

By: King of Hemphill

H.B. No. 2442

Substitute the following for H.B. No. 2442:

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C.S.H.B. No. 2442

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the minutes of operation required for public school  
3 districts, charter schools, and other education programs and to  
4 calculating the average daily attendance for certain education  
5 programs.

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

7 SECTION 1. Section 25.081, Education Code, is amended to  
8 read as follows:

9 Sec. 25.081. OPERATION OF SCHOOLS. (a) Except as  
10 authorized under Subsection (b) of this section, Section 25.084, or  
11 Section 29.0821, for each school year each school district must  
12 operate ~~[so that the district provides]~~ for at least 75,600  
13 minutes, including time allocated for ~~[of]~~ instruction,  
14 ~~[including]~~ intermissions, and recesses~~[7]~~ for students.

15 (b) The commissioner may approve the operation of schools  
16 ~~[instruction of students]~~ for fewer than the number of minutes  
17 required under Subsection (a) if disaster, flood, extreme weather  
18 conditions, fuel curtailment, or another calamity causes the  
19 closing of schools.

20 (c) If the commissioner does not approve reduced operation  
21 ~~[instruction]~~ time under Subsection (b), a school district may add  
22 additional minutes to the end of the district's normal school hours  
23 as necessary to compensate for minutes ~~[of instruction]~~ lost due to  
24 school closures caused by disaster, flood, extreme weather

1 conditions, fuel curtailment, or another calamity.

2 (d) The commissioner may adopt rules to implement this  
3 section, including rules:

4 (1) for the application, on the basis of the minimum  
5 minutes of operation [~~instruction~~] required by Subsection (a), of  
6 any provision of this title that refers to a minimum number of days  
7 of instruction under this section;

8 (2) to determine the minutes of operation that are  
9 equivalent to a day of instruction;

10 (3) defining instructional time, which may include  
11 time allocated for recess and for serving breakfast or lunch to  
12 students; and

13 (4) establishing the minimum number of minutes of  
14 instruction required for a full-day and a half-day program to meet  
15 the time requirements under Subsection (a).

16 (e) A school district or education program is exempt from  
17 the minimum minutes of operation requirement if the district's or  
18 program's average daily attendance is calculated under Section  
19 42.005(j). The commissioner may establish the alternative minimum  
20 minutes of operation required for a district or program that is  
21 subject to Section 42.005(j). The commissioner's determination  
22 under this subsection is final and may not be appealed [~~For purposes~~  
23 ~~of this code, a reference to a day of instruction means 420 minutes~~  
24 ~~of instruction~~].

25 (f) The commissioner may proportionally reduce the amount  
26 of funding a district receives under Chapter 41, 42, or 46 and the  
27 average daily attendance calculation for the district if the

1 district operates on a calendar that provides fewer minutes of  
2 operation than required under Subsection (a).

3 SECTION 2. The heading to Section 25.082, Education Code,  
4 is amended to read as follows:

5 Sec. 25.082. [~~SCHOOL DAY,~~] PLEDGES OF ALLEGIANCE; MINUTE OF  
6 SILENCE.

7 SECTION 3. Section 29.0822(c), Education Code, is amended  
8 to read as follows:

9 (c) Except in the case of a course designed for a student  
10 described by Subsection (a)(3), a course offered in a program under  
11 this section must provide for at least the same number of  
12 instructional hours as required for a course offered in a program  
13 that meets the required minimum number of minutes of operation  
14 [~~instructional days~~] under Section 25.081 [~~and the required length~~  
15 ~~of school day under Section 25.082~~].

16 SECTION 4. Section 29.087(j), Education Code, is amended to  
17 read as follows:

18 (j) For purposes of funding under Chapters 41, 42, and 46, a  
19 student attending a program authorized by this section may be  
20 counted in attendance only for the actual number of hours each  
21 school day the student attends the program, in accordance with  
22 Section [~~Sections~~] 25.081 [~~and 25.082~~].

23 SECTION 5. Subchapter E, Chapter 29, Education Code, is  
24 amended by adding Section 29.162 to read as follows:

25 Sec. 29.162. DETERMINATION OF FULL-DAY AND HALF-DAY. The  
26 commissioner may adopt rules for this subchapter establishing  
27 full-day and half-day minutes of operation requirements as provided

1 by Section 25.081.

2 SECTION 6. Section 30A.104(a), Education Code, is amended  
3 to read as follows:

4 (a) A course offered through the state virtual school  
5 network must:

6 (1) be in a specific subject that is part of the  
7 required curriculum under Section 28.002(a);

8 (2) be aligned with the essential knowledge and skills  
9 identified under Section 28.002(c) for a grade level at or above  
10 grade level three; and

11 (3) be the equivalent in instructional rigor and scope  
12 to a course that is provided in a traditional classroom setting  
13 during[+]

14 [~~(A)~~] a semester of 90 instructional days[~~, and~~  
15 [~~(B)~~] a school day that meets the minimum length  
16 of a school day required under Section 25.082].

17 SECTION 7. Section 37.008(a), Education Code, is amended to  
18 read as follows:

19 (a) Each school district shall provide a disciplinary  
20 alternative education program that:

21 (1) is provided in a setting other than a student's  
22 regular classroom;

23 (2) is located on or off of a regular school campus;

24 (3) provides for the students who are assigned to the  
25 disciplinary alternative education program to be separated from  
26 students who are not assigned to the program;

27 (4) focuses on English language arts, mathematics,

1 science, history, and self-discipline;

2 (5) provides for students' educational and behavioral  
3 needs;

4 (6) provides supervision and counseling; and

5 (7) employs only teachers who meet all certification  
6 requirements established under Subchapter B, Chapter 21[~~, and~~

7 [~~(8) provides not less than the minimum amount of~~  
8 ~~instructional time per day required by Section 25.082(a)~~].

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

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

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

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

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

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

1 Subdivision (1).

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

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

- 10 (1) a dropout recovery school or program; and  
11 (2) a school program offered at a residential or  
12 correctional facility.

13 (k) The commissioner may determine the qualifications to be  
14 considered a dropout recovery school for the purposes of Subsection  
15 (j). The qualifications selected by the commissioner may differ  
16 from the qualifications required for a dropout recovery school  
17 under Sections [12.137](#) and [39.0548](#).

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

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

27 (2) the school provides at least the same amount of

1 instruction to students as the school provided during the 2014-2015  
2 school year and is no longer eligible to earn the full average daily  
3 attendance during the current school year.

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

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

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

12 SECTION 11. This Act takes effect immediately if it  
13 receives a vote of two-thirds of all the members elected to each  
14 house, as provided by Section 39, Article III, Texas Constitution.  
15 If this Act does not receive the vote necessary for immediate  
16 effect, this Act takes effect September 1, 2017.