86R17503 MEW/KJE-F

By:  King of Hemphill H.B. No. 4062

A BILL TO BE ENTITLED

AN ACT

relating to the salary paid to certain public school teachers, the creation of certain teacher designations, and allotments for certain educators under the Foundation School Program; authorizing the imposition of a fee.

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

SECTION 1.  Subchapter B, Chapter 21, Education Code, is amended by adding Sections 21.063 and 21.064 to read as follows:

Sec. 21.063.  TEACHER DESIGNATIONS ON CERTIFICATE. (a) The board shall place the appropriate designation issued to a teacher under Subchapter P on the teacher's certificate as soon as practicable after being notified by the agency of the issuance of the designation.

(b)  The board shall remove a designation under Subchapter P from a teacher's certificate on:

(1)  expiration of the designation, unless the agency notifies the board that the designation has been renewed; or

(2)  revocation of the designation under Section 21.755(d).

Sec. 21.064.  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) is not eligible for funding under the educator effectiveness allotment under Section 42.170.

SECTION 2.  Section 21.355(d), Education Code, is amended to read as follows:

(d)  A school district or open-enrollment charter school shall [~~may~~] give the agency information regarding the performance of a teacher or administrator, including a document evaluating the performance of a teacher or administrator currently or previously employed by the district or school for purposes of an investigation conducted by the agency.

SECTION 3.  Section 21.402, Education Code, is amended by amending Subsections (a) and (c-1) and adding Subsections (c-2), (c-3), and (c-4) to read as follows:

(a)  Except as provided by Subsection (e-1) [~~or (f)~~], a school district must pay each [~~classroom teacher,~~] full-time librarian, full-time school counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

MS = SF x FS

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of the basic allotment as provided by Section 42.101(a) or (b) for a school district with a maintenance and operations tax rate at least equal to the state maximum compressed tax rate, as defined by Section 42.101(a).

(c-1)  Notwithstanding Subsections (a) and (b), each school district shall pay a monthly salary to each [~~classroom teacher, full-time speech pathologist,~~] full-time librarian, full-time school counselor certified under Subchapter B, and full-time school nurse that is at least equal to the following monthly salary or the monthly salary determined by the commissioner under Subsections (a) and (b), whichever is greater:

|  |  |  |
| --- | --- | --- |
|  | Years of |  Monthly |
|  | Experience |  Salary |
|  | 0 |  2,732 |
|  | 1 |  2,791 |
|  | 2 |  2,849 |
|  | 3 |  2,908 |
|  | 4 |  3,032 |
|  | 5 |  3,156 |
|  | 6 |  3,280 |
|  | 7 |  3,395 |
|  | 8 |  3,504 |
|  | 9 |  3,607 |
|  | 10 |  3,704 |
|  | 11 |  3,796 |
|  | 12 |  3,884 |
|  | 13 |  3,965 |
|  | 14 |  4,043 |
|  | 15 |  4,116 |
|  | 16 |  4,186 |
|  | 17 |  4,251 |
|  | 18 |  4,313 |
|  | 19 |  4,372 |
|  | 20 & Over |  4,427 |

(c-2)  Except as provided by Subsection (c-4), a school district must pay each fully certified classroom teacher not less than the following monthly salary, based on the teacher's level of experience in addition to other factors, as determined by commissioner rule:

|  |  |  |
| --- | --- | --- |
|  | Years of | Monthly |
|  | Experience | Salary |
|  | 0 | 3,300 |
|  | 1 | 3,700 |
|  | 2 | 4,050 |
|  | 3 | 4,350 |
|  | 4 | 4,600 |
|  | 5 | 4,800 |
|  | 6 | 4,950 |
|  | 7 | 5,050 |
|  | 8 | 5,125 |
|  | 9 | 5,175 |
|  | 10 | 5,200 |
|  | 11 | 5,226 |
|  | 12 | 5,250 |
|  | 13 | 5,275 |
|  | 14 | 5,300 |
|  | 15 | 5,310 |
|  | 16 | 5,320 |
|  | 17 | 5,330 |
|  | 18 | 5,340 |
|  | 19 | 5,350 |
|  | 20 & Over | 5,360 |

(c-3)  For purposes of Subsection (c-2), a "fully certified classroom teacher" means a classroom teacher who holds a certificate issued under Subchapter B but does not include:

(1)  a person who holds an emergency certificate issued under Section 21.041(b)(2);

(2)  a person who holds a certificate issued pursuant to enrollment in an approved alternative certification program under Section 21.049 but who has not completed all program and other certification requirements;

(3)  a person who holds a school district teaching permit issued under Section 21.055; or

(4)  a person employed under a waiver granted by the commissioner under Section 7.056.

(c-4)  The board of trustees of a school district may adopt a minimum salary schedule based on performance tiers, as determined by teacher appraisal and performance criteria under Sections 21.351 and 21.352, instead of years of experience. A minimum salary schedule adopted under this subsection:

(1)  is not required to have a salary factor based on minimum years of experience for a performance tier;

(2)  must include:

(A)  a minimum salary for each performance tier; and

(B)  at least one performance tier with a minimum salary of not less than the minimum salary under the salary schedule specified by Subsection (c-2) for a classroom teacher with 20 or more years of experience; and

(3)  may not set a minimum salary at an amount that is less than the minimum salary under the salary schedule specified by Subsection (c-2) for a classroom teacher with zero years of experience.

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

SUBCHAPTER P. RECOGNIZED, EXEMPLARY, AND MASTER TEACHER DESIGNATIONS

Sec. 21.751.  DEFINITION. In this subchapter, "classroom teacher" includes an individual who:

(1)  is a teacher of record who teaches at least half the average number of students for a teaching assignment at the school campus at which the teacher is employed; and

(2)  satisfies the amount of teaching time requirement in the definition of a classroom teacher under Section 5.001 by providing educator leadership, including collaborating with, mentoring, or supporting other teachers.

Sec. 21.752.  RECOGNIZED, EXEMPLARY, AND MASTER TEACHER DESIGNATIONS. (a) To recognize the performance of teachers in this state, the commissioner shall:

(1)  establish an approval process for school districts and open-enrollment charter schools to designate a teacher as a recognized, exemplary, or master teacher and include the designation on the teacher's teaching certificate;

(2)  develop and provide technical assistance for school districts and open-enrollment charter schools in making teacher designations, including:

(A)  methods to involve staff in locally developing the process for designating teachers under this subchapter; and

(B)  assistance focusing on problems faced by rural school districts; and

(3)  subject to Subsection (b), authorize school districts and open-enrollment charter schools to make teacher designations for a five-year period, provided that the district's teacher designation system meets the requirements under Section 21.754.

(b)  The commissioner shall use an institution of higher education to verify that the appraisals of a representative sample of classroom teachers meet the requirements for teacher designations under this subchapter. Verification may include on-site classroom observations or observations by video or audio recording of classroom sessions.

Sec. 21.753.  ELIGIBILITY CRITERIA FOR TEACHER DESIGNATION. (a) To be eligible for a teacher designation under this subchapter, a classroom teacher must:

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

(2)  satisfy any additional requirements adopted by the school district or open-enrollment charter school at which the teacher is employed.

(b)  A school district or open-enrollment charter school may designate a classroom teacher as recognized if the classroom teacher:

(1)  holds a National Board Certification issued by the National Board for Professional Teaching Standards; and

(2)  meets the other requirements of this section.

(c)  Except as provided by Subsection (d), the commissioner may approve a school district or open-enrollment charter school to designate a teacher under this subchapter if the district's or school's designation system under Section 21.754 determines that among teachers in the state in similar teaching assignments, the teacher is:

(1)  for a recognized teacher, in the top 33 percent in teaching performance;

(2)  for an exemplary teacher, in the top 20 percent in teaching performance; or

(3)  for a master teacher, in the top 5 percent of teaching performance.

(d)  The commissioner may raise the percentages required under Subsection (c) to ensure consistency of teacher performance standards over multiple school years as statewide performance improves, including for the purpose of teacher designation renewals.

Sec. 21.754.  DISTRICT TEACHER DESIGNATION SYSTEMS. (a) A district's teacher designation system must incorporate:

(1)  an educator appraisal system that complies with Section 21.351 or 21.352, including incorporating student performance, which may be measured by student performance over multiple school years;

(2)  student perception surveys for the third grade level and higher;

(3)  educator leadership, including collaborating with, mentoring, or supporting other teachers;

(4)  reliable observation-based appraisal components, including the use of independent observers and processes to ensure inter-rater reliability of observers; and

(5)  reliable underlying student assessments used to evaluate student performance, including test security protocols and defined testing windows.

(a-1)  A school district's or open-enrollment charter school's teacher designation system is not required to incorporate the surveys required under Subsection (a)(2) until the 2022-2023 school year. This subsection expires September 1, 2023.

(b)  The commissioner may not authorize a school district or open-enrollment charter school to make teacher designations under this subchapter until the district's teacher designation system has evaluated classroom teachers in compliance with Subsection (a)(4).

(c)  The commissioner may develop an auditing process for district teacher designation systems to maintain quality and ensure compliance. The commissioner may, as necessary:

(1)  revoke the commissioner's approval of a district's designation system;

(2)  require modifications to a district's designation system to retain the commissioner's approval;

(3)  suspend eligibility for funding for a district's noncompliance with an audit; or

(4)  recover funds under Section 42.258 from a district that has a designation system that is out of compliance or for which the commissioner's approval has been revoked.

(d)  The commissioner may adopt necessary reporting processes and timelines for the auditing process under Subsection (c).

Sec. 21.755.  VALIDITY AND EXPIRATION OF TEACHER DESIGNATION. (a) A teacher designation under this subchapter:

(1)  is valid until the teacher designation expires regardless of whether the teacher:

(A)  changes teaching assignment;

(B)  transfers school campuses; or

(C)  is employed by another school district or open-enrollment charter school; and

(2)  expires at the end of the school year during which the fifth anniversary of the date on which the teacher receives the designation occurs.

(b)  A teacher has no vested property right in a teacher designation assigned to the teacher under this subchapter.

(c)  A teacher designation issued under this subchapter is void on the determination that the designation was issued improperly. Subchapters C through H, Chapter 2001, Government Code, do not apply to the voiding of a teacher designation under this subsection.

(d)  The State Board for Educator Certification may revoke or suspend a certificate holder's teacher designation issued under this subchapter.

Sec. 21.756.  MULTIPLE DESIGNATIONS PROHIBITED. A teacher may receive only one teacher designation under this subchapter at any time. If a teacher qualifies for:

(1)  both a recognized and exemplary teacher designation, the teacher receives the exemplary designation; and

(2)  either a recognized or exemplary designation and a master designation, the teacher receives a master designation.

Sec. 21.757.  INFORMATION RELATING TO TEACHER AND STUDENT PERFORMANCE. (a) The agency, or an entity the agency contracts with to implement this subchapter, may access information required to verify 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.

(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 and information regarding educator appraisals.

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

(d)  Information otherwise confidential remains confidential and is not subject to Chapter 552, Government Code.

Sec. 21.758.  FEES. (a) The commissioner may adopt fees for the authorization of school districts and open-enrollment charter schools to make teacher designations under this subchapter.

(b)  A fee adopted by the agency under this subchapter is not subject to Sections 2001.0045 and 2001.0221, Government Code.

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 governor and the legislature to improve the quality of and impact on student performance of teacher designations issued under this subchapter.

Sec. 21.760.  ADVISORY COMMITTEE OR PANEL. (a) The commissioner may appoint a committee or panel to advise, make recommendations, or make determinations relating to any duties assigned to the commissioner under this subchapter.

(b)  A committee or panel appointed under this section is not subject to Chapter 2110, Government Code.

Sec. 21.761.  RULES; FINALITY OF DECISIONS. (a) The commissioner may adopt rules to implement this subchapter.

(b)  A decision made by the commissioner under this subchapter is final and may not be appealed.

SECTION 5.  Section 25.112, Education Code, is amended by adding Subsection (g) to read as follows:

(g)  The limit in Subsection (a) does not apply to a class taught by a teacher who has been issued a recognized, exemplary, or master teacher designation under Subchapter P, Chapter 21.

SECTION 6.  Subchapter C, Chapter 42, Education Code, is amended by adding Sections 42.169, 42.170, and 42.171 to read as follows:

Sec. 42.169.  EDUCATOR SALARY TRANSITION ALLOTMENT FOR MINIMUM SALARY INCREASE. (a) A school district to which Section 21.402 applies for the 2019-2020 school year is entitled to receive an annual allotment as determined by the following formula:

A = 1.5 X S - ((CYM&O - BYM&O) X ADA)

where:

"A" is the allotment a district receives for purposes of paying the increased costs associated with the minimum salary schedule under Section 21.402 beginning with the 2019-2020 school year;

"S" is the total amount of additional costs a district would be required to pay for salary and benefits for employees subject to the minimum salary schedule in the 2017-2018 school year if the minimum salary schedule for the 2019-2020 school year applied to those employees;

"CYM&O" is the amount of a district's maintenance and operations entitlement under this chapter per student in average daily attendance for the current school year;

"BYM&O" is the amount of a district's maintenance and operations entitlement under this chapter per student in average daily attendance for the 2018-2019 school year; and

"ADA" is the average daily attendance for a district for the current school year.

(b)  For purposes of calculating the formula in Subsection (a), the commissioner shall:

(1)  if the value of "A" results in a negative number, use zero for the value of "A";

(2)  include in the calculation of an employee's salary and benefits an additional 4.2 percent of the amount that the employee is entitled to receive under the minimum salary schedule in effect for the 2019-2020 school year for the increased costs of Medicare and other payroll benefits;

(3)  exclude 50 percent of the following amounts to which a district is entitled in the calculation of a district's maintenance and operations entitlement:

(A)  the educator effectiveness allotment under Section 42.170; and

(B)  amounts received as educator effectiveness fee reimbursement under Section 42.171;

(4)  adjust the calculation under Subsection (a) to reflect:

(A)  a reduction in tax effort by a district;

(B)  property value adjustments due to a disaster;

(C)  any additional state aid due to disaster remediation; and

(D)  the sparsity adjustment under Section 42.105;

(5)  exclude funding provided to a district for the 2018-2019 school year under Sections 41.002(e)-(g) and former Subchapter H, Chapter 42;

(6)  if a school district receives a waiver relating to eligibility requirements for the national free or reduced-price lunch program under 42 U.S.C. Section 1751 et seq., use the number of educationally disadvantaged students on which the district's entitlement to compensatory education funds was based for the school year before the school year in which the district received the waiver, adjusted for estimated enrollment growth; and

(7)  include increased state contributions made under Section 825.405, Government Code, for the current school year as compared to the 2018-2019 school year.

(c)  A decision by the commissioner under this section is final and may not be appealed.

Sec. 42.170.  EDUCATOR EFFECTIVENESS ALLOTMENT. (a) In this section, "classroom teacher" has the meaning assigned by Section 21.751.

(b)  For each classroom teacher with a teacher designation under Subchapter P, Chapter 21, employed by a school district, the school district is entitled to an allotment equal to:

A = B + (SCE X DM)

where:

"A" is the allotment provided to a school district per classroom teacher who holds a teacher designation;

"B" is the applicable base amount for a classroom teacher provided under Subsection (c);

"SCE" is the state compensatory education factor determined under Subsection (d); and

"DM" is the applicable designation multiplier for a classroom teacher under Subsection (e).

(c)  The base amount for each classroom teacher with a teacher designation is as follows:

(1)  $3,000 for each recognized teacher;

(2)  $6,000 for each exemplary teacher; and

(3)  $12,000 for each master teacher.

(d)  The state compensatory education factor is the amount equal to:

(1)  the sum of the individual student disadvantage index tier values divided by the total student population of the campus at which the teacher for which the allotment is being calculated is employed, where the individual student disadvantage index tier values are given a value of zero to four as determined by the commissioner based on the severity of a student's disadvantage; or

(2)  if the school district qualifies as a rural school district based on criteria adopted by the commissioner, the value that is the lesser of:

(A)  4.0; or

(B)  the value that results from Subdivision (1) plus 2.0.

(e)  The designation multiplier is as follows for the applicable teacher designation:

(1)  $1,500 for recognized;

(2)  $3,000 for exemplary; and

(3)  $5,000 for master.

(f)  A district's allotment under Subsection (b) for a classroom teacher may not be greater than $32,000.

(g)  A school district is not eligible for an allotment under Subsection (b) for a classroom teacher whose designation has expired or been revoked.

(h)  The commissioner shall provide in an easily readable format a list of campuses with the potential allotment amounts that would be available for teachers with designations employed at the campus.

(i)  A district shall annually certify that all funds received under this section were used for:

(1)  educator compensation;

(2)  costs associated with implementing Subchapter P, Chapter 21; or

(3)  professional development for educators.

(j)  The commissioner shall provide funding under this section for teacher designations made on the basis of a classroom teacher's performance during the 2018-2019 school year if the district:

(1)  receives approval from the commissioner during the 2019-2020 school year for the district's local teacher designation system; and

(2)  provides compensation to a classroom teacher for the 2019-2020 school year based on the teacher's qualifying performance for a designation.

(j-1)  Subsection (j) and this subsection expire September 1, 2020.

Sec. 42.171.  EDUCATOR EFFECTIVENESS FEE REIMBURSEMENT. (a) A school district is entitled to reimbursement for any fee paid under Subchapter P, Chapter 21, or membership fees paid to the National Board for Professional Standards for the purpose of Section 21.753(b).

(b)  The commissioner shall provide reimbursement under this section for fees relating to teacher designations made on the basis of a classroom teacher's performance during the 2018-2019 school year if the district:

(1)  receives approval from the commissioner during the 2019-2020 school year for the district's local teacher designation system; and

(2)  provides compensation to a classroom teacher for the 2019-2020 school year based on the teacher's qualifying performance for a designation.

(b-1)  Subsection (b) and this subsection expire September 1, 2020.

SECTION 7.  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 X WADA X DTR X 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 additional funding [~~allotment~~] under Section 42.158, [~~or~~] 42.160, 42.169, 42.170, or 42.171 and 50 percent of the adjustment under Section 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 8.  Sections 825.405(a), (b), (e), and (f), Government Code, are amended to read as follows:

(a)  An employing school district or an open-enrollment charter school, as applicable, shall pay the state's contribution on the portion of a member's salary that exceeds the statutory minimum salary for [~~For~~] members:

(1)  entitled to the minimum salary for certain school personnel under Section 21.402, Education Code;

(2)  [~~, and for members~~] who would have been entitled to the minimum salary for certain school personnel under former Section 16.056, Education Code, as that section existed on January 1, 1995; and

(3)  who would be entitled to the minimum salary for certain school personnel under Section 21.402, Education Code, if the member was employed by a school district subject to that section instead of being employed by:

(A)  an open-enrollment charter school; or

(B)  a school district that has adopted a local innovation plan under Chapter 12A, Education Code, that exempts the district's employees from the minimum salary schedule under that section[~~, the employing district shall pay the state's contribution on the portion of the member's salary that exceeds the statutory minimum salary~~].

(b)  For purposes of this section,[~~:~~

[~~(1)~~]  the statutory minimum salary for a member described by:

(1)  Subsection (a)(1) [~~certain school personnel under Section 21.402, Education Code,~~] is the salary provided by Section 21.402, Education Code [~~that section multiplied by the cost of education adjustment applicable under Section 42.102, Education Code, to the district in which the member is employed~~]; [~~and~~]

(2)  Subsection (a)(2) [~~the statutory minimum salary for members who would have been entitled to the minimum salary for certain school personnel under former Section 16.056, Education Code, as that section existed on January 1, 1995,~~] is a minimum salary computed in the same manner as the minimum salary for certain school personnel under Section 21.402, Education Code; and

(3)  Subsection (a)(3) is the minimum salary the member would have been entitled to if the member was subject to Section 21.402, Education Code[~~, multiplied by the cost of education adjustment applicable under Section 42.102, Education Code, to the district in which the member is employed~~].

(e)  After the end of each school year, the retirement system shall certify to the commissioner of education:

(1)  the names of any employers [~~employing districts~~] that have failed to remit, within the period required by Section 825.408, all contributions required under this section for the school year; and

(2)  the amounts of the unpaid contributions.

(f)  If the commissioner of education receives a certification under Subsection (e), the commissioner shall direct the comptroller of public accounts to withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the employer [~~school district~~]. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

SECTION 9.  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 21.357;

(6)  Sections 21.402(f) and (h);

(7)  Section 21.410;

(8)  Section 21.411;

(9)  Section 21.412; and

(10)  Section 21.413.

SECTION 10.  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 effective date of this Act.

SECTION 11.  This Act takes effect September 1, 2019.