

By: Guillen

H.B. No. 172

A BILL TO BE ENTITLED

AN ACT

1
2 relating to virtual and off-campus electronic instruction at a
3 public school, the satisfaction of teacher certification
4 requirements through an internship teaching certain virtual
5 courses, and the allotment for certain special-purpose school
6 districts under the Foundation School Program.

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

8 SECTION 1. Section 21.051, Education Code, is amended by
9 adding Subsection (g) to read as follows:

10 (g) Rules proposed by the board under Section 21.044(a) or
11 this section may allow a candidate to satisfy certification
12 requirements through an internship that provides the candidate
13 employment as a teacher for courses offered through a local remote
14 learning program under Section 29.9091 or the state virtual school
15 network under Chapter 30A. This subsection expires September 1,
16 2023.

17 SECTION 2. Section 25.092, Education Code, is amended by
18 adding Subsection (a-4) to read as follows:

19 (a-4) A school district or open-enrollment charter school
20 may adopt a policy to exempt students from the requirements of this
21 section for one or more courses identified in the policy that are
22 offered under a local remote learning program under Section
23 29.9091. This subsection expires September 1, 2023.

24 SECTION 3. Subchapter Z, Chapter 29, Education Code, is

1 amended by adding Section 29.9091 to read as follows:

2 Sec. 29.9091. LOCAL REMOTE LEARNING PROGRAM. (a) A school
3 district or open-enrollment charter school assigned an overall
4 performance rating of C or higher under Section 39.054 for the
5 preceding school year or the most recent school year in which a
6 performance rating was assigned may operate a local remote learning
7 program to offer virtual courses outside the state virtual school
8 network under Chapter 30A to eligible students.

9 (b) A school district or open-enrollment charter school
10 that operates a full-time local remote learning program must:

11 (1) include in the program:

12 (A) at least one grade level in which an
13 assessment instrument is required to be administered under Section
14 39.023(a), including each subject for which an assessment
15 instrument is required; or

16 (B) a complete high school program, including
17 each course for which an end-of-course assessment instrument is
18 required to be administered under Section 39.023(c); and

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

22 (c) A virtual course offered under a local remote learning
23 program:

24 (1) may be provided through synchronous instruction,
25 asynchronous instruction, or a combination of synchronous and
26 asynchronous instruction; and

27 (2) may be provided in combination with in-person

1 instruction as appropriate to meet the needs of individual
2 students.

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

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

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

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

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

14 (1) shall periodically assess the performance of
15 students enrolled in virtual courses under the program; and

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

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

26 (g) A school district or open-enrollment charter school may
27 contract with another school district or open-enrollment charter

1 school to allow a student enrolled in the sending district or school
2 to enroll in virtual courses offered under the local remote
3 learning program of the receiving district or school. A student
4 enrolled in virtual courses under an agreement described by this
5 subsection is considered enrolled in the sending district or school
6 for purposes of average daily attendance and accountability under
7 Chapters 39 and 39A.

8 (h) An assessment instrument administered under Section
9 39.023 or 39.025 to a student enrolled in a virtual course offered
10 under a local remote learning program shall be administered to the
11 student in the same manner in which the assessment instrument is
12 administered to other school district or open-enrollment charter
13 school students.

14 (i) If a school district or open-enrollment charter school
15 offers virtual courses under a local remote learning program for
16 students receiving special education services, the courses must
17 meet the needs of a participating student in a manner consistent
18 with Subchapter A of this chapter and with federal law, including
19 the Individuals with Disabilities Education Act (20 U.S.C. Section
20 1400 et seq.) and Section 504, Rehabilitation Act of 1973 (29
21 U.S.C. Section 794).

22 (j) A teacher may not provide instruction for a virtual
23 course offered under a full-time local remote learning program
24 unless the teacher has completed a professional development course
25 on virtual instruction.

26 (k) A school district or open-enrollment charter school may
27 not assign a teacher to teach a full-time local remote learning

1 program unless the teacher agrees to the assignment in writing or
2 the assignment is specifically stated in the employment contract of
3 the teacher for the academic school year. A district or school may
4 not directly or indirectly coerce any teacher to agree to an
5 assignment to teach a full-time local remote learning program.

6 (l) A school district or open-enrollment charter school may
7 not require a teacher to provide both virtual instruction and
8 in-person instruction for a course during the same class period.

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

15 (n) A student enrolled in a virtual course offered under a
16 local remote learning program shall be counted toward the school
17 district's or open-enrollment charter school's average daily
18 attendance in the same manner as other district or school students.
19 The commissioner shall adopt rules providing for a method of taking
20 attendance, once each school day, for students enrolled in a
21 virtual course offered under a local remote learning program.

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

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

1 (q) In evaluating under Section 39.054 the performance of a
2 school district or open-enrollment charter school that operates a
3 full-time local remote learning program, the commissioner shall
4 assign the program separate overall and domain performance ratings
5 as if the program were a campus of the district or school. For
6 purposes of assigning performance ratings under this subsection,
7 only students who spend at least half of the students'
8 instructional time in virtual courses offered under the program are
9 considered enrolled in the program.

10 (r) A school district or open-enrollment charter school
11 that operates a local remote learning program may not enroll in the
12 program a number of students that exceeds 10 percent of the total
13 number of students enrolled in the district or school during the
14 2021-2022 school year. The commissioner may waive this subsection:

15 (1) on application by a school district or
16 open-enrollment charter school; or

17 (2) in response to a public health emergency.

18 (s) This section expires September 1, 2023.

19 SECTION 4. Section 39.301, Education Code, is amended by
20 adding Subsection (c-1) to read as follows:

21 (c-1) In addition to the indicators described by Subsection
22 (c), the indicators for reporting purposes must include, for each
23 school district and campus, the performance of students who spend
24 at least half of the students' instructional time in virtual
25 courses offered under a local remote learning program under Section
26 29.9091. This subsection expires September 1, 2023.

27 SECTION 5. Section 48.005, Education Code, is amended by

1 amending Subsection (h) and adding Subsections (m-1) and (m-2) to
2 read as follows:

3 (h) Subject to rules adopted by the commissioner under
4 Section 48.007(b), time that a student participates in an
5 off-campus instructional program approved under Section 48.007(a)
6 or a course or program provided under Section 48.007(c) shall be
7 counted as part of the minimum number of instructional hours
8 required for a student to be considered a full-time student in
9 average daily attendance for purposes of this section.

10 (m-1) This subsection applies only to a dropout recovery
11 school or program operating under Section 12.1141(c) or 39.0548
12 that is provided as a local remote learning program under Section
13 29.9091. For a dropout recovery school or program to which this
14 subsection applies, the commissioner shall establish an
15 asynchronous progression funding method for determining average
16 daily attendance based on full and partial semester course
17 completion.

18 (m-2) Subsection (m-1) and this subsection expire September
19 1, 2023.

20 SECTION 6. The heading to Section 48.007, Education Code,
21 is amended to read as follows:

22 Sec. 48.007. OFF-CAMPUS COURSES OR PROGRAMS COUNTED
23 [APPROVED] FOR PURPOSES OF AVERAGE DAILY ATTENDANCE.

24 SECTION 7. Section 48.007, Education Code, is amended by
25 amending Subsection (b) and adding Subsections (c), (d), and (e) to
26 read as follows:

27 (b) The commissioner shall adopt by rule verification and

1 reporting procedures to report student participation [~~concerning~~
2 ~~time spent by students participating~~] in instructional programs
3 approved under Subsection (a) or courses or programs provided under
4 Subsection (c).

5 (c) A school district or open-enrollment charter school may
6 provide one or more off-campus electronic courses, an off-campus
7 electronic program, or an instructional program that combines
8 in-person instruction and off-campus electronic instruction to
9 students enrolled in the district or school who have reasonable
10 access to in-person services at a district or school facility.
11 Off-campus electronic instruction for a course or program provided
12 under this subsection may be provided synchronously or
13 asynchronously. A student enrolled in a course or program provided
14 under this subsection shall be counted toward the district's or
15 school's average daily attendance in the same manner as other
16 district or school students. In adopting rules under Subsection
17 (b), the commissioner shall provide for a method of taking
18 attendance, once each school day, for students enrolled in a course
19 or program provided under this subsection.

20 (d) A school district or open-enrollment charter school
21 that operated during the 2020-2021 school year a full-time virtual
22 program outside the state virtual network under Chapter 30A may:

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

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

27 (3) offer the program to students in any grade level or

1 combination of grade levels from kindergarten through grade 12 as
2 long as the program includes at least one grade level for which an
3 assessment instrument is administered under Section 39.023.

4 (e) Subsection (d) and this subsection expire September 1,
5 2023.

6 SECTION 8. Section 48.053, Education Code, is amended by
7 adding Subsections (b-1) and (b-2) to read as follows:

8 (b-1) This subsection applies only to a special-purpose
9 district described by Subsection (a) that existed before September
10 1, 2019. For a district to which this subsection applies, the
11 commissioner shall establish an asynchronous progression funding
12 method that may be used to determine the amount of the district's
13 entitlement under Subsection (b) based on full and partial semester
14 course completion.

15 (b-2) Subsection (b-1) and this subsection expire September
16 1, 2023.

17 SECTION 9. This Act applies beginning with the 2021-2022
18 school year.

19 SECTION 10. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect on the 91st day after the last day of
24 the legislative session.