

By: Clardy

H.B. No. 198

A BILL TO BE ENTITLED

AN ACT

1
2 relating to an average pay increase for public school classroom
3 teachers, the creation of certain teacher designations, and a
4 teacher quality allotment under the Foundation School Program;
5 authorizing the imposition of a fee.

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

7 SECTION 1. Section 12.104, Education Code, is amended by
8 adding Subsection (b-4) to read as follows:

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

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

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

1 Certification.

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

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

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

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

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

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

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

21 Sec. 21.416. AVERAGE PAY INCREASES FOR CLASSROOM TEACHERS.
22 (a) In this section, "pay" includes salary, stipends, and other
23 monetary disbursements made to a classroom teacher. The term does
24 not include benefits or other payments made by the school district
25 or open-enrollment charter school for the benefit of the teacher.

26 (b) Except as provided by Subsection (c), beginning with the
27 2021-2022 school year, and subsequently occurring every other

1 school year, each school district and open-enrollment charter
2 school must ensure that the average annual pay for classroom
3 teachers employed at the district or school is at least \$1,000 more
4 than the average annual pay for classroom teachers employed at that
5 district or school during the school year immediately preceding the
6 previous school year.

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

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

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

1 funds in the same manner that overallocated funds are recovered
2 under Section 42.258 or Subchapter D, Chapter 12, or by adjusting
3 the amount necessary for a district to comply with the requirements
4 of Chapter 41.

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

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

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

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

23 (4) the estimated amount of state and local funding
24 per student in weighted average daily attendance to be provided to
25 the school district or open-enrollment charter school under the
26 Foundation School Program for maintenance and operations for the
27 school year for which the district or school is subject to recovery

1 of funds under Subsection (d) is equal to or less than the amount of
2 state and local funding provided to the district or school for the
3 school year immediately preceding the previous school year.

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

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

12 (h) This section expires September 1, 2034.

13 SECTION 6. Chapter 21, Education Code, is amended by adding
14 Subchapter P to read as follows:

15 SUBCHAPTER P. ACCOMPLISHED, DISTINGUISHED, AND MASTER TEACHER
16 DESIGNATIONS

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

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

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

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

27 (c) An accomplished teacher designation must expire not

1 later than the 10th year after the date the designation is issued.

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

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

8 (1) meet the criteria described by Section 21.751;

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

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

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

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

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

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

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

27 (c) A distinguished teacher designation must expire not

1 later than the fifth year after the date the designation is issued.

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

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

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

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

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

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

21 (b) The commissioner may:

22 (1) adjust the percentages required under Sections
23 21.752 and 21.753 for a classroom teacher to qualify for a
24 distinguished or master teacher designation; and

25 (2) develop methods to incorporate, use, or substitute
26 locally developed classroom teacher performance review systems
27 that use a target distribution model to determine if a teacher

1 satisfies the required criteria.

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

7 (d) The commissioner shall appoint a peer review panel to
8 evaluate if an applicant has satisfied the requirements for a
9 distinguished or master teacher designation under Section 21.752 or
10 21.753. A majority of the panel must consist of teachers with a
11 master teacher designation as soon as a sufficient number of
12 teachers with that designation exist.

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

23 (b) During the first school year for which a distinguished
24 or master teacher designation is available in a particular
25 certification field, a school district or open-enrollment charter
26 school may nominate for both designations no more than two and
27 one-half percent of the district's or school's classroom teachers

1 who work in that certification field. Each subsequent school year,
2 the district or school may nominate not more than five percent of
3 the district's or school's classroom teachers, excluding
4 nominations for the renewal of a distinguished or master teacher
5 designation.

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

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

18 Sec. 21.757. INFORMATION RELATING TO TEACHER AND STUDENT
19 PERFORMANCE. (a) The State Board for Educator Certification, the
20 agency, and a peer review panel appointed under Section 21.754(d)
21 may access information required to make an eligibility
22 determination under this subchapter, including information from
23 the school district or open-enrollment charter school at which the
24 teacher is or was employed relating to the performance of the
25 teacher's current or previous students. Information otherwise
26 confidential remains confidential and is not subject to Chapter 551
27 or 552, Government Code.

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

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

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

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

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

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

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

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

26 (c) The State Board for Educator Certification and the
27 commissioner shall use the negotiated rulemaking procedures under

1 Chapter 2008, Government Code, to implement any rules under this
2 subchapter.

3 Sec. 21.761. TEACHER DESIGNATION FEES. (a) A fee adopted
4 by the State Board for Educator Certification for the period
5 beginning September 1, 2017, and ending August 31, 2020, to
6 implement the teacher designations under this subchapter is not
7 subject to Sections 2001.0045 and 2001.0221, Government Code.

8 (b) This section expires September 1, 2020.

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

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

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

17 (1) the number of full-time equivalent classroom
18 teachers with an accomplished teacher designation under Section
19 21.751 employed by the district or school;

20 (2) the number of full-time equivalent classroom
21 teachers with a distinguished teacher designation under Section
22 21.752 employed by the district or school; and

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

26 (c) Instead of the amounts provided by Subsection (b), for
27 each qualifying full-time equivalent classroom teacher who is

1 assigned by a school district or open-enrollment charter school to
2 a campus at which a majority of students are educationally
3 disadvantaged or who is employed by a school district or
4 open-enrollment charter school that qualifies as rural, as
5 determined by the commissioner, the district or school may elect to
6 receive the following funding amounts:

7 (1) \$8,000 for each full-time equivalent classroom
8 teacher with a distinguished teacher designation under Section
9 21.752 employed by the district or school; and

10 (2) \$20,000 for each full-time equivalent classroom
11 teacher with a master teacher designation under Section 21.753
12 employed by the district or school.

13 (d) If a school district or open-enrollment charter school
14 that is exempt from the average pay increase under Section
15 21.416(c) elects to receive funding under Subsection (c) of this
16 section, the district or school must ensure that:

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

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

27 (d-1) Subsection (d) and this subsection expire September

1 1, 2034.

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

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

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

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

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

25 (1) the budget of the school district or
26 open-enrollment charter school complied with applicable average
27 pay requirements under this section but subsequent changes in

1 employment that could not be reasonably anticipated resulted in the
2 failure to satisfy that requirement;

3 (2) the school district or open-enrollment charter
4 school was provided less total state and local funding under the
5 Foundation School Program for maintenance and operations for the
6 school year for which the district or school is subject to
7 applicable average pay requirements under this section than the
8 amount of state and local funding provided to the district or school
9 for the previous school year; or

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

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

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

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

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

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

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

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

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

14 (b) The school district or open-enrollment charter school
15 shall repay the amount of the advance payment in equal installments
16 over the three school years following the school year in which the
17 advance payment is received.

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

24 (d) The commissioner may modify the advance payment program
25 under this section, including modifications to funding
26 entitlements to and amounts owed by a school district or
27 open-enrollment charter school because of a classroom teacher

1 leaving employment at the district or school before the expiration
2 of the time periods established under this section.

3 (e) The commissioner may adopt rules to implement this
4 section using the negotiated rulemaking procedures under Chapter
5 2008, Government Code.

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

8 (a) Each school district is guaranteed a specified amount
9 per weighted student in state and local funds for each cent of tax
10 effort over that required for the district's local fund assignment
11 up to the maximum level specified in this subchapter. The amount of
12 state support, subject only to the maximum amount under Section
13 42.303, is determined by the formula:

14
$$\text{GYA} = (\text{GL} \times \text{WADA} \times \text{DTR} \times 100) - \text{LR}$$

15 where:

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

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

22 "WADA" is the number of students in weighted average daily
23 attendance, which is calculated by dividing the sum of the school
24 district's allotments under Subchapters B and C, less any allotment
25 to the district for transportation, any allotment under Section
26 42.158, ~~or~~ 42.160, or 42.162, and 50 percent of the adjustment
27 under Section 42.102, by the basic allotment for the applicable

1 year;

2 "DTR" is the district enrichment tax rate of the school
3 district, which is determined by subtracting the amounts specified
4 by Subsection (b) from the total amount of maintenance and
5 operations taxes collected by the school district for the
6 applicable school year and dividing the difference by the quotient
7 of the district's taxable value of property as determined under
8 Subchapter M, Chapter 403, Government Code, or, if applicable,
9 under Section 42.2521, divided by 100; and

10 "LR" is the local revenue, which is determined by multiplying
11 "DTR" by the quotient of the district's taxable value of property as
12 determined under Subchapter M, Chapter 403, Government Code, or, if
13 applicable, under Section 42.2521, divided by 100.

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

16 (e) An academy program may:

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

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

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

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

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

- 1 (1) Section 21.0481;
- 2 (2) Section 21.0482;
- 3 (3) Section 21.0483;
- 4 (4) Section 21.0484;
- 5 (5) Section 21.410;
- 6 (6) Section 21.411;
- 7 (7) Section 21.412; and
- 8 (8) Section 21.413.

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

13 SECTION 13. Sections 12.104(b-4), 21.4025, 21.416, and
14 42.162, Education Code, as added by this Act, apply beginning with
15 the 2019-2020 school year.

16 SECTION 14. Except as otherwise provided by this Act, this
17 Act takes effect immediately if it receives a vote of two-thirds of
18 all the members elected to each house, as provided by Section 39,
19 Article III, Texas Constitution. If this Act does not receive the
20 vote necessary for immediate effect, this Act takes effect December
21 1, 2017.