

BILL ANALYSIS

C.S.H.B. 21
By: Huberty
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties suggest that changes to the public school finance system are necessary in order to meet the requirement under the Texas Constitution that the legislature establish and make suitable provision for the support and maintenance of an efficient system of public free schools. C.S.H.B. 21 seeks to provide for such changes.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 29 of this bill.

ANALYSIS

C.S.H.B. 21 repeals Education Code provisions relating to the hold harmless provision with regard to equalized wealth level, the transportation allotment, the high school allotment, and additional state aid for staff salary increases under the foundation school program (FSP). The bill amends the Education Code to exclude any adjustment in wealth per student that would have been provided under those provisions from the state and local revenue considered in determining the extent to which a public school district is entitled to additional state aid to offset the loss of revenue resulting from the increase in the residence homestead property tax exemption and the additional limitation on tax increases.

Effective September 1, 2018, C.S.H.B. 21 establishes that the small and mid-sized public school district adjustment used in determining FSP funding for an open-enrollment charter school is based on the average adjustment for the state that would have been provided under applicable law as it existed on January 1, 2018.

C.S.H.B. 21 removes the provision including transportation for a prekindergarten class, if provided by a school district, for funding purposes as part of the regular transportation system. The bill entitles the Texas School for the Deaf to a transportation allotment paid from the foundation school fund and requires the commissioner of education to determine the appropriate allotment. The bill authorizes a school district to receive an allotment paid from the fund for the transportation of students participating in a regional day school program for the deaf, as determined by the commissioner. The bill requires the commissioner to reduce the basic allotment for each student in average daily attendance (ADA) by \$125 for a district that fails or refuses to meet the safety standards for school buses until the first anniversary of the date the district begins complying with the safety standards. The bill establishes that a county public school transportation system is not entitled to receive funding for transportation costs directly

from the state but establishes that funding for such a system is provided by each school district participating in the system in accordance with the terms of the interlocal contract under which the county provides transportation services for the participating districts as provided by the Interlocal Cooperation Act.

C.S.H.B. 21 includes among the information each district and open-enrollment charter school reports through the Public Education Information Management System information regarding the number of students enrolled in the district or school who are identified as having disorders related to dyslexia, in addition to those identified as having dyslexia.

C.S.H.B. 21 increases the minimum amount of the basic allotment from \$4,765 to \$5,140. Effective September 1, 2018, the bill increases the multiplier used to adjust the basic allotment of a district that contains less than 300 square miles and has not more than 1,600 students in ADA by .000025 for every fiscal year beginning with fiscal year 2019, during which the multiplier is .000275, and concluding with fiscal year 2023, during which the multiplier is .000375. Effective September 1, 2023, the bill repeals the basic allotment adjustment for such a district and extends the adjustment for a district that contains at least 300 square miles and has not more than 1,600 students in ADA to all districts that have not more than 1,600 students in ADA, regardless of geographic size.

C.S.H.B. 21 makes a district that borders the Red River and has a student enrollment of less than 90 with more than 50 percent of the enrollment consisting of students who have transferred from another school district ineligible for the small or mid-sized district adjustment or the sparsity adjustment for any school year during which the district issues or makes payments on bonds for the construction of a new instructional facility on property more than five miles from a property that before the issuance of the bonds was owned by the district and was the location of an instructional facility for the previous five years.

C.S.H.B. 21 requires the commissioner, in each fiscal year of the biennium, to allocate FSP funding to each special-purpose school district that is operated by a general academic teaching institution in an amount equivalent to the basic allotment multiplied by the number of full-time equivalent students who are enrolled in the district and who reside in Texas, using a payment schedule consistent with the payment schedule adopted for open-enrollment charter schools. The bill prohibits a special-purpose school district that receives such state funding for a resident student from charging tuition or fees to that student for the academic term for which state funding is received, other than fees permitted to be charged by the board of trustees of an independent school district. The bill authorizes a special-purpose school district to elect not to receive this state funding.

C.S.H.B. 21 excludes amounts made available for the transportation of special education students from the requirement that the special education allotment be used in the state special education program and excludes amounts made available for the transportation of career and technology education students from the requirement that the career and technology allotment be used in providing career and technology education programs. The bill increases the weight of the bilingual education allotment for each student in ADA in a bilingual education or special language program from 0.1 to 0.11. The bill includes as students for whom a school district is entitled to the career and technology allotment each full-time student in ADA in an approved career and technology education program in grade eight.

C.S.H.B. 21 replaces the requirement that the State Board of Education (SBOE) increase by rule certain indirect cost allotments in effect for the 2010-2011 school year in proportion to the average percentage reduction in total state and local maintenance and operations (M&O) revenue provided for the 2011-2012 school year as a result of legislation enacted by the 82nd Legislature, 1st Called Session, 2011, with a requirement that the SBOE revise by rule for the 2017-2018 and subsequent school years such indirect cost allotments in effect for the 2016-2017 school year to reflect any increase in the percentage of total M&O funding represented by the basic allotment as

a result of Acts of the 85th Legislature, 1st Called Session, 2017.

C.S.H.B. 21 entitles a school district, for each student that the district serves who has been identified as having dyslexia or a related disorder, to an allotment equal to the district's adjusted basic allotment multiplied by 0.1 for each school year or a greater amount provided by appropriation. The bill limits this entitlement to a student who is receiving instruction that meets applicable dyslexia program criteria established by the Texas Education Agency (TEA) and is provided by a person with specific training in providing that instruction or a student who has received that instruction and is permitted, on the basis of having dyslexia or a related disorder, to use modifications in the classroom and accommodations in the administration of statewide standardized tests. The bill requires funds allotted for a student with dyslexia or a related disorder to be used in providing services to such students and limits eligibility for the funding to not more than five percent of a district's students in ADA. The bill authorizes a district to receive such funds for an eligible student and special education allotment funding if the student satisfies requirements applicable to both.

C.S.H.B. 21 requires TEA, not later than November 1 of each even-numbered year, to submit the following projections to the legislature: a projection for an equalized wealth level for the following state fiscal biennium that results in approximately the same number of school districts that are required to take action to reduce wealth under equalized wealth level provisions as the number of school districts that were required to take that action during the preceding biennium and projections for the equalized funding elements for the following biennium as necessary to achieve that projected equalized wealth level. The projected equalized wealth level is based on TEA estimates of the following:

- student enrollment of each school district for the following biennium;
- the estimate made by the comptroller of public accounts of any increase in total taxable value of all property in Texas for the following biennium;
- the number of school districts offering a local optional residence homestead exemption;
- the number of school districts adopting a tax rate below the maximum tier one tax rate for purposes of FSP funding;
- the projected amount of M&O tax revenue per student in weighted ADA of the Austin Independent School District; and
- the number of school districts adopting a M&O tax rate of \$1.17.

C.S.H.B. 21 changes the time at which the final foundation school fund payment of the current fiscal year entitlement is made to each category 2 and category 3 school district and each qualifying open-enrollment charter school from on or before the 25th day of August to after the fifth day of September and not later than the 10th day of September of the calendar year following the calendar year of the first payment. This change applies only to a payment from the foundation school fund that is made on or after September 1, 2018.

C.S.H.B. 21 authorizes the commissioner to administer a grant program from amounts appropriated for the purpose that provides grants to school districts to defray financial hardships resulting from changes made to statutory provisions relating to the equalized wealth level and the FSP that apply after the 2016-2017 school year. The bill requires the commissioner to award grants to districts as provided by the bill and establishes that funding provided to a district under the grant program is in addition to all other funding provided under the FSP and with regard to the equalized wealth level. The bill authorizes the commissioner to obtain additional information as needed from a district or other state or local agency to make determinations in awarding grants under the program.

C.S.H.B. 21 requires the commissioner to award financial hardship grants to school districts based on a funding formula that factors in the amount of funding under previous law to which a district would be entitled with regard to the equalized wealth level and the FSP as that law existed on January 1, 2017, determined using current school year data for the district; the amount

of current law funding with regard to the equalized wealth level and under the FSP to which a district is entitled; a district's M&O tax rate, as specified by the comptroller's most recent certified report; the total funding available for financial hardship grants; and the sum of the combined amounts for all districts. The bill sets out provisions relating to the award of grants and the calculation of grant amounts using the formula.

C.S.H.B. 21 makes an open-enrollment charter school eligible for a financial hardship grant in the same manner as a school district and makes a regional education service center or a county department of education ineligible for such a grant.

C.S.H.B. 21 limits the amount of financial hardship grants awarded by the commissioner to \$125 million for the 2017-2018 school year or \$75 million for the 2018-2019 school year. The bill prohibits the commissioner from adjusting the amount of a district's grant based on revisions to the district's data received after a grant has been awarded. The bill authorizes the commissioner to adopt rules as necessary to administer the grant program. The bill establishes a determination by the commissioner under the grant program as final and prohibits its appeal. The bill's provisions relating to the grant program expire September 1, 2019.

C.S.H.B. 21 amends the Government Code to make a conforming change.

C.S.H.B. 21 repeals the following provisions of the Education Code:

- Section 29.097(g)
- Section 29.098(e)
- Section 39.233
- Section 39.234
- Sections 41.002(e), (f), and (g)
- Section 42.1541(c)
- Section 42.155, as amended by S.B. 195, Acts of the 85th Legislature, Regular Session, 2017
- Section 42.160
- Section 42.2513
- effective September 1, 2023, Section 42.103(c)

EFFECTIVE DATE

Except as otherwise provided, September 1, 2017, or, if the bill does not receive the necessary vote, the 91st day after the last day of the legislative session.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 21 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 11.158(a), Education Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Effective September 1, 2018, Section 12.106, Education Code, is amended by amending Subsection (a-1) and adding Subsection (d) to read as follows: (a-1) In determining funding for an open-	SECTION 2. Effective September 1, 2018, Section 12.106(a-1), Education Code, is amended to read as follows: (a-1) In determining funding for an open-

enrollment charter school under Subsection (a):

(1) [;] adjustments under Sections 42.102, [42.103,] 42.104, and 42.105 are based on the average adjustment for the state; and

(2) the adjustment under Section 42.103 is based on the average adjustment for the state that would have been provided under that section as it existed on January 1, 2018.

(d) In addition to other amounts provided by this section, a charter holder is entitled to receive, for the open-enrollment charter school, funding per student in average daily attendance in an amount equal to the guaranteed level of state and local funds per student per cent of tax effort under Section 46.032(a) multiplied by the lesser of:

(1) the state average interest and sinking fund tax rate imposed by school districts for the current year; or

(2) a rate that would result in a total amount to which charter schools are entitled under this subsection for the current year equal to \$25 million.

SECTION 3. Section 29.153(c), Education Code, is amended.

SECTION 4. Sections 29.918(a) and (b), Education Code, are amended.

SECTION 5. Subchapter C, Chapter 30, Education Code, is amended.

SECTION 6. Section 30.087(c), Education Code, is amended.

SECTION 7. Section 34.002(c), Education Code, is amended.

SECTION 8. Section 34.007, Education Code, is amended.

SECTION 9. Section 39.0233(a), Education Code, as amended.

SECTION 10. Section 41.099(a), Education Code, is amended.

SECTION 11. Section 41.257, Education Code, is amended.

SECTION 12. Section 42.006(a-1), Education Code, is amended.

enrollment charter school under Subsection (a):

(1) [;] adjustments under Sections 42.102, [42.103,] 42.104, and 42.105 are based on the average adjustment for the state; and

(2) the adjustment under Section 42.103 is based on the average adjustment for the state that would have been provided under that section as it existed on January 1, 2018.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

SECTION 13. Section 42.101(a), Education Code, is amended.

SECTION 13. Same as introduced version.

SECTION 14. Effective September 1, 2023, Sections 42.103(b) and (d), Education Code, are amended.

SECTION 14. Same as introduced version.

SECTION 15. Effective September 1, 2018, Section 42.103(c), Education Code, is amended.

SECTION 15. Same as introduced version.

SECTION 16. Subchapter B, Chapter 42, Education Code, is amended.

SECTION 16. Same as introduced version.

SECTION 17. Subchapter B, Chapter 42, Education Code, is amended.

SECTION 17. Same as introduced version.

SECTION 18. Section 42.151(h), Education Code, is amended.

SECTION 18. Same as introduced version.

SECTION 19. Section 42.153(a), Education Code, is amended.

SECTION 19. Same as introduced version.

No equivalent provision.

SECTION 20. Section 42.154(a), Education Code, as effective September 1, 2017, is amended to read as follows:

(a) For each full-time equivalent student in average daily attendance in an approved career and technology education program in grades eight [~~nine~~] through 12 or in career and technology education programs for students with disabilities in grades seven through 12, a district is entitled to:

- (1) an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35; and
- (2) \$50, if the student is enrolled in two or more advanced career and technology education classes for a total of three or more credits.

SECTION 20. Section 42.154(c), Education Code, is amended to read as follows:

(c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule or amounts made available for the transportation of career and technology education students, must be used in providing career and technology education programs in grades ~~nine~~ through 12 or career and technology education programs for students with disabilities in grades seven through 12 under Sections 29.182, 29.183, and 29.184.

SECTION 21. Section 42.154(c), Education Code, is amended to read as follows:

(c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule or amounts made available for the transportation of career and technology education students, must be used in providing career and technology education programs in grades eight [~~nine~~] through 12 or career and technology education programs for students with disabilities in grades seven through 12 under Sections 29.182, 29.183, and 29.184.

SECTION 21. Section 42.1541(a), Education Code, is amended.

SECTION 22. Subchapter C, Chapter 42, Education Code, is amended.

SECTION 23. Section 42.2518(a), Education Code, as effective September 1, 2017, is amended.

SECTION 24. Subchapter E, Chapter 42, Education Code, is amended.

SECTION 25. Sections 42.259(c), (d), and (f), Education Code, are amended.

SECTION 26. Sections 42.2591(c) and (e), Education Code, are amended.

SECTION 27. Section 42.302(a), Education Code, is amended.

SECTION 28. Chapter 42, Education Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. FINANCIAL HARDSHIP TRANSITION PROGRAM

Sec. 42.451. FINANCIAL HARDSHIP GRANTS.

Sec. 42.452. AWARD OF GRANTS; AMOUNT.

Sec. 42.453. ELIGIBILITY OF OPEN-ENROLLMENT CHARTER SCHOOL.

Sec. 42.454. REGIONAL EDUCATION SERVICE CENTERS AND COUNTY DEPARTMENTS OF EDUCATION NOT ELIGIBLE.

Sec. 42.455. FUNDING LIMIT. The amount of grants awarded by the commissioner under this subchapter may not exceed \$125 million for the 2017-2018 school year or \$34 million for the 2018-2019 school year.

Sec. 42.456. NO ADJUSTMENT BASED ON REVISED DATA.

Sec. 42.457. RULES.

SECTION 22. Same as introduced version.

SECTION 23. Same as introduced version.

SECTION 24. Same as introduced version.

SECTION 25. Same as introduced version.

SECTION 26. Same as introduced version.

SECTION 27. Same as introduced version.

SECTION 28. Same as introduced version.

SECTION 29. Chapter 42, Education Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. FINANCIAL HARDSHIP TRANSITION PROGRAM

Sec. 42.451. FINANCIAL HARDSHIP GRANTS.

Sec. 42.452. AWARD OF GRANTS; AMOUNT.

Sec. 42.453. ELIGIBILITY OF OPEN-ENROLLMENT CHARTER SCHOOL.

Sec. 42.454. REGIONAL EDUCATION SERVICE CENTERS AND COUNTY DEPARTMENTS OF EDUCATION NOT ELIGIBLE.

Sec. 42.455. FUNDING LIMIT. The amount of grants awarded by the commissioner under this subchapter may not exceed \$125 million for the 2017-2018 school year or \$75 million for the 2018-2019 school year.

Sec. 42.456. NO ADJUSTMENT BASED ON REVISED DATA.

Sec. 42.457. RULES.

Sec. 42.458. DETERMINATION FINAL.

Sec. 42.459. EXPIRATION. This subchapter expires September 1, 2019.

SECTION 29. Effective September 1, 2018, Section 46.032(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section 46.034, is determined by the formula:

$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

where:

"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;

"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is the lesser of:

(1) \$40 [~~\$35~~] or a greater amount for any year provided by appropriation; or

(2) the amount that would result in a total additional amount of state funds under this subchapter for the current year equal to \$75 million in excess of the state funds to which school districts would have been entitled under this section if the guaranteed level amount were \$35;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"EDTR" is the existing debt tax rate of the district, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521.

SECTION 30. Section 466.355(c), Government Code, as repealed by Chapter 431 (S.B. 559), Acts of the 83rd Legislature, Regular Session, 2013, and amended by Chapter 1410 (S.B. 758), Acts of the 83rd

Sec. 42.458. DETERMINATION FINAL.

Sec. 42.459. EXPIRATION. This subchapter expires September 1, 2019.

No equivalent provision.

SECTION 30. Same as introduced version.

Legislature, Regular Session, 2013, is reenacted and amended.

SECTION 31. (a) The following provisions of the Education Code are repealed:

- (1) Section 29.097(g);
 - (2) Section 29.098(e);
 - (3) Section 39.233;
 - (4) Section 39.234;
 - (5) Sections 41.002(e), (f), and (g);
 - (6) Section 42.1541(c);
 - (7) Section 42.155, as amended by S.B. 195, Acts of the 85th Legislature, Regular Session, 2017;
 - (8) Section 42.160; and
 - (9) Section 42.2513.
- (b) Effective September 1, 2023, Section 42.103(c), Education Code, is repealed.

SECTION 32. The changes made by this Act to Sections 42.259 and 42.2591, Education Code, apply only to a payment from the foundation school fund that is made on or after September 1, 2018. A payment to a school district from the foundation school fund that is made before that date is governed by Sections 42.259 and 42.2591, Education Code, as those sections existed before amendment by this Act, and the former law is continued in effect for that purpose.

SECTION 33. Except as otherwise provided by this Act:

- (1) this Act takes effect September 1, 2017, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution; and
- (2) if this Act does not receive the vote necessary for effect on that date, this Act takes effect on the 91st day after the last day of the legislative session.

SECTION 31. Same as introduced version.

SECTION 32. Same as introduced version.

SECTION 33. Same as introduced version.