

BILL ANALYSIS

C.S.H.B. 2442
By: King, Ken
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, certain changes are needed to facilitate the implementation of recently enacted legislation that changed the measurement of time for the required operation of public schools from days to minutes. C.S.H.B. 2442 seeks to make those 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 SECTIONS 5 and 8 of this bill.

ANALYSIS

C.S.H.B. 2442 amends the Education Code to replace the requirement that each public school district operate for each school year so that the district provides for at least 75,600 minutes of instruction, including intermissions and recesses, for students with a requirement that each district operate for each school year for at least 75,600 minutes, including time allocated for instruction, intermissions, and recesses for students. The bill replaces references related to instruction time with references related to operation time. The bill authorizes the commissioner of education to adopt rules to implement provisions relating to the required operation of schools, including rules to determine the minutes of operation that are equivalent to a day of instruction, rules defining instructional time, and rules establishing the minimum number of minutes of instruction required for a full-day and a half-day program to meet the operation time requirements. The bill removes the provision establishing that a reference to a day of instruction for Education Code purposes means 420 minutes of instruction and repeals the requirement that a school day be at least seven hours each day, including intermissions and recess.

C.S.H.B. 2442 authorizes the commissioner to proportionally reduce the amount of funding a district receives under the foundation school program, with regard to the equalized wealth level, or under certain other state assistance programs and the average daily attendance calculation for the district if the district operates on a calendar that provides fewer minutes of operation than the required minimum.

C.S.H.B. 2442 authorizes the commissioner to adopt rules establishing full-day and half-day minutes of operation requirements for kindergarten and prekindergarten programs. The bill establishes that, for a district that operates a half-day program, average daily attendance for purposes of the foundation school program is one-half of the standard calculation of average daily attendance based on days of instruction. The bill makes a district that operates a half-day prekindergarten program eligible to receive the half-day average daily attendance calculation if

the district's prekindergarten program provides at least 32,400 minutes of instruction to students.

C.S.H.B. 2442 authorizes the commissioner to calculate the average daily attendance of a district using an alternative minimum amount of minutes of operation for a dropout recovery school or program and for a school program offered at a residential or correctional facility. The bill exempts such a district or program from the minimum minutes of operation requirement that would otherwise apply, authorizes the commissioner to establish the alternative minimum minutes of operation required for the district or program, and establishes that the commissioner's determination in such a case is final and may not be appealed. The bill authorizes the commissioner to determine the qualifications to be considered a dropout recovery school for purposes of eligibility for an alternative minimum operation time requirement, which may differ from the qualifications required for designating an open-enrollment charter school as a dropout recovery school and from those required for performance evaluation purposes.

C.S.H.B. 2442 requires the commissioner, on application from an open-enrollment charter school or a charter school operated by a public college or university or a public junior college, to calculate the average daily attendance for the school using an alternative minimum amount of minutes of operation if the school was eligible during the 2014-2015 school year to earn a full average daily attendance calculation, the school provides at least the same amount of instruction to students as it provided during that school year, and the school is no longer eligible to earn the full average daily attendance during the current school year. The bill adds a temporary provision set to expire September 1, 2018, authorizing the commissioner to waive a requirement of, or adopt rules to implement, provisions relating to average daily attendance as amended by the bill or similar legislation for the purpose of assisting school districts in implementing those provisions.

C.S.H.B. 2442 applies beginning with the 2018-2019 school year.

C.S.H.B. 2442 repeals Section 25.082 (a), Education Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2442 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 25.081, Education Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. The heading to Section 25.082, Education Code, is amended.	SECTION 2. Same as introduced version.
SECTION 3. Section 29.0822(c), Education Code, is amended.	SECTION 3. Same as introduced version.
SECTION 4. Section 29.087(j), Education Code, is amended.	SECTION 4. Same as introduced version.
SECTION 5. Subchapter E, Chapter 29,	SECTION 5. Same as introduced version.

Education Code, is amended.

SECTION 6. Section 30A.104(a), Education Code, is amended.

SECTION 7. Section 37.008(a), Education Code, is amended.

SECTION 8. Section 42.005, Education Code, is amended by amending Subsection (a) and adding Subsections (i), (j), (k), and (l) to read as follows:

(a) In this chapter, average daily attendance is:

(1) the quotient of the sum of attendance for each day of the minimum number of days of instruction as described under Section 25.081(a) divided by the minimum number of days of instruction;

(2) for a district that operates under a flexible year program under Section 29.0821, the quotient of the sum of attendance for each actual day of instruction as permitted by Section 29.0821(b)(1) divided by the number of actual days of instruction as permitted by Section 29.0821(b)(1); ~~or~~

(3) for a district that operates under a flexible school day program under Section 29.0822, the average daily attendance as calculated by the commissioner in accordance with Sections 29.0822(d) and (d-1); or

(4) for a district that operates a half-day program, one-half of the average daily attendance calculated under Subdivision (1).

(i) A district that operates a half-day prekindergarten program is eligible to receive the half-day average daily attendance calculation under Subsection (a)(4) if the district's prekindergarten program provides at least 32,400 minutes of instruction to students.

(j) Notwithstanding Subsection (a), the commissioner may calculate the average daily attendance of a district using an alternative minimum amount of minutes of operation for:

(1) a dropout recovery school or program; and

(2) a school program offered at a residential or correctional facility.

(k) The commissioner may determine the qualifications to be considered a dropout recovery school for the purposes of

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Section 42.005, Education Code, is amended by amending Subsection (a) and adding Subsections (i), (j), (k), (l), and (m) to read as follows:

(a) In this chapter, average daily attendance is:

(1) the quotient of the sum of attendance for each day of the minimum number of days of instruction as described under Section 25.081(a) divided by the minimum number of days of instruction;

(2) for a district that operates under a flexible year program under Section 29.0821, the quotient of the sum of attendance for each actual day of instruction as permitted by Section 29.0821(b)(1) divided by the number of actual days of instruction as permitted by Section 29.0821(b)(1); ~~or~~

(3) for a district that operates under a flexible school day program under Section 29.0822, the average daily attendance as calculated by the commissioner in accordance with Sections 29.0822(d) and (d-1); or

(4) for a district that operates a half-day program, one-half of the average daily attendance calculated under Subdivision (1).

(i) A district that operates a half-day prekindergarten program is eligible to receive the half-day average daily attendance calculation under Subsection (a)(4) if the district's prekindergarten program provides at least 32,400 minutes of instruction to students.

(j) Notwithstanding Subsection (a), the commissioner may calculate the average daily attendance of a district using an alternative minimum amount of minutes of operation for:

(1) a dropout recovery school or program; and

(2) a school program offered at a residential or correctional facility.

(k) The commissioner may determine the qualifications to be considered a dropout recovery school for the purposes of

Subsection (j). The qualifications selected by the commissioner may differ from the qualifications required for a dropout recovery school under Sections 12.137 and 39.0548.

(l) On application from an open-enrollment charter school or a charter school operating under Subchapter E, Chapter 12, the commissioner may calculate the average daily attendance for the school using an alternative minimum amount of minutes of operation if:

(1) during the 2015-2016 school year, the school was eligible to earn a full average daily attendance calculation under Subsection (a); and

(2) the school is no longer eligible to earn the full average daily attendance during the current school year.

SECTION 9. Section 25.082(a), Education Code, is repealed.

SECTION 10. This Act applies beginning with the 2017-2018 school year.

SECTION 11. 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 receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

Subsection (j). The qualifications selected by the commissioner may differ from the qualifications required for a dropout recovery school under Sections 12.137 and 39.0548.

(l) On application from an open-enrollment charter school or a charter school operating under Subchapter E, Chapter 12, the commissioner shall calculate the average daily attendance for the school using an alternative minimum amount of minutes of operation if:

(1) during the 2014-2015 school year, the school was eligible to earn a full average daily attendance calculation under the applicable law governing the school during that school year; and

(2) the school provides at least the same amount of instruction to students as the school provided during the 2014-2015 school year and is no longer eligible to earn the full average daily attendance during the current school year.

(m) To assist school districts in implementing this section as amended by H.B. 2442, Acts of the 85th Legislature, Regular Session, 2017, or similar legislation, the commissioner may waive a requirement of this section or adopt rules to implement this section. This subsection expires September 1, 2018.

SECTION 9. Same as introduced version.

SECTION 10. This Act applies beginning with the 2018-2019 school year.

SECTION 11. Same as introduced version.