

**BILL ANALYSIS**

C.S.H.B. 198  
By: Clardy  
Public Education  
Committee Report (Substituted)

**BACKGROUND AND PURPOSE**

Concerns have been raised regarding the need to prioritize a strong work culture in the public education system that rewards achievement by educational professionals. C.S.H.B. 198 seeks to address these concerns by requiring a study on an average pay increase for classroom teachers, the creation of certain teacher designations, teacher retention, and a teacher quality allotment under the foundation school program.

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

**ANALYSIS**

C.S.H.B. 198 amends the Education Code to establish a committee to study and make recommendations regarding an average pay increase for classroom teachers, the creation of certain teacher designations, teacher retention, and a teacher quality allotment under the foundation school program. The bill sets out the composition of the 13-member committee, provides for the designation of co-chairs, and requires certain content to be included in the committee's recommendations regarding each of the specified study topics. The bill requires the committee, not later than September 1, 2018, to submit to the governor, lieutenant governor, and speaker of the house of representatives a report on the results of the study and any recommendations for legislative or other action. The bill's provisions expire January 1, 2019.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, on the 91st day after the last day of the legislative session.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 198 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 12.104, Education	No equivalent provision.

Code, is amended by adding Subsection (b-4) to read as follows:

(b-4) An open-enrollment charter school is subject to the average annual pay increase requirement under Section 21.416. This subsection expires September 1, 2034.

SECTION 2. Section 21.042, Education Code, is amended to read as follows:

Sec. 21.042. APPROVAL OF RULES. (a) Except as provided by Subsection (b), the [The] State Board for Educator Certification must submit a written copy of each rule it proposes to adopt to the State Board of Education for review. The State Board of Education may reject a proposed rule by a vote of at least two-thirds of the members of the board present and voting. If the State Board of Education fails to reject a proposal before the 90th day after the date on which it receives the proposal, the proposal takes effect as a rule of the State Board for Educator Certification as provided by Chapter 2001, Government Code. The State Board of Education may not modify a rule proposed by the State Board for Educator Certification.

(b) Rules adopted by the State Board for Educator Certification under Subchapter P are not subject to Subsection (a).

No equivalent provision.

SECTION 3. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.063 to read as follows:

Sec. 21.063. LEGACY MASTER TEACHER CERTIFICATIONS. (a) The board shall recognize a master teacher certificate issued under former Section 21.0481, 21.0482, 21.0483, or 21.0484 until the certificate expires. The board shall note a designation of "legacy" on the certificate.

(b) A master teacher certificate described by Subsection (a) does not generate funding under Section 42.162.

No equivalent provision.

SECTION 4. Subchapter I, Chapter 21, Education Code, is amended by adding Section 21.4025 to read as follows:

Sec. 21.4025. COMMISSIONER ASSISTANCE. The commissioner shall provide assistance to school districts in implementing compensation structures that satisfy all applicable legal requirements, including requirements imposed under Section 42.162.

No equivalent provision.

SECTION 5. Subchapter I, Chapter 21, Education Code, is amended by adding Section 21.416 to read as follows:

No equivalent provision.

Sec. 21.416. AVERAGE PAY INCREASES FOR CLASSROOM

TEACHERS. (a) In this section, "pay" includes salary, stipends, and other monetary disbursements made to a classroom teacher. The term does not include benefits or other payments made by the school district or open-enrollment charter school for the benefit of the teacher.

(b) Except as provided by Subsection (c), beginning with the 2021-2022 school year, and subsequently occurring every other school year, each school district and open-enrollment charter school must ensure that the average annual pay for classroom teachers employed at the district or school is at least \$1,000 more than the average annual pay for classroom teachers employed at that district or school during the school year immediately preceding the previous school year.

(b-1) Notwithstanding Subsection (b), for the 2019-2020 school year, each school district and open-enrollment charter school must ensure that the average annual pay for classroom teachers employed at the district or school is at least \$1,000 more than the average annual pay for classroom teachers employed at that district or school during the 2016-2017 school year. This subsection expires September 1, 2021.

(c) Beginning with the 2021-2022 school year, if the average annual pay for classroom teachers employed at a school district or open-enrollment charter school is equal to or greater than \$51,000, the district or school is not subject to Subsection (b).

(d) Except as provided by Subsection (e), if a school district or open-enrollment charter school fails to satisfy the average annual pay requirement under this section for a school year, the commissioner shall recover funds from the district or school in an amount equal to the number of classroom teachers employed at the district or school for that school year multiplied by the difference between the average annual pay for classroom teachers required under this section for that school year and the average annual pay for classroom teachers provided by the district or school for that school year. The commissioner shall recover the funds in the same manner that overallocated funds

are recovered under Section 42.258 or Subchapter D, Chapter 12, or by adjusting the amount necessary for a district to comply with the requirements of Chapter 41.

(e) The commissioner may not recover funds under Subsection (d) if the commissioner determines that:

(1) the budget of the school district or open-enrollment charter school complied with the average annual pay requirement but subsequent changes in employment that could not be reasonably anticipated resulted in the failure to satisfy that requirement;

(2) the school district or open-enrollment charter school was provided less total state and local funding under the Foundation School Program for maintenance and operations for the school year for which the district or school is subject to recovery of funds under Subsection (d) than the total state and local funding provided for the school year immediately preceding the previous school year;

(3) the school district or open-enrollment charter school has a reasonable expectation of a decrease in total revenue due to circumstances not anticipated in estimates adopted by the state; or

(4) the estimated amount of state and local funding per student in weighted average daily attendance to be provided to the school district or open-enrollment charter school under the Foundation School Program for maintenance and operations for the school year for which the district or school is subject to recovery of funds under Subsection (d) is equal to or less than the amount of state and local funding provided to the district or school for the school year immediately preceding the previous school year.

(f) As required by the commissioner, each school district and open-enrollment charter school shall report information relating to compliance with this section.

(g) The commissioner may only adopt rules under this section using the negotiated rulemaking procedures under Chapter 2008, Government Code, including rules determining which classroom teachers and what types of pay must be included in determining compliance with this section.

(h) This section expires September 1, 2034.

SECTION 6. Chapter 21, Education Code,

No equivalent provision.

is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. ACCOMPLISHED, DISTINGUISHED, AND MASTER TEACHER DESIGNATIONS

Sec. 21.751. ACCOMPLISHED TEACHER DESIGNATION. (a) The State Board for Educator Certification shall issue an accomplished teacher designation on the certificate of each teacher that qualifies as provided by Subsection (b).

(b) To qualify for an accomplished teacher designation, a person must hold:

(1) an eligible teaching certificate issued under Subchapter B; and

(2) a National Board Certification issued by the National Board for Professional Teaching Standards.

(c) An accomplished teacher designation must expire not later than the 10th year after the date the designation is issued.

Sec. 21.752. DISTINGUISHED TEACHER DESIGNATION. (a) The State Board for Educator Certification may issue a distinguished teacher designation on the certificate of a teacher that qualifies as provided by Subsection (b).

(b) To qualify for a distinguished teacher designation, a person must:

(1) meet the criteria described by Section 21.751;

(2) submit evidence of providing leadership to other classroom teachers, including letters of recommendation from:

(A) the principal of the school at which the person is currently employed; and

(B) two classroom teachers employed at the same school as the person during the preceding two school years;

(3) be nominated by the school district or open-enrollment charter school at which the person is employed with nomination materials that include:

(A) student performance information that provides an analysis of the growth of the teacher's students in each of the most recent three school years; and

(B) an affirmation that the nominee has reviewed that student performance information; and

(4) have performed in the top 25 percent, or the percentage adopted by the commissioner under Section 21.754(b), of classroom teachers in the state in a similar certification field in student growth averaged over the most recent three school years.

(c) A distinguished teacher designation must expire not later than the fifth year after the date the designation is issued.

Sec. 21.753. MASTER TEACHER DESIGNATION. (a) The State Board for Educator Certification may issue a master teacher designation on the certificate of a teacher that qualifies as provided by Subsection (b).

(b) To qualify for a master teacher designation, a person must:

(1) meet the criteria described by Section 21.752; and

(2) have performed in the top five percent, or the percentage adopted by the commissioner under Section 21.754(b), of classroom teachers in the state in a similar certification field in student growth averaged over the most recent three school years.

(c) A master teacher designation must expire not later than the fifth year after the date the designation is issued.

Sec. 21.754. ELIGIBILITY FOR DISTINGUISHED AND MASTER TEACHER DESIGNATIONS. (a) The commissioner shall establish eligibility criteria required for designation as a distinguished or master teacher, including performance metrics, qualifying evidence, and standards for comparing teachers in similar certification fields.

(b) The commissioner may:

(1) adjust the percentages required under Sections 21.752 and 21.753 for a classroom teacher to qualify for a distinguished or master teacher designation; and

(2) develop methods to incorporate, use, or substitute locally developed classroom teacher performance review systems that use a target distribution model to determine if a teacher satisfies the required criteria.

(c) The commissioner shall use the negotiated rulemaking procedures under Chapter 2008, Government Code, and solicit input from educators and experts in the field of education in determining eligibility criteria under Subsection (a) and making any adjustments to required percentages under Subsection (b)(1).

(d) The commissioner shall appoint a peer review panel to evaluate if an applicant has satisfied the requirements for a distinguished or master teacher designation under Section 21.752 or 21.753. A majority of the panel must consist of teachers with a

master teacher designation as soon as a sufficient number of teachers with that designation exist.

Sec. 21.755. NOMINATIONS FOR DISTINGUISHED AND MASTER TEACHER DESIGNATIONS. (a) To nominate a person as a distinguished or master teacher under Section 21.752 or 21.753, the superintendent of the school district at which the teacher is employed or the superintendent or administrator serving as educational leader and chief executive officer of the open-enrollment charter school at which the teacher is employed must submit a letter, including the nomination materials required under Section 21.752(b)(3), to the State Board for Educator Certification.

(b) During the first school year for which a distinguished or master teacher designation is available in a particular certification field, a school district or open-enrollment charter school may nominate for both designations no more than two and one-half percent of the district's or school's classroom teachers who work in that certification field. Each subsequent school year, the district or school may nominate not more than five percent of the district's or school's classroom teachers, excluding nominations for the renewal of a distinguished or master teacher designation.

(c) On request by the school district or open-enrollment charter school nominating a teacher under this section, any other school district or open-enrollment charter school shall, in a manner that complies with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), provide to the nominating district or school student performance information that is required for the nominating district or school to submit a nomination. Information provided to a nominating district or school under this subsection is confidential.

Sec. 21.756. MULTIPLE DESIGNATIONS PROHIBITED. A person may only hold one teacher designation under this subchapter at any time.

Sec. 21.757. INFORMATION RELATING TO TEACHER AND STUDENT PERFORMANCE. (a) The State Board for Educator Certification, the agency, and a peer review panel appointed under Section 21.754(d) may access information required to make an eligibility determination under

this subchapter, including information from the school district or open-enrollment charter school at which the teacher is or was employed relating to the performance of the teacher's current or previous students. Information otherwise confidential remains confidential and is not subject to Chapter 551 or 552, Government Code.

(b) The agency shall collect information necessary to implement this subchapter, which may include student performance information for a sample of students across the state.

(c) A school district or open-enrollment charter school shall provide any information required under this subchapter.

Sec. 21.758. FEES. (a) The State Board for Educator Certification may adopt fees to implement this subchapter.

(b) A school district or open-enrollment charter school may pay any fee adopted by the State Board for Educator Certification for a classroom teacher employed at the district or school to pursue a teacher designation under this subchapter.

Sec. 21.759. STUDENT PERFORMANCE STUDY. (a) The commissioner shall periodically conduct a study using an external organization to determine the impact of the teacher designations issued under this subchapter on student performance.

(b) The commissioner shall make recommendations as necessary to the State Board for Educator Certification, the governor, and the legislature to improve the quality of and impact on student performance of teacher designations issued under this subchapter.

Sec. 21.760. RULES. (a) The State Board for Educator Certification may adopt rules to implement this subchapter.

(b) The commissioner may adopt rules to implement the requirements imposed on the commissioner or agency under this subchapter.

(c) The State Board for Educator Certification and the commissioner shall use the negotiated rulemaking procedures under Chapter 2008, Government Code, to implement any rules under this subchapter.

Sec. 21.761. TEACHER DESIGNATION FEES. (a) A fee adopted by the State Board for Educator Certification for the period beginning September 1, 2017, and ending August 31, 2020, to implement the



teacher designations under this subchapter is not subject to Sections 2001.0045 and 2001.0221, Government Code.

(b) This section expires September 1, 2020.

SECTION 7. Subchapter C, Chapter 42, Education Code, is amended by adding Section 42.162 to read as follows:

Sec. 42.162. TEACHER QUALITY ALLOTMENT. (a) In this section, "pay" has the meaning assigned by Section 21.416.

(b) A school district, including a school district that is otherwise ineligible for state aid under this chapter, and an open-enrollment charter school are entitled to an allotment in an amount equal to the sum of the product of \$4,000 multiplied by:

(1) the number of full-time equivalent classroom teachers with an accomplished teacher designation under Section 21.751 employed by the district or school;

(2) the number of full-time equivalent classroom teachers with a distinguished teacher designation under Section 21.752 employed by the district or school; and

(3) the number of full-time equivalent classroom teachers with a master teacher designation under Section 21.753 employed by the district or school.

(c) Instead of the amounts provided by Subsection (b), for each qualifying full-time equivalent classroom teacher who is assigned by a school district or open-enrollment charter school to a campus at which a majority of students are educationally disadvantaged or who is employed by a school district or open-enrollment charter school that qualifies as rural, as determined by the commissioner, the district or school may elect to receive the following funding amounts:

(1) \$8,000 for each full-time equivalent classroom teacher with a distinguished teacher designation under Section 21.752 employed by the district or school; and

(2) \$20,000 for each full-time equivalent classroom teacher with a master teacher designation under Section 21.753 employed by the district or school.

(d) If a school district or open-enrollment charter school that is exempt from the average pay increase under Section 21.416(c) elects to receive funding under Subsection (c) of this section, the district or school must ensure that:

(1) not later than the third school year after

No equivalent provision.

the school year in which this subsection applies and the district or school receives funding under Subsection (c), the average annual pay of classroom teachers for whom the district or school receives funding under Subsection (c)(1) is at least \$68,000; and

(2) not later than the fifth school year after the school year in which this subsection applies and the district or school receives funding under Subsection (c), the average annual pay of classroom teachers for whom the district or school receives funding under Subsection (c)(2) is at least \$85,000.

(d-1) Subsection (d) and this subsection expire September 1, 2034.

(e) Beginning with the 2034-2035 school year, a school district or open-enrollment charter school that elects to receive funding under Subsection (c) must ensure that:

(1) not later than the third school year after the year in which this subsection applies and the district or school receives funding under Subsection (c), the average annual pay of classroom teachers for whom the district or school receives funding under Subsection (c)(1) is at least \$68,000; and

(2) not later than the fifth school year after the year in which this subsection applies and the district or school receives funding under Subsection (c), the average annual pay of classroom teachers for whom the district or school receives funding under Subsection (c)(2) is at least \$85,000.

(f) Except as provided by Subsection (g), a school district or open-enrollment charter school is not eligible for funding under Subsection (c) if the commissioner determines that the district or school has not met applicable average pay requirements under this section. The commissioner may restore funding eligibility to the district or school on proof of compliance with applicable average pay requirements.

(g) The commissioner may not deny eligibility of a school district or open-enrollment charter school for funding under Subsection (c) if the commissioner determines that:

(1) the budget of the school district or open-enrollment charter school complied with applicable average pay requirements under this section but subsequent changes in employment that could not be reasonably anticipated resulted in the failure to satisfy that requirement;

(2) the school district or open-enrollment

charter school was provided less total state and local funding under the Foundation School Program for maintenance and operations for the school year for which the district or school is subject to applicable average pay requirements under this section than the amount of state and local funding provided to the district or school for the previous school year; or

(3) the school district or open-enrollment charter school has a reasonable expectation of a decrease in total revenue due to circumstances not anticipated in estimates adopted by the state.

(h) Funding under this section may be provided to a school district or open-enrollment charter school only for:

(1) the highest funding category for which a classroom teacher qualifies; and

(2) if funding is provided under Subsection (c), qualifying classroom teachers for which the district or school applies.

(i) The commissioner may adopt rules under this section using the negotiated rulemaking procedures under Chapter 2008, Government Code, including rules determining:

(1) proration for classroom teachers who qualify under this section and who were employed by a school district or open-enrollment charter school for less than a full school year; and

(2) which classroom teachers and what types of pay must be included to comply with applicable average pay requirements under this section.

SECTION 8. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.25131 to read as follows:

Sec. 42.25131. ADVANCE PAYMENT FOR PURSUIT OF ACCOMPLISHED TEACHER DESIGNATION. (a) The commissioner shall grant a school district or open-enrollment charter school an advance payment from the Foundation School Program in an amount equal to \$1,900 per classroom teacher for whom the district or school submits a request to the agency. An advance payment made under this section may only be used to pursue an accomplished teacher designation for a teacher under Section 21.751 for the first time.

(b) The school district or open-enrollment charter school shall repay the amount of the advance payment in equal installments over

No equivalent provision.

the three school years following the school year in which the advance payment is received.

(c) For each classroom teacher for whom a school district or open-enrollment charter school receives funding under this section and who does not receive an accomplished teacher designation under Section 21.751 by the end of the fourth school year after the district received funding, the district or school shall pay to the Foundation School Program an additional \$300.

(d) The commissioner may modify the advance payment program under this section, including modifications to funding entitlements to and amounts owed by a school district or open-enrollment charter school because of a classroom teacher leaving employment at the district or school before the expiration of the time periods established under this section.

(e) The commissioner may adopt rules to implement this section using the negotiated rulemaking procedures under Chapter 2008, Government Code.

SECTION 9. Effective September 1, 2019, Section 42.302(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$GYA = (GL \times WADA \times DTR \times 100) - LR$   
where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is an amount described by Subsection (a-1) or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section 42.158, ~~42.160,~~ or 42.162, and 50 percent of the adjustment under Section

No equivalent provision.

42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference 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

"LR" is the local revenue, which is determined by multiplying "DTR" 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.

SECTION 10. Section 61.0766(e), Education Code, is amended to read as follows:

(e) An academy program may:

(1) provide financial assistance for the purpose of allowing participants to complete the program [~~and obtain a master teacher certificate under Section 21.0482, 21.0483, or 21.0484~~];

(2) include programs in leadership skills to develop training, mentoring, and coaching skills;

(3) deliver coursework electronically for some or all of the program; and

(4) provide for ongoing professional development and coordination with specific public school instructional programs.

No equivalent provision.

SECTION 11. The following provisions of the Education Code are repealed:

(1) Section 21.0481;

(2) Section 21.0482;

(3) Section 21.0483;

(4) Section 21.0484;

(5) Section 21.410;

(6) Section 21.411;

(7) Section 21.412; and

(8) Section 21.413.

No equivalent provision.

SECTION 12. The State Board for Educator Certification may not issue a new or renew a master teacher certificate issued under Section 21.0481, 21.0482, 21.0483, or 21.0484, Education Code, on or after the

No equivalent provision.

effective date of this Act.

SECTION 13. Sections 12.104(b-4), 21.4025, 21.416, and 42.162, Education Code, as added by this Act, apply beginning with the 2019-2020 school year.

No equivalent provision.

No equivalent provision.

SECTION 1. Subchapter A, Chapter 21, Education Code, is amended by adding Section 21.010 to read as follows:

Sec. 21.010. STUDY ON AVERAGE PAY INCREASE FOR TEACHERS, TEACHER DESIGNATIONS, TEACHER RETENTION, AND TEACHER QUALITY ALLOTMENT. (a) A committee is established to study and make recommendations regarding an average pay increase for classroom teachers, the creation of certain teacher designations, teacher retention, and a teacher quality allotment under the Foundation School Program.

(b) The committee is composed of 13 members, consisting of:

(1) six members appointed by the lieutenant governor;

(2) six members appointed by the speaker of the house of representatives; and

(3) the commissioner or the commissioner's designee.

(c) The appointments made by the lieutenant governor must consist of:

(1) three members of the senate;

(2) a leader of the community;

(3) a classroom teacher; and

(4) a superintendent of a school district.

(d) The appointments made by the speaker of the house of representatives must consist of:

(1) three members of the house of representatives;

(2) a leader of the business community;

(3) a classroom teacher; and

(4) an elected member of the board of trustees of a school district.

(e) The lieutenant governor and speaker of the house of representatives shall each designate a co-chair from among the committee members.

(f) The recommendations regarding an average pay increase for classroom teachers must include recommendations on:

(1) a requirement that school districts and open-enrollment charter schools ensure that the average annual pay for classroom teachers employed at the district or school is either:

(A) at least \$1,000 more than the average annual pay for classroom teachers employed at that district or school during the school year immediately preceding the previous school year; or

(B) equal to or greater than \$51,000; and

(2) exceptions to the requirements described by Subdivision (1).

(g) The recommendations regarding the creation of teacher designations must include recommendations on:

(1) the creation of a tiered approach to teacher designations that includes designations as an accomplished, distinguished, or master teacher;

(2) the eligibility criteria, requirements, and credentials required for designation as an accomplished, distinguished, or master teacher; and

(3) methods of finance for a school district, open-enrollment charter school, or the state to pay for a classroom teacher to pursue a teacher designation.

(h) The recommendations regarding teacher retention must include recommendations on how to retain quality teachers, including mentoring programs.

(i) The recommendations regarding a teacher quality allotment must include recommendations on creating an allotment under the Foundation School Program that provides school districts and open-enrollment charter schools funding for classroom teachers with teacher designations, including increased funding for classroom teachers who are assigned by a school district or open-enrollment charter school to a campus at which a majority of students are educationally disadvantaged or who are employed by a school district or open-enrollment charter school that qualifies as rural.

(j) Not later than September 1, 2018, the committee shall submit to the governor, lieutenant governor, and speaker of the house of representatives a report on the results of the study and any recommendations for legislative or other action.

(k) This section expires January 1, 2019.

SECTION 14. Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article

SECTION 2. This Act takes effect immediately if it receives a 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

III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect December 1, 2017.

receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.