conducting such studies. The bill requires a center to comply with rules adopted by the advisory board established by the bill, rather than rules adopted by the commissioner and the coordinating board, to protect the confidentiality of information used or stored at the center in accordance with applicable state and federal law.

C.S.H.B. 2103 authorizes the cooperating agencies and the educational institution or institutions operating a center, rather than the commissioner and the coordinating board, to accept gifts and grants to be used for the purposes of the bill's provisions. The bill removes the commissioner's and the coordinating board's rulemaking authority as it relates to the imposition of fees for the use of a center's research, resources, or facilities and instead authorizes the educational institution or institutions operating a center to impose reasonable charges, as appropriate, for such use. The bill removes a requirement that the fees be set in an amount sufficient to provide for the continued operation of the center.

C.S.H.B. 2103 authorizes the coordinating board to enter into data agreements for data required for approved studies or evaluations with the state education agency of another state and sets out requirements applicable to such an agreement. The bill also authorizes the coordinating board to enter into data agreements with local agencies or organizations that provide educational services to students in Texas or that collect data that is relevant to current or former students of Texas public schools and is useful to the conduct of research that may benefit education in Texas.

C.S.H.B. 2103 removes the general rulemaking authority of the commissioner of education and the coordinating board with regard to the education research centers and authorizes a cooperating agency, rather than the commissioner, to use funds appropriated to TEA and available for the purpose of establishing the centers. The bill requires the commissioner of higher education to create, chair, and maintain an advisory board for the purpose of reviewing study proposals and ensuring appropriate data use by the education research centers, provides for the advisory board's composition and organization, and sets out requirements and procedures applicable to the board.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2103 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

SECTION 1. Section 1.005, Education Code, is amended to read as follows:

Sec. 1.005. EDUCATION RESEARCH CENTERS; ~~DATA SHARING~~ [STUDENT INFORMATION].

- (a) In this section:
- (1) "Center" means a center for education research authorized by this section.
- (2) "Coordinating board" means the Texas Higher Education Coordinating Board.
- (3) "Cooperating agencies" means the Texas Education Agency, the Texas Higher Education Coordinating Board, and the Texas Workforce Commission.
- (4) "Education program" includes an education program, intervention, or service at any level of education from preschool to postsecondary education.

(b) The commissioner of education, ~~and~~ the coordinating board, and the Texas Workforce Commission shall execute agreements for the sharing of data for the purpose of facilitating the studies described by this section at education research centers. In accordance with the agreement, each cooperating agency shall make available all appropriate data, including to the extent possible data going back longitudinally for at least 20 years. A cooperating agency shall update the data as it becomes available on a timely basis, but at least annually if the agency has collected additional data during the interim.

(c) In accordance with the agreements, the coordinating board shall maintain the data contributed by the cooperating agencies in a repository to be known as the "P-20/Workforce Data Repository." The repository shall be located at and operated by the coordinating board. As provided by the agreements, the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. The heading to Section 1.005, Education Code, is amended to read as follows:

Sec. 1.005. EDUCATION RESEARCH CENTERS[; ~~SHARING~~ ~~STUDENT INFORMATION~~].

SECTION 2. Section 1.005(a), Education Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Cooperating agencies" means the Texas Education Agency, the Texas Higher Education Coordinating Board, and the Texas Workforce Commission.

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

(j) The cooperating agencies shall execute agreements for the sharing of data for the purpose of facilitating the studies or evaluations at education research centers described by this section. In accordance with the agreements, each cooperating agency shall make available all appropriate data, including to the extent possible data collected by the cooperating agency for the preceding 20 years. A cooperating agency shall periodically update the data as additional data is collected, but not less than once each year.

(j-1) In accordance with an agreement under Subsection (j), the coordinating board shall maintain the data contributed by the cooperating agencies in a repository to be known as the P-20/Workforce Data Repository. The repository shall be operated by the coordinating board. As provided by the agreement, the coordinating board shall

coordinating board shall also include other data in the repository, such as data from college admission tests and the National Student Clearinghouse. The coordinating board shall conduct a data matching process by using a protocol approved by the cooperating agencies in which a common replacement identifier is generated for a matched individual in each agency's data set and certain direct identifiers are removed.

(d) The coordinating board shall [may] establish at least one, but not more than three centers through which the studies using the data [for education research for conducting research] described by this section are conducted [Subsections (e) and (f)].

[~~(e)~~] Each [A] center must [may] be established as part of [:(1) the Texas Education Agency;

(2) the coordinating board; or

(3) a public junior college, public senior college or university, or public state college, or a consortium of such institutions as those terms are defined by Section 61.003.

The coordinating board shall solicit requests for qualifications from eligible colleges and universities, and shall select applicants based on criteria adopted by the coordinating board, to include:

(A) potential of the proposed research to benefit education in this state;

(B) the use of social science research methods accepted as valid and reliable; and

(C) the data required to complete the proposed study are not readily available from other data sources.

The coordinating board and each selected center shall execute an agreement with a term of 10 years for the operations of the center, so long as that center meets contractual and legal requirements for operation.

(e) The commissioner of higher education shall create, chair, and maintain an advisory board for the purpose of reviewing study proposals and ensuring appropriate data use, including compliance with applicable state and federal laws governing use of and access to the data. The advisory board is not

include other data in the repository, including data from college admission tests and the National Student Clearinghouse. The coordinating board shall conduct data matching using a protocol approved by the cooperating agencies.

(b) The [commissioner of education and the] coordinating board shall [may] establish not more than three centers for education research to conduct studies or evaluations using the data [for conducting research] described by this section [Subsections (e) and (f)].

(c) A center must [may] be established as part of[:

[(1) the Texas Education Agency;

[(2) the coordinating board; or

[(3) a public junior college, public senior college or university, or public state college, as those terms are defined by Section 61.003, or a consortium of those institutions.

The coordinating board shall solicit requests for proposals from appropriate institutions to establish centers under this section and shall select one or more institutions to establish each center based on criteria adopted by the coordinating board.

[See below.]

SECTION 4. Chapter 1, Education Code, is amended by adding Section 1.006 to read as follows:

Sec. 1.006. EDUCATION RESEARCH CENTER ADVISORY BOARD. (a) The commissioner of higher education shall 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

a governmental body for purposes of Chapter 551 or 552, Government Code. The majority of the joint advisory board must consist of educational researchers experienced in working with secure data.

The advisory board must include:

(1) a representative of the coordinating board named by the commissioner of higher education;

(2) a representative of the Texas Education Agency, designated by the commissioner of education;

(3) a representative of the Texas Workforce Commission, designated by that commission;

(4) the director of each education research center, or the director's designee; and

(5) a representative of preschool, elementary, or secondary education.

~~[(d) A center may be operated under a memorandum of understanding between the commissioner of education, the coordinating board, and the governing board of an educational institution described by Subsection (c)(3).~~

[See above.]

~~The memorandum of understanding must require the commissioner of education, or a person designated by the commissioner, and the coordinating board, or a person designated by the coordinating board, to provide direct, joint supervision of the center under this section].~~

(f) Each study conducted at a center must be approved in advance by majority vote of the advisory board.

A center may submit to the advisory board a proposal developed by any qualified researcher, including a researcher from another university, a graduate student, a P-16 Council representative, or other researcher proposing research to benefit education in this state.

and federal laws governing use of and access to the data.

(b) The advisory board is not a governmental body for purposes of Chapter 551 or 552, Government Code.

(c) The membership of the advisory board must include:

(1) a representative of the Texas Higher Education Coordinating Board, designated by the commissioner of higher education;

(2) a representative of the Texas Education Agency, designated by the commissioner of education;

(3) a representative of the Texas Workforce Commission, designated by the commission;

(4) the director of each education research center or the director's designee; and

(5) a representative of preschool, elementary, or secondary education.

### SECTION 3. (Cont.)

~~(d) A center must [may] be operated under an agreement [a memorandum of understanding] between [the commissioner of education,] the coordinating board[,], and the governing board of each [an educational] institution described by Subsection (c) operating or participating in the operation of the center [(c)(3)].~~

~~The agreement [memorandum of understanding] must provide for the operation of the center, so long as the center meets contractual and legal requirements for operation, for a 10-year period [require the commissioner of education, or a person designated by the commissioner, and the coordinating board, or a person designated by the coordinating board, to provide direct, joint supervision of the center under this section].~~

### SECTION 4. (Cont.)

(d) Each study or evaluation conducted at a center under Section 1.005 must be approved in advance by majority vote of the advisory board.

A center may 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. In determining whether to approve a proposed

(g) The advisory board shall meet at least quarterly. Any meeting may be conducted by electronic means, including a meeting by telephone conference call, videoconference call, or over the Internet, or by any combination of those means.

The advisory board may create committees and subcommittees that the board determines are convenient or necessary.

(h) [(e)] A center shall conduct education and workforce studies [~~research~~] for the benefit of [~~education in~~] this state, including studies or evaluations [~~research~~] relating to the impact of local, regional, state, and federal [~~education~~] policy and 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.

(i) A center shall comply with rules adopted by the advisory board that address applicable state and federal laws to protect the confidentiality of information used or stored at the center, including rules establishing procedures to ensure that confidential information is not duplicated or removed from a center in an unauthorized manner.

(j) [(f)] Any of the cooperating agencies [~~The commissioner of education and the coordinating board~~]:

study or evaluation, the advisory board must:

(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) The advisory board shall meet at least quarterly. Any meeting of the advisory board may 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) The advisory board may create committees and subcommittees that the advisory board determines are convenient or necessary.

### SECTION 3. (Cont.)

(e) A center shall conduct education and workforce preparation studies or evaluations [~~research~~] for the benefit of [~~education in~~] this state, including studies or evaluations [~~research~~] relating to:

(1) the impact of local, regional, state, and federal policies and [~~education~~] programs, including an education program, intervention, or service at any level of education from preschool through postsecondary education;

(2) the performance of educator preparation programs;

(3)[,] public school finance[;] and

(4) the best practices of school districts with regard to classroom instruction, bilingual education programs, special language programs, and business practices.

(f) Any cooperating agency [~~The commissioner of education and the coordinating board~~]:

(1) ~~under the memorandum of understanding described by Subsection (d),]~~ may ~~request~~require a center to conduct certain ~~studies~~ research projects considered of particular importance to the state, as determined by the cooperating agency, if the agency provides to the center ~~[commissioner and the coordinating board;~~

(2) ~~not later than the 45th day before the date a research project required to be conducted under this subsection is scheduled to begin, shall 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; and~~

(3) ~~shall provide sufficient funds to finance the~~ project.

(k) ~~(g)~~ In conducting studies ~~[research]~~ under this section, a center:

(1) may use data, 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 the Texas Education Agency, the coordinating board, any public or private institution of higher education, and any school district, any other agency, and ~~any entity~~any provider of services to public or private institutions of higher education or to school districts, and any entity explicitly named in an approved research project of a center; [and]

~~[(1) under the memorandum of understanding described by Subsection (d),]~~ may ~~request~~ require a center to conduct certain studies or evaluations ~~[research projects]~~ considered of particular importance to the state, as determined by the cooperating agency, if the cooperating agency provides to the center ~~[commissioner and the coordinating board;~~

~~[(2) not later than the 45th day before the date a research project required to be conducted under this subsection is scheduled to begin, shall 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; and~~

~~[(3) shall provide]~~ sufficient funds to finance the study or evaluation ~~[project].~~

(g) A ~~[In conducting research under this section, a]~~ center~~[-~~

~~[(1) may 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 the Texas Education Agency, the coordinating board, any public or private institution of higher education, and any school district; and~~

~~[(2)] shall comply with rules adopted by the advisory [commissioner of education and the coordinating] board established under Section 1.006 to protect the confidentiality of [student] information used or stored at the center in accordance with applicable state and federal law, including rules establishing procedures to ensure that confidential [student] information is not duplicated or removed from a center in an unauthorized manner.~~

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

(1) may 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) shall comply with federal and state law governing [rules adopted by the commissioner of education and the coordinating board to protect] the confidentiality of student information and shall provide for the review of all study results for compliance with those laws and with any authoritative guidelines issued under those laws; [including rules establishing procedures to ensure that confidential student information is not duplicated or removed from a center in an unauthorized manner]

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

(4) conduct regular security audits and report the audit results to the coordinating board and the advisory board.

(1)[(h)] The cooperating agencies and the college or university operating the center, individually or collectively, [commissioner of education and the coordinating board] may [:]

[(1)] accept gifts and grants to be used for the purposes of this section. The college or university operating the center may[~~h~~ operating one or more center; and

(2) by rule impose reasonable charges [fees], as appropriate, for the use of a center's research, resources, or facilities.

(m) The coordinating board may enter into data agreements for data required for approved studies with the state education agency of another state, giving priority to the agencies of those states that send the highest number of students to this state or that receive the highest number of students from this state.

An agreement with such an agency must be reviewed by the United States Department of Education and must require the agency to comply with all data security measures required of a center.

The coordinating board may also enter data agreements with local agencies or organizations that provide educational services to students in Texas or that collect data that is relevant to current or former

(2) shall comply with state and federal law governing the confidentiality of student information and shall 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) may 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) shall conduct regular security audits and report the audit results to the coordinating board and the advisory board established under Section 1.006.

(h) The cooperating agencies and the educational institution or institutions operating a center [commissioner of education and the coordinating board] may[:

[(1)] accept gifts and grants to be used for the purposes of this section. The educational institution or institutions [~~h~~] operating a center may [one or more centers; and

[(2) by rule] impose reasonable charges [fees], as appropriate, for the use of a center's research, resources, or facilities.

(j-2) The coordinating board may 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. An agreement under this subsection must be reviewed by the United States Department of Education and must require the agency of another state to comply with all data security measures required of a center. The coordinating board may 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



students of Texas public schools and is useful to the conduct of research that may benefit education in this state.

~~(n) [(+)] This section does not authorize the disclosure of student information that may not be disclosed under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).~~

~~(j) The commissioner of education and the coordinating board shall adopt rules as necessary to implement this section.~~

~~(o) [(+)] In implementing this section, the cooperating agencies [commissioner of education] may use funds appropriated to the agency and available for the purpose of establishing the centers. After a center is established, the center must be funded by gifts and grants accepted under this section or by charges Subsection (h)(1) and fees imposed under this section [Subsection (h)(2)]. Charges imposed [Fees adopted] under this section [Subsection (h)(2)] must be set in an amount sufficient to provide for the continued operation of the center.~~

SECTION 2. This Act takes effect immediately if it receives the vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

former students of public schools in this state and is useful to the conduct of research that may benefit education in this state.

~~The [commissioner of education and the coordinating board shall adopt rules as necessary to implement this section].~~

(k) In implementing this section, a cooperating agency [the commissioner of education] may use funds appropriated to the cooperating agency and available for the purpose of establishing the centers. After a center is established, the center must be funded by gifts and grants accepted under this section or charges [Subsection (h)(1) and fees] imposed under Subsection (h) [Subsection (h)(2)]. Fees adopted under Subsection (h)(2) must be set in an amount sufficient to provide for the continued operation of the center.

SECTION 5. Substantially the same as introduced version.