

BILL ANALYSIS

Senate Research Center
83R20066 CAS-D

C.S.S.B. 48
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Education
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Public school students in Texas are allowed to transfer from the district they reside in to another district under certain circumstances. These situations may include when the home district school does not meet specific performance criteria, or when a school district with a wealth per student that exceeds the equalized level reduces its wealth per student by serving nonresident transfer students who are not charged tuition. If a child violates student conduct policies or fails to comply with a condition specified in the transfer agreement, however, they may become a burden for the receiving school district and create cause for the revocation of the transfer.

In a November 2008 letter, the Texas Education Agency (TEA) specified that a student may transfer annually from his or her district of residence to another district in the state if both the receiving district and the applicant parent or guardian jointly approve and timely agree in writing to the transfer. The use of "annually" in the code was interpreted by the TEA Office of Legal Standards as meaning that a student may transfer out of a school district once in a school year. This limits a school district's ability to revoke the transfer agreement for a child who violates student conduct policies in the same school year the child transferred to the receiving district.

By striking the word "annually" from statute, this bill allows the revocation of a transfer agreement by the receiving school district at any time during the school year if the student fails to comply with a condition specified in the transfer agreement. This revocation can occur if the student fails to maintain a specified school attendance rate, commits an offence that would require transfer to a disciplinary alternative education program, transfer to a juvenile justice alternative education program, or the student's expulsion. If a transfer approval is revoked under any of these circumstances, the bill also requires the receiving school district to refund any tuition fees charged by the district proportionate to any portion of the school year remaining after the revocation and for which the fee was paid.

C.S.S.B. 48 amends current law relating to the transfer of a student from the school district of the student's residence to another district.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 25.036, Education Code, by amending Subsection (a) and adding Subsections (c), (d), and (e), as follows:

- (a) Authorizes any child, other than a high school graduate, who is younger than 21 years of age and eligible for enrollment on September 1 of any school year to transfer each school year, rather than transfer annually, from the child's school district of residence to another district in this state if both the receiving district and the applicant parent or guardian or person having lawful control of the child jointly approve and timely agree to the transfer.

(c) Authorizes the transfer agreement, subject to Subsection (d), to authorize the receiving school district to revoke, at any time during the school year, the approval of the child to transfer if:

(1) the child:

(A) fails to comply with a condition specified in the agreement that is conduct for which a student is required to be placed in a disciplinary alternative education program under Section 37.006 (Removal for Certain Conduct) or expelled from school under Section 37.007 (Expulsion for Serious Offenses); or

(B) commits an offense under Section 25.094 (Failure to Attend School) or is required to attend school under Section 25.085 (Compulsory School Attendance) and engages in conduct described by 25.094(a)(3) (relating to failure to attend school within a six-month period), unless the child proves to the satisfaction of the district that one or more of the absences described by Section 25.094(a)(3) were excused by a school official or by a court or were involuntary and there is an insufficient number of unexcused or voluntary absences remaining to constitute conduct described by Section 25.094(a)(3); or

(2) the parent or guardian or person having lawful control of the child who executed the transfer agreement fails to pay tuition as authorized under Section 25.038 (Tuition Fee For Transfer Students) in accordance with the agreement.

(d) Requires the receiving school district, before a transfer approval may be revoked under this section, to provide due process concerning the proposed revocation in accordance with commissioner of education rule, including a conference, any appeal, any proceeding, or a hearing as provided under Section 37.009(a) (relating to a parent conference after removal from the classroom), (b) (relating to a student's placement in a disciplinary alternative education program to extend beyond 60 days), or (f) (relating to due process before expulsion), as applicable, in the case of a proposed revocation under Subsection (c)(1)(A)(i) (relating to a disciplinary alternative education program) or (ii) (relating to expulsion). Provides that Section 37.004 (Placement of Students with Disabilities) also applies to consideration of revocation of transfer approval under this section.

(e) Provides that if a transfer approval is revoked under this section:

(1) a child is not entitled to attend school in the receiving school district under a transfer agreement after the fifth school day after the date the child's parent or guardian or person having lawful control of the child receives written notice of the revocation; and

(2) the receiving school district is required to refund an amount of any tuition fee paid under Section 25.038 proportionate to any portion of the school year for which the fee was paid that is remaining after the date the child is no longer entitled to attend school in the receiving district under Subdivision (1).

SECTION 2. Provides that this Act applies beginning with the 2013-2014 school year.

SECTION 3. Effective date: upon passage or September 1, 2013.