

BILL ANALYSIS

Senate Research Center

S.B. 15
By: Taylor
Education
9/1/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 15 seeks to grant districts and charter schools the ability to establish and/or continue full-time virtual learning programs and to receive equivalent attendance funding from the state for doing so. The bill will enable districts and charter schools to exercise local control over programming and to ensure that only high-quality virtual options are offered. Under the proposed legislation, parents and guardians are ensured the option for in-school learning if that is what they prefer.

(Original Author's / Sponsor's Statement of Intent)

S.B. 15 amends current law relating to virtual and off-campus electronic instruction at a public school, the satisfaction of teacher certification requirements through an internship teaching certain virtual courses, and the allotment for certain special-purpose school districts under the Foundation School Program.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 3 (Section 29.9091, Education Code) and SECTION 7 (Section 48.0071, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 21.051, Education Code, by adding Subsection (g), as follows:

(g) Authorizes rules proposed by the State Board for Educator Certification (SBEC) under Section 21.044(a) (relating to requiring SBEC to specify the minimum academic qualifications required for a certificate) or Section 21.051 (Rules Regarding Field-Based Experience and Options for Field Experience and Internships) to allow a candidate to satisfy certification requirements through an internship that provides the candidate employment as a teacher for courses offered through a local remote learning program under Section 29.9091 or the state virtual school network under Chapter 30A (State Virtual School Network). Provides that this subsection expires September 1, 2023.

SECTION 2. Amends Section 25.092, Education Code, by adding Subsection (a-4), as follows:

(a-4) Authorizes a school district or open-enrollment charter school to adopt a policy to exempt students from the requirements of Section 25.092 (Minimum Attendance for Class Credit or Final Grade) for one or more courses identified in the policy that are offered under a local remote learning program under Section 29.9091. Provides that this subsection expires September 1, 2023.

SECTION 3. Amends Subchapter Z, Chapter 29, Education Code, by adding Section 29.9091, as follows:

Sec. 29.9091. LOCAL REMOTE LEARNING PROGRAM. (a) Authorizes a school district or open-enrollment charter school assigned an overall performance rating of C or higher under Section 39.054 (Methods and Standards for Evaluating Performance) for the

preceding school year or the most recent school year in which a performance rating was assigned to operate a local remote learning program to offer virtual courses outside the state virtual school network under Chapter 30A to eligible students.

(b) Requires a school district or open-enrollment charter school that operates a full-time local remote learning program to:

(1) include in the program:

(A) at least one grade level in which an assessment instrument is required to be administered under Section 39.023(a) (relating to requiring all students to be assessed in various subjects), including each subject for which an assessment instrument is required; or

(B) a complete high school program, including each course for which an end-of-course assessment instrument is required to be administered under Section 39.023(c) (relating to requiring SBEC to adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements); and

(2) offer the option for a student's parent or person standing in parental relation to select in-person instruction for the student.

(c) Authorizes a virtual course offered under a local remote learning program:

(1) to be provided through synchronous instruction, asynchronous instruction, or a combination of synchronous and asynchronous instruction; and

(2) to be provided in combination with in-person instruction as appropriate to meet the needs of individual students.

(d) Provides that a student is eligible to enroll in a virtual course offered under a local remote learning program if the student:

(1) is enrolled in a school district or open-enrollment charter school;

(2) has reasonable access to in-person services for the course at a district or school facility; and

(3) meets any additional criteria, including minimum academic standards, established by the school district or open-enrollment charter school in which the student is enrolled.

(e) Provides that a school district or open-enrollment charter school that operates a local remote learning program:

(1) is required to periodically assess the performance of students enrolled in virtual courses under the program;

(2) subject to Subsection (f), is authorized to remove a student from virtual courses under the program and return the student to in-person instruction if the district or school determines that the student does not meet the criteria described by Subsection (d); and

(3) is prohibited from counting a student for purposes of calculating the district's or school's average daily attendance if the student has 10 or more unexcused absences in the program in a six-month period.

(f) Authorizes a school district or open-enrollment charter school to remove a student from virtual courses under Subsection (e)(2) only if the district or school establishes a process to ensure that each student and the student's parent or person standing in parental relation have sufficient notice and opportunity to provide input before the student is removed from those courses.

(g) Authorizes a school district or open-enrollment charter school to contract with another school district or open-enrollment charter school to allow a student enrolled in the sending district or school to enroll in virtual courses offered under the local remote learning program of the receiving district or school. Provides that a student enrolled in virtual courses under an agreement described by this subsection is considered enrolled in the sending district or school for purposes of average daily attendance and accountability under Chapters 39 (Public School System Accountability) and 39A (Accountability Interventions and Sanctions).

(h) Requires that an assessment instrument administered under Section 39.023 (Adoption and Administration of Instruments) or 39.025 (Secondary-Level Performance Required) to a student enrolled in a virtual course offered under a local remote learning program be administered to the student in the same manner in which the assessment instrument is administered to other school district or open-enrollment charter school students.

(i) Requires that the courses, if a school district or open-enrollment charter school offers virtual courses under a local remote learning program for students receiving special education services, meet the needs of a participating student in a manner consistent with Subchapter A (Special Education Program) of Chapter 29 (Educational Programs) and with federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(j) Prohibits a teacher from providing instruction for a virtual course offered under a full-time local remote learning program unless the teacher has completed a professional development course on virtual instruction.

(k) Prohibits a district or school from directly or indirectly coercing any teacher to agree to an assignment to teach a full-time local remote learning program.

(l) Prohibits a school district or open-enrollment charter school from requiring a teacher to provide both virtual instruction and in-person instruction for a course during the same class period. Authorizes the commissioner of education (commissioner) to waive the requirements of this subsection for courses included in the enrichment curriculum under Section 28.002 (Required Curriculum).

(m) Authorizes a student enrolled in a virtual course offered under a local remote learning program to participate in an extracurricular activity sponsored or sanctioned by the school district or open-enrollment charter school in which the student is enrolled or by the University Interscholastic League in the same manner as other district or school students.

(n) Requires a student enrolled in a virtual course offered under a local remote learning program, except as otherwise provided under Subsection (e)(3), to be counted toward the school district's or open-enrollment charter school's average daily attendance in the same manner as other district or school students. Requires the commissioner to adopt rules providing for a method of taking attendance, once each school day, for students enrolled in a virtual course offered under a local remote learning program.

(o) Provides that Chapter 30A does not apply to a virtual course offered under a local remote learning program.

(p) Provides that this section does not prohibit a student enrolled in a school district or open-enrollment charter school that operates a local remote learning program from enrolling in courses offered through the state virtual school network under Chapter 30A.

(q) Prohibits a school district or open-enrollment charter school that operates a local remote learning program from enrolling in the program a number of students that exceeds 10 percent of the total number of students enrolled in the district or school during the 2021-2022 school year. Authorizes the commissioner to waive this subsection on application by a school district or open-enrollment charter school or in response to a public health emergency.

(r) Requires a school district or open-enrollment charter school, in calculating under Subsection (q) the number of students that are authorized to be enrolled in a local remote learning program, to count students who spend at least half of the student's instructional time during the 2021-2022 school year or 2022-2023 school year, as applicable, enrolled in virtual courses or receiving remote instruction, other than by enrollment in electronic courses offered through the state virtual school network under Chapter 30A, including students enrolled in virtual courses or who received remote instruction during the 2021-2022 school year or 2022-2023 school year, as applicable, because the student was medically fragile, was placed in a virtual setting by an admission, review, and dismissal committee, or was receiving accommodations under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(s) Provides that this section expires September 1, 2023.

SECTION 4. Amends Subchapter C, Chapter 39, Education Code, by adding Section 39.0549, as follows:

Sec. 39.0549. EVALUATING VIRTUAL AND LOCAL REMOTE PROGRAMS. (a) Requires the commissioner, in evaluating under Section 39.054 (Methods and Standards for Evaluating Performance) the performance of a school district or open-enrollment charter school that operates a full-time local remote learning program, to assign the program separate overall and domain performance ratings as if the program were a campus of the district or school. Provides that for purposes of assigning performance ratings under this subsection, students who spend at least half of the students' instructional time receiving virtual or remote instruction are considered enrolled in the program, including students:

(1) enrolled in virtual courses offered under a local remote learning program under Section 29.9091; or

(2) receiving remote instruction, regardless of whether the student is enrolled in a remote learning program offered under Section 29.9091 and including students receiving remote instruction who are medically fragile, placed in a virtual setting by an admission, review, and dismissal committee, or receiving accommodations under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(b) Provides that a performance rating under this section is not subject to Section 39.054(a-3) (relating to requiring that the performance ratings of each district and campus, not later than August 15 of each year, be made publicly available as provided by rules adopted under Section 39.054) or 39.0546 (Performance in Community and Student Engagement as Component of Overall District and Campus Rating).

(c) Prohibits a performance rating assigned under this section from being used for purposes of Section 39.0544 (Local Accountability System) or for determining whether to impose any intervention or sanction authorized by Chapter 39A.

(d) Provides that this section expires September 1, 2023.

SECTION 5. Amends Section 39.301, Education Code, by adding Subsections (c-1) and (c-2), as follows:

(c-1) Requires that the indicators for reporting purposes, in addition to the indicators described by Subsection (c) (relating to requiring that indicators for reporting purposes include a certain number of students from a specific program), include, for each school district and campus, the performance of students who spend at least half of the students' instructional time:

(1) in virtual courses offered under a local remote learning program under Section 29.9091; or

(2) receiving remote instruction, regardless of whether the student is enrolled in a remote learning program offered under Section 29.9091 and including students receiving remote instruction who are medically fragile, are placed in a virtual setting by an admission, review, and dismissal committee, or are receiving accommodations under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(c-2) Provides that Subsection (c-1) and this subsection expire September 1, 2023.

SECTION 6. Amends Section 48.005, Education Code, by adding Subsections (h-1), (m-1), and (m-2), as follows:

(h-1) Requires that time that a student participates in a course or program provided under Section 48.0071(b), subject to rules adopted by the commissioner under Section 48.007(b) (relating to requiring the commissioner to adopt by rule verification and reporting procedures concerning time spent by students participating in approved instructional programs), be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance for purposes of Section 48.005 (Average Daily Attendance). Provides that this subsection expires September 1, 2023.

(m-1) Prohibits a school district or open-enrollment charter school, except for students enrolled in programs or courses offered under Chapter 30A or Section 48.053 (Allotment for Certain Special-Purpose School Districts), from counting for purposes of calculating the district's or school's average daily attendance a student who received virtual or remote instruction for a majority of the instructional days during the preceding school year if the student:

(1) did not achieve satisfactory performance or higher or the equivalent in the preceding school year on:

(A) each assessment instrument administered to the student under Section 39.023 or 39.025; or

(B) if the student was not administered an assessment instrument that was required to be administered to the student under Section 39.023 or 39.025 during the preceding school year, an assessment instrument designed to show grade-level proficiency in the essential knowledge and skills identified under Section 28.002 by the State Board of Education for the student's grade level;

(2) had a number of unexcused absences that exceeds 10 percent of the number of instructional days in the preceding school year; or

(3) did not earn a grade of C or higher or the equivalent in each of the foundation curriculum courses taken virtually or remotely in the preceding school year.

(m-2) Provides that Subsection (m-1) and this subsection expire September 1, 2023.

SECTION 7. Amends Subchapter A, Chapter 48, Education Code, by adding Section 48.0071, as follows:

Sec. 48.0071. OFF-CAMPUS COURSES OR PROGRAMS COUNTED FOR PURPOSES OF AVERAGE DAILY ATTENDANCE. (a) Requires the commissioner to adopt by rule verification and reporting procedures to report student participation in courses or programs provided under Subsection (b).

(b) Authorizes a school district or open-enrollment charter school to provide one or more off-campus electronic courses, an off-campus electronic program, or an instructional program that combines in-person instruction and off-campus electronic instruction to students enrolled in the district or school who have reasonable access to in-person services at a district or school facility. Authorizes off-campus electronic instruction for a course or program provided under this subsection to be provided synchronously or asynchronously. Requires a student enrolled in a course or program provided under this subsection to be counted toward the district's or school's average daily attendance in the same manner as other district or school students. Requires the commissioner, in adopting rules under Subsection (a), to provide for a method of taking attendance, once each school day, for students enrolled in a course or program provided under this subsection.

(c) Authorizes a school district or open-enrollment charter school that operated during the 2020-2021 school year a full-time virtual program outside the state virtual network under Chapter 30A with at least 10 percent of the enrollment for the program including students who resided outside the geographic area served by the district or school to:

(1) continue to operate the virtual program on a full-time basis;

(2) apply the same enrollment and transfer criteria used during the 2020-2021 school year; and

(3) offer the program to students in any grade level or combination of grade levels from kindergarten through grade 12 as long as the program includes at least one grade level for which an assessment instrument is administered under Section 39.023.

(d) Provides that this section expires September 1, 2023.

SECTION 8. Amends Section 48.053, Education Code, by adding Subsections (b-1) and (b-2), as follows:

(b-1) Provides that this subsection applies only to a special-purpose district described by Subsection (a) (relating to providing that this section applies only to a special-purpose school district that is operated by a general academic teaching institution) that existed before September 1, 2019. Requires the commissioner, for a district to which this subsection applies, to establish an asynchronous progression funding method that may be used to determine the amount of the district's entitlement under Subsection (b) based on full and partial semester course completion.

(b-2) Provides that Subsection (b-1) and this subsection expire September 1, 2023.

SECTION 9. Provides that this Act applies beginning with the 2021-2022 school year.

SECTION 10. Provides that a school district or open-enrollment charter school that operates a full-time local remote learning program during the 2021-2022 school year that meets the requirements of Section 29.9091, Education Code, as added by this Act, is entitled to funding in the manner prescribed by this Act regardless of whether the district or school began operating the program before, on, or after the effective date of this Act.

SECTION 11. Effective date: upon passage or the 91st day after the last day of the legislative session.