

By: Guillen, J. Davis of Harris, Sheets,  
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H.B. No. 362

Substitute the following for H.B. No. 362:

By: Vo

C.S.H.B. No. 362

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of adult education and literacy programs  
from the Texas Education Agency to the Texas Workforce Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. CHANGES TO LABOR CODE

SECTION 1.01. Subtitle B, Title 4, Labor Code, is amended by  
adding Chapter 315 to read as follows:

CHAPTER 315. ADULT EDUCATION AND LITERACY PROGRAMS

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 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;

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

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

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

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

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

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

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

24           (b) The assessment mechanism prescribed by Subsection  
25 (a)(7) must include an initial basic skills screening instrument  
26 and must provide comprehensive information concerning baseline  
27 student skills before and student progress after participation in

1 an adult education program.

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

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

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

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

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

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

15       (c) The advisory committee shall:

16               (1) meet at least quarterly;

17               (2) report to the commission at least annually; and

18               (3) advise the commission on:

19                       (A) the development of:

20                               (i) policies and program priorities that  
21 support the development of an educated and skilled workforce in  
22 this state;

23                               (ii) statewide curriculum guidelines and  
24 standards for adult education and literacy services that ensure a  
25 balance of education and workplace skill development;

26                               (iii) a statewide strategy for improving  
27 student transitions to postsecondary education and career and

1 technical education training; and

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

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

9 (C) any other issue the commission considers  
10 appropriate.

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

13 Sec. 315.006. STATE FUNDING. (a) Funds shall be  
14 appropriated to implement statewide adult basic education, adult  
15 bilingual education, high school equivalency, and high school  
16 credit programs to eliminate illiteracy in this state and to  
17 implement and support a statewide program to meet the total range of  
18 adult needs for adult education and related skill training. The  
19 commission shall ensure that public school districts, public junior  
20 colleges, regional education service centers, nonprofit agencies,  
21 and community-based organizations have direct and equitable access  
22 to those funds.

23 (b) In addition to any amount appropriated under Subsection  
24 (a), the legislature may appropriate an additional amount to the  
25 commission for the purpose of skill training in direct support of  
26 industrial expansion and new business development in locations,  
27 industries, and occupations designated by the commission, if the

1 training supports the basic purposes of this chapter. To support  
2 the basic purposes of this chapter, the legislature may also  
3 appropriate an additional amount to the commission for skill  
4 training that is conducted to support the expansion of civilian  
5 employment opportunities on United States military reservations.

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

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

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

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

21 Sec. 315.008. SERVICE PROVIDER CONTRACTS: COMPETITIVE  
22 PROCUREMENT REQUIREMENT. The commission shall use a competitive  
23 procurement process to award a contract to a service provider of an  
24 adult education program.

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

27 Sec. 302.004. FUNDS FOR JOB TRAINING, EMPLOYMENT SERVICES,

1 ADULT EDUCATION AND LITERACY ACTIVITIES, AND CHILD CARE. In  
2 providing job training, ~~and~~ employment services, adult education  
3 and literacy services, and child care to eligible persons, the  
4 commission, notwithstanding the provisions in this chapter or other  
5 law, may establish a need-based formula to allocate funds available  
6 under the Personal Responsibility and Work Opportunity  
7 Reconciliation Act of 1996 (Pub. L. No. 104-193) and the Workforce  
8 Investment Act of 1998 (29 U.S.C. Section 2801 et seq.) for job  
9 training, ~~and~~ employment services, adult education and literacy  
10 activities, and child care to local workforce development areas so  
11 as to:

12 (1) ensure compliance with federal participation  
13 rates and requirements and full utilization of the funding; and

14 (2) achieve integrated education and training.

15 SECTION 1.03. Section 302.062(g), Labor Code, is amended to  
16 read as follows:

17 (g) Block grant funding under this section does not apply  
18 to:

19 (1) the work and family policies program under Chapter  
20 81;

21 (2) a program under the skills development fund  
22 created under Chapter 303;

23 (3) the job counseling program for displaced  
24 homemakers under Chapter 304;

25 (4) the Communities In Schools program under  
26 Subchapter E, Chapter 33, Education Code, to the extent that funds  
27 are available to the commission for that program;

- 1           (5) the reintegration of offenders program under  
2 Chapter 306;
- 3           (6) apprenticeship programs under Chapter 133,  
4 Education Code;
- 5           (7) the continuity of care program under Section  
6 501.095, Government Code;
- 7           (8) employment programs under Chapter 31, Human  
8 Resources Code;
- 9           (9) the senior citizens employment program under  
10 Chapter 101, Human Resources Code;
- 11           (10) the programs described by Section 302.021(b)(2);
- 12           (11) the community service program under the National  
13 and Community Service Act of 1990 (42 U.S.C. Section 12501 et seq.);
- 14           (12) the trade adjustment assistance program under  
15 Part 2, Subchapter II, Trade Act of 1974 (19 U.S.C. Section 2271 et  
16 seq.);
- 17           (13) the programs to enhance the employment  
18 opportunities of veterans; ~~and~~
- 19           (14) the functions of the State Occupational  
20 Information Coordinating Committee; and
- 21           (15) the adult education and literacy programs under  
22 Chapter 315.

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

25       SECTION 2.01. Section 7.021(b)(8), Education Code, is  
26 amended to read as follows:

- 27           (8) The agency shall carry out powers and duties

1 relating to [~~adult and~~] community education as required under  
2 Subchapter H, Chapter 29.

3 SECTION 2.02. The heading to Subchapter H, Chapter 29,  
4 Education Code, is amended to read as follows:

5 SUBCHAPTER H. [~~ADULT AND~~] COMMUNITY  
6 EDUCATION PROGRAMS

7 SECTION 2.03. Section 29.251(4), Education Code, is amended  
8 to read as follows:

9 (4) "Community education" means the process by which  
10 the citizens in a school district, using the resources and  
11 facilities of the district, organize to support each other and to  
12 solve their mutual educational problems and meet their mutual  
13 lifelong needs. Community education may include:

14 (A) educational programs, including programs  
15 relating to [~~for occupational and technological skills training,~~  
16 ~~retraining of displaced workers,~~] cultural awareness, parenting  
17 skills education and parental involvement in school programs, and  
18 multilevel adult education and personal growth;

19 (B) community involvement programs, including  
20 programs for community economic development, school volunteers,  
21 partnerships between schools and businesses, coordination with  
22 community agencies, school-age child care, family [~~and workplace~~]  
23 literacy, and community use of facilities; and

24 (C) programs for youth enrolled in schools,  
25 including programs for dropout prevention and recovery programs,  
26 drug-free school programs, school-age parenting programs, and  
27 academic enhancement.

1 SECTION 2.04. Section 29.252, Education Code, is amended to  
2 read as follows:

3 Sec. 29.252. AGENCY [~~STATE~~] ROLE IN [~~ADULT AND~~] COMMUNITY  
4 EDUCATION. (a) The agency shall:

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

9 [(2)] develop, implement, and regulate a comprehensive  
10 statewide program for community [~~level~~] education services [~~to meet~~  
11 ~~the special needs of adults~~];

12 (2) [(3)] [~~develop the mechanism and guidelines for~~  
13 ~~coordination of comprehensive adult education and related skill~~  
14 ~~training services for adults with other agencies, both public and~~  
15 ~~private, in planning, developing, and implementing related~~  
16 ~~programs, including community education programs;~~

17 [(4)] administer all state and federal funds for  
18 community [~~adult~~] education [~~and related skill training~~] in this  
19 state, other than funds that [~~except in programs for which~~] another  
20 entity is specifically authorized to administer [~~do so~~] under other  
21 law; and

22 (3) [(5)] [~~prescribe and administer standards and~~  
23 ~~accrediting policies for adult education;~~

24 [(6)] [~~prescribe and administer rules for teacher~~  
25 ~~certification for adult education;~~

26 [(7)] accept and administer grants, gifts, services,  
27 and funds from available sources for use in community [~~adult~~]

1 education[+]

2 [~~(8) adopt or develop and administer a standardized~~  
3 ~~assessment mechanism for assessing all adult education program~~  
4 ~~participants who need literacy instruction, adult basic education,~~  
5 ~~or secondary education leading to an adult high school diploma or~~  
6 ~~the equivalent;~~

7 [~~(9) collaborate with the Texas Workforce Commission~~  
8 ~~to improve the coordination and implementation of adult education~~  
9 ~~and literacy services in this state; and~~

10 [~~(10) monitor and evaluate educational and employment~~  
11 ~~outcomes of students who participate in the agency's adult~~  
12 ~~education and literacy programs].~~

13 (b) The agency may adopt rules for the administration of  
14 this subchapter [~~assessment mechanism prescribed under Subsection~~  
15 ~~(a)(8) must include an initial basic skills screening instrument~~  
16 ~~and must provide comprehensive information concerning baseline~~  
17 ~~student skills before and student progress after participation in~~  
18 ~~an adult education program].~~

19 SECTION 2.05. Section 29.255, Education Code, is amended to  
20 read as follows:

21 Sec. 29.255. STATE FUNDING. [~~(a)~~] Funds shall be  
22 appropriated to implement statewide community [~~adult basic~~  
23 ~~education~~ [~~, adult bilingual education, high school equivalency,~~  
24 ~~and high school credit~~] programs, including [~~to eliminate~~  
25 ~~illiteracy in this state and to implement and support a statewide~~  
26 ~~program to meet the total range of adult needs for adult education,~~  
27 ~~related skill training, and~~] pilot programs to demonstrate the

1 effectiveness of the community education concept. The agency shall  
2 ensure that public local education agencies, public nonprofit  
3 agencies, and community-based organizations have direct and  
4 equitable access to those funds. ~~[An additional sum of money may be  
5 appropriated to the Texas Department of Commerce for the purpose of  
6 skill training in direct support of industrial expansion and  
7 start-up, and those locations, industries, and occupations  
8 designated by the Texas Department of Commerce, when such training  
9 is also in support of the basic purposes of this subchapter. To  
10 fulfill the basic purposes of this subchapter, an additional sum of  
11 money may be appropriated for skill training that is conducted to  
12 support the expansion of civilian employment opportunities on  
13 United States military reservations.~~

14 ~~[(b) The agency, in conjunction with the Texas Department of  
15 Commerce, may adopt rules to administer skill training programs for  
16 which the agency is responsible, and the Texas Department of  
17 Commerce may adopt rules to administer skill training programs for  
18 which it is responsible.]~~

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

- 21 (1) Section 7.102(c)(16);
- 22 (2) Sections 29.251(1), (2), and (3);
- 23 (3) Section 29.253;
- 24 (4) Section 29.2531;
- 25 (5) Section 29.2535; and
- 26 (6) Section 29.254.

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

1           ARTICLE 3. TRANSITION PROVISIONS; EFFECTIVE DATE

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

3                   (1) the administration of adult education and literacy  
4 programs shall be transferred from the Texas Education Agency to  
5 the Texas Workforce Commission;

6                   (2) all rules, policies, procedures, and decisions of  
7 the Texas Education Agency relating to the administration of adult  
8 education and literacy programs are continued in effect as rules,  
9 policies, procedures, and decisions of the Texas Workforce  
10 Commission until superseded by a rule or other appropriate action  
11 by the Texas Workforce Commission; and

12                   (3) a reference in law or administrative rule to the  
13 Texas Education Agency relating to the administration of adult  
14 education and literacy programs means the Texas Workforce  
15 Commission.

16           (b) Not later than the 60th day before the date of the  
17 transfer of the administration of adult education and literacy  
18 programs from the Texas Education Agency to the Texas Workforce  
19 Commission under Subsection (a) of this section, the Texas  
20 Education Agency and the Texas Workforce Commission shall enter  
21 into a memorandum of understanding relating to that transfer. The  
22 memorandum must include:

23                   (1) a timetable and specific steps and methods for the  
24 transfer of all powers, duties, obligations, rights, contracts,  
25 leases, records, real or personal property, and unspent and  
26 unobligated appropriations and other funds relating to the  
27 administration of adult education and literacy programs from the

1 Texas Education Agency to the Texas Workforce Commission on the  
2 date of the transfer; and

3 (2) measures to ensure against any unnecessary  
4 disruption to adult education and literacy services provided at the  
5 local level.

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