

BILL ANALYSIS

H.B. 2
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Educational Opportunity & Enrichment, Select
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The governor's proclamation issued for the fourth special session of the 88th Legislature calls for legislation related to school safety measures and state funding mechanisms. In addition, according to a November 2023 *Texas Tribune* article, many school officials have reported that the amount of money their school districts receive through the existing allotment for school safety expenses is insufficient to cover mandated safety measures and, in some cases, the need to hire additional full-time personnel. H.B. 2 seeks to address the insufficient level of funding for school safety by creating two grant programs funded through a new, constitutionally created state school safety fund. One of the grant programs will provide funds to public school districts and open-enrollment charter schools in lieu of the existing school safety allotment, and the other grant program will reimburse districts and charter schools for expenditures required to implement approved school safety plans. H.B. 2 is also the enabling legislation for H.J.R. 1, 88th Legislature, 4th Called Session, 2023, and accordingly revises the duties of the comptroller of public accounts relating to constitutional transfers of money to the economic stabilization fund and the state highway fund to account for the creation of the state school safety fund.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTIONS 3 and 5 of this bill.

ANALYSIS

H.B. 2 amends the Education Code and Government Code to set out provisions providing for the implementation of the constitutional amendment proposed by H.J.R. 1, 88th Legislature, 4th Called Session, 2023, which creates the state school safety fund. Specifically, the bill revises the allocation of certain constitutional transfers of money to the economic stabilization fund (ESF), otherwise known as the Rainy Day Fund, and to the state highway fund (SHF) to account for the creation of the state school safety fund and provides for the distribution of money deposited to the state school safety fund through two grant programs established by the bill: the school safety grant program, which replaces an existing mechanism for funding school safety and security measures, and the school safety plan implementation grant program. If the constitutional amendment is not approved by the voters, the bill has no effect.

Constitutional Allocations of Certain Funds

H.B. 2 makes permanent the requirement for the comptroller of public accounts to determine and adopt for each state fiscal biennium a sufficient balance threshold for the ESF equal to seven

percent of the certified general revenue-related appropriations made for that biennium by repealing the provision setting this requirement to expire on December 31, 2042.

H.B. 2 revises the comptroller's duty to adjust constitutional allocations of certain oil and gas production tax revenue when the sum relating to the overall projected ESF balance is less than the adopted ESF balance threshold for a state fiscal biennium by replacing the requirement that the comptroller reduce the allocation to the SHF and increase the allocation to the ESF, in an equal amount, until the adopted ESF balance threshold for that state fiscal biennium would be achieved by the transfer to the ESF or the total amount of the applicable tax revenue is allocated to the ESF, whichever occurs first, with the following requirements:

- the comptroller must reduce the allocation to the SHF by the lesser of:
 - the amount by which the projected ESF balance is less than the adopted ESF balance threshold; or
 - the amount that would otherwise be allocated for transfer to the SHF under the Texas Constitution;
- if the sum of the projected ESF balance plus the amount by which the allocation to the SHF is reduced is less than the adopted ESF balance threshold for that state fiscal biennium, the comptroller must reduce the constitutional allocation to the state school safety fund by the lesser of:
 - the amount by which the projected ESF balance plus the amount by which the allocation to the SHF is reduced is less than the adopted ESF balance threshold for that state fiscal biennium; or
 - the amount that would otherwise be allocated for transfer to the state school safety fund under the Texas Constitution; and
- the comptroller must increase the ESF allocation provided by the Texas Constitution in an amount equal to the amount by which the allocations to the SHF and the state school safety fund are reduced pursuant to these requirements, as applicable.

For the state fiscal year beginning September 1, 2024, H.B. 2 adds a temporary provision set to expire September 1, 2025, requiring the comptroller, if the projected ESF balance is less than the adopted ESF balance threshold for that state fiscal biennium, to reduce the constitutional allocation to the SHF and increase the ESF allocation in an equal amount until the adopted ESF balance threshold for that state fiscal biennium would be achieved by the transfer to the ESF or the sum of the applicable oil and gas production tax revenue less any constitutional allocations to the state school safety fund for that state fiscal year is allocated to the ESF, whichever occurs first.

H.B. 2 replaces the requirement that the comptroller adjust the constitutional allocation of oil and gas production tax revenues to be transferred to the ESF and the SHF in a state fiscal year beginning on or after September 1, 2043, so that the total of those revenues is transferred to the ESF with a requirement that the comptroller adjust the constitutional allocation of those revenues for a state fiscal biennium beginning on or after September 1, 2043, so that the following occurs:

- the amount allocated for transfer to the SHF is instead transferred to the ESF; and
- if the total of that transfer and the projected ESF balance is less than the adopted ESF balance threshold for that state fiscal biennium, the amount allocated for transfer to the state school safety fund is reduced and the ESF allocation is increased in an equal amount until the adopted ESF balance threshold for that state fiscal biennium would be achieved by the transfer to the ESF or the total amount of the applicable tax revenue is allocated to the ESF, whichever occurs first.

H.B. 2 removes the December 31, 2042, expiration date for a provision requiring the comptroller to determine whether the projected ESF balance is less than the adopted ESF balance threshold before making constitutional fund transfers for a state fiscal year.

H.B. 2 establishes that its provisions relating to constitutional allocations of funds to the ESF, SHF, and state school safety fund apply beginning with the state fiscal year beginning September 1, 2024.

School Safety Funding Mechanisms

Replacement of School Safety Allotment With School Safety Grant Program

H.B. 2 replaces the annual school safety allotment provided to public school districts and open-enrollment charter schools under statutory provisions regarding the foundation school program and state funding for charter schools with a school safety grant program established by the commissioner of education using proceeds of the state school safety fund to annually provide grants to districts and charter schools. In doing so, the bill makes applicable to the school safety grant program certain school safety allotment provisions relating to the permissible use of funds, a directory of approved school safety technology and equipment vendors and the solicitation of bids from other vendors, an annual report on the allocation and use of school safety funds, and the use of funds to provide training to certain persons authorized to carry a firearm. The bill repeals school safety allotment provisions relating to the allotment formula, the designation of certain technologies that may only be purchased from certain approved vendors, a statewide contract with a vendor for the provision of such technology, and the use of funds for equipment or software that is used both for a school safety and security purpose and an instructional purpose.

H.B. 2 caps the total amount of grants the commissioner may award each school year under the school safety grant program at \$1.1 billion and requires the commissioner to award a district or charter school a grant in an amount equal to the sum of the total amount to which the district or charter school would be entitled under statutory provisions relating to the basic allotment, if the basic allotment was allotted for each student enrolled in the district or charter school instead of for each student in average daily attendance, multiplied by 0.01, and the sum of the following:

- \$50,000 for each district or charter school campus with 500 or fewer enrolled students;
- \$100,000 for each district or charter school campus with 501 to 1,000 enrolled students;
- \$150,000 for each district or charter school campus with 1,001 to 1,500 enrolled students;
- \$175,000 for each district or charter school campus with 1,501 to 2,000 enrolled students; and
- \$200,000 for each district or charter school campus with more than 2,000 enrolled students.

If the amount of grants calculated pursuant to that formula exceeds \$1.1 billion in a school year, the commissioner must proportionately reduce the amount of each grant in that school year in an amount necessary to comply with the \$1.1 billion cap. The bill establishes that a district or charter school campus that provides only virtual instruction or utilizes only facilities not subject to the district's or charter school's control is not included for purposes of determining the district's or charter school's grant amount.

H.B. 2 authorizes the commissioner to adopt rules necessary to implement and administer its provisions providing for the creation of the school safety grant program.

School Safety Plan Implementation Grant Program

H.B. 2 additionally requires the commissioner to establish a grant program using proceeds of the state school safety fund to provide grants to districts and charter schools for the reimbursement of expenditures required for the implementation of a school safety plan that has been approved by the Texas Education Agency. The bill caps the amount of grants the commissioner may award each school year under the program at \$10 million per district or charter school and at \$250 million total. If the amount of grant requests under the program exceeds \$250 million in a school year, the commissioner must proportionately reduce the

amount of each grant in that school year in an amount necessary to comply with the \$250 million cap. The bill authorizes the commissioner to provide additional grants to districts and charter schools that incurred eligible expenses of more than \$10 million in a school year if excess program funds are available for that year, subject to the \$250 million total cap. The bill authorizes the commissioner to adopt rules as necessary to implement its provisions relating to the school safety plan implementation grant program.

Related Changes

H.B. 2 revises provisions relating to the use of certain funds for school safety measures in the following manner:

- replaces the requirement that a district certify in its safety and security audit that the district used its school safety allotment funds only for the purposes provided by provisions relating to that allotment with a requirement that a district instead certify in its safety and security audit that the district used all school safety-related state funds provided to the district only for the purposes of improving the safety of schools in the district; and
- replaces the authorization for a district or charter school to use its school safety allotment funds, or other available funds, for the purpose of complying with the statutory requirement to provide each classroom with silent panic alert technology with an authorization for a district or charter school to use any school safety-related state funds provided to the district or charter school for that purpose.

Applicability

H.B. 2 establishes that its Education Code provisions relating to school safety funding mechanisms apply beginning with the 2024-2025 school year.

Conforming Changes

H.B. 2 makes conforming changes in SECTIONS 6, 7, 8, and 9.

Repealed Provisions

H.B. 2 repeals the following provisions:

- the heading to Section 48.115, Education Code;
- Sections 48.115(a), (a-1), (b-1), (b-2), and (c), Education Code; and
- Section 316.092(b), Government Code.

EFFECTIVE DATE

The date on which the constitutional amendment creating the state school safety fund to provide ongoing financial support for projects that ensure the safety of public schools in this state and providing for the transfer of certain general revenues to that fund, the economic stabilization fund, and the state highway fund is approved by the voters.