

## **BILL ANALYSIS**

C.S.H.B. 3  
By: Burrows  
Youth Health & Safety, Select  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Public schools in Texas have unfortunately seen violence due to poor safety procedures, lack of communication among agencies responsible for emergency response, and outdated or unenforced emergency operation standards. C.S.H.B. 3 seeks to provide schools in Texas with a new standard of emergency preparedness and response while also ensuring adequate state funding is provided to school districts through the school safety allotment to ensure that schools are able to be defended and new emergency operation standards can be implemented. The bill also provides for routine school safety audits to ensure that the updated standards are being followed and schools are better prepared for any future emergency events.

### **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 SECTION 9 of this bill.

### **ANALYSIS**

C.S.H.B. 3 amends the Education Code to set out provisions relating to the development of, implementation of, and funding for public school safety and security requirements.

#### **Mandatory Armed School Security Officer**

C.S.H.B. 3 requires the board of trustees of each public school district to ensure that at least one of the following armed security officers is present during regular school hours at each district campus:

- a school district peace officer;
- a school resource officer;
- a commissioned peace officer employed as security personnel;
- a school marshal; or
- a school district employee who carries a handgun on their person while on school premises in accordance with applicable district regulations or authorization and who has completed school safety training provided by a qualified handgun instructor certified in school safety.

The bill gives each board of trustees the discretion to determine whether more than one such officer is appropriate for each district campus. The bill makes the school safety requirements under this provision applicable to open-enrollment charter schools.

## **School Safety Allotment**

C.S.H.B. 3 establishes a minimum amount for each district's annual school safety allotment under the foundation school program, which is an amount equal to the sum of the following amounts:

- \$10 for each student in average daily attendance, plus \$1 for each student in average daily attendance per every \$50 by which the district's maximum basic allotment exceeds \$6,160, prorated as necessary; and
- \$15,000 per campus.

The bill authorizes the legislature to appropriate a greater amount for the school safety allotment and specifies that, in using the allotment funds to provide security for the district, a district may use the funds to employ persons other than district peace officers, private security officers, and school marshals that are permitted by law to carry a weapon and authorized by the district's board of trustees to do so on school campus grounds. Moreover, the bill authorizes allotment funds to be used to employ a school safety director and other personnel to manage and monitor school safety initiatives and the implementation of school safety requirements for the district. The bill clarifies that allotment funds may be used to cover the costs of school safety and security measures, rather than only training and planning as specified by current law.

C.S.H.B. 3 requires the Texas Education Agency (TEA) and the Texas School Safety Center (TxSSC) to coordinate to designate certain technologies that a district, in using allotment funds, may purchase only from a vendor approved by TEA and the TxSSC. The bill prohibits a district from using allotment funds to purchase a designated technology from a vendor not on the approved list. If TEA, in coordination with the TxSSC, determines that entering into a statewide contract with a vendor for the provision of a designated technology would result in cost savings to districts, TEA may, after receiving approval from the Legislative Budget Board and governor's office, enter into a contract with a vendor to provide the technology to each district that uses allotment funds to purchase that technology.

These school safety allotment provisions take effect September 1, 2023.

## **Safety and Security Audits; TEA Monitoring**

C.S.H.B. 3 requires TEA to monitor school district compliance with safety and security requirements, including by annually conducting on-site district audits. With respect to this monitoring requirement, the bill provides the following:

- TEA may conduct the on-site audits using a cycle of random selection;
- the on-site audits must be conducted in accordance with criteria developed by TEA in consultation with the TxSSC;
- the monitoring must include intruder detection audits of each district to determine whether an intruder could gain unsecured, unauthorized access to a district campus and TEA must ensure that one such audit is conducted annually at each district, with not less than 25 percent of the campuses having an on-site audit;
- TEA, in coordination with the TxSSC, must provide technical assistance to support implementation of district multihazard emergency operations plans and safety and security audits and other district safety and security requirements;
- TEA may establish an office of school safety and security within TEA to coordinate the monitoring, the head of which must report directly to the commissioner;
- TEA may use or require the use of third parties to conduct the monitoring;
- TEA and the TxSSC may identify, develop, and make available to districts information to assist districts in the implementation and operation of safety and security requirements, including relevant guidelines, techniques, blueprints, best practices, and procedures;
- TEA may require a district to submit information necessary for TEA to conduct an on-site audit or otherwise monitor district compliance with safety and security requirements, including notice of an event requiring a district's emergency response and information

regarding the district's response and use of emergency operations procedures during such an event;

- TEA may review school district records as necessary to ensure compliance with applicable safety requirements; and
- any document or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements is confidential and not subject to disclosure under state public information law.

C.S.H.B. 3 authorizes the commissioner to determine that a school district or district campus is noncompliant with the safety and security requirements if the district fails to submit to the required monitoring, comply with applicable safety and security requirements, or address in a reasonable period, as determined by commissioner rule, issues raised by TEA monitoring of the district. With respect to a district determined to be noncompliant, the bill provides the following:

- a student enrolled in the district is eligible to receive a public education grant or to attend a school in a district other than the district in which the student resides;
- the district's board of trustees may not make a severance payment of any amount to the district's superintendent or administrator if terminated by the board as a result of the determination that the district was noncompliant; and
- the district is, from the date of the determination until the date the commissioner determines that the district is compliant, ineligible to receive money under any grant program administered by TEA, other than money awarded for purposes of improving school safety and security in the district.

The prohibition against a noncompliant district making such a severance payment applies only to a superintendent, administrator serving as educational leader and chief executive officer of a district or charter school, or other administrator of the district or school employed under a contract entered into on or after the bill's effective date.

The bill makes the school safety requirements under these provisions with respect to monitoring and determinations of noncompliance applicable to open-enrollment charter schools and authorizes the commissioner to adopt rules as necessary to implement these provisions.

### **TEA Compliance Monitoring Limitations; Exemption**

C.S.H.B. 3 exempts TEA's monitoring of school district safety and security requirements, as required by the bill, from the Education Code provision setting out general limitations on compliance monitoring by TEA under state law, which authorizes TEA to monitor compliance with applicable process or program requirements only as necessary to ensure compliance with federal law and regulations, financial accountability, data integrity, and qualification for foundation school program funding.

### **Use of Bond Proceeds for School Safety Compliance**

C.S.H.B. 3 authorizes the proceeds of bonds issued by school districts for the construction and equipment of school buildings in the district and the purchase of the necessary sites for school buildings to be used to pay the costs associated with complying with school safety and security requirements for school facilities. A school district that is determined by TEA, through its monitoring of safety and security requirements, to not be in compliance with those requirements must use the bond proceeds to achieve compliance with applicable safety and security requirements before the district may use those proceeds for any other authorized purpose. These provisions apply only to a bond authorized to be issued at an election held on or after the bill's effective date.

### **School Safety Meetings**

C.S.H.B. 3 amends the Local Government Code to require the sheriff of a county with a total population of less than 350,000 in which a public school is located to call and conduct

semiannual meetings to discuss school safety, coordinated law enforcement response to school violence incidents, law enforcement agency capabilities, available resources, emergency radio interoperability, chain of command planning, and other related subjects proposed by a person in attendance at the meeting. The following are mandatory participants in such a meeting:

- the sheriff or the sheriff's designee;
- the police chief of any municipal police department in the county or the chief's designee;
- each elected constable in the county or the constable's designee;
- each police chief of a school district's police department or district security coordinator from each district in the county;
- a representative of the Department of Public Safety assigned to the county;
- a representative of each other state agency with commissioned peace officers assigned to the county;
- a person appointed to a command staff position at an emergency medical service (EMS) in the county;
- a person appointed to a command staff position at a municipal EMS in the county;
- a person appointed to a command staff position at a fire department in the county;
- the superintendent of each district in the county or the superintendent's designee; and
- any other person the sheriff deems appropriate.

The bill requires the sheriff to invite any federal law enforcement official serving in the county to attend the meeting. The bill requires the sheriff, as soon as practicable after the meeting, to submit a report to the TxSSC identifying the meeting attendees and the subjects discussed. The bill requires the TxSSC to maintain the report and make the report publicly available on the TxSSC website. The TxSSC may not make publicly available and must redact any parts of a report that it determines may expose a safety vulnerability of a district facility.

### **Multihazard Emergency Operations Plans**

C.S.H.B. 3 amends the Education Code to do the following with respect to school district and public junior college district multihazard emergency operations plans (EOPs):

- authorizes the TxSSC, in consultation with TEA, to establish additional content requirements for EOPs beyond what is currently prescribed by law;
- replaces the requirement for the TxSSC to define what constitutes prevention, mitigation, preparedness, response, and recovery in conjunction with the governor's office of homeland security and either the commissioner or the commissioner of higher education, as applicable, with a requirement for the TxSSC instead to define those terms in conjunction with all three entities;
- revises the requirement for an applicable district to submit its EOP to the TxSSC on request to further require that the district submit the EOP not later than the 30th day after the request date;
- requires the written notice provided to an applicable district regarding deficiencies in its EOP to include specific recommendations to correct the deficiencies; and
- with respect to the provision in current law regarding an applicable district that has failed to submit its EOP within six months after receiving initial notification of that failure or that has received notification of a plan's deficiencies and has not corrected them within three months, replaces the applicable process for notice under current law allowing for multiple hearing notices to instead expedite the public hearing process required of such a district upon such failures as follows:
  - if a district fails to submit its EOP following a notification by the TxSSC that the district has failed to submit the district's plan on request by the TxSSC under the bill's provisions and deadline, the TxSSC must provide the district with written notice stating that the district must hold a public hearing regarding noncompliance and stating that the commissioner is authorized to appoint a conservator under current law;
  - if one month after the date of initial notification of a plan's deficiencies containing applicable recommendations a district has not corrected the plan

deficiencies, the TxSSC must provide written notice to the district and TEA that the district has not complied with the requirements and must comply immediately; and

- if a school district still has not corrected the plan deficiencies three months after the date of initial notification, TxSSC must provide written notice to the school district stating that the district must hold the applicable public hearing.

### **Instructional Facility Building Standards**

C.S.H.B. 3 requires the TxSSC, at least once every five years, to review the building standards for instructional facilities adopted by the commissioner and make recommendations to the commissioner regarding any changes necessary to ensure that the building standards reflect best practices for student safety. The bill requires the commissioner to coordinate with municipalities and counties as necessary to align building code requirements with the recommended building standards to ensure compliance. The bill also requires the commissioner, in reviewing and amending the rules adopted to set those building standards, to identify and adopt in consultation with the TxSSC any changes recommended by the TxSSC and require that new and, to the extent feasible, existing school facilities meet or exceed the amended building standards.

### **Registry of School Safety and Security Consultants**

C.S.H.B. 3 requires a school district to confirm that a person is included in the TxSSC registry of persons providing school safety or security consulting services in Texas before the district may engage the person to provide such services to the district.

### **School District and Public Junior College District Safety and Security Audits**

C.S.H.B. 3 revises the provision requiring a school district or public junior college district, in conducting its routine safety and security audit of district facilities as required by state law, to follow procedures developed by the TxSSC or a person included in the TxSSC's registry of school safety and security consultants to the extent possible by removing the specification that the requirement applies only to the extent possible and also by requiring that the TxSSC develop its safety and security audit procedures in coordination with the commissioner or commissioner of higher education, as applicable.

### **Data Sharing**

C.S.H.B. 3 requires the TxSSC and TEA to provide school safety-related data collected by the TxSSC or TEA to each other on request.

### **Applicability of Certain Bill Provisions**

C.S.H.B. 3 provides that the following bill provisions apply beginning with the 2023-2024 school year:

- provisions regarding armed security officers, EOPs, TEA monitoring of school district safety and security requirements and actions based on noncompliance with those requirements, the registry of school safety and security consultants, and the TxSSC's instructional facilities building standards review;
- provisions exempting TEA's duty to monitor school district safety and security requirements under the bill's provisions from the general limitations placed on TEA compliance monitoring; and
- provisions making a student enrolled in a district determined by the commissioner to be noncompliant with safety and security requirements eligible to receive a public education grant or to attend a school in a district other than the district in which the student resides.

**EFFECTIVE DATE**

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2023.

**COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 3 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced required TEA to monitor the implementation and operation of school district EOPs and safety and security audits and other school district safety and security requirements, the substitute requires TEA instead to monitor district compliance with safety and security requirements, including by annually conducting on-site district audits. Accordingly, the substitute also includes provisions absent from the introduced relating to these on-site audits.

The substitute requires TEA to coordinate with the TxSSC in providing technical assistance to support the implementation of school district EOPs and safety and security audits and other district safety and security requirements, whereas the introduced required TEA to provide this technical assistance on its own.

Whereas the introduced authorized, if approved by TEA, the TxSSC to identify, develop, and make available to school districts information to assist districts in the implementation and operation of safety and security requirements, the substitute grants this authority to both TEA and the TxSSC without any TEA approval required. The substitute does not include the provision from the introduced authorizing TEA, the TxSSC, and school districts to share such information.

The substitute omits the provision included in the introduced authorizing the commissioner to take appropriate disciplinary action against a school district for the district's failure to submit to the required TEA monitoring, to comply with applicable safety and security requirements, or to address in a reasonable period issues raised by the monitoring of the district. The substitute includes provisions that instead authorize the commissioner to determine that a school district or district campus is noncompliant with applicable safety and security requirements and provides the following with respect to a noncompliant district:

- a student enrolled in the district is eligible to receive a public education grant to attend a school in a district other than the district in which the student resides;
- the district's board of trustees may not make a severance payment of any amount to the district's superintendent or administrator if terminated by the board as a result of the determination that the district was noncompliant; and
- the district is, from the date of the determination until the date the commissioner determines that the district is compliant, ineligible to receive money under any grant program administered by TEA, other than money awarded for purposes of improving school safety and security in the district.

With respect to the school safety meetings conducted by certain county sheriffs provided for under both the substitute and the introduced, the introduced provides for those meetings in an amendment to the Education Code but the substitute places the provisions in the Local Government Code and revises the introduced version's provisions as follows:

- omits the specification that the meetings are of school officials and all law enforcement in the county that could respond to a school violence incident, while retaining the list of mandatory meeting attendees;
- changes to the list of mandatory meeting attendees by:

- replacing the provision including federal law enforcement officials assigned to the applicable county among the mandatory attendees with a provision requiring the sheriff to invite all such federal officials to attend the meeting;
- specifying that the requirement for DPS personnel and county and municipal EMS and fire command staff to attend the meetings means that a single representative from DPS assigned to the county, as well as a single person appointed to a command staff position at the county EMS, a municipal EMS in the county, and a fire department in the county must attend the meeting; and
- replacing the provision requiring other state agency law enforcement officers assigned to the county aside from DPS personnel to attend the meetings with a provision requiring a representative of each other state agency, aside from DPS, with commissioned peace officers assigned to the county to attend the meetings;
- includes school safety and coordinated law enforcement response to school violence incidents as additional mandatory meeting discussion topics;
- includes a specification absent from the introduced that the sheriff must fulfill the requirement in the bill for the sheriff to submit a report to the TxSSC identifying meeting attendees and the subjects discussed as soon as practicable after the meeting; and
- includes a provision not in the introduced prohibiting the TxSSC from making publicly available, and requiring the TxSSC to redact, any parts of such a report that TxSSC determines may expose a safety vulnerability of a school district facility.

The substitute does not include the provision from the introduced requiring the TxSSC to receive TEA approval before adding a person to its registry of persons providing school safety or security consulting services to school districts. Regarding that registry, the substitute includes a provision not in the introduced that requires a school district to confirm a person is in the registry before engaging the person to provide those services to the district.

The substitute replaces the requirement in the introduced for the commissioner to work with local jurisdictions to make adopted building standards for instructional facilities part of local building codes to ensure compliance with a requirement for the commissioner to coordinate with municipalities and counties as necessary to align building code requirements with building standards recommended by the TxSSC following the regular review of the adopted standards for purposes of ensuring compliance with those standards.

Whereas the introduced included a provision requiring that any proceeds from bonds be used by school districts to come into compliance with applicable school safety standards set forth in the bill before any other money from bonds can be spent otherwise, the substitute includes provisions that instead do the following with respect to the use of bond proceeds for school safety compliance:

- authorize the proceeds of bonds issued by school districts for the construction and equipment of school buildings in the district and the purchase of the necessary sites for school buildings to be used to pay the costs associated with complying with school safety and security requirements for school facilities; and
- require a school district that is determined by TEA to not be in compliance with those requirements to use the proceeds to achieve compliance with applicable safety and security requirements before the district may use those proceeds for any other authorized purpose.

The substitute includes a provision absent from the introduced authorizing TEA to enter into a statewide contract with a vendor to provide a designated technology to each district that uses school safety allotment funds to purchase that technology if TEA, in coordination with the TxSSC, determines that entering into the contract would result in district cost savings and TEA receives requisite approval to do so.

The substitute does not include provisions from the introduced relating to school district EOPs that did the following:

- required a district's plan to provide for measures that incorporate and address the results of a safety and security audit and an intruder detection audit conducted by TEA;
- required the commissioner to establish uniform audit procedures in consultation with the TxSSC and, accordingly, removed a district's discretion to choose the safety and security audit procedures to follow in the routine audit of district facilities from among those developed by the TxSSC or a person included in the TxSSC's registry of persons providing school safety or security consulting services;
- required a district to engage with a person approved by the commissioner and included in that registry to conduct the audit unless a district employee does so;
- required the commissioner to adopt rules from proposals of the TxSSC regarding requirements for the plans and audits;
- required the commissioner to approve the definitions established by the TxSSC for "prevention," "mitigation," "preparedness," "response," and "recovery" for purposes of the plan's contents; and
- with respect to the TxSSC's random or need-based cycle for the review and verification of these plans:
  - required the review cycle to be approved by TEA;
  - required the TxSSC to share with TEA a copy of each plan and any other information requested by TEA regarding the review of the plan; and
  - included TEA in the review and approval process of the plans and prohibited a plan from being verified or approved without TEA approval.

The substitute includes provisions relating to school district and public junior college EOPs that instead do the following:

- authorize the TxSSC, in consultation with TEA, to establish additional content requirements for EOPs beyond what is currently prescribed by law;
- replace the requirement for the TxSSC to define what constitutes prevention, mitigation, preparedness, response, and recovery in conjunction with the governor's office of homeland security and the commissioner or the commissioner of higher education, as applicable, with a requirement for the TxSSC to define those terms in conjunction with all three entities;
- impose a 30-day deadline for a district to submit an EOP to the TxSSC on request; and
- expedite the provision of certain notices and certain disciplinary action against a district for noncompliance with requirements regarding the submission or correction of an EOP.

The substitute does not include a requirement present in the introduced for the commissioner to adopt rules from proposals of the TxSSC regarding requirements for school district EOPs and safety and security audits.

The substitute includes a provision absent from the introduced requiring the TxSSC and TEA to engage in data sharing regarding school safety-related data.