

BILL ANALYSIS

C.S.H.B. 8
By: VanDeaver
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Commission on Community College Finance (TxCCCF), which was created by the 87th Legislature, was tasked with making recommendations for consideration by the legislature for establishing a state funding formula and funding levels that support public junior college education and workforce training. Given that 60 percent of jobs in Texas over the next decade are projected to require an associate degree, certificate, or other credential, the TxCCCF recommends, among other things, changing the funding structure for public junior colleges to focus on student outcomes and enhance the role of public junior colleges in workforce training and preparation. The recommendations provide for the funding of small colleges and students who are economically or academically disadvantaged, as well as Texans who have earned some college credit hours. The TxCCCF also recommends that the state support credential programs for high-demand fields that meet regional and state workforce needs. C.S.H.B. 8 seeks to implement the recommendations of the TxCCCF by establishing a public junior college state finance program that ensures community colleges across Texas can access foundational levels of funding for instruction and operations and by providing for the establishment of a program to provide financial aid to certain high school students enrolled in dual credit courses.

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 Texas Higher Education Coordinating Board in SECTIONS 2, 15, 16, 26, and 29 of this bill and to the commissioner of education in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 8 amends the Education Code to revise the funding system for public junior college districts through the establishment of the public junior college state finance program and to provide for the establishment of the financial aid for swift transfer (FAST) program for students to enroll in dual credit courses at no cost to the student.

Public Junior College State Finance Program

General Provisions

C.S.H.B. 8 establishes the public junior college state finance program to provide a modern and dynamic finance system that ensures that each public junior college has access to adequate state appropriations and local resources to support the education and training of the workforce of the

future. The bill sets out certain legislative intent and establishes the following components of the program:

- a base tier of state and local funding that ensures each public junior college has access to a defined level of base funding for instruction and operations; and
- a performance tier of state funding that constitutes the majority of state funding and is distributed based on measurable outcomes aligned with regional and state workforce needs and state goals aligned to the state's long-range master plan for higher education.

C.S.H.B. 8 authorizes the Texas Higher Education Coordinating Board (THECB) to do the following as necessary to implement and administer the program:

- establish a standing advisory committee regarding the funding of junior colleges;
- adopt rules in consultation with the advisory committee;
- require reporting by rule; and
- take other actions consistent with the Higher Education Coordinating Act of 1965, statutory provisions relating to junior college districts, and the bill's provisions.

The bill provides for the reporting by each junior college district of certain data necessary to calculate funding, inform the district's management decisions, administer or evaluate the program's effectiveness, or audit the program. The bill authorizes a district to report a student in attendance on the district's approved course census date for the purpose of program funding. The bill establishes that the THECB is not required to use negotiated rulemaking procedures in adopting rules relating to the implementation and administration of the program or to workforce continuing education. The bill authorizes the THECB to identify rules relating to the program that must be adopted on an emergency basis for purposes of the 2024 state fiscal year. The bill authorizes the THECB to use emergency rulemaking procedures and expressly does not require the THECB to make certain findings as a condition to using those procedures.

C.S.H.B. 8 provides for the allocation of state money for public junior colleges in accordance with the program and requires a junior college to certify to the THECB, in the manner prescribed by THECB rule, that the college has met the requisite conditions to be eligible for such appropriation. The bill requires the commissioner of higher education to file with the comptroller of public accounts and the state auditor, on or before September 1 of each year, a list of each junior college that has certified to the THECB its compliance with state appropriation requirements. The bill changes a component of the purpose of a public junior college from providing freshman and sophomore courses in arts and sciences to providing courses in the core curriculum or a field of study curriculum.

C.S.H.B. 8 provides for the following with regard to the recovery from a junior college district of any overallocation of funds:

- requires the THECB to recover the funds by either withholding an equal amount from subsequent allocations of state funds for the current or subsequent academic year or by requesting and obtaining a refund from the district;
- caps at five academic years the period over which the THECB may recover an overallocation of funds under specified circumstances;
- requires the THECB, if a district fails to comply with a refund request, to report to the comptroller that the amount constitutes a debt and to provide to the comptroller certain information relating to the overallocation;
- authorizes the comptroller to certify the amount of the debt to the attorney general for collection and establishes that the district's governmental immunity is waived to the extent necessary to collect the debt owed;
- authorizes the THECB to review a district as necessary to determine if the district qualifies for each amount received by the district under the program;
- if the THECB determines that a district received an amount to which the district was not entitled, the THECB may establish a corrective action plan or withhold the applicable amount of funding from the district; and
- prohibits the THECB from reviewing district expenditures that occurred seven or more years before the review.

C.S.H.B. 8 removes provisions relating to appropriations to junior colleges by eligibility category and requires the THECB instead, by rule and in consultation with the advisory committee, to adopt a payment schedule for the distribution of appropriated money to junior college districts. The bill provides for the modification of the payment schedule as necessary.

State Funding: Base Tier

C.S.H.B. 8 sets the amount of base tier state funding to which a junior college district is entitled under the public junior college state finance program for instruction and operations for a state fiscal year to be equal to the amount, if any, by which the district's guaranteed instruction and operation funding exceeds the district's local share of base tier funding. The bill sets a district's local share of base tier funding at an amount equal to the sum of the amounts of revenue estimated to be generated by the following:

- imposing a maintenance and operations tax in the district at a rate of \$0.05; and
- assessing an amount of tuition and fees to each full-time equivalent student enrolled in the district equal to the statewide average amount of tuition and fees assessed by junior college districts to a full-time equivalent student, determined as provided by THECB rule.

C.S.H.B. 8 establishes that the amount of guaranteed instruction and operations funding is equal to the sum of the following:

- the product of the district's basic allotment and the number of weighted full-time equivalent students enrolled at the district; and
- the district's contact hour funding.

The bill sets the basic allotment for a district for a state fiscal year at an amount per weighted full-time equivalent student set by legislative appropriation and sets the number of weighted full-time equivalent students to be equal to the sum of the number of full-time equivalent students enrolled in the district and the sum of the weights assigned to enrolled students.

C.S.H.B. 8 requires the legislature to set by appropriation the amount of funding to be provided to a junior college district per contact hour under the program, weighted by discipline to reflect the cost of providing the applicable course. The bill requires the THECB to determine the total amount of contact hour funding to which a district is entitled under the program and to establish by rule the following:

- student weights that reflect the higher cost of educating certain students and in a manner that results in appropriate funding to a district for the education of a student enrolled in an eligible credit or non-credit program who is 25 years of age or older or who is economically or academically disadvantaged, as those terms are defined by THECB rule; and
- an equitable adjustment to the number of weighted full-time equivalent students for each district with a total enrollment of fewer than 5,000 full-time equivalent students.

The bill requires a district that receives such an equitable adjustment, not later than November 1 of each even-numbered year, to submit to the commissioner of higher education a report on the district's participation in partnerships and shared services to reduce costs and improve operational efficiency.

State Funding: Performance Tier

C.S.H.B. 8 entitles a junior college district to performance tier funding for a state fiscal biennium in an amount equal to the sum of the prescribed amounts for each of the following measurable outcomes:

- the number of credentials of value awarded, as determined by the THECB based on analyses of wages and costs associated with the credential, with an additional weight for placement of students who earn that credential in a high-demand occupation, as defined

by THECB rule, or an appropriate proxy determined by the THECB based on available data;

- the number of students who earn at least 15 semester credit hours or the equivalent at the district and subsequently transfer to a general academic teaching institution or are enrolled in a structured co-enrollment program, as defined by THECB rule; and
- the number of students who complete a sequence of at least 15 semester credit hours or the equivalent for dual credit courses that apply toward academic or workforce program requirements at the postsecondary level.

The bill sets the amount of performance tier funding for each measurable outcome to be equal to the product of the following:

- the sum of the following:
 - the number of times that outcome was achieved by the district, determined as provided by THECB rule; and
 - the applicable student weights established by THECB rule for the students who earned a credential of value or met the credit hour requirement and transferred to a general academic teaching institution or enrolled in a structured co-enrollment program, determined as provided by THECB rule; and
- the amount set by legislative appropriation for the outcome.

C.S.H.B. 8 authorizes the commissioner of higher education to do the following:

- review the accuracy of data reported to the THECB by junior college districts;
- adjust the distribution of funding under the program for a state fiscal year as necessary to correct errors in data reporting identified through the commissioner's review; and
- adjust a district's funding under the program if the funding formulas used to determine the district's entitlement would result in an unanticipated loss or gain for the district that would have a substantial negative impact on the district's operations.

The bill requires the commissioner to request and receive written approval from the Legislative Budget Board (LBB) and the office of the governor before making such an adjustment. The bill establishes that a request to make an adjustment is considered approved unless either entity issues a written disapproval within 60 business days after the date on which the request is received. The bill requires the commissioner to provide to the legislature an explanation regarding the changes necessary to resolve the data reporting errors or the unintended consequences, as applicable.

C.S.H.B. 8 authorizes the THECB to do the following:

- provide administrative support and services to public institutions of higher education as necessary for the proper administration of the Higher Education Coordinating Act of 1965, the public junior college state finance program, and statutory provisions relating to junior college districts;
- establish an institutional collaboration center within the THECB to support the implementation of the program and the efficient and effective operations of institutions of higher education;
- from money appropriated or otherwise available for the purpose, procure goods and services for the direct benefit of an institution of higher education and enter into an interagency contract with the institution to reimburse the THECB for the cost of the goods and services; and
- participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise money for or provide services or other benefits to the THECB.

The bill provides for the authority of such a nonprofit organization to solicit and accept gifts, grants, or donations to implement or administer the bill's provisions or pay for goods or services procured for the direct benefit of an institution of higher education, as applicable.

The bill's provisions apply to the allocation of state funding to junior college districts beginning with the 2024-2025 state fiscal biennium.

Financial Aid for Swift Transfer (FAST) Program

C.S.H.B. 8 requires the Texas Education Agency (TEA) and the THECB to jointly establish the financial aid for swift transfer (FAST) program to allow eligible students to enroll at no cost to the student in dual credit courses at participating public institutions of higher education. The bill requires a student to meet the following criteria to be eligible under the program:

- be enrolled in a high school in a public school district or open-enrollment charter school and in a dual credit course, as defined by the bill, at a participating institution of higher education; and
- have been educationally disadvantaged at any time during the four school years preceding the student's enrollment in the dual credit course.

The bill caps the tuition charged by an institution of higher education for a dual credit course at the amount prescribed by THECB rule as a condition for an institution's eligibility to participate in the program.

C.S.H.B. 8 entitles an institution of higher education participating in the FAST program to an allotment in an amount equal to the amount of tuition set by THECB rule for each dual credit course in which an eligible student is enrolled. The bill provides for the transfer of money from TEA to the THECB for distribution to participating institutions in proportion to the number of dual credit courses in which eligible students are enrolled at the institution. The bill establishes that it is the intent of the legislature that the state ensure ongoing funding for the FAST program as an allotment under the foundation school program. The bill requires TEA and the THECB to coordinate as necessary to implement provisions relating to the allotment for the FAST program.

C.S.H.B. 8 requires each public school district or open-enrollment charter school to determine whether a student meets the program criteria on the student's enrollment in a dual credit course and to notify the applicable institution of higher education of that determination. The bill authorizes a district or school to make such a determination based on the district's or school's records, TEA records, or any other method authorized by commissioner of education rule and provides for related reporting. The bill requires a participating institution of higher education, on receipt of a notice of determination by the district or charter school, to certify to TEA and the THECB the student's eligibility for the program. The bill requires the commissioner of education and the commissioner of higher education to coordinate as necessary to confirm an eligible student's enrollment in a participating institution of higher education and obtain or share data necessary to verify a student's eligibility. The bill requires any agreement between a school district and institution of higher education to provide a dual credit program to ensure the accurate and timely exchange of information necessary for an eligible student to enroll at no cost to the student in a dual credit course under the program. The bill requires a district to notify the parent of each student enrolled in grade nine or above of the availability of funding under the program and the qualifications for receiving a such funding.

C.S.H.B. 8 defines "dual credit course" for purposes of the program as including a course offered for joint high school and junior college credit or another course offered by an institution of higher education for which a high school student may earn credit toward satisfaction of the following:

- a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree;
- a foreign language requirement at an institution;
- a requirement in the core curriculum at an institution; or
- a requirement in a field of study curriculum developed by the THECB.

C.S.H.B. 8 requires the commissioner of education and the THECB to adopt rules as necessary to implement the FAST program and sets the effective date of the program to be on the passage of the bill, or, if the bill does not receive the necessary vote, September 1, 2023. The bill's provisions relating to the FAST program apply beginning with the 2023-2024 school year.

Miscellaneous and Repealed Provisions

C.S.H.B. 8 revises the powers and duties of the THECB regarding higher education appropriations as follows:

- replaces a requirement for the chancellor of a university system or the president of an institution of higher education that is not a component of a university system to recommend to the commissioner of higher education at least one representative for each institutional grouping to which a system component or the institution is assigned, as applicable, with an authorization to do so; and
- requires the THECB to exclude contact hours or semester credit hours related to a course for which a student is generating formula funding for the third time from such hours reported to the LBB for formula funding purposes.

The bill establishes that semester credit hours earned by a student before receiving an associate degree that has been previously awarded to the student are not counted for purposes of excluding funding for those hours in applicable funding formulas.

C.S.H.B. 8 prohibits an institution of higher education from counting toward the number of courses permitted to be dropped a course that a student dropped while enrolled in a baccalaureate degree program previously earned by the student or a dual credit course that a student dropped before graduating from high school.

C.S.H.B. 8 authorizes the THECB, in awarding grants under the Texas Reskilling and Upskilling through Education (TRUE) program, to give preference to applicants that partner with employers to analyze job postings and identify employers hiring roles with the skills developed by the workforce training programs created, redesigned, or expanded under the TRUE program.

C.S.H.B. 8 expands the authority of a public junior college district's board of trustees to change the name of the district or a college within the district by removing the restriction that the board may do so only by eliminating the words "community" or "junior" from the name.

C.S.H.B. 8 repeals the following provisions:

- provisions relating to recommendations for the student success-based funding of institutions of higher education;
- the requirement for the THECB to incorporate the consideration of the achievement or development of postsecondary industry certifications and other workforce credentials in devising related funding formulas and making recommendations to the legislature; and
- the restriction on the junior colleges eligible to receive any legislative appropriation to junior colleges that have been certified by the commissioner of higher education.

C.S.H.B. 8 repeals the following provisions of the Education Code:

- Section 61.0593;
- Section 61.884(d); and
- Section 130.003(d).

EFFECTIVE DATE

Except as otherwise provided, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 8 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.

Public Junior College State Finance Program

Whereas the introduced established as a component of the program a base tier of state and local funding that ensures each public junior college has access to a consistent level of base funding for instruction and operations, the substitute establishes as such a component a base tier of state and local funding that ensures each public junior college has access to a defined level of base funding for instruction and operations.

The substitute includes a provision absent from the introduced authorizing the THECB to establish a standing advisory committee. Whereas the introduced authorized the THECB to adopt rules relating to the administration of the program in consultation with public junior colleges, the substitute authorizes the THECB to adopt those rules in consultation with the advisory committee.

The introduced version required the THECB to require each junior college district to report through certain programs data necessary to achieve certain outcomes. The substitute includes among those outcomes an audit of the finance program, which was not present in the introduced. The substitute also includes the report of fundable operating expenses among those programs, whereas the introduced did not.

The substitute omits a specification present in the introduced that the reported data the accuracy of which the commissioner of higher education may review is contact hour and semester credit hour data.

Whereas the introduced required the THECB to certify to the comptroller regarding an overallocated amount constituting a debt, the substitute requires THECB instead to report that amount.

Whereas the introduced authorized the THECB to solicit and accept certain gifts, grants, or donations to implement or administer the program or to pay for certain goods and services, as applicable, the substitute authorizes a certain affiliated nonprofit organization to accept those gifts, grants, and donations for those purposes. The substitute includes an authorization absent in the introduced for the THECB to participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise money for or provide services or other benefits to the THECB.

Whereas the introduced required the THECB to establish by rule an equitable adjustment to the basic allotment for each district with a total enrollment of fewer than 5,000 full-time equivalent students, the substitute requires the THECB to establish by rule an equitable adjustment to the number of weighted full-time equivalent students for each district with such an enrollment.

Whereas the introduced calculated the number of weighted full-time equivalent students enrolled at a district using the product of the number of full-time equivalent students enrolled in the district and the sum of the weights assigned to the students enrolled in the district, the substitute calculates that number by using the sum of those figures.

Whereas the introduced required the THECB by rule to establish the amount of contact hour funding to be provided to a district under the program, the substitute requires the legislature to set that amount by appropriation. The substitute includes a requirement absent from the introduced for the THECB to determine the total amount of contact hour funding to which each district is entitled under the program.

The substitute includes language absent from the introduced specifying that the amount of tuition and fees assessed to an enrolled student for purposes of calculating a district's local share of base tier funding is an amount of tuition and fees assessed to each full-time equivalent enrolled student. The substitute omits an authorization present in the introduced for the commissioner of higher education by rule to provide that a district that imposes a maintenance

and operations tax at a rate less than \$0.05 may substitute the amount of the revenue generated by the district at that tax rate for the amount of revenue that would be generated by imposing such a tax in the district at that rate.

The substitute revises provisions in the introduced establishing the amount of performance tier funding to which a district is entitled under the program and provisions establishing the measurable outcomes considered for purposes of that funding. The substitute includes as a measurable outcome that was absent in the introduced the number of certain students enrolled in a structured co-enrollment program.

The substitute omits a provision from the introduced requiring the THECB, in carrying out duties in regard to formulas used for appropriations recommendations for junior colleges, to ensure that the formulas are devised in accordance with the program.

Financial Aid for Swift Transfer (FAST) Program

Whereas the introduced established the advanced career and education (ACE) scholarship program to award scholarships to eligible students enrolled in dual credit courses at participating institutions of higher education, the substitute instead establishes the FAST program to allow eligible students to enroll in such courses at no cost to the student. Whereas the introduced made only students enrolled in high school in a school district eligible for the program, the substitute also makes students enrolled in a charter school among those eligible for the program.

The substitute revises the definition of "dual credit course" that appeared in the introduced and includes a definition for "charter school," which was absent from the introduced.

The substitute omits a provision present in the introduced setting the amount of a scholarship under the ACE program. The substitute includes a provision absent from the introduced providing for an allotment under the FAST program to an institution and for the related transfer of appropriated money from TEA to the THECB for distribution.

Whereas the introduced required TEA to transfer from money appropriated for the foundation school program an amount equal to the total amount of scholarships for which students are eligible to the THECB for distribution to the participating institutions in proportion to the number of eligible students enrolled in a dual credit course at the institution, the substitute requires the THECB to distribute money transferred to the THECB for the program to the participating institutions in proportion to the number of dual credit courses in which eligible students are enrolled.

Miscellaneous and Repealed Provisions

With regard to the revision of a public junior college's eligibility for state appropriations, the introduced required the commissioner of higher education to file with the comptroller a list of each junior college that has certified to the THECB that the college is in compliance with certain appropriation requirements. The substitute requires the commissioner to also file the list with the state auditor.

The substitute includes provisions absent from the introduced that do the following:

- prohibit an institution of higher education from counting toward the number of courses permitted to be dropped a course that a student dropped while enrolled in a baccalaureate degree program previously earned by the student or a dual credit course that a student dropped before graduating from high school;
- replace a requirement for the chancellor of a university system or the president of an institution of higher education that is not a component of a university system to recommend to the commissioner of higher education at least one representative for each

institutional grouping to which a system component or the institution is assigned, as applicable, with an authorization to do so;

- requires the THECB to exclude contact hours or semester credit hours related to a course for which a student is generating formula funding for the third time from such hours reported to the LBB for formula funding purposes.
- establish that semester credit hours earned by a student before receiving an associate degree that has been previously awarded to the student are not counted for purposes of excluding funding for those hours in applicable funding formulas;
- authorize the THECB, in awarding grants under the TRUE program, to give preference to applicants that partner with employers to analyze job postings and identify employers hiring roles with certain skills;
- remove provisions relating to appropriations to junior colleges by eligibility category and require the THECB instead, by rule and in consultation with the advisory committee, to adopt a payment schedule for the appropriation of money to junior college districts; and
- provide for the modification of that payment schedule as necessary.

The substitute includes a repeal absent from the introduced of the requirement for the THECB to incorporate the consideration of the achievement or development of postsecondary industry certifications and other workforce credentials in devising related funding formulas and making recommendations to the legislature.