

House Bill 2442
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

No equivalent provision.

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

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

(b) The commissioner may approve the operation of schools

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SECTION __. Section 21.401, Education Code, is amended by amending Subsection (b) and adding Subsection (c-1) to read as follows:

(b) Except as provided by Subsection (c-1), an [An] educator employed under a 10-month contract must provide a minimum of 187 days of service.

(c-1) If a school district anticipates providing less than 180 days of instruction for students during a school year, as indicated by the district's academic calendar, the district may reduce the number of days of service required by this section proportionately. A reduction by the district does not reduce an educator's salary. [FA2]

SECTION __. Section 21.401, Education Code, as amended by this Act, applies only to a contract executed on or after the effective date of this Act. A contract executed before the effective date of this Act is governed by the law in effect on the date the contract was executed, and the former law is continued in effect for that purpose. [FA2]

SECTION 1. Sections 25.081(a), (b), and (c), Education Code, are amended to read as follows:

(a) Except as authorized under ~~[Subsection (b) of]~~ this section, Section 25.084, or Section 29.0821, for each school year each school district must operate so that the district provides for at least 180 days of instruction for students. A district may elect to provide less than 180 days of instruction for students if the district provides at least 75,600 minutes of instruction, including intermissions and recesses, for students.

(b) The commissioner may approve the instruction of

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~~[instruction of students]~~ for fewer than the number of minutes required under Subsection (a) if disaster, flood, extreme weather conditions, fuel curtailment, or another calamity causes the closing of schools.

(c) If the commissioner does not approve reduced operation ~~[instruction]~~ time under Subsection (b), a school district may add additional minutes to the end of the district's normal school hours as necessary to compensate for minutes ~~[of instruction]~~ lost due to school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity.

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

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

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

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

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

(e) A school district or education program is exempt from the minimum minutes of operation requirement if the district's or program's average daily attendance is calculated under Section 42.005(j). The commissioner may establish the alternative minimum minutes of operation required for a district or program that is subject to Section 42.005(j). The commissioner's determination under this subsection is final

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~~students~~ for fewer than the number of days or minutes required under Subsection (a) if disaster, flood, extreme weather conditions, fuel curtailment, or another calamity causes the closing of schools.

(c) If the commissioner does not approve reduced instruction time under Subsection (b), a school district may add additional days to the district's normal school calendar or additional minutes to the end of the district's normal school hours as necessary to compensate for days or minutes of instruction lost due to school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity.

(See SECTION 4 below.)

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~~and may not be appealed [For purposes of this code, a reference to a day of instruction means 420 minutes of instruction].~~

~~(f) The commissioner may proportionally reduce the amount of funding a district receives under Chapter 41, 42, or 46 and the average daily attendance calculation for the district if the district operates on a calendar that provides fewer minutes of operation than required under Subsection (a).~~

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

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

~~No equivalent provision.~~ *(But see SECTION 9 below.)*

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

(c) Except in the case of a course designed for a student described by Subsection (a)(3), a course offered in a program under this section must provide for at least the same number of instructional hours as required for a course offered in a

~~No equivalent provision.~~

SECTION 2. Section 25.082, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A school day shall be at least seven hours each day, including intermissions and recesses, except as provided by Subsection (a-1).

(a-1) Subsection (a) does not apply to a campus that only operates a program authorized as a half-day program by law or by rule or to a charter school operating under Chapter 12.

~~No equivalent provision.~~

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program that meets the required minimum number of minutes of operation [~~instructional days~~] under Section 25.081 [~~and the required length of school day under Section 25.082~~].

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

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

No equivalent provision.

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

Sec. 29.162. DETERMINATION OF FULL-DAY AND HALF-DAY. The commissioner may adopt rules for this subchapter establishing full-day and half-day minutes of operation requirements as provided by Section 25.081.

No equivalent provision.

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

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

- (1) be in a specific subject that is part of the required curriculum under Section 28.002(a);
- (2) be aligned with the essential knowledge and skills identified under Section 28.002(c) for a grade level at or above grade level three; and
- (3) be the equivalent in instructional rigor and scope to a

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course that is provided in a traditional classroom setting during[:

~~[(A)] a semester of 90 instructional days[; and~~

~~[(B)] a school day that meets the minimum length of a school day required under Section 25.082].~~

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

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

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

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

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

(4) focuses on English language arts, mathematics, science, history, and self-discipline;

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

(6) provides supervision and counseling; and

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

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

No equivalent provision.

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:

SECTION 3. Section 42.005, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (g-1), and (i) through (o) to read as follows:

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

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- (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.

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- (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 actual ~~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).

(a-1) For purposes of calculating average daily attendance, a student must be enrolled for at least 240 minutes of instructional time to be eligible for a full day of attendance.

[FA1]

(g-1) The commissioner shall adopt rules to calculate average daily attendance for students participating in a blended learning program in which classroom instruction is supplemented with applied workforce learning opportunities, including participation of students in internships, externships, and apprenticeships.

(i) A district or a charter school operating under Chapter 12 that operates a prekindergarten program is eligible to receive one-half of average daily attendance under Subsection (a) if the district's or charter school's prekindergarten program provides at least:

- (1) 32,400 minutes of instructional time to students; or
- (2) 180 days of instruction to students, with a number of

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(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.

(1) 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.

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hours of instruction per day that results in the equivalent of 32,400 minutes of instructional time.

(j) A district or charter school is eligible to earn full average daily attendance under Subsection (a) if the district or school provides at least 43,200 minutes of instructional time to students enrolled in:

- (1) a dropout recovery school or program operating under Section 12.1141(c) or Section 39.0548;
- (2) an alternative education program operating under Section 37.008, if Section 25.082(a) does not apply to the program;
- (3) a school program located at a day treatment facility, residential treatment facility, psychiatric hospital, or medical hospital;
- (4) a school program offered at a correctional facility; or
- (5) a school operating under Section 29.259.

(k) A charter school operating under a charter granted under Chapter 12 before September 1, 2015, is eligible to earn full average daily attendance under Subsection (a), as that subsection existed immediately before September 1, 2015, for:

- (1) all campuses of the charter school operating before September 1, 2015; and
- (2) any campus or site expansion approved on or after September 1, 2015.

(1) A school district campus described by Section 25.082(a-1) or charter school may operate more than one program and be eligible for full average daily attendance for each program if the programs operated by the district campus or charter school satisfy all applicable state and federal requirements.

(m) In accordance with rules adopted by the commissioner, each charter school operating under Chapter 12 shall notify the commissioner if the charter school will provide:

- (1) at least 180 days of instruction for students; or

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(2) less than 180 days of instruction for students, but at least 75,600 minutes of instruction, including intermissions and recess.

(n) The commissioner shall adopt rules necessary to implement this section, including rules that:

(1) establish the minimum amount of instructional time per day that allows a school district or charter school to be eligible for full average daily attendance, which may differ based on the instructional program offered by the district or charter school;

(2) establish the requirements necessary for a school district or charter school to be eligible for one-half of average daily attendance, which may differ based on the instructional program offered by the district or charter school; and

(3) proportionally reduce the average daily attendance for a school district if any campus or instructional program in the district provides fewer than the required minimum days or minutes of instruction to students.

(o) 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 at the end of the 2018-2019 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. Section 25.082(a), Education Code, is repealed.

SECTION 4. Section 25.081(e), Education Code, is repealed.

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

SECTION 5. This Act applies beginning with the 2017-2018 school year.

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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.

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SECTION 6. Same as House version.

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