

BILL ANALYSIS

C.S.H.B. 100
By: King, Ken
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

School districts in House District 88 have raised concerns over the funding of public schools based on average daily attendance (ADA) rather than enrollment and have also expressed that they would like to see increased funding to school districts. Additionally, teachers in House District 88 shared concerns about the need to increase the minimum salary for teachers. C.S.H.B. 100 seeks to address these concerns by increasing public education funding, including through enrollment-based funding under the foundation school program and increasing and restructuring the minimum salary schedule for specified employees. The bill also provides for an increase to the basic allotment, the establishment of a rural pathway excellence partnership program, the establishment of a fine arts allotment, and the incorporation of recommendations from the special education finance commission to revise the funding mechanism relating to students receiving special education services.

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 1.02, 1.12, 1.16, 1.20, 1.22, 2.03, 2.13, and 2.14 of this bill.

ANALYSIS

C.S.H.B. 100 amends the Education Code to revise certain provisions relating to employee compensation, including a revised minimum salary schedule for certain public school district employees, and relating to the public school finance system, including the following:

- enrollment-based funding under the foundation school program;
- a rural pathway excellence partnership (R-PEP) program;
- the establishment of several allotments under the foundation school program; and
- revisions of the funding mechanism relating to students receiving special education services.

Article 1. Changes Effective for the 2023-2024 School Year

Employee Compensation

C.S.H.B. 100 changes the minimum salary schedule for a public school district employee who is employed as a classroom teacher, full-time librarian, full-time certified school counselor, or full-time school nurse by replacing the current formula determining a minimum monthly salary using salary factors per step with a schedule for the highest annual minimum salary based on an employee's years of experience and applicable certification, if any, as follows:

- for an employee with less than five years of experience who holds:

- no certification, \$35,000;
- a teacher intern, teacher trainee, or probationary certificate, \$37,000;
- the base certificate required for employment in the employee's position other than the intern, trainee, or probationary certificate, \$40,000; or
- a designation under a local optional teacher designation system, \$43,000;
- for an employee with at least five years of experience who holds:
 - no certification, \$45,000;
 - a teacher intern, teacher trainee, or probationary certificate, \$47,000;
 - the base certificate required for employment in the employee's position other than the intern, trainee, or probationary certificate, \$50,000; or
 - a designation under a local optional teacher designation system, \$53,000; or
- for an employee with at least 10 years of experience who holds:
 - no certification, \$55,000;
 - a teacher intern, teacher trainee, or probationary certificate, \$57,000;
 - the base certificate required for employment in the employee's position, \$60,000; or
 - a designation under a local optional teacher designation system, \$63,000.

The bill sets out another schedule with the same experience requirements, certificate requirements, and highest annual salary minimums but which takes effect only if H.B. 11, 88th Legislature, Regular Session, 2023, or another act of the legislature establishing a residency partnership program and authorizing the issuance of a residency educator certificate becomes law. Under this latter schedule contemplating such a program, the highest annual minimum salary for an applicable employee with less than five years of experience who holds such a residency educator certificate or has successfully completed a residency partnership program is \$43,000. The bill provides the following with respect to the schedule, regardless of which version takes effect:

- a full-time school nurse is considered to hold the base educator certificate for purposes of the schedule; and
- a district is not required to pay an employee who is employed as a classroom teacher, full-time librarian, full-time certified school counselor, or full-time school nurse the required minimum salary for the school year following a school year during which the district reviews the employee's performance and finds the employee's performance unsatisfactory.

In addition to setting out the foregoing provisions and making the applicable revisions to the minimum salary schedule, the bill accordingly repeals the related statutory provisions that do the following:

- set a deadline for the commissioner of education's determination of the basic allotment and resulting monthly salaries;
- specify the salary factors per step;
- establish the minimum monthly salary schedule by years of experience and corresponding salary minimums; and
- provide a safe harbor for the amount of the gross monthly salary for certain teachers or librarians who received a career ladder supplement on August 31, 1993, conditioned on continuing employment by the same district.

However, the bill retains the statutory provision that currently specifies that, if the minimum monthly salary for a particular level of experience is less than the minimum monthly salary for that level of experience in the preceding year, the minimum monthly salary is the minimum monthly salary for the preceding year. Moreover, the bill revises the commissioner's rulemaking authority under current law, with respect to credit for experience when placing a teacher, librarian, counselor, or nurse on the minimum salary schedule, to make that rulemaking authority applicable instead to credit for experience for purposes of the minimum salary schedule as revised under the bill's provisions.

Salary Transition Provisions

C.S.H.B. 100, in salary transition provisions set to expire September 1, 2025, requires a district to use at least 50 percent of the difference between the following amounts to increase the average total compensation per district employee employed as a classroom teacher, full-time librarian, full-time certified school counselor, or full-time school nurse:

- the amount the district would have paid under employer contributions based on compensation above the statutory minimum to the Teacher Retirement System of Texas, based on the salaries paid under the minimum salary schedule as it existed on January 1, 2023; and
- the amount the district pays under such contributions, based on the salaries paid under the minimum salary schedule as it exists after September 1, 2023.

In calculating average total compensation per district employee, a district may not include compensation paid to a classroom teacher, full-time librarian, full-time certified school counselor, or full-time school nurse in a position added by the district for the current school year that increases the ratio of those employees to enrolled students as compared to the ratio of those employees to enrolled students for the preceding year.

C.S.H.B. 100 establishes the following:

- effective September 1, 2023, a district that increases applicable employee compensation in the 2023-2024 school year to comply with the bill's minimum salary schedule is providing compensation for services rendered independently of an existing employment contract applicable to that year and is not in violation of the constitutional prohibition on the payment of extra compensation or unauthorized claims;
- effective September 1, 2023, a district that does not meet the bill's requirements for the minimum salary schedule may satisfy the requirements by providing an applicable employee a one-time bonus payment during the 2024-2025 school year in an amount equal to the difference between:
 - the compensation earned by the employee during the 2023-2024 school year; and
 - the compensation the employee should have received during that school year if the district had complied with the bill's requirements; and
- a district that increases the amount a classroom teacher, full-time librarian, full-time certified school counselor, or full-time school nurse is compensated during the 2023-2024 school year by at least \$8,000 more than the amount the employee was compensated during the 2022-2023 school year complies with the bill's requirements for the 2023-2024 school year.

Rural Pathway Excellence Partnership (R-PEP) Program

C.S.H.B. 100, effective September 1, 2023, requires the commissioner to establish the rural pathway excellence partnership program to incentivize and support multidistrict, cross-sector, rural college and career pathway partnerships that expand opportunities for underserved students to succeed in school and life while promoting economic development in rural areas. Such a program must enable an eligible district that lacks an economy of scale, as determined by commissioner rule, to partner with at least one other district to offer a broader array of robust college and career pathways. The bill requires each partnership to offer college and career pathways that align with regional labor market projections for high-wage, high-demand careers. The partnership must be managed by a coordinating entity that, as follows:

- has or will have at the time students are served under the partnership the capacity to effectively coordinate the partnership;
- has entered into a performance agreement approved by the board of trustees of each partnering district that confers to the entity specified authority with respect to the partnership;
- is eligible to be awarded a charter to operate an open-enrollment charter school;
- has been granted such a charter by each partnering district; and
- has on the entity's governing board as either voting or ex officio members representatives of each partnering school district and members of regional higher education and workforce organizations.

C.S.H.B. 100 requires the performance agreement to, as follows:

- include ambitious and measurable performance goals and progress measures tied to current college, career, and military readiness outcomes and longitudinal postsecondary completion and employment-related outcomes;
- allocate responsibilities for accessing and managing progress and outcome information and annually publishing that information on the website of each partnering district and the coordinating entity;
- authorize the coordinating entity to optimize the value of each college and career pathway offered through the partnership by determining scheduling, adding or removing a pathway, hiring of pathway-specific personnel, setting pathway-specific budgets, and other matters critical to the efficacy of the pathways; and
- provide that any eligible student residing in a partnering school district may participate in a college or career pathway offered through the partnership.

A district proposing to enter into such an agreement must notify the commissioner of such intent through procedures established by the commissioner. The bill provides that, as follows:

- the commissioner must establish procedures for a district to notify the commissioner, including the period within which notification is required before the school year in which the proposed agreement would take effect, and to provide any additional information required by the commissioner;
- the commissioner must notify the district whether the proposed agreement is approved or denied not later than the 60th day after the date the commissioner receives the notification and all other required information; and
- the proposed agreement is considered approved if the commissioner fails to notify the district within the prescribed period.

C.S.H.B. 100 requires the commissioner, from money appropriated for such purpose, to establish a grant program to assist in the planning and implementation of a partnership under the R-PEP program and restricts the authorized recipients of such a grant to a coordinating entity that has entered into an approved performance agreement. The commissioner may use not more than 15 percent of the money appropriated for the grant program to cover the cost of administering the program and to provide technical assistance and support to partnerships under the program.

C.S.H.B. 100 establishes that an employee of a coordinating entity that manages a partnership is eligible for membership in and benefits from the Teacher Retirement System of Texas if the employee would be eligible for membership and benefits by holding the same position at a partnering school district. A student enrolled in a college or career pathway offered through a partnership under the program is not considered, for accountability purposes, to have dropped out of high school or failed to complete the graduation curriculum requirements until the sixth anniversary of the student's first day in high school.

C.S.H.B. 100 requires the commissioner to adopt rules as necessary to implement the R-PEP program, including rules establishing the following:

- requirements for a coordinating entity and a performance agreement with the entity;
- the period for which a partnership under the program may operate after commissioner approval before renewal of commissioner approval is required; and
- standards for renewal of commissioner approval for a partnership under the program.

The bill's provisions expressly do not prohibit an agreement between a district and another entity for the provision of services at a district campus. The commissioner may accept gifts, grants, and donations from any source, including private and nonprofit organizations, for the program. A private or nonprofit organization that contributes to the program may receive an Employers for Education Excellence Award.

Rural Pathway Excellence Partnership (R-PEP) Allotment and Outcomes Bonus

C.S.H.B. 100, effective September 1, 2023, entitles a district, for each full-time equivalent student in average daily attendance in grades 9 through 12 in a college or career pathway offered through a partnership under the R-PEP program, to an allotment equal to the basic allotment or, if applicable, the sum of the basic allotment and the small and mid-sized district allotment, multiplied by the following funding weight:

- 1.15, if the student is educationally disadvantaged; or
- 1.11, if the student is not educationally disadvantaged.

C.S.H.B. 100 entitles a district to an outcomes bonus under the R-PEP program determined by the commissioner. Accordingly, the bill establishes the following:

- each year, the commissioner must determine for each school district the minimum number of annual graduates of a college or career pathway in each cohort who would have to demonstrate college, career, or military readiness, as determined by commissioner rule, in order for the district to qualify for an outcomes bonus; and
- in addition to the R-PEP allotment, for each annual graduate in such a cohort who demonstrates such readiness, as determined by commissioner rule, in excess of the minimum number of students determined for the applicable district cohort, a school district is entitled to an annual outcomes bonus in the following amounts:
 - if the annual graduate is educationally disadvantaged, \$2,000;
 - if the annual graduate is not educationally disadvantaged, \$1,000; and
 - if the annual graduate is enrolled in a special education program, \$2,000, regardless of whether the annual graduate is educationally disadvantaged.

A district is entitled to an outcomes bonus for each category of annual graduates for which the graduate qualifies, and a district may receive funding for a student under the allotment or outcomes bonus and any other provisions for which the student qualifies.

Districts Enlarged by Annexation of Academically Unacceptable School Districts

C.S.H.B. 100, effective September 1, 2023, requires the commissioner, from funds appropriated for purposes of the foundation school program, to provide funding for five years beginning with the school year in which the annexation occurs for applicable districts to which the commissioner by order has annexed an academically unacceptable district and for which the enumerated formula in current law determines additional funding as an option to incentive aid payments. The commissioner's determination under this requirement is final and may not be appealed. The bill entitles the enlarged district to such funding for an annexation that occurs on or after June 1, 2013. Furthermore, in provisions set to expire September 1, 2027, the bill provides, as follows:

- for each enlarged district entitled to such funding that, as of September 1, 2023, has not received the full amount of funding to which the district would have been entitled if the bill's provisions had been in effect since June 1, 2013, the commissioner must do the following:
 - determine the difference between the amount of funding to which the district would have been entitled and the amount of funding the district has received; and
 - provide the determined amount to the district in the form of a lump sum or equal annual installments over a period not to exceed three years;
- the commissioner, in addition to such funding, may allocate money to the district from funds appropriated for the purposes of the foundation school program to pay for facilities improvements the commissioner determines necessary as a result of the annexation; and
- each district that receives such funding for any year must submit to the commissioner a report on the district's use of the funding for that year.

C.S.H.B. 100, effective September 1, 2023, provides that such funding may offset the amount by which a district subject to recapture must reduce revenue, if applicable.

Support of Students Enrolled in Texas School for the Blind and Visually Impaired (TSBVI) or Texas School for the Deaf (TSD)

C.S.H.B. 100, effective September 1, 2023, requires the commissioner, with respect to a district that is responsible for providing appropriate special education services to a student enrolled in TSBVI or TSD and sharing the cost of the student's education, to reduce the dollar amount of maintenance and debt service taxes imposed by the district for a year by the amount, if any, by which the district, if applicable, must reduce revenue in excess of entitlement for that year.

District Tax Rate

C.S.H.B. 100 amends the Tax Code, effective September 1, 2023, to increase from \$0.05 to \$0.06 per \$100 of taxable value the rate used as a component, if applicable, in calculating the voter-approval tax rate of a district.

Basic Allotment; Calculating Average Total Compensation

C.S.H.B. 100 amends the Education Code, effective September 1, 2023, to revise the basic allotment as follows:

- removes the \$6,160 maximum amount of the allotment; and
- sets the base amount used to calculate the allotment at the greater of \$6,250, an amount equal to the district's base amount for the preceding school year, or the amount provided by appropriation.

The bill revises the provision specifying the method of calculating basic allotment amounts that must be used to provide compensation increases to full-time district employees other than administrators. The revised provision specifies the following:

- the calculated amounts must be used instead to increase the average total compensation per employee employed by the district as a classroom teacher, full-time librarian, full-time certified school counselor, and full-time school nurse;
- if, during any school year for which the basic allotment, or the sum of the basic allotment and the small and mid-sized district allotment, if applicable, is greater than the basic allotment, or the sum of the allotments, if applicable, for the preceding school year, the district must use at least 50 percent of the amount that equals the product of the district's average daily attendance and the amount of the difference between the district's funding under the foundation school program per student in average daily attendance for the current school year and the preceding school year to increase that average;
- in calculating average total compensation per employee under the revised provision, a school district may not consider compensation paid to a district employee employed in an applicable position added by the district for the current school year that increases the ratio of those employees to the students enrolled in the district compared to the preceding school year;
- if a district increases employee compensation in a school year to comply with the revised provision, the district is providing compensation for services rendered independently of an existing employment contract applicable to that year and is not in violation of the constitutional prohibition on the payment of extra compensation or unauthorized claims; and
- a district that does not meet the requirements of the revised provision during a school year may satisfy the requirements by providing an employee a one-time bonus payment during the following school year in an amount equal to the difference between the compensation earned by the employee and the compensation the employee should have received during the school year if the district had so complied.

Open-Enrollment Charter School Funding

C.S.H.B. 100, effective September 1, 2023, revises the formula for the allotment which a charter holder is entitled to receive for the open-enrollment charter school, in addition to funding under

the foundation school program, per student in average daily attendance such that the amount is equal to the difference between the following:

- certain calculations, as specified under current law, based on the total amount of funding provided to certain districts under the small and mid-sized district allotment and the applicable total number of students in average daily attendance; and
- \$500, rather than \$125 as is required under current law.

Enrollment-Based Funding for Certain Allotments Under the Foundation School Program

C.S.H.B. 100, effective September 1, 2023, requires the commissioner by rule to establish the method for determining average enrollment for purposes of funding provided based on such enrollment under the foundation school program, as specified by the bill, and under statutory provisions relating to the instructional facilities allotment.

Special Education Full Individual and Initial Evaluation

C.S.H.B. 100, effective September 1, 2023, establishes a special education full individual and initial evaluation allotment of \$500, or a greater amount provided by appropriation, for each student for whom a district conducts a full individual and initial evaluation under either state or federal law.

Fast Growth Allotment

C.S.H.B. 100 removes, effective September 1, 2023, the exception to a district's entitlement to the fast growth allotment. It also repeals, either immediately if the bill receives the necessary vote or on September 1, 2023, the following:

- the provisions that cap the total allotments that can be made to fast growth districts for a school year at \$320 million and that require a proportionate reduction for each district by the commissioner if the amount of allotments to which districts are otherwise entitled for a school year exceeds that cap; and
- the \$315 million cap for the 2023-2024 school year that is otherwise set to expire September 1, 2025.

Transportation Allotment

C.S.H.B. 100, effective September 1, 2023, revises the transportation allotment, which is currently set on a per mile per regular eligible student basis by legislative appropriation, to specify that each district or county operating a regular transportation system is entitled to an allotment based on a rate of \$1.54 per mile per regular eligible student or a greater rate set by the legislature. The bill sets the state allocation for a district or county that provides special transportation services for eligible special education students, also currently set by legislative appropriation, at a rate of \$1.28 per mile or a greater amount provided by appropriation.

Fine Arts Allotment

C.S.H.B. 100, effective September 1, 2023, establishes a fine arts allotment for each student in average daily attendance enrolled in a fine arts education course approved by the Texas Education Agency (TEA) in grades 6 through 12. For each such student, a district is entitled to an annual allotment equal to the basic allotment, or, if applicable, the sum of the basic allotment and the small and mid-sized district allotment to which the district is entitled, multiplied by .008. The bill requires TEA to approve fine arts education courses that qualify for the allotment, requires TEA to annually publish a list of the approved courses, and provides that such courses must, as follows:

- be authorized by the State Board of Education, including music, art, theater, and dance;
- provide students with the knowledge and skills necessary for success in the fine arts; and

- require a student in full-time attendance to receive not less than 225 minutes of fine arts instruction per week.

Allotment for Advanced Mathematics Pathways and Certain Programs of Study

C.S.H.B. 100, effective September 1, 2023, establishes an allotment for advanced mathematics pathways and certain programs of study and makes a district eligible for the allotment if the district offers the following through in-person instruction, remote instruction, or a hybrid of in-person and remote instruction:

- an advanced mathematics pathway that begins with Algebra I in grade eight and continues through progressively more advanced mathematics courses in each grade from grade 9 through 12;
- a program of study in computer programming and software development or cybersecurity; and
- a program of study in a specialized skilled trade, such as:
 - plumbing and pipefitting;
 - electrical;
 - welding;
 - diesel and heavy equipment;
 - aviation maintenance; or
 - applied agricultural engineering.

C.S.H.B. 100 makes a district eligible for the allotment for students enrolled in a high school in the district that does not offer the programming, software, or cybersecurity program of study or the specialized skilled trade program of study under one of the following conditions:

- if students who reside in the attendance zone of the high school may participate in such a program of study by enrolling in another high school to and from which transportation is provided for those students and that:
 - is in the same district or a neighboring district;
 - was assigned the same or a better campus overall performance rating as the high school in whose attendance zone the students reside; and
 - offers the program of study; or
- if students enrolled in the high school that does not offer the applicable programs are offered instruction for the program of study at another location, such as another high school in the same district or a neighboring district, and receive transportation to and from the other location.

The bill authorizes the commissioner by rule to establish requirements to ensure students enrolled in such a high school that does not offer the applicable program of study have meaningful access to those programs.

C.S.H.B. 100 entitles an eligible district to an annual allotment of \$10 for each student enrolled at a high school in the district that offers a pathway or program of study if each enrolled student takes a progressively more advanced mathematics course each year of enrollment and at least one enrolled student completes a course in each pathway or program of study. The bill authorizes TEA to reduce the amount of a district's allotment if TEA determines that the district has not complied with the bill's provisions relating to the allotment. The bill provides for an additional allotment equal to the product of 0.1 and the small and mid-sized district allotment for an applicable district receiving the mathematics pathways and programs of study allotment and establishes that a charter school is not eligible for the additional allotment.

Salary Transition Allotment

C.S.H.B. 100, effective September 1, 2023, in provisions that expire September 1, 2029, establishes an annual salary transition allotment for the 2023-2024, 2024-2025, and 2025-2026 school years. The bill requires TEA to calculate the difference in the amount a district must pay in compensation to employees on the minimum salary schedule from the amount paid in

compensation to employees on the minimum salary schedule as effective in the 2022-2023 school year, less the difference between the following:

- the amount of employer contributions under the Teacher Retirement System of Texas and the Texas Public School Employees Group Benefits Program the district paid in the 2022-2023 school year for such employees; and
- the amount the district would have paid in such employer contributions in the 2022-2023 school year for employees on the minimum salary schedule if the bill's provisions had been in effect.

The bill requires TEA, in calculating the amount the district would have paid, to determine the total M&O revenue for the current school year, less the total M&O revenue that would have been available to the district using the basic allotment formula and small and mid-sized allotment formulas as those sections existed on January 1, 2023. The bill entitles a district to an annual salary transition allotment equal to the difference, if that amount is greater than zero, between the two amounts calculated by TEA.

C.S.H.B. 100 requires TEA, before making a final determination of a district's allotment entitlement, to ensure each district has an opportunity to review and submit revised information to TEA for purposes of calculating values applicable to the allotment. The bill establishes that a district is entitled to an allotment in an amount equal to the following:

- for the 2026-2027 school year, two-thirds of the allotment amount; and
- for the 2027-2028 school year, one-third of the allotment amount.

A district is not entitled to an allotment beginning with the 2028-2029 school year.

Formula Transition Grant

C.S.H.B. 100, effective September 1, 2023, postpones, from the 2024-2025 school year to the 2029-2030 school year, the school year by which districts and charter schools will no longer be entitled to a formula transition grant and sets September 1, 2030, as the expiration date for the grant provisions.

Repealed Provisions; Procedural Provision

C.S.H.B. 100 repeals the following provisions of the Education Code:

- Sections 21.402(b), (c), (c-1), (f), and (h);
- Sections 21.403(a) and (d); and
- Sections 48.111(c), (c-1), and (c-2).

C.S.H.B. 100 establishes that if H.B. 100 is enacted and H.B. 11, 88th Legislature, Regular Session, 2023, is also enacted, H.B. 100 prevails over H.B. 11, to the extent of any conflict, without regard to the date of enactment of H.B. 100 or H.B. 11.

Article 2. Changes Effective for 2024-2025 School Year

Special Education Program, Generally

C.S.H.B. 100 revises the definition of "special services" to reflect the meaning of "special education" and "related services," defined by reference to the federal Individuals with Disabilities Education Act. The bill provides for the September 1, 2026, expiration of the special education grant program.

C.S.H.B. 100 defines "special education classroom or other special education setting," for purposes of provisions relating to video surveillance of special education settings, as a classroom or setting primarily used for delivering special education services to students who spend on average less than 40 percent of an instructional day in a general education classroom or setting and revises those provisions to replace references to self-contained classrooms with references to special education classrooms.

C.S.H.B. 100, with respect to the annual report prepared on the language acquisition of children eight years of age or younger who are deaf or hard of hearing, clarifies that the report must state the percentage of the instructional day the child spends on average in a general education setting.

Special Education Allotment

C.S.H.B. 100 revises the annual allotment to which a district is entitled for each student in average daily attendance in a special education program as follows:

- it removes the formula used to calculate the allotment under current law, including allotment funding weights established according to a student's instructional arrangement; and
- it entitles a district to an allotment equal to the basic allotment, or, if applicable, the sum of the basic allotment and the small and mid-sized district allotment, multiplied by a weight in an amount set by the legislature for the highest tier of intensity of service for which the student qualifies.

The bill requires the commissioner by rule to define seven tiers of intensity of service for use in determining funding under the allotment and to include one tier specifically addressing students receiving special education services in residential placement. The bill requires the commissioner, not later than December 1 of each even-numbered year, to submit to the Legislative Budget Board (LBB) proposed weights for the tiers of intensity of service for the next state fiscal biennium. The bill removes requirements relating to contact hours credited per day for each student in specified instructional arrangements.

C.S.H.B. 100, with respect to a district providing education and related services only to students who are confined in or receive educational services in a hospital, clarifies that the basic allotment for a student enrolled in such a district is adjusted by the tier of intensity of service in accordance with the special education allotment and designated by commissioner rule.

C.S.H.B. 100 requires the commissioner to adopt rules and procedures governing contracts for day program placement of students receiving special education services and removes the requirement for the legislature to provide by appropriation for the state's share of the costs of residential and day program placements. Current law requires TEA to encourage the placement of students in special education programs in the least restrictive environment but the bill revises that provision to instead expressly require TEA to ensure the placement of students in such an environment, including students in residential placement.

Special Education Service Group Allotment

C.S.H.B. 100 entitles a district to a special education service group allotment, in an amount set by the legislature, for each six-week period in which a student in a special education program receives eligible special education services. The bill requires the commissioner by rule to establish four service groups for use in determining funding under the allotment and to consider the level of services, equipment, and technology required to meet the needs of students receiving special education services in establishing the groups. A district is entitled to receive an allotment for each service group for which a student is eligible and is entitled to the full amount of the allotment for a student receiving eligible special education services during any part of a six-week period. At least 55 percent of the funds allocated under the allotment must be used for a special education program. The bill requires the commissioner, not later than December 1 of each even-numbered year, to submit to the LBB proposed amounts of funding for the service groups for the next state fiscal biennium. The bill's provisions relating to the special education service group allotment expire September 1, 2028.

C.S.H.B. 100 specifies that a district may receive funding for a student under each provision relating to the allotment for a student with dyslexia or a related disorder, the special education allotment, and the special education service group allotment.

C.S.H.B. 100 requires the commissioner, from funds appropriated for the maintenance of state financial support for special education under federal law but withheld for noncompliance, to distribute the remaining amount, absent federal funds, to proportionately increase funding for the special education service group allotment.

C.S.H.B. 100 clarifies that a regional education service center's training and assistance for certain foundation school program allotments that a regional education service center provides as a core service includes training and assistance for the special education service group allotment.

Special Education Transition Funding

C.S.H.B. 100 authorizes the commissioner, for the 2024-2025 and 2025-2026 school years, to do the following:

- determine the formulas through which districts receive funding under the special education allotment or special education service group allotment;
- adjust weights or amounts under those allotments as necessary to ensure compliance with requirements regarding maintenance of state financial support under federal law as well as maintenance of local financial support under applicable federal law; and
- in determining the formulas, combine the methods of funding under those allotments with the method of funding provided by the special education allotment as it existed on January 1, 2023.

The bill caps the sum of such funding for either of those school years as adjusted at the sum of the amount set by the legislature and funding that would have been provided under the special education allotment as it existed on January 1, 2023.

C.S.H.B. 100 authorizes the commissioner, for the 2026-2027 school year, to adjust the weights or amounts set by the legislature for the special education allotment or special education service group allotment. Before making this adjustment, however, the commissioner must notify and receive approval from the LBB.

C.S.H.B. 100 requires each district and open-enrollment charter school to report to TEA information necessary to implement the bill's provisions relating to the transition funding and requires TEA to provide technical assistance to districts and charter schools to ensure a successful transition in funding formulas for special education. The bill's provisions relating to special education transition funding expire September 1, 2028.

C.S.H.B. 100, in provisions set to expire September 1, 2026, requires the amount of the special education allotment and the amount of the special education service group allotment, for the 2024-2025 and 2025-2026 school years, to be determined in accordance with the special education transition funding provisions.

Basic Allotment

C.S.H.B. 100 specifies that a district's basic allotment is based on each student in average daily attendance, not including the time students spend each day in special education programs in a setting other than a general education setting.

C.S.H.B. 100 requires the commissioner, for the second year of each state fiscal biennium, to adjust the value of the base amount used to calculate the basic allotment for the preceding state fiscal year by a factor equal to the average annual percentage increase, if any, in the Texas Consumer Price Index for the preceding 10 years. The requirement for the value adjustment expires September 1, 2025.

Book Safety Allotment

C.S.H.B. 100 entitles a district, for each student in average enrollment, to an annual allotment of \$3 or a greater amount provided by appropriation. The bill restricts the use of funds allocated under the allotment to ensuring that school library books and related materials meet library standards adopted by the Texas State Library and Archives Commission in consultation with the State Board of Education. The bill requires TEA to adopt a list of approved vendors at which a district may spend funds allocated under the allotment for the designated purposes.

Calculation of Allotments

C.S.H.B. 100 revises the calculation of the amounts of the following to be based on the number of students in average enrollment, as established by the commissioner, rather than the number of students in average daily attendance:

- school facilities allotment;
- limitation on the guaranteed amount of state and local funds for a new project;
- shortage or excess of funds appropriated for new projects;
- allotment for assistance with payment of existing debt;
- bilingual education allotment;
- career and technology education allotment;
- public education grant allotment;
- early education allotment;
- gifted and talented student allotment; and
- dropout recovery school and residential placement facility allotment.

The bill increases the compensatory education allotment funding weights for a student who is educationally disadvantaged and decreases the career and technology education allotment funding weights for a student based on the level of course in an approved program of study.

Local Revenue Level in Excess of Entitlement

C.S.H.B. 100 requires TEA to adjust the amount of the reduction required in the district's tier one revenue level up to the amount of local funds necessary to provide the district with the amount of M&O revenue per student in average daily attendance available to the district for the 2023-2024 school year if, as follows:

- an applicable district received a formula transition grant for the 2023-2024 school year and adopted an M&O tax rate for the 2022-2023 school year equal to or greater than the sum of the district's maximum compressed tax rate and five cents; and
- after reducing the tier one revenue level in excess of entitlement, the district's M&O revenue per student in average daily attendance for a school year would be less than the M&O revenue per student in average daily attendance available to the district for the 2023-2024 school year, excluding any funding provided to the district for maintenance of state financial support for special education and maintenance of effort and equity for federal money related to the COVID-19 pandemic.

Repealed Provision

C.S.H.B. 100 repeals Section 48.106(b)(2), Education Code, defining a "full-time equivalent student" as 30 hours of contact a week between a student and career and technology education program personnel.

EFFECTIVE DATE

For Article 1, except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2023, and for Article 2, September 1, 2024.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 100 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.

Article 1. Changes Effective for 2023-2024 School Year

While both the substitute and the introduced change the way the basic allotment is calculated and provide for the use of the allotment in the calculation for increasing the average total compensation per applicable employee, the substitute changes the base amount under the formula to the greater of \$6,250, an amount equal to the district's base amount for the preceding school year, or the amount appropriated, but the introduced changed the amount to the greater of \$6,210, that base amount, or the appropriated amount.

The substitute does not include provisions present in the introduced that revised the small and mid-sized district allotment formula and current weights for the allotment.

The substitute includes provisions not in the introduced that provide for the following matters:

- the calculation of the additional allotment for a charter school;
- funding, and related provisions, regarding districts enlarged through annexation, by commissioner order, of academically unacceptable districts;
- inclusion, contingent on passage of the applicable legislation, of a person who holds a residency educator certificate or has successfully completed a residency partnership program among those to whom the minimum salary schedule applies;
- the establishment of the rural pathway excellence partnership program, including a related allotment and outcomes bonus;
- a reduction by the commissioner of the dollar amount of maintenance and debt services taxes imposed by a district subject to recapture, if applicable, based on the district's support of students enrolled in TSBVI or TSD;
- the establishment of a special education full individual and initial evaluation allotment;
- the removal of an exception to a district's entitlement to the fast growth allotment and the repeal of the cap on the total allotments that can be made to such districts for a school year;
- the establishment of a fine arts allotment;
- state allocation for a district's or county's provision of special transportation services for eligible special education students;
- extension of eligibility for salary transition allotment for the 2025-2026 school year;
- a provision establishing that the bill prevails over H.B. 11, if both bills are enacted; and
- a Tax Code amendment increasing the rate used to calculate the voter-approval tax rate of a district.

Article 2. Changes Effective for 2024-2025 School Year

The substitute includes provisions not in the introduced relating to special education programs and related funding, including the following:

- a revision of the formula used to calculate the special education allotment under current law, including a provision requiring TEA to ensure the placement of students in special education programs in a least restrictive environment, including students in residential placement;
- the establishment of a special education service group allotment;
- the establishment of a book safety allotment;
- special education transition funding;
- a revision to the definition of "special services";
- a provision setting an expiration date for the availability of the special education grant;

- revision of provisions relating to video surveillance of special education settings, including defining "special education classroom or other special education setting";
- a specification that a district's basic allotment is based on each student in average daily attendance, not including the time students spend each day in special education programs in a setting other than a general education setting;
- a specification that a district may receive funding under the allotment for a student with dyslexia or a related disorder, the special education allotment, and the special education service group allotment, as applicable; and
- the commissioner's distribution of funds appropriated for purposes of maintenance of state financial support for special education to increase funding for the special education service group allotment.

The substitute includes a temporary provision not in the introduced requiring the commissioner to adjust the base amount used to calculate the basic allotment according to the Texas Consumer Price Index.

Whereas the substitute provides for a specified decrease in career and technology education allotment funding weights, the introduced removed current weights but did not include any specified weights in their place.